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IN THE HIGH COURT OF BOMBAY AT GOA

PIL WRIT PETITION NO.26/2021

INACIO DOMNIC PEREIRA

... PETITIONER

Versus

THE STATE OF GOA, THR.

CHIEF SECRETARY,

GOVERNMENT OF GOA AND 4 ORS.

...RESPONDENTS

Mr. Ryan Menezes with Mr. Nigel Fernandes, Advocates for the Petitioner.

Mr. Neehal Vernekar, Additional Government Advocate for Respondents No.1, 2, 3 and 5.

Mr. Vinoj Daniel, Advocate for Respondent No.4.

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

DATED: 20th April 2022

P.C.:

1. Heard Mr. Menezes for the petitioner, Mr. Neehal Vernekar, learned Additional Government Advocate for the respondents no.1, 2, 3 and 5 and Mr. Vinoj Daniel for respondent no.4.

2. The petitioner, by instituting this petition had complained about the alleged misuse of funds by the Village Panchayat of St. Cruz under the guise of employing certain persons for collection

of garbage and making payments to them. One of the allegations in the petition was that the Panchayat was not following the tendering procedure prescribed in the Circular dated 31.07.2020 for engaging personnel to collect and dispose of garbage.

3. Based on the aforesaid, the petitioner, has applied for the following substantive reliefs:

“a) That by a writ of Mandamus, and/or a writ, order and/or direction in the nature of Mandamus, and/or any other appropriate writ, order or direction, under Article 226 and/or 227 of our Constitution, the Respondent No. 4 be commanded to comply with the mandate of Order dated 28/02/2014 issued by Respondent No. 2, and follow the prescribed tendering procedure, as set out in Circular dated 31/07/2020, also issued by Respondent No. 2, for the work of collection and disposal of garbage expeditiously, or such other period as this Hon. Court may see fit to direct;

b) That by a writ of Mandamus, and/or a writ, order and/or direction in the nature of Mandamus, and/or any other appropriate writ, order or direction, under Article 226 and/or 227 of our Constitution, the Respondent No. 5, i.e. the Chief Executive Officer, North Goa, appointed under the said Act, be commanded to initiate an inquiry as contemplated under Section 187 (8) of the Act, into the improper use of monies from the Panchayat Fund, by Respondent No. 4 for the purpose of collection of garbage, and to conclude the said inquiry

expeditiously, or such other period as this Hon. Court may see fit to direct;”

4. Smt. Siddhi Halarnkar, holding the charge as Director of Panchayats has filed the affidavit in reply. Paragraph 12 of this affidavit reads as follows:-

“12. I say that, upon consideration of the reports dated 23/02/2021 and 22/11/2021, and the reply filed by Shri. Rajesh Naik, then secretary of village panchayat of St. Cruz, at the relevant period, the issue which remains to be inquired into is whether there was actual collection and disposal of garbage by the Village Panchayat of St.Cruz. I say that, in interest of justice, an inquiry officer Shri. Umakant Korkankar, Additional Director-I of Panchayats (North) has been appointed vide Order no.15/22/DP/Vig.Inq/St.Cruz/Tis/2021-22/1380, dated 24/03/2022 to conduct inquiry into the matter by considering the reports dated 23/02/2021 and 22/11/2021 of the BDO-Tiswadi and to submit detailed/comprehensive report with findings to the undersigned.”

5. Mr. Vernekar, based upon the affidavit including the above quoted paragraph 12 of the affidavit submits that the allegations made by the petitioner about misuse of funds will be inquired into by the Additional Director of Panchayats who has been already appointed for this purpose. He states that this Additional Director of Panchayats will submit a detailed/comprehensive

report with his findings and based upon such report, if necessary, the Chief Executive Officer will take further action in terms of Section 210 of the Panchayat Raj Act as also other provisions of the Panchayat Raj Act which empower the Chief Executive Officer to take action if required. We accept this statement and direct the concerned officials to act accordingly. This, according to us, substantially redresses the relief in terms of prayer clause (b) above.

6. Mr. Menezes states that the petitioner will file further particulars before the Additional Director who is inquiring into the matter within ten days from today. Leave is granted to the petitioner to file the same. The Additional Director to not only consider this additional material but also consider the allegations in the petition and its accompaniments in the course of the inquiry which he is now required to undertake into the matter.

7. As regards prayer clause (a), Mr. Vinoj Daniel states that the Panchayat has already applied for technical and other sanctions to proceed with tendering process. Mr. Vernekar states that the application of the Panchayat is being processed and appropriate decision will be taken in terms of the law as expeditiously as possible. According to us, this redresses the substantial relief in terms of prayer clause (a) as well.

8. Mr. Menezes expressed apprehension that the Panchayat might continue to adopt its earlier course of proceeding in the matter without any fair and transparent process. Now that the Additional Director is inquiring into the action of the Panchayat, we think that there is no base for this apprehension. Mr. Vinoj Daniel states that once the sanctions/approvals are received from the Government, within 45 days the tendering process will be completed. He makes this statement based on instructions from the Secretary of the Panchayat.

9. By accepting the aforesaid statements and directing all concerned to act accordingly, we dispose of this petition. There shall be no order for costs.

R. N. LADDHA, J.

M. S. SONAK, J.

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