

*IN THE HIGH COURT OF BOMBAY AT GOA*

*LD-VC-CW-116 OF 2020*

SMT. SHANTI MAKWANA HARDING  
Junior Scale Officer, Goa Civil Service,  
Presently posted as Section Officer,  
Department Public Grievances, Secretariat,  
Major of age, Indian National,  
Resident of House No.A/23 B/23,  
Navelcar Hill City, Kadamba Road,  
Baiguinim, Old Goa, Goa – 403402.

... Petitioner

Versus

1. STATE OF GOA

Through the Chief Secretary,  
Secretariat, Porvorim, Goa;

2. THE DIRECTOR (VIGILANCE) & EX-OFFICIO

JOINT SECRETARY TO GOVERNMENT,  
Directorate of Vigilance,  
Serra Building, Altinho,  
Panaji, Goa;

3. THE INQUIRY OFFICER,

CASE NO.1/2020-21  
Managing Director,  
Goa Industrial Development Corporation  
Patto, Panaji, Goa;

4. THE PRESENTING OFFICER

Additional Director,  
Urban Development (Municipal Administration)  
First Floor, Dempo Towers,  
Patto, Panaji, Goa.

... Respondents

Mr. Raunaq Rao, Advocate for the Petitioner.

Mr. D.J. Pangam, Advocate General with Mr. P. Arolkar, Additional Govt. Advocate for the Respondents No. 1, 2 and 4.

**Coram:- M. S. SONAK &  
SMT. M.S. JAWALKAR, JJ.**

**Date : 31<sup>st</sup> July, 2020**

**ORAL JUDGMENT : ( Per M. S. Sonak,J)**

Heard Mr. Raunaq Rao for the Petitioner. Mr. D. Pangam, the learned Advocate General appears for Respondents No.1, 2 and 4, along with Mr. P. Arolkar, the learned Additional Govt. Advocate.

2. Mr. Rao, the learned Counsel for the Petitioner submits that Respondent No.3 is a formal party. From the reliefs applied for, we too are of the opinion that the presence of Respondent No.3 is not really necessary for disposal of this Petition. Accordingly, we issue **Rule**. With the consent of and at the request of the learned Counsel for the parties, we make the **Rule** returnable forthwith.

3. Mr. Rao, the learned Counsel for the Petitioner, on the basis of the instructions from the Petitioner, for the present, restricts this Petition to the relief of quashing the order dated 9<sup>th</sup> July, 2020 at

page 124 of the paper book, in terms of which, the Petitioner's application seeking leave to be represented by an Advocate in the course of the disciplinary proceedings against her, came to be rejected.

4. The learned Advocate General makes a statement that it is absolutely not the intention of any of the Respondents to either harass the Petitioner or create any unnecessary obstacle in the matter of defence. He submits on the basis of a bona fide impression that since the Presenting Officer is not a legally trained person, the Petitioner's application seeking leave to take assistance of an Advocate, came to be rejected. He states that otherwise, the Respondents, in the peculiar facts and circumstances of the present case, will have no serious objection if the Petitioner is permitted to take assistance of an Advocate in the course of the inquiry proceedings.

5. In this case, the records indicate that the Petitioner's application seeking leave to be defended by an Advocate was allowed by the Inquiry Officer on the basis of the no objection given by the Presenting Officer, in the first instance. Later on, the Presenting Officer attempted to retract the no objection, but this retraction was not allowed by the Inquiry Officer. The Inquiry Officer merely required the Petitioner to apply to the appropriate authority for leave

since, a reference was made to certain provisions of the CCS/CCA Rules which may be applicable. It is on this application, the impugned order dated 9<sup>th</sup> July, 2020 came to be passed.

6. From the perusal of the impugned order dated 9<sup>th</sup> July, 2020, we find that the same is bereft of any reasons. Taking into consideration the reasonable approach of the learned Advocate General, as also the peculiar facts and circumstances of the present case, we set aside the impugned order dated 9<sup>th</sup> July, 2020 and permit the Petitioner's representation/assistance by an Advocate in the course of the inquiry proceedings. At the same time, if, the Presenting Officer feels it necessary to seek similar assistance/representation, we direct that even the same shall be granted to the Presenting Officer/ Department. In this manner, there will be level playing field.

7. We, however, make it clear that merely because Advocates are permitted to appear in the inquiry proceedings in the peculiar facts and circumstances of the present case that, by itself, should not be a ground for delaying the inquiry by seeking unnecessary adjournments. Mr. Rao, the learned Counsel for the Petitioner assures this Court that from his side, he will not seek any unnecessary adjournments or otherwise delay the conclusion of the inquiry proceedings. This statement is accepted and we are sure that the Petitioner and her Advocate will abide by the same. Needless to add

that the same will also apply to the Department, in case the Department decides to appear through an Advocate, or the Presenting Officer seeks assistance of an Advocate in the course of the inquiry proceedings.

8. With the aforesaid observations and directions, the Rule is made absolute to the above extent. There shall be no order as to costs.

9. We make it clear that we have not gone into any other contentions which have been raised in this Petition and, therefore, all contentions of all parties other than the one which we have now decided, are left open.

10. All concerned to act on the basis of an authenticated copy of this order.

***SMT. M.S. JAWALKAR, J.***

***M. S. SONAK, J.***