

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 105 OF 2012

Shri Budho Arjun Gurav,
Major of age,
Resident of Nanoda, Valpoi Goa. ... Petitioner

Versus

1. State of Goa,
through Deputy Conservator of Forests,
North Goa Division,
Ponda Goa.
2. Range Forest Officer,
Valpoi Range,
Valpoi. ... Respondents

Mr. S. D. Lotlikar, Senior Advocate with Mr. C. Padgaonkar,
Advocate for the petitioner.

Ms. Susan Linhares, Addl. Government Advocate for the
respondents.

Coram:- M. S. SONAK, J.

Date:- 11th May, 2017

ORAL JUDGMENT

Heard Mr. Lotlikar, learned Senior Advocate along with
Mr. C. Padgaonkar for the petitioner and Ms. S. Linhares, learned

Addl. Government Advocate for the respondents.

2. The challenge in this petition is to the order dated 04.10.2011 made by the Forest Settlement Officer (North) Valpoi Goa.

3. Mr. Lotlikar, learned Senior Advocate for the petitioner submits that the Forest Settlement Officer lacks jurisdiction to review his own orders. He submits that the powers to review are never inherent and unless, the same are expressly conferred by the Statute there is no question of exercising review jurisdiction. He further submits that in this case there was considerable delay in institution of the review petition. The impugned order is composite order condoning the delay as well as allowing the review petition. He submits that the matter was in fact argued on the ground of maintainability or in alternative in opposition to the prayer for condonation of delay. In such circumstances, Mr. Lotlikar submits that the impugned order has been made in violation of the principles of natural justice, since the petitioner was not at all heard on the merits of the review assuming that the review of this nature

was at all maintainable. For all these reasons, Mr. Lotlikar submits that the impugned order is liable to be set aside.

4. Ms. S. Linhares, submits that this is not a case of substantive review but only a case of procedural review. She relies upon the decision of the Hon'ble Supreme Court in the case of ***Grindlays Bank Ltd vs The Central Government Industrial Tribunal and others*** reported in ***AIR 1981 SC 606***. In support of such proposition, she submits that delay in this petition was hardly 75 days and sufficient cause was shown. She submits that the impugned order may not be interfered with.

5. The question of maintainability of review petition can always be kept open, when the parties make their submissions on the review petition itself. However, the Forest Settlement Officer was not right in making a composite order condoning the delay and at the same time, allowing the review petition.

6. Since the sufficient cause has been shown, it is not necessary to interfere with the portion of the impugned order

condoning the delay except, to observe that it is a fit case, some costs could have been awarded to the petitioner. Otherwise, the delay is of 75 days and for the reasons stated, such delay can always be condoned. Since the petitioner is stated to be poor agriculturist whose lands have been acquired, it is only appropriate that the respondent/State pays costs of Rs.7500/- to the petitioner. Accordingly, the portion of the impugned order to the extent it purports to allow the review petition itself is set aside. The matter is remanded to the Forest Settlement Officer for reconsideration of the review petition. The issue of maintainability of the review petition is also kept open.

7. The respondents to pay costs of Rs.7500/- to the petitioner within four weeks. Rule is accordingly made partly absolute to the aforesaid extent. The petition stands disposed of accordingly.

M. S. SONAK, J.

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