

Niti

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.17/2022

PRAKASH @ PRASHANT
PURSHOTTAM GAUNS DESSAI ... PETITIONER

Versus

ADMINISTRATOR OF DEVALAYA/
MAMLATDAR OF QUEPEM & 4 ORS. ...RESPONDENTS

Mr. Chirag Angle, Advocate for the Petitioner.
Mr. D. Pangam, Advocate General with Ms. M. Correia,
Additional Government Advocate for Respondent Nos.1 & 2.
Mr. Parag Wagle, Advocate for the Respondent Nos.3 & 5.

**CORAM: M. S. SONAK &
R. N. LADDHA, JJ.**

DATED: 11th April 2022

ORAL ORDER :

1. Heard Mr. Chirag Angle, learned Counsel for the petitioner. Mr. D. Pangam, learned Advocate General, and Ms. M. Correia, learned Additional Government Advocate for the respondent nos.1 & 2, and Mr. Parag Wagle, the learned Counsel, appears for respondents nos.3 & 5. For the order which we propose to make an appearance of respondent no.4, who is incidentally the President of respondent no.3, is not required. Further, we are quite surprised that a Counsel appears for

respondent no.3 but states that he has no instructions to appear on behalf of respondent no.4.

2. The petitioner, who claims to be a member/Mazan of Shree Sateri Shantadurga Devalaya alias Sateri Gramdevi of Xeldom, a Devasthan which is governed and controlled under the Regulamento Das Mazania (Devasthan Regulation), seeks an appropriate writ requiring respondent no.1 to discharge his statutory duties and implement his judgment and order dated 15.04.2021 and recover an amount of ₹18,09,417/- from the erstwhile members of the Managing Committee of Devasthan.

3. The Administrator of Devalayas/the Mamlatdar of Quepem Taluka, by his judgment and order dated 15.04.2021, has directed the following :

"ORDER

The inquiry proceedings initiated vide Order of Honourable High Court of Bombay at Goa, Panaji-Goa dated 17/12/2019 in the Writ Petition No. 895 of 2020 stands disposed. The undersigned is compelled to order the President of the Managing Committee (2019 to 2022) to resign from the post. However, the remaining members of the managing committee (2019 to 2022) shall hold office and look after the effective administration of the devalaya till the completion of their term of office for the triennium 2019 to 2022. Further the erstwhile

Managing Committee (for the period 2016 to 2019), is held collectively responsible for the financial irregularities with respect to the temple renovation work more particularly with respect to the expenditure incurred in excess of approved budget viz. Rs. 18,09,417 (72,57,818 - 54,48,671) and as such the same shall be recovered from them. The body of mahazans shall decide on the further course of action to be taken against the erring erstwhile Managing Committee (for the period 2016 to 2019) for the above adjudged financial irregularities done by them. And to accordingly initiate necessary legal action under prescribed law and in adherence to the provisions of the Devasthan Regulation Act. And the Managing Committee is warned to follow the Devasthan Regulation henceforth while executing any work or making payments to avoid any misappropriation of Devasthan funds and also to maintain daily cashbook to maintain proper Accounts of Devasthan Funds.

Pronounced in the open Court.

*Given under my hand and seal of this office on this
15th day of April 2021.*

sd/-

(Laxmikant Dessai)

*Administrator of Devalayas/
Mamlatdar of Quepem Taluka
Quepem Goa.*

Date: 15/04/2021

Place: Quepem-Goa"

4. The above judgment and order was made by the Administrator on a complaint about certain financial irregularities in the functioning of the erstwhile Managing Committee. Since no action was forthwith coming, this Court had to intervene in the matter and direct the Administrator to look into the complaint and make proper orders if, indeed, a case was made out.

5. The order dated 15.04.2021 has not been challenged by any parties. Therefore, it is only proper that such an order is implemented, and if any amounts of money have to be recovered from the erstwhile members of the Managing Committee, they are recovered at the earliest.

6. Mr. Wagle, learned Counsel for the respondent nos.3 & 5, on instructions, states that within a period of one month from today, the general body will be convened and held, and some decision will be taken on the issue of recovery. He states that such a decision will be communicated to the Administrator within a week of the same being taken without fail. He also attempted to urge that this was an issue concerning a private temple and, therefore, not some case of recovery of public funds.

7. In our view, the Administrator will then have to take out appropriate proceedings in terms of title IV of Chapter 1 of the Devasthan Regulations or such other statutory provisions that will be attracted in the present case so that the amounts are indeed recovered. It shall be the responsibility of respondent no.3, the general body, as well as the Administrator, to ensure that the amounts are indeed recovered. If there is any dereliction in the discharge of such statutory duties, then this will call for very serious action against those who are concerned.

8. Regarding Mr. Wagle's contention about the absence of a public element, at this stage, we refer to the decision of the Hon'ble Supreme Court in the case of ***Chenchu Rami Reddy & Anr. V/s. Government of Andhra Pradesh & Ors.***¹ in which it is held that more often than not, to the detriment to what belongs to '*many*,' collectively, does not cause pangs to '*any*,' for no one is personally hurt directly. That is why public officials and public-minded citizens entrusted with the care of '*public property*' have to show exemplary vigilance. What is true of '*public property*' is equally true of property belonging to religious or charitable institutions or endowments.

¹ (1986) 3 SCC 391

9. In Goa, admittedly, there is a statutory Code in place to regulate the functioning of devasthan. The Administrator is an authority under this Code. The Code requires him and also the managing committees to discharge certain functions and duties so that the devasthans are properly managed, and the income from donations, offerings, or other sources are properly used for legitimate purposes.

10. Therefore, we dispose of this petition by issuing the aforesaid directions. The Administrator to inform the petitioner within three months from today of the action that is taken or proposed to be taken so that if there is any hint of dereliction, the petitioner can always take out appropriate proceedings in the matter.

11. This petition is disposed of in the aforesaid terms. There shall be no order for costs.

R. N. LADDHA, J.

M. S. SONAK, J.