



Esha

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 624 OF 2024

MOHAN DAMU NAIK ... PETITIONER

Versus

STATE OF GOA, THR. CHIEF
SECRETARY AND 6 ORS. ... RESPONDENTS

Mr. Sebastian Vales, Advocate for the Petitioner.

Mr. Shivdatt P. Munj, Additional Government
Advocate for Respondent Nos. 1 to 5.

Mr. Y. Kotkar, Advocate for Respondent Nos. 6 and 7.

CORAM: BHARAT P. DESHPANDE, J.

DATED: 3rd SEPTEMBER 2024

ORAL ORDER:

1. Heard Mr. Vales appearing for the Petitioner, the learned Additional Government Advocate Mr. Munj appearing for Respondent Nos. 1 to 5 and Mr. Kotkar appearing on behalf of Respondent Nos. 6 and 7.

2. The present Petition is filed with the following prayers:

“(a) By way of appropriate order of writ, direct the respondents nos. 3 & 4 to enforce the order dt. 27 April 2023 directing payment of maintenance to the petitioner and his wife in a time bound frame;

(b) By way of appropriate Order of Writ, direct the respondents nos. 6 & 7 to pay the maintenance awarded vide Order dt. 27th April 2023 from the date of application till date of filing of this petition along with interest at the rate of 18% per annum pending disposal of this petition;

(c) By way of appropriate writ, direct the respondent no. 4 to give all assistance to the petitioner and the respondent no. 3 to implement the order dt. 27th April 2023 against the respondents nos. 6 & 7;

(d) By way of appropriate writ, direct the respondent no. 4 to register an offence under section 25 of the MWPSC Act against the respondents nos. 6 & 7 for abandoning the petitioner and his wife and for not paying maintenance to the petitioner and his wife and to investigate the same and to take the same to its logical conclusion;

(e) Any other as may be deem fit and proper in the facts and circumstances of the case.”

3. Mr. Vales submits that the Petitioner, who is a senior citizen, inspite of the order passed by the Maintenance Tribunal, is suffering since there is no execution or implementation of it by Respondent Nos. 6 and 7 and even

by the Authority who are bound to execute such orders. He submits that an Application for execution of the order dated 27.04.2023 was filed before the Maintenance Tribunal on 22.06.2023, however, till date, no cognizance of such an offence is taken.

4. Mr. Vales further submits that Respondent Nos. 6 and 7 failed to pay the maintenance amount granted by the Tribunal. Besides, Respondent Nos. 6 and 7 deliberately avoided to pay the electricity charges of the house wherein the Petitioner is residing and due to such default, the electricity connection is disconnected and the Petitioner is residing without such basic need.

5. Mr. Kotkar appearing for Respondent Nos. 6 and 7 now submits that all the arrears of electricity charges are deposited today itself and the process of restoring the electricity connection is in progress.

6. It is expected that the Authority shall restore the electricity connection forthwith as a statement is made on behalf of Respondent Nos. 6 and 7 that all the dues are paid.

7. Respondent Nos. 6 and 7 shall pay such electricity charges regularly since the electricity metre stands in their name.

8. Mr. Munj, on instructions, submits that the Maintenance Tribunal now issued notices on 28.08.2024 to the Petitioner and Respondent Nos. 6 and 7. This clearly shows that the Maintenance Tribunal even failed to take cognizance of the Application filed on 22.06.2023 for executing the order and only after receipt of the notice from this Court, the said Tribunal issued notices to the concerned parties. Such an approach of the Tribunal is completely against the Senior Citizens Act itself as well as the direction given by this Court in the case of **Jatin Ramaiya Vs. State of Goa, 2019 (2) Goa L.R. 253**.

9. Mr. Vales would submit that Section 8 and Section 11 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 would provide that in case of failure to comply with the orders, the Authority has to issue a warrant for claiming the amount or to enforce the order of maintenance.

10. Mr. Munj submits that a show cause notice is already issued to Respondent Nos. 6 and 7 to deposit the arrears within 15 days. If such an amount is not deposited, the Authority will take necessary steps for enforcing the said order.

11. Respondent Nos. 6 and 7 who are the son and the daughter-in-law of the Petitioner are required to comply with the said order. It is clear that the order passed by the Maintenance Tribunal is not challenged before the Appellate Authority.

12. The Petition could be disposed of with a direction to the Maintenance Tribunal to dispose of the Execution Application as early as possible and within a period of one month from today. For this purpose, if the presence of the Petitioner is required, the same could be secured by intimating the Petitioner. The Tribunal shall consider the directions passed by this Court in the case of **Jatin Ramaiya** (supra) while enforcing such order.

13. Mr. Munj on behalf of the concerned Tribunal now submits that the Application will be disposed of as early as possible without any further delay.

14. The Petitioner is granted liberty to amend the Execution Application since Mr. Vales submits that the Petitioner is residing in fear and if complaints are filed with the Police Station, there is no assistance. The Tribunal shall allow such amendment to the Execution Application and thereafter, take necessary steps to enforce such orders.

15. The Petition stands disposed of.

16. Parties to act on an authenticated copy of this Order.

BHARAT P. DESHPANDE, J.