IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 48 OF 2020

M/s Amoncar Classic Caterers, through its proprietor, Mr. Pradosh D. Amoncar, residing at H. No. 69, Athil Peth, Bicholim, Goa. …. Petitioner

Versus

1. The State of Goa, Through the Chief Secretary, having its office at the Secretariat, Porvorim-Goa.
2. The Superintendent of Police (South), District Police Headquarter, Margao, Goa, 403 601.
3. The Goa Human Rights Commission, through its Secretary, Old Directorate of Education Building, 1st Floor, 18th June Road, Panaji-Goa.
4. The Department of Home (General), through it's Under Secretary, Government of Goa, Secretariat, Porvorim, Goa.
5. Mr. Aires Rodrigues, C/G-2, Shopping Complex, Ribandar Retreat, Ribander, Goa. …. Respondents

Mr. S.S. Kantak, Senior Advocate with Mr. Nikhil D. Pai, Advocate for the Petitioner.
Mr. Devidas J. Pangam, Advocate General with Ms. Ankita Kamat, Additional Government Advocate for Respondent Nos. 1, 2 and 4.
Mr. Aires Rodrigues, Respondent No. 5, in person.

Coram:- M.S. SONAK &
NUTAN D. SARDESSAI, JJ.

Date:- 18th February, 2020

ORAL JUDGMENT: (Per M. S. Sonak, J.)

Heard Mr. S.S. Kantak, the learned Senior Advocate along with Mr. Nikhil Pai, the learned Counsel for the petitioner, Mr. Devidas Pangam, the learned Advocate General along with Ms. Ankita Kamat, the learned Additional Government Advocate for the respondent nos. 1, 2 and 4 and Mr. Aires Rodrigues, respondent no. 5, who appears in person.

2. For the order which is proposed to be made, we feel that notice to the respondent no. 3 is not at all necessary.

3. Accordingly, we issue Rule and make the Rule returnable forthwith at the request of and with the consent of the learned Counsel for the parties.

4. The challenge in this Petition is to the order/inquiry report dated 30.04.2019, made by the Goa Human Rights Commission (Commission) in Proceeding No. 273/2016 and the show cause notice dated 24.05.2019 issued by the respondent no. 2, on the basis of recommendations made in the impugned order/inquiry report dated 30.04.2019.

5. Mr. Kantak, the learned Senior Advocate points out that though, the order/inquiry report dated 30.04.2019 makes serious

observations against the petitioner, the petitioner was neither issued any notice nor heard by the Commission before the impugned order/inquiry report was made. He refers to the provisions of Section 16 of the Protection of Human Rights Act, 1993 (said Act) to point out that if, at any stage of the inquiry, the Commission considers it necessary to inquire into the conduct of any person or is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry, it shall give to that person a reasonable opportunity of being heard and to produce evidence in his defence. Mr. Kantak, the learned Senior Advocate has relied upon the decision of the learned Single Judge of the Patna High Court in **Chief Commissioner of Income Tax (CCA), Patna & Another Vs. State of Bihar and others, AIR 2012 Patna 94**.

6. The learned Advocate General by relying upon the decision of the Division Bench in the case of **Deepak Shivaji Karande Vs. Maharashtra State Human Rights Commission, Mumbai & Others, (2011) 1 AIR BOM.R. (NOC 38) 14** submits that the Commission has only made recommendations, on the basis of which, show cause notice is issued. He submits that since, the Commission has not found the petitioner guilty of any charges, there was really no necessity of issuance of any notice to the petitioner.

7. Mr. Rodrigues, who appears in person, submits that he has no objection if the order/inquiry report dated 30.04.2019 and the show cause notice dated 24.05.2019 are set aside and the matter is remanded to the Commission for fresh assessment after hearing the petitioner. He submits that this will enable him as well as others to place further and more relevant material before the Commission.

8. Inspite the language used in the order/inquiry report dated 30.04.2019, it is apparent that the Commission has not pronounced the guilt of the petitioner, as was perhaps the position in the case of **Chief Commissioner of Income Tax (CCA), Patna** (supra). The Commission had only made certain observations in support of its ultimate recommendations.

9. Be that as it may, looking to the provisions of Section 16 of the said Act and the concession made by Mr. Rodrigues, respondent no. 5, who appears in person, we see no difficulty in quashing the order/inquiry report dated 30.04.2019 and the show cause notice dated 24.05.2019, which is based upon the recommendations made in the order/inquiry report dated 30.04.2019 and remand the matter to the Commission for fresh adjudication, after afford of reasonable opportunity to both the petitioner as well as Mr. Rodrigues, respondent no. 5, who was the complainant before the Commission. We order accordingly.

10. The petitioner and the respondent no. 5 and the other respondents to the complaint made before the Commission to appear before the Commission on 2nd March, 2020 at 10:30 a.m., in order to receive further directions in Proceeding No. 273/2016, which is now restored to the file of the Commission by this order. All contentions of all parties are left open and liberty is granted to the parties to file/produce additional material, if they choose to.

11. The Commission shall endeavour to dispose off the proceedings as expeditiously as possible.

12. The learned Advocate General points out that on the basis of the order/inquiry report dated 30.04.2019, payments to the petitioner have been withheld. This was in terms of the interim order made by the Commission in Proceeding No. 273/2016. Mr. Kantak, the learned Senior Counsel for the petitioner, on instructions, states that no payments will be claimed by the petitioner, until the disposal of Proceeding No. 273/2016. He submits that some directions may be issued to the Commission to dispose off this proceedings within a time bound schedule. Accordingly, we direct the Commission to dispose off Proceeding No. 273/2016, within a period of three months from the date of the parties produce the authenticated copy of this order. Until then, the interim arrangement shall operate. We also direct the parties to co-operate with expeditious disposal of Proceeding No. 273/2016.

13. Rule is made absolute in the aforesaid terms. There shall be no order as to costs.

14. All concerned to act on the basis of an authenticated copy of this Order.

NUTAN D. SARDESSAI, J. **M. S. SONAK, J.**

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