

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 347 OF 2019

KADAMBA TRANSPORT CORPORATION
LTD., REP. BY THEIR MANAGING
DIRECTOR, DERRICK PEREIRA NETO., ... Petitioner

Versus

THE GOA STATE INFORMATION
COMMISSION AND ANR., ... Respondents

Mr. Ajit R. Kantak and Mr. Raunaq Kantak, Advocates for the
Petitioner.

Coram:- C. V. BHADANG, J.

Date:- 25th July, 2019

ORAL ORDER

On 04.04.2019, a notice for final disposal was issued in this petition. The respondents have been served. However, they have chosen not to appear. On 04.07.2019, after noticing that the second respondent, who had sought the information, was absent, although served, in the interest of justice, one opportunity was granted and the petition was adjourned. However, even today, there is no appearance on behalf of the second respondent.

2. In such circumstances, I have heard Mr. Kantak, the learned Counsel for the petitioner and the petition is being disposed off finally.

3. The second respondent had filed an application dated 09.08.2018 to the Public Information Officer (PIO) of the petitioner under the Right to Information Act (Act, for short), seeking information on various counts as set out in paras 1, 2 and 3 of the application. A bare perusal of the application shows that the information sought is a third party information relating to the compulsory retirement of one Mr. Mahesh Kamat under FR 56(j). There is certain other information also sought which also can be said to be a third party information.

4. The PIO by communication dated 14.08.2018, after observing that the information sought is a third party information, called upon the petitioner to visit the office of the PIO to clarify certain points with regards to the application filed by him.

5. Feeling aggrieved, the second respondent filed an appeal before the First Appellate Authority. The Appellate Authority by a communication dated 21.12.2018, refused to entertain the appeal on the ground of limitation. The second respondent carried the matter in Second Appeal before the State Information Commission (Commission, for short) in Appeal No.305/2018 . The Commission by the impugned order dated 05.03.2019, has directed the First Appellate Authority to decide the First Appeal purely on merits. It is this order which is subject matter of

challenge in this petition.

6. Normally, this Court would be slow to interfere with an order of remand. However, in the present case, there are atleast two circumstances which require this Court to interfere with the impugned order. Firstly, as borne out from the record, the appeal is filed beyond the period of limitation of 30 days and unless and until there is a formal prayer for condonation of delay which has been allowed, the First Appellate Authority cannot be called upon to decide the First Appeal on merits. Secondly, a bare perusal of the application filed by the second respondent shows that information sought is a third party information which is covered by the exemption under Section 8(j) of the Act. Thus, no useful purpose would be served by remitting the matter back to the First Appellate Authority.

7. For these reasons, the petition is allowed. The impugned Order is hereby set aside. The application dated 09.08.2018 filed by the second respondent is hereby dismissed.

C. V. BHADANG, J.

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