

IN THE HIGH COURT OF BOMBAY AT GOA***PIL WRIT PETITION NO.11 OF 2010***

Jatin Ramaiya
14, Vishwalaxmi Bldg.,
Ponda Goa, 403 401

... Petitioner

Versus

1. State of Goa
through its Chief Secretary,
Secretariat, Porvorim Goa.
2. Director of Social Welfare,
Government of Goa,
Directorate of Social Welfare,
Panaji Goa.

... Respondents

Mr. Jatin Ramaiya, Petitioner present in person.

Mr. P. Faldessai, Addl. Government Advocate for the Respondents.

***Coram : M. S. Sonak &
Prithviraj K. Chavan, JJ.***

***Reserved on :28th February, 2019
Pronounced on :2nd August, 2019***

JUDGMENT (Per M. S. Sonak, J)

Jatin Ramaiya, a fifth year law student of V. M. Salgaonkar College of Law addressed a letter dated 28th June, 2009 to the Hon'ble Chief Justice of Bombay High Court and other companion judges complaining about the laxity in implementation of “*Maintenance and*

Welfare of Parents and Senior Citizens Act, 2007” (the said Act) and the “*Goa Maintenance and Welfare of Parents and Senior Citizens Rules, 2009*” (the said Rules).

2. This letter dated 28th June, 2009, was ordered to be treated as a Public Interest Litigation. From time to time various orders were made in this matter in relation to the implementation of the provisions of the said Act and the said Rules.

3. By letter dated 28th June, 2009, the Petitioner had basically prayed for the following reliefs :

(i) for appropriate directions to the State Government to constitute the Maintenance Tribunal and the Appellate Tribunal as contemplated by Sections 7 and 15 of the said Act;

(ii) for appropriate directions to the State Government to appoint and designate the Maintenance Officers in terms of Section 18 of the said Act;

(iii) for appropriate directions to the State Government to make provisions for medical support and care for senior citizens in terms of Section 20 of the said Act;

(iv) for appropriate directions to the State Government to take measures for publicity, awareness etc., for welfare of senior citizens in terms of Section 21 of the said Act.

4. However, as the matter proceeded, other issues in relation to full and effective implementation of the provisions of the said Act

arose and were taken up for consideration since, fortunately neither of the parties treated this petition as some adversarial litigation. In fact, the efforts and approach of all the parties in at least attempting effective implementation of the provisions of the said Act and the said Rules are required to be appreciated though, there is no doubt that much remains to be done to the cause of full and effective implementation of the provisions of the said Act and the said Rules.

5. Agewell National Study on human rights of senior citizens in India (A reality check – July 2014) reports that the Indian population has approximately tripled during the last 50 years but the number of Indian above the age of 60 years has increased more than four folds. The 2011 census indicated the population of senior citizens was said to cross the 100 million mark. Whilst it took more than 100 years for population of senior citizens to double in most of the countries in the world, but in India it has doubled in just 20 years. The life expectancy has also gone up to over 70 years. Better medical facilities, care and liberal family planning policies made the elderly the fastest growing section of the society in India. This National Study report indicates that by 2025 the world will have more elderly than young people. The population of elderly is projected to cross two billion mark by 2050. In India as well, the population of senior citizens will constitute almost 18% of the total population by the year 2025.

6. The General Assembly of the United Nations in its 74th Plenary meeting adopted resolution No.46/91, urging the Member nations to implement of the international plan of action on ageing and related activities. This resolution, further encourages the governments of member nations to incorporate the following principles into their national programme whenever possible :-

Independence

- 1. Older persons should have access to adequate food, water, shelter, clothing and health care through the provision of income, family and community support and self – help.*
- 2. Older persons should have the opportunity to work or to have access to other income-generating opportunities.*
- 3. Older persons should be able to participate in determining when and at what pace withdrawal from the labour force takes place.*
- 4. Older persons should have access to appropriate educational and training programmes.*
- 5. Older persons should be able to live in environments that are safe and adaptable to personal preferences and changing capacities.*
- 6. Older persons should be able to reside at home for as long as possible.*

Participation

- 7. Older persons should remain integrated in society, participate actively in the formulation and implementation of policies that directly affect their well-being and share their knowledge and skills with younger generations.*
- 8. Older persons should be able to seek and develop opportunities for service to the community and to serve as*

volunteers in positions appropriate to their interests and capabilities.

9. Older persons should be able to form movements or associations of older persons.

Care

10. Older persons should benefit from family and community care and protection in accordance with each society's system of cultural values.

11. Older persons should have access to health care to help them to maintain or regain the optimum level of physical, mental and emotional well-being and to prevent or delay the onset of illness.

12. Older persons should have access to social and legal services to enhance their autonomy, protection and care.

13. Older persons should be able to utilize appropriate levels of institutional care providing protection, rehabilitation and social and mental stimulation in a humane and secure environment.

14. Older persons should be able to enjoy human rights and fundamental freedoms when residing in any shelter, care or treatment facility, including full respect for their dignity, beliefs, needs and privacy and for the right to make decisions about their care and the quality of their lives.

Self-fulfilment

15. Older persons should be able to pursue opportunities for the full development of their potential.

16. Older persons should have access to the educational, cultural, spiritual and recreational resources of society.

Dignity

17. Older persons should be able to live in dignity and

security and be free of exploitation and physical or mental abuse.

18. Older persons should be treated fairly regardless of age, gender, racial or ethnic background, disability or other status, and be valued independently of their economic contribution.

7. In pursuance of the Resolution No.49/1991, adopted by the General Assembly of the United Nations, the Madrid Plan of Action and the United Nations Principles for Senior Citizens adopted by the UN General Assembly in 2002, the Proclamation on Ageing and the global targets on ageing for the Year 2001 was already adopted by the General Assembly in 1992. The Shanghai Plan of Action 2002 and the Macau guidelines to encourage governments to design and implement their own policies from time to time, also pressed the Members Nations to pay adequate attention to the issues concerning senior citizens. The Government of India was a signatory to all these International Agreements.

8. In *K. S. Puttaswamy (Retired) & Anr. V/s Union of India & Anr.*,¹ the Hon'ble Supreme Court has firmly accepted that the right to live with dignity is one of the facets of Article 21 of the Constitution of India. This will obviously encompass the right of the senior citizens to live meaningful life with dignity. Besides, there are several directive principles of State policy which urge the State, no doubt, within the limits of its economic capacity and development, to make suitable

¹ (2019)1 SCC 1

provisions for public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want (Article 41 of the Constitution of India). Article 38 of the Constitution exhorts the State to strive, to promote the welfare of the people by securing and protecting social order, in which, justice - social, economic and political shall inform all the institutions of the national life.

9. In deference to the various International agreements, to which India was as signatory, as also the provisions of the Constitution of India, the Parliament has enacted the said Act, which was assented to by the President of India on 29th December, 2007 and published in the Gazette of India Extraordinary No.2, Schedule I dated 31st December, 2007 for the information of the general public. In exercise of powers conferred by Section 1(3) of the said Act, Government of Goa, vide Notification dated 23rd September, 2008, notified that the said Act shall come into force in the State of Goa with effect from 1st October, 2008.

10. Broadly, the said Act places an obligation on children and relatives to maintain senior citizens and parents so that their basic needs are taken care of and they are in a position to lead a normal life. Section 2(h) defines a “*senior citizen*” to mean any person being a citizen of India, who has attained the age of sixty years and above. Section 2(d) defines “*parents*” to mean father or mother whether biological, adoptive or step father or step mother, as the case may be, whether or not they

are senior citizens. Section 2(a) defines “*children*” to include son, daughter, grandson and grand-daughter but does not include a minor. Similarly, Section 2(g) defines “*relative*” to mean any legal heir of the childless senior citizen who is not a minor and is in possession of or would inherit his property after his death. The expression “*maintenance*” is defined in Section 2(b) means to include the provision for food, clothing, residence and medical attendance and treatment. The expression “*welfare*” is defined in Section 2(k) means the provision for food, health care, recreation centres and other amenities necessary for the senior citizens.

