

## IN THE HIGH COURT OF BOMBAY AT GOA

## LD-VC-CW-315-2020

Mr. Aires Rodrigues, aged 60, C/G-2, Shopping Complex, Ribandar Retreat, Ribandar, Goa.

Mobile No. 9822684372

E-mail: [airesrodrigues1@gmail.com](mailto:airesrodrigues1@gmail.com)

.... Petitioner

V/s.

- 1 M/s. Amoncar Classic Caterers, Through its proprietor, Mr. Pradosh D. Amoncar, major Residing at House No.69, Arhil Peth, Bicholim, Goa.
- 2 State of Goa  
Through the Chief Secretary, Government of Goa, Secretariat, Porvorim, Goa.
- 3 The Goa Human Rights Commission, Through its Secretary, Old Education Department Building, 18<sup>th</sup> June Road, Panaji, .... Respondents

Goa.

Mr. I. Rodrigues, petitioner in person.

Mr. S.S. Kantak, Senior Advocate with Mr. Nikhil Pai, Advocate for respondent no.1.

Mr. P. Faldessai, Additional Government Advocate for the respondent No.2.

**CORAM : M.S. SONAK &  
SMT. M.S. JAWALKAR, JJ.**

**DATE : 3<sup>RD</sup> NOVEMBER,2020.**

**ORAL JUDGMENT: (*PER M. S. SONAK, J.*)**

Heard Mr. I. Rodrigues who appears in person, Mr. S.S. Kantak, learned Senior Advocate with Mr. Nikhil Pai, learned Advocate for respondent No.1 and Mr. P. Faldessai, learned Additional Government Advocate for respondent No.2.

2. According to us, since there is no lis with respondent No.3 there is no necessity of issuing any notice to respondent No.3 in this matter. Mr. Kantak, learned Counsel appears for the contesting respondent.

3. Accordingly, we issue a Rule in this petition. With the consent and at the request of the learned Counsel for the parties we make Rule returnable forthwith.

4. The challenge in this petition is to orders dated 31/08/2020 and 28/09/2020 made by the Goa Human Rights Commission, Panaji, Goa.

5. The order dated 31/08/2020 disposes of the application dated 07/08/2020 made by respondent no.1 herein for recall of order dated 21/07/2020.

6. There is no dispute that the order dated 21/07/2020 was made by a Bench of Goa Human Rights Commission comprising Hon'ble Justice U.V. Bakre- Chairperson and Mr. Desmond D'Costa – Member. However, the impugned order dated 31/08/2020 has been disposed of by a Bench comprising Mr. Desmond D'Costa and Mr. Pramod Kamat, both members of the Commission.

7. Mr. Rodrigues pointed out to Regulation 20 of the Goa Human Rights Commission (Procedure) Regulations, 2011 (said Regulations) to submit that if any application seeking modification

or review of the order or proceedings passed by the Commission is received, the same shall be placed before the same Bench which made the order, alongwith the case file and a brief note on the points made out in such application and the same shall be disposed of by such order as may be deemed proper by such Bench upon receipt of the application in that regard.

8. There is no dispute that the Bench which had made an earlier order dated 21/07/2020 is very much available. The application made by the respondent No.1 for recall of order dated 21/07/2020 ought to have been placed and disposed of by the same Bench which had made the earlier order dated 21/07/2020. On this short ground and without going into any other issues, the impugned order dated 31/08/2020 is required to be set aside and is hereby set aside.

9. The application dated 07/08/2020 made by the respondent No.1 herein shall now be placed before the same Bench which had made the order dated 21/07/2020 and shall be disposed off by the said Bench in accordance of law by granting an opportunity of hearing to the concerned persons.

10. The second impugned order dated 28/09/2020 dismisses the petitioner's application seeking cross-examination of respondent No.1 or rather the representative of respondent No.1. Mr. Kantak pointed out that this application was totally cryptic and in fact, should have been dismissed on the said ground alone.

11. From the perusal of the second impugned order dated 28/09/2020 we find that there is nexus between this order and the order dated 31/08/2020 which we have now set aside. That apart the Commission rejected the petitioner's application on the ground that the same is premature. The observations in paragraph 9 of the second impugned order also rendered the ultimate conclusion that the petitioner's application was premature, a little contradictory. This is more so because the Commission, after holding that the petitioner's application is premature has immediately posted the matter for final disposal on 05/11/2020.

12. According to us, it will be appropriate in the aforesaid circumstances to set aside even the impugned order dated 28/09/2020. Depending upon the outcome of the application dated 07/08/2020 for recall, the petitioner's application will have to be decided afresh on its own merits and in accordance with law.

13. Accordingly, both the impugned orders i.e. orders dated 31/08/2020 and 28/09/2020 are hereby set aside. The Commission, will have to decide the application dated 07/08/2020 made by respondent No.1 herein afresh in accordance with law and depending upon the outcome therein and the Commission will also have to decide the petitioner's application for cross-examination, again, in accordance with law and on its own merits.

14. It is made clear that this Court had not adjudicated upon the merits of the matter in any way because these are matters for the Commission to ultimately go into and decide.

15. In view of the directions made in paragraph 12 of our judgment and order dated 18/02/2020, the Commission will have to dispose of the proceedings before it as expeditiously as possible in any case within a period of three months from today. We are conscious that in our earlier order we had granted three months to the Commission to dispose of the proceedings but thereafter the proceedings were interrupted on account of the Covid pandemic situation. The petitioner as well as the learned Counsel for respondent No.1 have assured this Court that they will not seek any unnecessary adjournments before the Commission and they will

render full cooperation to the Commission for disposing of this matter.

16. The Rule is made absolute in the aforesaid terms. There shall be no order as to costs.

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

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

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

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