

IN THE HIGH COURT OF BOMBAY AT GOA

PIL WRIT PETITION NO. 7 OF 2017

- 1 Shri. Narendra Chodankar,
major, Indian national,
H. No.1284 Tonca St. Esteve,
Tiswadi Goa. 403106
- 2 Desmond Alvares
Doxxier H. No.470
Assagao Bardez Goa. ... Petitioners

Versus

- 1 The State of Goa,
through Chief Secretary,
having his office at Secretariat,
Porvorim,
Bardez, Goa.
- 2 Director General of Police,
Goa Police,
Government of Goa,
Police Headquarters,
Panaji, Goa.
- 3 The Collector (North)
Collectorate Panjim Goa.
- 4 The Chief Electoral Officer
Althinho Panjim Goa.
- 5 The Superintendent of Police
FRRO Head Quarters,
Panjim, Goa.
- 6 The Principal
DCT's Dhempe College
Miramar Panjim Goa.
- 7 The Registrar,
Goa University,

Talegao, Goa.

- 8 The Director
Higher Education
Porvorim Goa.
- 9 The Police Inspector,
Panjim Police Station,
Panjim, Goa.
- 10 Shri Vishwas Prabhudesai
currently serving as Assistant
Professor in Chemistry.
In Aided College DCTs Dhempe
College of Arts and Science,
having his office at Miramar, Panaji,
Goa. Respondents.

Shri P.A. Kamat, Advocate for the petitioners.

Shri Dattaprasad Lawande, Advocate General with Mr. A. Prabhudessai, Additional Government Advocate for the respondents no. 1, 2, 3, 5, 8 and 9.

**Coram:- F. M. REIS &
NUTAN D. SARDESSAI, JJ.**

Date:- 26th April, 2017.

ORAL ORDER: (PER F. M. REIS,J)

Heard Shri P.A. Kamat, learned Advocate for the petitioners and Shri Dattaprasad Lawande, learned Advocate General for respondents.

2. In the above petition, the petitioners inter alia prays for the writ of quo-warranto, Order or direction directing and commanding the respondents no. 1, 2, 4, 7, 8 and 9 to suspend forthwith and

terminate the services of the respondent no.10 and to take all such other action in accordance with law. The petitioners also seeking a direction to the respondents no. 1, 2, 3, 4, 5, 6, 7, 8 and 9 to inquire into the illegality committed by Vishwas Prabhudessai – respondent no.10 by falsifying and suppressing of being a foreign national.

3. Mr. Kamat, learned Advocate for the petitioners submits that the respondent no.10 had filed a Writ Petition before this Court being Writ Petition no. 93 of 1995 which came to be disposed off by judgment dated 12/06/1995 whereby the Writ Petition was finally disposed of by inter alia directing the respondent no.10 to obtain a No Objection Certificate from the Government of India and thereafter in case the Government of India issued no objection certificate, the Goa University shall issue its final approval expeditiously and shall regularize the appointment of the petitioners in the subject post. It is further recorded that in case the Government of India refused to grant no objection certificate the government shall record its reason for doing so and liberty was given to the respondent no.10 to file an appropriate application in the said petition. Mr. Kamat, learned Advocate further submits that no such No Objection Certificate has been obtained by the respondent no. 10 from the Central Government and as such his continuation as a Professor in the College is illegal and cannot be

sustained. The learned Advocate further points out that in the recent Assembly election the respondent no.10 was given election duty which he failed to attend and no action has been taken by the concerned authorities with that regard. The learned Advocate further points out that the respondent no.10 being a foreign national cannot be in employment of the concerned college and as such necessary directions be issued to terminate the services of the respondent no.10. The learned Advocate as such submits that the respondent be given direction to take action against the respondent no.10 as deemed fit.

4. On the other hand, the learned Advocate General has placed on record a notice issued to the Principal of the concerned College to ascertain why penal action should be taken against the respondent no.10 for his failure to attend election duty. The learned Advocate General further points out that as far as the other contentions raised by the petitioners necessary action would be taken if at all there is any substance therein in accordance with law.

5. Mr. Kamat the learned Advocate relied upon the Judgments of the Hon'ble Apex Court reported in **Hari Bansh Lal V/s. Sahodar Prasad Mahto and others** [CD] 2010 SC 752] and **Renu and others v/s. District and Sessions Judge, Tis Hazai and**

Another [2014 (4) SCC 50].

6. We have considered the submissions of the learned Advocate and we have also gone through the material on record. As far as the second relief sought by the petitioners is concerned, the respondents have already initiated action by addressing a notice to the Principal of the concerned college by letter dated 21/04/2017. There is also another notice issued to the Joint Electoral Officer by the Collector which shows that the notice was not accepted and a show cause notice will be issued to the respondent no.10 to seek an explanation as to why penal action should not be taken against him. In such circumstances, the question of exercising jurisdiction under Article 226 of the Constitution of India on such count does not arise.

7. As far as the contention of Mr. Kamat, learned Advocate for the petitioners that the services of the respondent no.10 deserve to be immediately suspended and terminated, we find that the petitioners are not parties to the judgment passed by this Court dated 12/06/1995. The learned Advocate General also pointed out that the allegation raised by the petitioners would be examined to find out whether there is any substance with that regard. Apart from that, we find that as the petitioners are not parties to the said proceedings before this Court and the petitioners have not shown any direct interest with that regard, the question of exercising

jurisdiction under the Article 226 of the Constitution of India at the instance of the petitioners would not at all be justified.

8. Besides the judgment relied by the petitioners was passed in the year 1995 wherein it records that the respondent no.10 is a person of Indian origin. In such circumstances, the question of issuing a writ of quo-warranto against the respondent no.10 at the instance of the petitioners based on the judgment passed in 1995 would not at all arise. The petitioners accept that the respondent no.10 has been working in the College for these years. The concerned authorities have already initiated action with that regard. In such circumstances, we find that the petitioners have no locus to raise his contention in the petition and in any event as pointed out hereinabove the concerned authorities have already initiated action.

9. In view of the above, we find no case made to entertain the above petition which stands accordingly disposed off.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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