11. Section 3 of the said Act is a significant provision inasmuch as it provides that the provisions of this Act shall have effect notwithstanding anything inconsistent contained in any enactment other than this Act, or in any instrument having effect by virtue of any enactment other than this Act. This means that the provision of this Act have an overriding effect.

12. Chapter II of the said Act makes the provision for maintenance of parents and senior citizens. Section 4 enables the senior citizens including the parents who are unable to maintain themselves from their own earning or out of the property owned by them to apply under Section 5 of the said Act for “*Maintenance*”. This Section obligates the children or relatives, as the case may be, to maintain the

senior citizens including the parents so that the senior citizens and parents are in a position to lead a normal life. In fact, Section 4(4) of the said Act provides that any person, being a relative of a senior citizen and having sufficient means shall maintain such senior citizens provided he is in possession of the property of such senior citizens. If there are more than one relatives entitled to inherit the property of the senior citizen, the maintenance shall be payable by such relatives in the proportion in which they would inherit his property.

13. Section 5 of the said Act provides that an application for maintenance is required to be made to the Maintenance Tribunal constituted under Section 7 of the said Act. Section 7 of the said Act mandates the State to constitute for each sub-division one or more Tribunals for the purpose of adjudicating and deciding upon the order of maintenance under Section 5 of the said Act within a period of six months from the date of commencement of the Act. The Tribunal is required to be presided over by an officer not below the rank of Sub-Divisional Officer of the State.

14. Ultimately, vide Notification No.83-9-2006-07-SDB/Part/2008/3846 dated 24th September, 2009, the State Government in exercise of powers conferred by Section 7(1) of the said Act and all other powers enabling it in this behalf, constituted a Maintenance Tribunal for each Sub-Division of the State of Goa to be presided over

by the respective Sub-Divisional Officers for the purpose of adjudicating and deciding upon the order for maintenance under Section 5 of the said Act.

15. The affidavit filed by the Director of Social Welfare of State of Goa on 17th January, 2011 states that Maintenance Tribunals as constituted are functional and deal with cases seeking maintenance orders filed before them. A status report in relation to such cases was also placed on record. At the stage of final hearing of this petition as well, Mr. Faldessai, learned Addl. Government Advocate appearing on behalf of the State assured this Court that the Maintenance Tribunals are functional and disposing of the matters instituted by the senior citizens seeking maintenance orders in terms of the said Act.

16. At this stage, it is necessary to note that in terms of Section 5 of the said Act, the application for maintenance under Section 4 of the said Act may be made, firstly by a senior citizen or a parent as the case may be, or if they are incapable then by any other person or organization authorized by them. The explanation to Section 5 provides that expression “*organization*” means any voluntary association registered under the Societies Registration Act, 1860 or any other law for the time being in force. However, what important is that Section 5(1)(c) of the said Act provides that the Maintenance Tribunal may take *suo motu* cognizance of cases where the senior citizens or parents are

found to be in need of maintenance.

17. From the record produced before us, we find that the Maintenance Tribunals have not been taking a proactive role as is contemplated by the provisions of the said Act. Therefore, we urge the Maintenance Tribunals to be proactive in such matters realizing that most of the senior citizens including parents are not aware of the provisions of the said Act or their entitlement to receive the maintenance under the provisions of the said Act. It is also possible that the senior citizens or the parents, on account of reasons of health or finance, may not be in a position readily institute the proceedings before the Maintenance Tribunals, in order to secure their entitlement for maintenance.

18. Accordingly, it is necessary to direct the Maintenance Officers to visit the old age homes at regular intervals i.e. at least once a month and to make a report to the Maintenance Tribunal about the position of the senior citizens including the parents, who may be in need of maintenance. The Maintenance Tribunals must also monitor and ensure such visits by the Maintenance Officers to various old age homes in the State of Goa.

19. Based upon the reports of the Maintenance Officers, the Maintenance Tribunals must consider whether the circumstances exist

for taking *suo motu* cognizance, as contemplated by Section 5(1)(c) of the said Act. We accordingly direct the Maintenance Officers and Maintenance Tribunals to take a proactive role in such matters, so that, the benefits guaranteed under the said Act are reached to the needy and deserving senior citizens including the parents.

20. The Maintenance Tribunals must take note of the provisions under Section 5(2) of the said Act which specifically empower them to award interim maintenance to the senior citizens including the parents. Since, in terms of Section 17 of the said Act, no parties before the Tribunal or an Appellate Tribunal can insist upon representation by a legal practitioner, it will be the duty of the Maintenance Tribunals to appraise the senior citizens including the parents, who seek maintenance orders, of their entitlement to seek interim maintenance during the pendency of the proceedings.

21. The Maintenance Tribunals must also take cognizance of the provisions in Section 5(4) of the said Act, which require that the application for maintenance under the said Act must be disposed of within 90 days of the service of notice of such application to the opposite party. The proviso to this Section states that the Maintenance Tribunal may extend this period of 90 days, once for a maximum period of 30 days in exceptional circumstances for the reasons to be recorded in writing.

22. From this, it is obvious that the said Act casts a duty upon the Maintenance Tribunal to dispose of the proceedings for maintenance as expeditiously as possible. Therefore the Maintenance Tribunals must ensure that the notices are issued to the opposite parties, latest within a period of one week from the date of receipt of the application seeking maintenance. If this is not done, then, the proceedings will be unnecessarily delayed. Besides, the Maintenance Tribunals must also ensure that the notices are served within a reasonable period upon the opposite parties. Again, it is expected that the registry of the Maintenance Tribunals take a proactive role in this regard, so that the proceedings for maintenance under Section 5 of the said Act are disposed of at the earliest and in any case, within the time limits set out in Section 5(4) of the said Act.

23. The Maintenance Tribunals must also take cognizance of the provisions in Section 5(8) of the said Act which *inter alia* provide that if, children or relatives, who are ordered to pay the maintenance, which would include interim maintenance, fail, without sufficient cause to comply with such order, the Tribunal may for every breach of the order issue a warrant for levying fines, and may sentence such person for the whole, or any part of each month's allowance for the maintenance and expenses of the proceedings, as the case may be, remaining unpaid after the execution of the warrant, to imprisonment

for a term which may extend to one month or until payment if sooner made whichever is earlier. Provided of course no warrant shall be issued for the recovery of amount due under this Section unless the application be made to the Tribunal to levy such amount within a period of three months from the date on which it becomes due. Since, as noted earlier, it is possible that the senior citizens including the parents are not aware of these provisions, it shall be the duty of the Maintenance Tribunal to appraise the senior citizens including the parents of the fact that they can seek execution of the maintenance or interim maintenance orders in this manner.

24. The Maintenance Tribunals have to also be conscious of the provisions of Section 5(7) of the said Act which, in terms provide that any allowance for the maintenance and expenses for proceedings shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or expenses of proceedings as the case may be. Here again the Maintenance Tribunals are expected to make orders after due application of mind and looking to all the facts and circumstances on record. Taking into consideration the position that the Maintenance Tribunals are dealing with award of maintenance in favour of the senior citizens including the parents, where the appropriate case is made out, the Maintenance Tribunal must lean in favour of making orders for interim maintenance. If for any reason such orders are not made, the Maintenance Tribunals, again depending upon

the facts and circumstances of the cases before them, consider whether the allowance for maintenance and expenses of proceedings should be ordered from the date of the application for maintenance rather than the date of the order. All these are matters, which will have to be decided by the Maintenance Tribunals on the basis of facts and circumstances before it. All that is emphasised is that the Maintenance Tribunals must be not only be conscious of the powers they wield under the said Act but also the fact that such powers are coupled with duty to exercise the same, in appropriate cases, no doubt, subject to satisfaction of other requirements under the said Act. The Maintenance Tribunals are also urged and expected to take a proactive role in such matters, always keeping in mind which sensitive nature of jurisdiction which is conferred upon them under the said Act.

