

IN THE HIGH COURT OF BOMBAY AT GOA**LD-VC-CW-187-2020**

Sunil Garg

... Petitioner

Versus

State of Goa & Ors.

... Respondents

Shri Jatin Sehgal and Shri R. Menezes, Advocates for the Petitioner.

Shri N. Kamat, Advocate for the Respondent No.1.

Shri Deep Shirodkar, Additional Government Advocate for the Respondent No.2.

Shri S.D. Padiyar, Advocate for the Respondent No.3.

Coram:- DAMA SESHADRI NAIDU, J.**Date:- 10th September 2020****P.C. :**

When this matter was mentioned yesterday out of turn, I passed a detailed order and had it posted for today.

2. Today, the learned counsel for all parties concerned are present. But Shri Jatin Sehgal, the petitioner's counsel, informs me that only last night was he tested COVID-19 positive. Unfortunate.

3. It seems Shri Sehgal has already sent a copy of the medical certificate to the Lokayukta as well. Besides, he informs me that now he has been in quarantine, having isolated himself in the house, with no access to the files; nor could he interact with his other colleagues.

4. But given the urgency pointed out by not only the petitioner's counsel but also the first respondent's counsel, I heard him formally despite Shri Sehgal's ill health. I have also heard Shri Padiyar, the learned counsel appearing for the Lokayukta, Shri Deep Shirodkar, the learned Additional Government Advocate appearing for the State, and Shri Nihal Kamat, the learned counsel for the first respondent.

5. Shri Kamat, appearing for the contesting respondent, has been vocal in his submissions that the petitioner has been dragging the proceedings without any justification. In the end, he has insisted that even if the Court is inclined to stay the proceedings before the Lokayukta, he nevertheless wants liberty for the first respondent to place all relevant documents before the Lokayukta. That liberty is granted.

6. Indeed, for more than one reason, the matter remained pending before the Lokayukta for over a couple of years. Now, the Lokayukta took up the matter and disposed of the petitioner's preliminary objection under Section 27 of the Goa Lokayukta Act. Before the Lokayukta could do so, the petitioner came before this Court and questioned the procedure the Lokayukta adopted in hearing him on the questions raised in his application under Section 27 of the Act. Once that petition was dismissed, the Lokayukta considered the application under Section 27 and rendered an order on the merits.

7. Questioning the Lokayukta's order, the petitioner filed this Writ Petition the very next day. That apart, the petitioner complains that he has been staying in Delhi; yet, the Lokayukta wants him to participate in the trial by the very next date. It was with ten hours' notice.

8. No Court desires to come in the way of any other adjudicatory forum disposing of the matters expeditiously. That is, in fact, the need of the hour. That said, justice should not only be done but should also seem to be done.

9. Here, given the logistical difficulty during the pandemic, it may be very difficult for the petitioner to come down to Goa from Delhi based on a notice that was given on the previous day online. He may have to come down, instruct a counsel to cross-examine the opponent, and subject himself to trial, including the cross-examination by the opponent.

10. I reckon, in all fairness, the petitioner needs some breathing time, to prepare himself for coming down to Goa, to instruct a counsel, and to participate in the proceedings. Besides, if the Lokayukta were to

complete the proceedings before this Court could have at least prima facie view of the matter now brought before it, the very writ petition may become infructuous.

11. Under these circumstances, apart from allowing the first respondent to place before the Lokayukta the records he intends to file, this Court stays all further proceedings before the Lokayukta for one week. Post the matter in ten days for the respondents' replies.

12. At this juncture, Shri Jatin Sehgal, the learned counsel for the petitioner, informs me that the learned Lokayukta has passed certain orders, the copies of which he secured only last night. He wants this Court to preserve the petitioner's liberty to assail them.

13. I reckon, to exercise any statutory right, including access to justice, no suitor needs any court's prior permission. Under common law, a suitor can do all that has not been expressly prohibited.

14. Post the matter in 10 days. Given the apprehension expressed by Shri Jatin Sehgal that his symptoms may aggravate in the meanwhile, post the matter on 21.09.2020.

Stand over to 21.09.2020.

DAMA SESHADRI NAIDU, J.

NH