

**IN THE HIGH COURT OF BOMBAY AT GOA.****WRIT PETITION NO.789 OF 2014.**

ST. ANTHONY HIGH SCHOOL,

Through its Manager,

Fr. Bruno Leitao,

aged 34 years, son of Mr. Bruno Leitao

Having office at St. Anthony's High School,

Monte-de-Guirim,

Bardez – Goa.

..... Petitioner.

V/s.

1. Mrs. UMA UMAKANT CHODANKAR,

62 years of age, Retired teacher of

St. Anthony High School,

Monte-de-Guirim, Bardez Goa.

r/o B-2, Dena Laxmi Co-op. Housing

Society Ltd.,

Rego Baag, Bambolim Complex,

Bambolim – Goa.

2. THE DIRECTOR OF EDUCATION,

Directorate of Education,

Porvorim – Goa.

3. THE DIRECTOR OF ACCOUNTS,

Directorate of Accounts,

Panaji – Goa.

4. STATE OF GOA

Through its Chief Secretary,

Secretariat, Alto Porvorim,

Bardez – Goa.

..... Respondents.

Shri Nigel Costa Frias, Advocate for the petitioner.

Shri P. Sawant and Shri M. Naik, Advocate for the respondent no.1.

Shri S. Dhargalkar, Addl. Govt. Advocate for the respondent nos. 2, 3 and 4.

**Coram:- *DIPANKAR DATTA, CJ., &***

***M. S. SONAK, J.***

**Date:- 23<sup>rd</sup> March, 2021.**

**ORAL JUDGMENT (*PER DIPANKAR DATTA, CJ.*)**

The respondent no.1 approached the Goa Human Rights Commission, Panaji, Goa (hereafter “the Commission”, for short) with a complaint against the petitioner. It was alleged in the complaint that despite the complainant’s retirement on 31.8.2012 on attaining the age of superannuation, her employer, being the petitioner herein, had not paid her monthly pension as well as other terminal benefits. The Commission initiated an inquiry in terms of the provisions contained in Section 18 of the Protection of Human Rights Act, 1993 (hereafter “the Act”, for short). Such inquiry culminated in a report dated 15.9.2014. The concluding paragraph of the report containing the recommendations reads as follows:

- i. *The Respondents No.1 shall pay interest on the delayed payment of GPF within a period of one month as admissible under the Rules.*
- ii. *Respondent no.1 shall pay compensation of Rs.1,00,000/- (Rupees one lakh only) to the Complainant on account of delay in payment of termination benefits within a period of one month.*
- iii. *Since the Government is not at fault for the delay in payment of other terminal benefits, such compensation shall be deducted from the grant in aid of the School and appropriated to the Government.*

2. The employer of the respondent no.1 challenged the report dated 15.9.2014 by presenting this writ petition dated 20.11.2014. While issuing Rule, a coordinate Bench by order dated 22.12.2014 granted ad-interim stay in terms of prayer clause (b) of the writ petition which reads as under:

*“That pending the hearing and final disposal of this petition the operation/implementation of the impugned inquiry report dated 15.9.14 of the Goa Human Rights Commission be stayed.”*

3. The Rule has now been placed for final hearing before us. Yesterday, we had inquired from the Addl. Government Advocate for the State as to whether the State Government had accepted the recommendations of the Commission dated 15.9.2014. Since instructions were wanting, the Addl.

Government Advocate for the State had prayed for adjournment which was granted. Today, on instructions, the Addl. Government Advocate informs us that because of the stay granted by this Court by the order dated 22.12.2014, the State Government did not proceed to consider the report and the recommendations of the Commission contained in the former.

4. Provisions contained in Section 18 of the Act require the Government to take a decision on the recommendations and to forward its comments on the report including the action taken or proposed to be taken thereon to the Commission. Thereafter, the Commission is statutorily mandated to publish its entire inquiry report together with the comments of the Government as well action proposed to be taken or taken by the Government on the recommendations of the Commission.

5. We are of the considered opinion that unless the aforesaid measures are taken, no cause of action can be said to have accrued in favour of the petitioner to challenge the recommendations of the Commission contained in its report dated 15.9.2014. The cause of action, if at all, could arise if the Government were to accept the report as well the recommendations of the

Commission and the petitioner has to implement such recommendations.

6. In such view of the matter, the Rule stands discharged with a direction to the State Government to apply its mind to the report of the Commission as well as the recommendations contained therein and to take appropriate action in terms of Section 18 of the Act, within a period of a month from date of service of a copy of this order. Once any decision is taken affecting the rights of any party, the party aggrieved by such decision may pursue his/her/its legal remedy in accordance with law. We keep all the contentions open.

7. There shall be no order for costs.

**M. S. SONAK, J.**

**CHIEF JUSTICE**

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