25. As noted earlier, the Maintenance Tribunals are duty bound to dispose of the proceedings seeking maintenance within a period of 90 days from the date of service of notice of the application for maintenance upon the opposite parties. Proviso to Section 5(4) permits the extension, once for a maximum period of 30 days in exceptional circumstances for reasons to be recorded in writing. Since the proceedings have to be disposed of within 90 days from the date of service of notice of the application to the opposite parties, the Maintenance Tribunal must ensure that such notices are served upon the opposite parties without any avoidable delay. Else there will be

unnecessary and avoidable delay in disposal of applications seeking maintenance by the senior citizens including the parents.

26. The Maintenance Tribunals must take cognizance of the provisions in Section 6 of the said Act which provide for jurisdiction and procedure in such matters. The Maintenance Tribunals have been conferred powers of Judicial Magistrate First Class as provided under the Code of Criminal Procedure, 1973 for securing attendance of children or relatives, who will be opposite parties in the applications made by the senior citizens including the parents seeking maintenance. In fact, proviso to Section 6(4) of the said Act provides that if the Maintenance Tribunal is satisfied that the children or relatives against whom the order for payment of maintenance is proposed to be made is willfully avoiding service, or willfully neglecting to attend before the Tribunal, the Tribunal may proceed to hear and determine the case *ex parte*.

27. Since, there may be cases of children or relatives of senior citizens including parents residing out of India, the Maintenance Tribunals should ensure that the summons are served through such authority as the Central Government has by Notification, specified in this behalf. If, till date the Central Government has not specified such authority, we direct the State to take up the matter with appropriate Department of Central Government so that, there is expeditious

notification of such authority. We direct the State Government to file a status report in this Court on this aspect whilst reporting other compliances.

28. The Maintenance Tribunals must also take cognizance of the provisions in Section 6(6) of the said Act which provide that the Tribunal, before hearing an application under Section 5 may, refer the same to the Conciliation Officer and such Conciliation Officer shall submit his findings within one month and if any amicable settlement has been arrived at, the Tribunal shall pass an order to that effect. The explanation to Section 6(6) provides that for the purposes of said subsection, “*Conciliation Officer*” means any person or representative of an organization referred to in Explanation to Section 5(1) of the said Act or the Maintenance Officers designated by the State Government under Section 18(1) of the said Act or any other person nominated by the Tribunal for this purpose.

29. This means that in addition to any person or representative of an organization referred to in Section 5(1) of the said Act or the Maintenance Officers, even the Tribunal is empowered to nominate any person to be the Conciliation Officer for the purpose of Section 6(6) of the said Act. In order to effect such nomination, every Tribunal, as provided in Rule 3 of the said Rules, must prepare a panel of persons suitable for appointment as the Conciliation Officers under Section 6(6) of the said Act, which can include even the Maintenance Officer

designated under Section 18 of the said Act. Rule 3(2) of the said Rules provides that the persons other than the Maintenance Officers designated under Section 18 of the said Act, shall be chosen to be appointed as the Conciliation Officers, subject to they fulfilling the following conditions :

“(a) he should be associated with an organization which is working for the welfare of senior citizens and/or weaker sections, or in the area of education, health, poverty-alleviation, women's empowerment, social welfare, rural development or related fields, for at least two years with an unblemished record of service;

(b) he should be a senior office-bearer of the organization; and

(c) he should possess good knowledge of law;

Provided that a person who is not associated with an organization of the kind mentioned above, may also be included in the panel mentioned in sub-rule (1), subject to fulfilling the following conditions, namely:-

(i) he must have a good and unblemished record of public service in one or more of the areas mentioned in clause (a); and

(ii) he should possess good knowledge of law.”

30. In fact, Rule 3(3) of the said Rules requires the Tribunals to publish the panel of Conciliation Officers for general information at least twice every year, on 1st January and 1st July respectively and every time any change is effected therein. Proviso to this Rule makes it clear that the preparation of such panel is without prejudice to the powers of the Tribunal to nominate any other person as Conciliation Officer.

31. If the Tribunals so constituted under the provisions of Section 7 of the said Act have till date not undertaken the exercise of preparation of a panel of persons suitable appointed as the Conciliation Officer under Section 6(6) of the said Act, they are directed to do so, at the earliest and in any case on or before 1st December, 2019, so that, the Tribunals are in a position to publish such panel for general information on 1st January, 2020, without fail.

32. As noted earlier, Section 6(6) of the said Act only provides that the Tribunal before hearing an application under Section 5 of the said Act “*may*” refer the same to the Conciliation Officer. This means that such reference is not a mandatory requirement to be followed in each and every case. The Maintenance Tribunal, must itself, make attempts to assess whether the matter can be sorted out by resort to conciliation. Only if the Maintenance Tribunal is satisfied that there is a possibility of matter being sorted out by conciliation, then, the Maintenance Tribunal, may refer the same to the Conciliation Officer.

33. This clarification is necessary because for the present we are not too sure whether the suitable Conciliation Officers have been appointed or whether a panel of Conciliation Officers has been prepared by the Tribunals. Therefore, we do not want a situation where the applications for maintenance before the Maintenance Tribunal are unnecessarily delayed for want of preparation of a panel of Conciliation

Officers. The Maintenance Tribunals must be guided by the timelines prescribed in Section 5 of the said Act and take all steps to dispose of the applications for maintenance under Section 5 of the said Act within the timeline so specified under the said Act.

34. The Maintenance Tribunal must also take cognizance of the provisions in Section 8 of the said Act which provide that the Tribunals, in holding any inquiry under Section 5 of the said Act, may, subject to any rules that may be prescribed by the State Government in this behalf follow “*such summary procedure*” as it deems fit. This means that subject to any rule that may be prescribed by the State Government in this behalf, the Maintenance Tribunals are at liberty to adopt such summary procedure as they deem fit. This provision has been enacted primarily to ensure that the Maintenance Tribunals, whilst deciding an application under Section 5 of the said Act are not shackled by cumbersome rules of procedure, which may inevitably delay the proceedings. No doubt, the Maintenance Tribunal will adopt the summary procedures, which are consistent with the principles of natural justice and fair play.

35. All these provisions have been made so as to ensure that the senior citizens including the parents are not required to engage into prolonged and cumbersome litigations, in order to secure maintenance under the provisions of the said Act. The Maintenance Tribunals must

remember that the provisions of the said Act are not only in furtherance of directive principles of the State policy enshrined in Article 41 of the Constitution of India but also in order to ensure that the senior citizens including the parents lead a life with dignity, which is also one of the facets of Article 21 of the Constitution of India.

36. Section 8(2) of the said Act provides that the Maintenance Tribunals shall have all powers of a Civil Court for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and of compelling the discovery and production of documents and material objects and for such other purposes as may be prescribed. In fact, this provision provides that the Maintenance Tribunal shall be deemed to be a Civil Court for all purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. Based upon similar provisions, it is often contended that the Tribunals are bound to follow all the procedures which may be prescribed in the Code of Civil Procedure since, the Civil Courts usually follow such procedures. According to us, this is not quite a correct.

