

Amrut

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.391 OF 2017

Mr. Vithoba Fondu Ghadi ... Petitioner
Versus
The State of Goa & Ors Respondents

Mr. A. D. Bhobe, Advocate for the Petitioner.

Mr. D. Lawande, Advocate General with Mr. A. Gomes Pereira,
Addl. Government Advocate for Respondent Nos.1 to 3.

Mr. P. Talaulikar, Advocate for Respondent Nos.4 to 8, 20 & 21.

Mr. S. N. Joshi, Advocate for Respondent Nos. 17 & 18.

***Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.***

Date : 20 December 2017.

P.C. :

By this petition, the Petitioner has sought the following prayers.

(a) For a writ, order or direction directing the Respondent Nos.1 to 3 to appoint an ad-hoc Managing Committee and/or directing the Administrator of Devasthan to take over the Management of the Respondent No.4 for the purpose of day-to-

day administration and management of the affairs of the Respondent No.4 pending the inquiry as directed vide order dated 27 January 2017 and holding of fresh elections.

(b) For an interim order in terms of prayer clause (a) herein above, pending hearing and final disposal of the present petition.

(c) Any other order this Hon'ble Court deems fit and proper in the facts and circumstances of the case.

2. The Petitioner is concerned with Shree Rudreshwar Devasthan, Harvalem, Sanquelim, Bicholim Goa, being one of the Mahajans of Devasthan. It is his grievance that the elections of the Managing Committee of the Devasthan is being deferred for some reason or the other and in the meanwhile the ad-hoc Managing Committee has continued, and this position cannot continue in perpetuity, without some restrictions on the ad-hoc Managing Committee. Apparently, there is another Writ Petition pending bearing No.410 of 2017 pertaining to the election process of the Devasthan.

3. When this petition came up on 6 December 2017, the following order was passed.

“Heard learned Counsel for the parties.

2. Learned Counsel for the parties are ad idem that there needs to be an election of the managing body of the concerned Devasthan. The question is such if the election is held what would be the control of this Devasthan in the meanwhile.

3. In Writ Petition 391 of 2017, the Petitioner has prayed that Management of the Devasthan should be taken over by the Administrator of the Devasthan or the State. Mr. Kantak, learned Senior Counsel for the current committee who has filed Writ Petition No.410/2017 states that there are no allegations of financial irregularities against current body.

4. We are of the prima facie opinion that it may not be practical for the State Government to entirely take over the pure religious activities which will have to be performed by the priests. However, we are of the prima facie opinion to dispain any doubt, in the interest of parties, all financial aspects can be looked after by the Government authority till the election are finalised.

5. We, therefore, direct Secretary(Revenue) to file an affidavit either through him or draft settled by him as to how the State can look after the financial aspects of the Devasthan pending the election process, by separating pure religious activities to be left

to the priest. To enable Secretary (Revenue) to file an affidavit to that effect, stand over to 18 December 2017.”

4. Thereafter, the matter was adjourned till 18 December 2017 wherein the learned counsel for the parties had conveyed that they are broadly agreeable to the solution indicated in the order dated 6 December 2017 and the matter was kept today. The learned counsel for Respondent Nos. 4 to 8 has handed over an affidavit which body accepts the solution indicated.

5. The learned counsel for Respondent Nos. 4 to 8, states that there is no grievance regarding separation of financial and religious matter however, he is concerned about the administrative function. We have already indicated and is accepted by the parties that pure religious functions, where it has no financial connotations, can be left to the ad-hoc committee to be carried out through the priests. The financial aspect will be looked by the Deputy Collector, to which the parties have no objection. The administrative work will naturally have some financial connotations. Therefore, there cannot be third category to be carved out independently to be handed over to the ad-hoc committee. The appropriate course of action would be to direct the Deputy Collector to look after the financial and the administrative aspect. If the Deputy Collector finds that no financial

connotation arises to take the administrative decisions, the Deputy Collector can also, if necessary, consult the ad-hoc managing committee in this matter.

6. We are of the opinion that there is a need to install a supervisory mechanism, which will bring in the stability within the functioning of the Devasthan, which will also be in the larger public interest.

7. The learned counsel for the parties have also agreed broadly to the mechanism to be evolved, except for the apprehension expressed by the Respondent Nos. 4 to 8 as above, we are of the opinion that the following directions will be in the interest of justice.

(1) The Deputy Collector, Bicholim, will be appointed by the State Government by issuing necessary orders within one week from today to look after the financial and administrative aspects of Shree Rudreshwar Devasthan.

(2) For the said purpose, the Deputy Collector will have all necessary powers to supervise and call for records and such other ancillary powers to exercise the complete financial and administrative control over the Devasthan.

(3) The Deputy Collector however will not be the part of the purely religious function to be carried out in the Devasthan through priests. However, whenever such religious functions have financial connotations, the Deputy Collector will supervise the

same for the purpose of carrying out the financial and administrative control of the Devasthan.

(4) As regards the administrative function which also involve the purely religious activities it will be open to the Deputy Collector to consult with the ad-hoc Managing Committee.

(5) The Deputy Collector will evolve a suitable fair and transparent methodology and will keep the necessary records. This arrangement will continue till the regularly elected body is in place.

(6) In the meanwhile, ad-hoc Managing Committee which is operating as on today will operate, subject to the above.

8. The Writ Petition is accordingly disposed of in the above terms.

Prithviraj K. Chavan , J.

N.M. Jamdar, J.