

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 924 OF 2024

Union of India through
Secretary Ministry of Defence (Army) .. Petitioner

Versus

Maj. Piyush Shandillya (Retd.) .. Respondent

Mr. Kedar B. Dighe, Advocate for the Petitioner.

Mr. Pranav Dessai a/w Mr. Tushar Agrawal i/b Mulani & Co., Advocates for Respondent.

**CORAM : B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.**

DATE : JULY 05, 2024

P. C.

1. The above Writ Petition is filed by the Union of India through Secretary Ministry of Defence (Army) challenging the order dated 22nd December 2022 (for short, “the impugned order”).

2. At the outset, the learned Advocate appearing on behalf of the Respondent took a preliminary objection about the maintainability of the above Writ Petition on the basis of territorial jurisdiction. He submitted that firstly, the impugned order (Exhibit ‘A’ to the Petition) is passed by the Armed Forces Tribunal, Circuit Bench, Goa. Secondly,

since the impugned order was not being implemented, the Respondent herein filed Writ Petition No. 1380 of 2023 (F) before the Goa Bench of this Court. This Writ Petition was disposed of by order dated 12th September 2023 when the Goa Bench of this Court interalia ordered implementation of the impugned order. Since the impugned order was still not being implemented, the Respondent herein has also filed Contempt Petition No. 16 of 2024 before the Goa Bench. In the Contempt Petition, the Court has also issued notice to the alleged contemnors. The learned Advocate for the Respondent, therefore, submitted that this Writ Petition should also be filed before the Goa Bench of this Court otherwise there is every possibility of there being conflicting decisions.

3. Faced with this situation, the learned Advocate appearing on behalf of the Petitioner [Union of India through Secretary Ministry of Defence (Army)] sought a direction that the above Writ Petition be transferred to the Bench at Goa.

4. Considering the circumstance narrated above, we direct the Registry to transfer the papers and proceedings in the above Writ Petition to the Goa Bench of this Court and have it tagged along with

Contempt Petition No. 16 of 2024 filed by the Respondent herein before Goa Bench of this Court.

5. We have noted that in the above matter an interim order was passed on 04th October 2023 granting a stay of the impugned order dated 22nd December 2022 (Exhibit 'A' to the Petition). According to the Respondent, this stay has been obtained by suppressing material facts, namely, the order passed by Goa Bench in the Writ Petition No. 1380 of 2023 (F) dated 12th September 2023. He submitted that though this order is annexed to the Writ Petition, the same was not specifically brought to the notice of this Court when the Petitioner obtained the order of stay on 04th October 2023. He submitted that this is because had the order dated 12th September 2023 was brought to the notice of this Court, no stay would have been granted. This, of course, is refuted by learned Advocate appearing for the Petitioner.

6. Since we have transferred the above matter to the Goa Bench of this Court, we do not want to get into this controversy at this stage. Suffice to state that the stay granted by the order dated 04th October 2023, is extended, without prejudice to the rights and contentions of all the parties, till 02nd August 2024. The Goa Bench will

then decide whether the aforesaid stay should continue or whether the same should be vacated.

7. We must clarify that we have not opined on the merits of the matter which shall be decided by the Goa Bench of this Court uninfluenced by any observations made in this order.

8. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]