37. The provisions in Section 8(2) of the said Act merely empower the Maintenance Tribunals to exercise powers of Civil Court in respect of these specified matters. However, this does not mean that in every case the Maintenance Tribunals are bound to follow the procedures prescribed before the Civil Court in such matters. In a given case, where the situation so warrants, the Maintenance Tribunals, which have been vested in such powers, may exercise the same. The entire

purpose of enacting Section 8(2) of the said Act is to leave an element of procedural flexibility with the Maintenance Tribunals and to free the Maintenance Tribunals from shackles of rigid procedures.

38. The Maintenance Tribunals must also take cognizance of the provisions of Section 8(3) of the said Act which provide that subject to any rule that may be made in this behalf, the Maintenance Tribunals may for the purpose of adjudicating and deciding upon any claim for maintenance, choose one or more persons possessing special knowledge of any matter relevant to the inquiry to assist it in holding the inquiry. This is a statutory provision, which enables the Maintenance Tribunals to take assistance of one or more persons possessing any special knowledge of any matter relevant to the inquiry. The Maintenance Tribunals must, where necessary, make use of this provision and associate persons possessing the special knowledge of any matter relevant to the inquiry in the proceedings instituted by the senior citizens including the parents seeking maintenance under the provisions of the said Act.

39. Section 9(2) of the said Act provides that maximum maintenance allowance which may be ordered by Maintenance Tribunal shall be such as may be prescribed by the State Government which shall not exceed Rs.10,000/- per month. Rule 14 of the said Rules provides that maximum maintenance allowance which the Tribunal shall order the opposite party to pay shall subject to a maximum of Rs.10,000/- per month be fixed in such a manner that it does not exceed the

monthly income from all sources of the opposite party, divided by the number of persons in his family, counting the applicant or applicants also among the opposite party's family members. The Maintenance Tribunal and the Appellate Authority will have to take cognizance of this provision whilst making maintenance orders.

40. The Maintenance Tribunals must also take cognizance of the provisions in Section 14 of the said Act which provide that where any Tribunal makes an order for maintenance under this Act, such Tribunal may direct that in addition to the amount of maintenance, simple interest shall also be paid at such rate and from such date not earlier than the date of making the application as may be determined by the Tribunal, which shall not be less than 5% and not more than 18%.

41. In compliance with mandate of Section 15 of the said Act, the State Government, vide Notification No.83-9-2006-07-SDB/Part/2008/3847 dated 24th September, 2009 has constituted an Appellate Tribunal for each District of the State of Goa which shall be presided over by respective Collectors for the purpose of hearing the appeals against the orders of the Maintenance Tribunal under the said Act. According to us, this constitutes sufficient compliance with the provisions of Section 15 of the said Act.

42. The provisions in relation to appeals before the Appellate Tribunal have been set out in Section 16 of the said Act and we direct the Appellate Tribunals so constituted to act consistent with such

provisions. In particular, we direct the Appellate Tribunal to take cognizance of the provisions in Section 16(6) of the said Act, which require the Appellate Tribunals to endeavour to pronounce its order in writing within one month of the receipt of an appeal. This means that the Appellate Tribunals have to endeavour to dispose of the appeals instituted before them as expeditiously as possible so that there is no unnecessary delay in such matters. The Maintenance Tribunals as well as the Appellate Authorities must also take cognizance of the provisions in Section 17 of the said Act which provide that notwithstanding anything contained in any law, no party to the proceeding before a Tribunal or Appellate Tribunal shall be represented by a legal practitioner.

43. According to us, the aforesaid directions and observations, sufficiently redress, at least for the present, the reliefs sought for by the public interest Petitioner, in relation to the constitution and functioning of the Maintenance Tribunal and Appellate Tribunal as contemplated by Sections 7 and 15 of the said Act.

44. Next issue concerns the issuance of appropriate directions to the State Government for appointment and designation of the Maintenance Officers in terms of Section 18 of the said Act.

45. Section 18 of the said Act provides that the State Government shall designate the District Social Welfare Officer or an officer not below the rank of a District Social Welfare Officer, by

whatever name called as “*Maintenance Officer*”. Section 18(2) of the said Act provides that the Maintenance Officer shall represent a parent if he so desires during the proceedings before the Tribunal or the Appellate Tribunal as the case may be. Section 18(2) refers only to representation of a “*parent*”. However, from the context, it is quite clear that the Maintenance Officer can, and should, whenever necessary represent even the senior citizens if they so desire, during the proceedings before the Tribunal or Appellate Tribunal as the case may be. This is because, in a given case, a senior citizen may not be a parent but he may be in need of maintenance under the said Act.

46. In fact, Section 4(1) of the said Act *inter alia* provides that the senior citizen, including a parent, who is unable to maintain himself from his own earning or out of the property owned by him, shall be entitled to make an application under Section 5 in case of childless senior citizen, against such of his relative referred to in clause (g) of Section 2 of the said Act. Clause (g) of Section 2 of the said Act defines “*relative*” to mean any legal heir of the childless senior citizen who is not a minor and is in possession of or would inherit his property after his death. Therefore, from the context, it is quite clear that the Maintenance Officer, must represent not only a parent but even childless senior citizen if he so desires during the proceedings before the Tribunal or Appellate Tribunal as the case may be.

47. The State Government, vide Notification No.83-9-2006-07-SDB/Part/2008/3844 dated 24th September, 2009, in exercise of

powers conferred by Section 18(1) of the said Act, has designated the Assistant Director for Welfare for Disabled, South Goa, as a Maintenance Officer. So also, the State Government, vide yet another Notification No.83-9-2006-07-SDB/Part/2008/3845 dated 24th September, 2009 has designated the Assistant Director, Welfare for SC, ST and OBC, North Goa, as a Maintenance Officer. We were informed that the Assistant Director for Welfare for Disabled, shall function as a Maintenance Officer for South Goa and the Assistant Director, Welfare for SC, ST and OBC, shall function as a Maintenance Officer for North Goa.

48. The aforesaid directions, according to us, sufficiently redress the grievance of the public interest Petitioner in the matter of appointment and designation of the Maintenance Officers in terms of Section 18 of the said Act.

49. The third issue relates to the directions to be issued to the State Government to make provisions of medical support for senior citizens in terms of Section 20 of the said Act.

50. Section 20 of the said Act reads thus :

“20. Medical support for senior citizen.-The State Government shall ensure that, -

(i) the Government hospitals or hospitals funded fully or partially by the Government shall provide beds for all senior citizens as far as possible;

(ii) separate queues be arranged for senior citizens;

(iii) facility for treatment of chronic, terminal and

degenerative diseases is expanded for senior citizens;
(iv) research activities for chronic elderly diseases and ageing is expanded;
(v) there are earmarked facilities for geriatric patients in every district hospital duly headed by a medical officer with experience in geriatric care.”

51. Significantly, Section 20 of the said Act, requires that the State Government “*shall ensure*” medical support for senior citizens. This is quite consistent with the directive principles of the State policy enshrined in Article 41 of the Constitution of India which provides that the State shall within limits of its economic capacity and development, make effective provision for education and public assistance in cases of old age, sickness and disablement and other cases of undeserved want. No doubt, the provisions in relation to hospital beds will have to be complied with as far as possible. However, the State, will have to ensure that separate queues are arranged for senior citizens and there are earmarked facilities for geriatric patients in every district hospital duly headed by the Medical Officer with experience in geriatric care. The State will also have to ensure that the facilities for treatment of chronic, terminal and degenerative diseases are expanded for the senior citizens. So also, the State Government will have to ensure that the research activities for chronic elderly diseases and ageing is also expanded.

52. The State Government has filed an affidavit stating that the provisions of Section 20 of the said Act are being complied with by the State Government. The compliance is not upto the mark. In any case,

the main problem with regard to such provisions is the continued implementation. Therefore, for the present, we direct the Director of Health Services, Government of Goa to file a status report in the specific context of implementation of the provisions in Section 20 of the said Act before this Court on or before 31st December, 2019.

