

Santosh

***IN THE HIGH COURT OF BOMBAY AT GOA
CONTEMPT PETITION NO.5 OF 2021
WITH
MISC. CIVIL APPLICATION NO.8/2021
IN
STAMP NUMBER MAIN NO.1531/2020***

SACHIN B. BHAGAT AND ANR Petitioners.

Versus

PARIMAL RAI AND 2 ORS Respondent.

Mr. Vivek Rodrigues with Mr. E. Gomes, Advocates for the
Petitioners.

***Coram : T.V. Nalawade &
Smt. Bharati H. Dangre, JJ.***

Date : 15th February, 2021.

P.C. :-

The Petition is filed for taking action against Respondents No.1, 2 and 3 for violating the order made by this Court on 4/11/2020. In view of the subsequent developments which have taken place and copies of the documents which are available, this Court asked the learned Counsel for the Petitioners to argue to make out a case for notice.

2. In proceeding No.STM-1531-2020, on 4/11/2020 an order was made and proceedings was disposed of. The relevant portion of

the order is in paragraphs 3 to 6 and it is as under :

“3. The petitioners seek the following substantial relief in this petition.

“(A) For a Writ of Mandamus or any other appropriate writ, order or direction in the nature of Mandamus under Article 226 of the Constitution of India or any other appropriate writ, order or direction under Article 226 of the Constitution of India commencing and directing the Respondent No.2 Director of Urban Development to forthwith notify the wards in which seat/s are reserved for women and wards in which seats are reserved for Schedule Castes, Scheduled Tribes and Other Backward Class including the seats for offices of Chairperson within the Municipal areas in terms of Section 10(1) of the Goa Municipalities Act, 1968 for the upcoming Municipal Elections to the eleven Municipal Councils in Goa.”

4. Mr. Padiyar, learned Advocate points out that the State Election Commission has also issued directions to the respondent no.2 to notify the wards in which seats are reserved for women, SC, ST and OBC.

5. The learned Advocate General states that the necessary notification of wards for which seats are to be reserved for women, SC, ST and OBC in terms of Section 10(1) of the Goa Municipalities Act, 1968 will be issued within a period of four weeks from today. We accept the aforesaid statement and direct the respondent no.2 to act accordingly.

6. The Rule is made absolute in terms of prayer Clause (a).

3. The learned Counsel for the Petitioners submitted that even

when an order of aforesaid nature was made on 4/11/2020 on the basis of the statement made by the learned Advocate General, subsequently different kind of statement was made in the proceedings like LD-VC-CW-359-2020 with LD-VC-CW-362-2020, the relevant portion for the present purpose can be found in paragraphs 3 to 9, and it is as under :

“3. The petitioners in both these petitions seek an appropriate Writ to the State Government (respondents no.1 and 2) to issue notifications for delimitation of constituencies and for reservation of seats for municipal elections at least thirty days prior to the notifications of the schedule for such elections, as and when such elections are due.

4. By taking into consideration the orders made in similar petitions, we had adjourned these matters from time to time in order to enable the learned Advocate General to make a statement as to the time limit between the issuance of the notifications for delimitation/ reservation and the notification of the schedule of the municipal elections.

5. Today, the learned Advocate General for the State of Goa makes a statement that the notifications for delimitation and reservation will be issued by the appropriate authorities whom he represents, at least three weeks prior to the date of the notification of the schedule for municipal elections.

6. Mr. Lawande and Mr. Fereira, the learned counsel for the petitioners state that for the present, the petitioners, are agreeable to the disposal of these petitions by accepting the aforesaid statement of the learned Advocate General. However, they submit that the larger issue raised by them in

these petitions may be kept open for decision in an appropriate case, should the occasion therefor, arise.

7. By accepting the statement made by the learned Advocate General and directing the concerned authorities to act accordingly, we dispose of these petitions. However, we feel that it would be better if there is some statutory provision made in this regard so that both the candidates desirous of contesting the elections, as well as the voters are quite clear about the issue of delimitation and reservation before the actual announcement of the election schedule.

8. For the present, we dispose of these petitions by accepting the statement of the learned Advocate General and directing the concerned authorities to act accordingly. Since we have not gone into the larger issue, the same is kept open, should any occasion arise for raising the same.

9. Both these petitions are disposed of in the aforesaid terms. There shall be no order as to costs.”

4. The learned Counsel for the Petitioners produced on record today, copies of orders made in the aforesaid matters like LD-VC-CW-359-2020 with LD-VC-CW-362-2020, both dated 8th December, 2020 and 16th December, 2020. These orders need not be referred to, as by order dated 21/12/2020, both these proceedings came to be disposed of in the aforesaid terms.

5. The submissions made show that subsequently, the Director of Municipal Administration, issued an order dated 4/2/2021 on the basis of the amendment made to the Goa

Municipalities Act, 1968. The amendment is now made and the proviso is added to Section 10 of the Act. The proviso provides as under :

“Provided that such order shall be issued at least seven days before the date of notification of the general election.”

6. As per the scheme of the Constitution of India, the Legislature is a supreme authority in this regard. The sovereign power of making law is reserved for legislature. Giving a particular period for the purpose like present one, is a matter of policy and only legislature can lay down policy in this regard. The submissions made by the learned Advocate General in the proceedings like present one are for the Government. In the past, there was no such period prescribed and now the period is prescribed. The purpose behind fixing the period can be found in the legislation and whether the period is reasonable or not, must have been considered by the legislature. The matter can come before this Court only in review jurisdiction. In view of these circumstances, this Court holds that it cannot be said that there is any intentional disobedience of the aforesaid orders made by this Court from the Respondents. This Court has power to decide as to whether it will be proper to start contempt proceedings and for that also this Court holds that it has no desire to start contempt proceedings.

7. So the Petition stands dismissed. The State had filed Application Stamp Number 1531/2020 for extension of time which was fixed by the order dated 4/11/2020 quoted above. In view of the aforesaid reasons, this Court holds that there is no need to pass any such order now. So, that application also stands disposed of.

Smt. Bharati H. Dangre, J.

T.V. Nalawade, J.