53. Fourthly, the petition, seeks appropriate directions to the State Government to take measures for publicity, awareness etc., for welfare of the senior citizens in terms of Section 21 of the said Act. Section 21 of the said Act reads thus :

“21. Measures for publicity awareness, etc., for welfare of senior citizen.- The State Government shall, take all measures to ensure that—

(i) the provisions of this Act are given wide publicity through public media including the television, radio and the print, at regular intervals;

(ii) the Central Government and State Government Officers, including the police officers and the members of the judicial service, are given periodic sensitization and awareness training on the issues relating to this Act;

(iii) effective co-ordination between the services provided by the concerned Ministries or Departments dealing with law, home affairs, health and welfare, to address the issues relating to the welfare of the senior citizens and periodical review of the same is conducted.”

54. The State Government, in the compliance report filed on record has stated that Taluka awareness meetings are conducted to familiarize the Senior Citizens about the provisions of the Senior Citizens Act. It was pointed out that in the year 2017-18, eight meetings have been held. In addition to the above in coordination with

the District Service Legal Authority awareness for Para legal volunteers and the Advocates was also held. Toll free Helpline 1090 manned by the Police personnel is being operated for Senior Citizen in the State of Goa. In addition, the compliance report points out that the Director of Social Welfare delivers talks on various facilities provided to senior citizens under the Senior Citizens Act and the schemes framed thereunder on Doordarshan. It was pointed out that Press advertisements and conferences are also held.

55. The compliance report indicates that much needs to be done to fully and effectively implement the provisions of Section 21 of the said Act. If the senior citizens and parents for whose benefit the said Act is enacted, are unaware of the same, then there will never be full and effective implementation.

56. Accordingly, we direct the Director of Information, State of Goa as well as the Director of Social Welfare, Government of Goa to take all measures to ensure that the provisions of Senior Citizens Act are given wide publicity through public media including television, radio and print at regular intervals. We direct these two officials to file compliance report twice a year i.e. in first week of June and first week of December each year indicating the steps taken by them with regard to compliance with the provisions of Section 21 of the Senior Citizens Act. The first such compliance report is to be filed on or before 31st December, 2019.

57. Section 21(ii) requires that the Central Government and the State Government Officers including the Police Officers and the members of the judicial service, are given periodic sensitization and awareness training on the issues relating to this Act. Accordingly, the State Government is directed to take measures to give periodic sensitization and awareness training to its officers on the issues relating to the said Act. The issue of imparting similar periodic sensitization and awareness training to the members of the judicial service can be taken up on the administrative side.

58. In terms of Section 21(iii), the State Government is enjoined to take all measures to ensure that there is effective coordination between the services provided by the concerned Ministers or Departments dealing with law, home affairs, health and welfare, to address the issues relating to the welfare of the senior citizens and periodical review of the same is conducted. The Maintenance Officer to file a status report on or before 31st December, 2019 on this aspect as well.

59. The State Government, as noted earlier, has framed the said Rules to give effect to the provisions of the said Act in particular context of Section 22 of the said Act. Reference is necessary to Rule 19 of the said Rules which deals with duties and powers of the District Magistrate. Rule 19 of the said Rules reads thus :

***“19. Duties and Powers of the District Magistrate.- (1)
The District Magistrate shall perform the duties and exercise the powers mentioned in sub-rules (2) and (3) so as to ensure***

that the provisions of the Act and these Rules are properly carried out in his district.

(2) It shall be the duty of the District Magistrate to:-

(i) ensure that life and property of senior citizens of the district are protected and they are able to live with security and dignity;

(ii) oversee and monitor the work of Tribunals and Maintenance Officers of the district with a view to ensuring timely and fair disposal of applications for maintenance and execution of Tribunals' orders;

(iii) oversee and monitor the working of old age homes in district so as to ensure that they conform to the standards laid down in these rules, and any other guidelines and orders of the Government;

(iv) ensure regular and wide publicity of the provisions of the Act, and Central and ' State Governments' programmes for the welfare of senior citizens;

(v) encourage and co-ordinate with Panchayats, Municipalities, Nehru Yuwa Kendras, educational institutions and especially their National Service Scheme units, organizations, specialists, experts, activists, etc., working in the district, so that their resources and efforts are effectively pooled for the welfare of senior citizens of the district:

(vi) ensure provision of timely assistance and relief to senior citizens in the event of natural calamities and other emergencies;

(vii) ensure periodic sensitization of officers of various Departments and Local Bodies concerned with welfare of senior citizens, towards the needs of such citizens, and the duty of the officers towards the latter;

(viii) review the progress of investigation and trial of cases relating to senior citizens in the district

(ix) ensure that adequate number of specified application form for maintenance are available in offices of common

contact for citizens like Panchayats, Municipality, Post Office, Block Development Offices, Mamlatdar Offices, Collectorate, Police Station, etc.;

(x) promote establishment of dedicated Helplines for senior citizens at district Headquarters, to begin with; and

(xi) perform such other functions as the Government may, by order, assign to the District Magistrate in this behalf, from time to time.

(3) With a view to performing the duties mentioned in sub-rule (2), the District Magistrate shall be competent to issue such directions, not inconsistent with the provision of the Act, these rules, and general guidelines of the Government, as may be necessary, to any concerned Department or statutory agency or body working in the district, and especially to the following:-

(a) Officers of the Government in the Police, Health and Publicity Departments, and the Department dealing with welfare of senior citizens;

(b) Maintenance Tribunals and Conciliation Officers;

(c) Panchayats and Municipalities, City Municipal Corporations; and

(d) Educational institutions.”

60. From the affidavits placed before us, we are constrained to note that the District Magistrates, if not quite oblivious, are at least not very seriously discharging the duties or exercising the power conferred upon them in terms of Section 22 of the said Act, read with Rule 19 of the said Rules. Accordingly, we direct the District Magistrates of the two Districts in Goa to file a comprehensive status report in this Court on or before 31st December, 2019, indicating the steps taken by them in terms of the duties cast upon them, or the powers to be exercised by

the under Section 22 of the said Act, read with Rule 19 of the said Rules.

61. Section 22(2) of the said Act requires the State Government to prescribe a comprehensive action plan for providing protection to life and property of the senior citizens. This provision is required to be read and construed along with Rule 20 of the said Rules, which reads thus :

“20. Action Plan for the protection of life and property of senior citizens. -

(1) The District Superintendent of Police, such Police Officer shall take all necessary steps, subject to such guidelines as the Government may issue from time to time, for the protection of life and property of senior citizens.

(2) Without prejudice to the generality of sub-rule

(1):-

(i) each Police Station shall maintain an up-to-date list of senior citizens living within its jurisdiction, especially those who are living by themselves (i.e. without there being any member in their household who is not a senior citizen).

(ii) a representative of the police station together, as far as possible, with a social worker or volunteer, shall visit such senior citizens at regular intervals of at least once a month, and shall, in addition, visit them as quickly as possible on receipt of a request for assistance from them.

(iii) complaints/problems of senior citizens shall be promptly attended to, by the local Police.

(iv) one or more Volunteers' Committee(s) shall be formed for each Police Station which shall ensure regular

contact between the senior citizens, especially those living by themselves, on the one hand, and the police and the district administration on the other.

(v) the District Superintendent of Police or, as the case may be, the Director General of Police shall cause to be publicized widely in the media and through the Police Stations, at regular intervals, the steps being taken for the protection of life and property of senior citizens.

(vi) each Police Station shall maintain a separate register containing all important particulars relating to offences committed against senior citizens, in such form as the Government may, by order, specify.

(vii) the register referred to in clause (vi) shall be kept available for public inspection, and every officer inspecting a Police Station shall invariably review the status as reflected in the register.

(viii) the Police Station shall send a monthly report of such crimes to the District Superintendent of Police by the 10th of every month.

(ix) list of Do's and Don'ts to be followed by senior citizens in the interest of their safety will be widely publicized.

(x) Antecedents of domestic servants and others working for senior citizens shall be promptly verified, on the request of such citizens.

(xi) community policing for the security of senior citizens will be undertaken in conjunction with citizens living in the neighbourhood, Residents' Welfare Associations, Youth Volunteers, Non-Government Organizations, etc.

(xii) the District Superintendent of Police shall submit to the Director General of Police and to the District Magistrate, a monthly report by the 20th of every month, about the status of crime against senior

citizens during the previous month, including progress of investigation and prosecution of registered offences, and preventive steps taken during the month.

(xiii) the District Magistrate shall cause the report to be placed before the District--level Coordination-cum-Monitoring Committee constituted under rule 22.

(xiv) the Director General of police shall cause the report submitted under clause (xii) to be compiled, once a quarter and shall submit them to the Government every quarter as well as every year for, inter alia, being placed before the State Council of Senior Citizens constituted under rule 21.”

62. Again, we are constrained to observe that the District Superintendent of Police or such other police officers, who are enjoined to take steps consistent with the action plan formulated in terms of Rule 20 of the said Rules, are quite oblivious that such a duty is in fact cast upon them. The exercise, as contemplated by Rule 20(2) of the said Rules, does not appear to have been undertaken by the District Superintendents of Police or the other police officers. The Government also does not appear to have issued guidelines for protection of life and property of senior citizens.

63. Accordingly, we direct the District Superintendents of Police to take steps to ensure compliance with the provisions of Section 22(2) of the said Act and Rule 20 of the said Rules, as expeditiously as possible. The compliance report to be filed by the respective District Superintendents of Police in this Court on or before 31st December,

2019.

64. We note that the State Government, vide Notification No.83-9-2006-SDB/Part/2017/1177 dated 25th May, 2018, has been pleased to constitute a State Council of Senior Citizens in terms of Rule 21 of the said Rules. We direct the State Council of Senior Citizens to meet and deliberate upon the issues relating to implementation of the provisions of the said Act and the said Rules, at least once in 6 months and also direct the Member Secretary of the State Council of Senior Citizens, who is the Director of Social Welfare to file a compliance report in this Court, along with the minutes of such meetings, on or before 31st December, 2019.

65. We note that the State Government, vide Notification No. 83-9-2006-SDB/Part/2017/1176 dated 25th May, 2018, has constituted District Committees of Senior Citizens for North Goa and South Goa Districts, as required under Rule 21 of the said Rules. Again, we direct the respective District Committees to meet at least once in a every quarter to deliberate upon the issues relating to the implementation of the provisions of the said Act and the Rules. We also direct the Member Secretaries i.e. the respective District Welfare Officers to file compliance reports, along with minutes of such meetings, in this Court, on or before 31st December, 2019.

66. According to us, the aforesaid directions sufficiently redress the issues relating to the implementation of the provisions of Sections 21 and 22 of the said Act for the present.

67. In the course of the proceedings, the issue with regard to the establishment of old age homes and their maintenance as required by Section 19 of the said Act came up for consideration.

68. Section 19 of the said Act reads thus :

***“19. Establishment of old age homes.-** (1) The State Government may establish and maintain such number of old age homes at accessible places, as it may deem necessary, in a phased manner, beginning with at least one in each district to accommodate in such homes a minimum of one hundred fifty senior citizens who are indigent.*

(2) The State Government may, prescribe a scheme for management of old age homes, including the standards and various types of services to be provided by them which are necessary for medical care and means of entertainment to the inhabitants of such homes.

***Explanation.-** For the purposes of this section, “indigent” means any senior citizen who is not having sufficient means, as determined by the State Government, from time to time, to maintain himself.”*

69. In pursuance of our queries, the State Government has placed material on record which indicates that it has established four old age homes in South Goa District and three old age homes in North Goa District.

70. Section 19(2) of the said Act requires the State Government to prescribe a scheme for management of old age homes including the standards and various types of services provided by them which are necessary for medical care and means of entertainment to the inhabitants of such homes. The explanation to Section 19 provides that for the purposes of the said Section, expression “*indigent*” means any senior citizen who is not having sufficient means, as determined by the State Government, from time to time to maintain himself. This means that the State Government is required to undertake a periodic exercise for determining the limits to decide the issue of indigency. The said Act does not contemplate such an exercise to be undertaken on a case to case basis but the State Government, will have to frame suitable guidelines/schemes for the purpose of determining the issue of indigency as contemplated by Section 19 of the said Act. From the material placed on record, we find that such an exercise does not appear to have been undertaken by the State Government. Therefore, we direct the State Government to undertake this exercise and report compliance on this aspect as well by 31st December, 2019.

71. Section 19 contemplates not merely the establishment of old age homes at accessible places but also their maintenance. Therefore, we had called upon the State Government to furnish us information regards the state and status of such old age homes. Based

upon the information so furnished, we found that most of the old age homes are understaffed and even amenities provided are not quite sufficient.

72. From the material placed before us, we find that most of the old age homes in Goa cry out for urgent repairs and maintenance works. Most of the old age homes are totally under-staffed. In most of the old age homes, there is necessity of first aid kits, walkers, walking sticks and similar such equipment. In most of the old age homes, there is necessity of repairs to the toilets or to make provisions for western style toilets. It has become increasingly difficult for the senior citizens who reside therein to use the Indian style toilets.

73. For example, at the old age home at Lotoulim, we were informed that there are 30 senior citizens, but there is only one male nurse to attend their needs. In the course of the hearing, it was accepted that the old age homes of this nature require, at least 2 – 4 nurses, working round the clock, a full time watchman, and at least two cooks/attendants. In the Cuncolim old age home, we were informed that there are about 19 residents, both, male and female. However, there is only one part-time nurse available. In the course of hearing, it was accepted that this old age home requires at least 2 nurses to function on the round the clock basis.

74. The old age home at Chinchinim has about 12 residents, but only one part-time nurse is made available to take care of their needs. The old age home at Margao houses 40 to 44 residents and, here again, there is only one nurse to attend their requirements. In the course of hearing it was admitted that there is necessity of at least 2 to 4 nurses, who should function round the clock. It was admitted that there is also necessity of at least 1 to 2 administrative staff members and some additional cook/attendants.

75. The old age home at Mapusa houses 62 female and 30 male residents. Here again, there is only one nurse available to attend their requirements. In addition, administrative staff of 2 numbers and 4 cooks/attendants are required at this old age home, which houses 92 residents, as the position of staff is totally inadequate. During the course of hearing, it was agreed that the position of staff at this old age home is totally inadequate and emergent steps are necessary to improve the staffing position.

76. Similarly, the old age home at Candolim houses 30 male and 21 female residents. Here again, there is only one nurse, 2 administrative staff members and 3 cooks/attendants. This is again totally inadequate and it was agreed that urgent steps are necessary to improve the staffing position at this old age home, as well. The old age home at Saligao houses 12 residents and there is only one part-time

nurse available. Again it was agreed during the course of hearing that an additional nurses, cooks/attendants are necessary at this old age home.

77. During the course of hearing it was pointed out that there is necessity of regular visits of counselors, psychiatrists and physiotherapists. We are informed that at present some doctors do visit these old age homes. However, such visits are not quite regular.

78. Mr. Faldessai, learned Additional Govt. Advocate assures this Court that all the aforesaid issues will be addressed within a reasonable period. According to us, all the aforesaid issues in relation to repairs, re-roofing and maintenance of old age homes have to be addressed on urgent basis, so also the issue of staffing position at these old age homes, has to be addressed on urgent basis.

79. There was really no debate that the present staffing position at these old age homes is woefully inadequate and cries for urgent action. We, accordingly, direct the State Government to take appropriate steps to redress the aforesaid issues. We direct the Maintenance Officers of the two Districts to file a status report, in this Court, on or before 31st December, 2019.

80. In regard to the scheme of maintenance of the old age homes

established under Section 19 of the said Act, we find that the State Government has enacted Rule 18 in the said Rules, which reads as under :

“18. Scheme for management of old age home for indigent senior citizens. - (1) Old age homes established under section 19 of the Act shall be run in accordance with the following norms and standards:-

(A) The old age home shall have physical facilities and shall be run in accordance with operational norms as laid down in the Schedule appended to these Rules;

(B) Inmates of the old age home shall be selected in accordance with the following procedure:-

(a) applications shall be invited at appropriate intervals, but at least once each year, from indigent senior citizens, as defined in section 19 of the Act, desirous of living in such home;

(b) in case the number of eligible applicants on any occasion is more than the number of places available in a home for admission, selection of inmates shall be made in the following manner:-

(i) the more indigent and needy will be given preference over the less indigent applicants;

(ii) other things being equal, older senior citizens will be given preference over the less old; and

(iii) other things being equal, female applicants will be given preference over male applicants.

Illiterate and/or very infirm senior citizens may also be admitted without any formal application if the District Magistrate or other competent authority designated by him for the purpose, is satisfied that the senior citizen is not in a position to make a formal application, but is badly in need of

shelter:

(C) While considering applications or cases for admission, no distinction shall be made on the basis of religion or caste;

(D) The old age home shall provide separate lodging for men and women inmates, unless a male and a female inmate are either blood relations or a married couple;

(E) Day-to-day affairs of the old age home shall be managed by a Management Committee which shall be constituted in accordance with order and guidelines issued by the Government from time to time, such that inmates are also suitably represented on the Management Committee.

(2) The Government may issue detailed guidelines/orders, from time to time, for admission into, and management of, old age homes in accordance with the norms and standards laid down in sub-rule (1) and the Schedule hereto.”

81. Rule 18 of the said Rules refers to the norms of physical facilities and operational standards for the old age homes for indigent senior citizens established under Section 19 of the said Act. The Schedule reads thus :

“Schedule

(See rule 18)

Norms of Physical Facilities and Operational Standards for an Old Age Home for Indigent Senior Citizens Established Under Section 19 of the Act

I. Physical Facilities

1. Land: *The land for the old age home should be adequate to comply with the Floor-Area Ratio (FAR) as prescribed by the relevant urban body/Government, in the case of semi--urban/rural areas, the Government shall provide adequate land for setting up of an old age home of requisite capacity such that there is adequate land for*

recreation, gardening, further expansion, etc.

2. Living Space: *The old age home shall, as far as possible, have minimum area per inmate as per the following norms:*

- (i) area of bedroom/dormitory per 7.5 sq. metres
inmate*
- (ii) living area or carpet area per 12 sq. metres
inmate i.e. including (i) above
plus ancillary areas like
kitchen, dining hall, recreation
room, medical room, etc. but
excluding verandahs, corridors,
etc.*

3. Facilities: *(1) The old age home shall have the following facilities:*

- (i) residential area comprising rooms/dormitories- ;separately for men and women;*
- (ii) adequate water for drinking and ancillary purposes;*
- (iii) electricity, fans and heating arrangement for inmates (as necessary);*
- (iv) kitchen-cum-store and office;*
- (v) dining hall;*
- (vi) adequate number of toilets and baths, including toilets suitable for disabled persons;*
- (vii) recreation facilities, television, newspaper and an adequate collection of books; and*
- (viii) first aid, sick bay, and primary healthcare facilities.*

(2) The old age home should be barrier-free with provision of ramps and handrails, and where necessary, lifts, etc.

II. Operational Standards

- 1. Supply of nutritious and wholesome diet as per scale to be fixed by the Government.*
- 2. Adequate clothing and linen for the inmates, including for the*

winter season.

3. Adequate arrangements for sanitation, hygiene, and watch and ward/security.

4. Arrangements with the nearest Government hospital for emergency medical care, and with the nearest Police Station for security requirements.”

82. Obviously, the old age homes established by the State Government in terms of Section 19 of the said Act, do not comply with the norms prescribed by the State Government itself. We understand that making provisions as contemplated in the Schedule will take some time. However, that is no reason not to begin at all. There are a number of short term measures which can be and are required to be taken up by the State Government, so as to make the existing old age homes compliant with the norms prescribed by the State Government itself.

83. In particular, the State Government is duty bound to and is in a position to immediately provide the facilities referred to in the norms. The State Government is, therefore, obliged to provide adequate water for drinking and ancillary purposes; electricity, fans and heating arrangement for the inmates, as necessary; kitchen-cum-store and office; dining hall; adequate number of toilets and baths, including toilets suitable for disabled persons; recreation facilities, television, newspaper and adequate collection of books; first aid, sick bay, and

primary healthcare facilities etc., at the existing old age homes.

84. Further, the State Government is obliged to ensure that the old age homes are barrier-free with the provision of ramps and handrails, and wherever necessary, lifts etc. Similarly, the State Government is obliged to comply with the operational standards set out in the Schedule in the context of nutritious and wholesome diet; adequate clothing and linen; adequate arrangements for sanitation, hygiene and watch and ward/scrutiny; arrangements with the nearest Government hospital for emergency medical care, and with the nearest Police Station for security requirements.

85. All these norms will have to be complied with by the State Government when it comes to establishment and maintenance of their old age homes. We direct the Maintenance Officers to pursue such issues with the concerned Departments of the State Government and to file compliance report in this Court on or before 31st December, 2019.

86. The directions which we have now issued are only the directions to comply with the provisions of the said Act and the Rules made thereunder. Enactment of a law, but its non-implementation is worst than not enacting any law at all. The non-implementation, in certain circumstances, can even amount to dereliction in discharge of

statutory duties.

87. According to us, the aforesaid directions once implemented will at least to a certain extent redress the issues which plague the old age homes in the State of Goa. But, then such issues, by their very nature, are recurring. Therefore, the Maintenance Officers and the Authorities under this Act must be vigilant and sensitive in ensuring the compliance with the provisions of the said Act both, in letter as well as in spirit. We trust and hope that such officers and the authorities, constituted under the said Act, will not neglect the discharge of the responsibilities cast upon them under the said Act.

88. To borrow the words of Justice V.R. Krishna Iyer, the Constitution of India has made the entire people the sharers of resources and powers of the country. Therefore, even the elders of India in their growing numbers are title-holders of the wealth of the nation. Article 21 puts the right to life as the foremost human right enforceable by the Court as a fundamental right. This provision has to be read with Article 41, which mandates the State to give public assistance in cases of '*old age, sickness and disablement*'. Article 51A emphasises the spirit of common brotherhood, compassion and humanism. The jurisprudence of the Constitution thus leaves no doubt that senior citizens are an integral part of Indian humanity and they have a role to play in nation building and receiving the benefits of

decent and dignified life.

89. Therefore, the State or its functionaries must disabuse themselves of the notion that they are indulging in some kind of a charity or distributing bounties when it comes by making provisions or implementing the provisions for maintenance and welfare of the senior citizens. In fact, the State and its functionaries, by neglecting to do so, would be derelicting in discharge of their solemn duty cast upon them by the said Act, the said Rules and Constitution of India. We must remember that progress and development cannot be measured only in economic terms, but one of the significant markers in the march of civilization is to measure how a society treats its people who are in the evening of their lives. To care for those who once cared for us, is one of the highest duties which the State, as well as the society must discharge. We must remember, that the manner in which we treat our elders today, is nothing but a reflection of the manner in which we will be treated tomorrow. Let us, therefore, not be remembered (as Winston Churchill once said, hopefully in jest) as a society, which respects age only when it is bottled.

90. The Government and the society are the trustees enjoined to ensure maintenance and welfare of their senior citizens, particularly those, who on account of their old age sickness, physical and financial

disabilities are unable to maintain themselves. Access to old age homes and medical facilities, is the basic minimum. In addition, the State and the society should strive to enable such senior citizens, not merely to survive, but to live a meaningful life with dignity.

91. As indicated at the very outset, the approach of the Petitioner and the Respondent-State in this matter has not at all be adversarial. There was acknowledgment of inadequate compliances and the approach was to redress the issues, so that there is full and effective implementation of the provisions of the said Act and the said Rules. We record our appreciation for such an approach. We, particularly appreciate the perseverance with which the Petitioner Mr. Jatin Ramaiya has pursued this matter since last over 9 years. This public interest litigation was instituted by him when he was 5th year law student and today he is a practicing Advocate of this Court. As a token for the services rendered by him to this cause, we direct the State Government to pay him an amount of ₹ 50,000, within a period of four weeks from today.

92. Accordingly, we dispose of this Public Interest litigation by issuing the following directions:-

(A) We direct the Maintenance Tribunals and the Appellate Authorities constituted under the said Act to take conscious note of the provisions in Sections 5, 6, 8,

9, 13, 14 and 17 of the said Act and to further comply with the timelines prescribed under the said Act for disposal of applications seeking maintenance made by the senior citizens, including parents;

(B) We direct the Maintenance Tribunals to prepare a panel of persons suitable for appointment as Conciliation Officers as contemplated by Section 6(6) of the said Act read with Rule 3 of the said Rules and to publish the panel of Conciliation Officers for general information at least twice every year, on 1st January and 1st July respectively and every time any change is effected therein. This exercise should be completed as early as possible and in any case on or before 1st December, 2019. The information regards the first of such panel is to be published on or before 1st January, 2020;

(C) We direct the State Government to pursue with the Central Government the issue a notification of the authority under Section 6(5) of the said Act, so that there are no difficulties in service of summons on the children or relatives of the senior citizen, including parents who reside abroad, in proceedings before the Maintenance Tribunals and the Appellate Authorities. The Director of Social Welfare to file an affidavit of compliance, in this Court, or

or before 31/12/2019.

(D) We direct the Maintenance Officers appointed under Section 18 of the said Act to do the following :

(i) to visit the old age homes established by the State Government or aided by the State Government, at least once in every three months and to make a report to the respective Maintenance Tribunal about the health and financial position of the senior citizens, including parents reside therein, who may be in need of maintenance from their children or relatives;

(ii) to visit the old age homes, at least one in every three months to apprise the senior citizens, including parents reside therein, of the benefits and entitlement under the said Act;

(iii) to represent the senior citizen and parents, if they so desire, in the proceedings before the Maintenance Tribunals and the Appellate Authorities, as the case may be.

(E) We direct the State Government to comply with its obligations under Section 20 of the said Act and provide adequate medical support to the senior citizens. Without prejudice to the generality of this direction, in particular we direct the State Government to do the following :

- (i) to ensure that all the Government hospitals or hospitals funded fully or partially by the Government to provide beds for all senior citizens as far as possible, when they are required to be admitted for treatment;*
- (ii) to arrange separate queues for senior citizens, so that they are not required to spend too much time waiting in long queue at the hospitals or public health centres;*
- (iii) to provide facility for treatment of chronic, terminal and degenerative diseases at the Government hospitals;*
- (iv) to undertake research activities for chronic diseases afflicting elderly and aged;*
- (v) to ensure that there are earmarked facilities for geriatric patients in every District hospitals duly headed by a Medical Officer with experience in geriatric care. To begin with the State Government should ensure that such facilities are available at Goa Medical College at Bambolim and Hospicio Hospital at Margao;*

(F) We direct the Director of Health Services, Government of Goa to file a status report/affidavit of compliance in the specific context of implementation of the provisions of Section 20 of the said Act in this Court on or before 31st December, 2019;

(G) We direct the Director of Information and the Director of Social Welfare to take all necessary measures to ensure that the provisions of the said Act and the said Rules are given wide publicity through public media, including television, radio and print, on regular intervals. This is in terms of Section 21(i) of the said Act. These officers must file a compliance report in this Court, on or before 31st December, 2019 indicating, in detail, the steps taken till the said date.

(H) We direct the State Government to ensure that its Officers, including, in particular, the Police Officers, Officers/Doctors at the Government Hospitals, the Officers of the Social Welfare Department and at the Institute of Public Assistance are given periodic sensitization and awareness training on the issues relating implementation of the said Act. The Director of Social Welfare to file a compliance report in this regard, in this Court, on or before 31st December, 2019.

(I) We direct the State Government to implement the scheme for management of old age homes for indigent senior citizens, in terms of Section 19 of the said Act, read with Rule 18 of the said Rules, by laying special emphasis

on the Schedule which prescribes for norms of physical facilities and operational standards for old age homes for indigent senior citizens established under Section 19 of the said Act. The Director of Social Welfare to file a compliance report in this regard, in this Court, on or before 31st December, 2019.

(J) We direct the respective District Magistrates to perform the duties and exercise the powers conferred upon them by Rule 19 of the said Rules in the context of full and effective implementation of the provisions of the said Act and the said Rules. The two District Magistrates to file reports of compliances, in this Court, on or before 31st December, 2019

(K) We direct the two District Superintendents of Police to comply with the provisions in Rule 20 of the said Rules in relation to the protection of life and property of the senior citizens. The two District Superintendents of Police to file affidavits of compliance on this aspect, in this Court, on or before 31st December, 2019.

(L) We direct the State Government to take emergent steps to address the issues relating to staff, infrastructure

and the facilities at the old age homes in the Districts of North Goa and South Goa, within six months from today. The Maintenance Officers of the two Districts are directed to pursue these matters with the State Government and place on record of this Court, a status report on or before 31st December, 2019

(M) We direct the State Council of Senior Citizens to meet, at least once in six months, in order to ensure full and effective implementation of the provisions of the said Act and the said Rules. The Member Secretary of the State Council to place on record a status report, along with the minutes of such meetings, on or before 31st December, 2019.

(N) We direct the District Committees of Senior Citizens to meet at least once in every quarter, so as to ensure effective and coordinated implementation of the said Act and the said Rules at the District level. The Member Secretaries of each of the District Committees to file status reports, in this Court, together with the minutes, on or before 31st December, 2019.

(O) We direct the State Government to pay to the

Petitioner Mr. Jatin Ramaiya, an amount of ₹ 50,000 in token of the services rendered by him for the last 9 years to the cause of effective implementation of the said Act and the said Rules, within a period of four weeks from today. The Director of Social Welfare to file a report of compliance within a period of six weeks from today in this regards.

92. Rule is made absolute in this Public Interest Petition, in the aforesaid terms.

93. Although this public interest petition is disposed of, we direct the Registry to place the matter '*for directions*' on 6th January, 2020, to enable this Court to consider the compliance reports.

94. All concerned are directed to act on the basis of the authenticated copy of this judgment and order.

Prithviraj K. Chavan, J.

M. S. Sonak, J.

95. After this order was pronounced, Mr. Jatin Ramaiya, the Petitioner, who appears in person, states that he does not desire to have the amount which we have today awarded for himself, but he submits that this amount could be expended for the betterment of some of the old age homes for the senior citizens. Again, we appreciate this gesture. Mr. Jatin Ramaiya may indicate to the State Government, the old age homes, where this amount could be expended and even the purpose for which it could be expended. We are sure that the concerned authorities of the State Government may do the needful in this regard, within four weeks from today.

Prithviraj K. Chavan, J.

M. S. Sonak, J.

*at*ssm*