

IN THE HIGH COURT OF BOMBAY AT GOA.

LD-VC-CW-187/2020

Sunil Garg Petitioner.

Vs

Munnalal Halwai, Respondent.

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

Shri N. Kamat, Advocate for the First Respondent.

Shri Padiyar, Advocate for the Third Respondent.

Coram:- DAMA SESHADRI NAIDU, J.

Date:- 9th September 2020.

P.C.

The petitioner has come back to this before a week could pass. On 3.9.2020 this Court disposed of a Writ Petition filed by the petitioner. That concerned the procedural propriety of the Lokayukta in dispensing with personal hearing and requiring the parties to file written arguments, given the prevailing pandemic.

2. Of course, the dispute, then, concerned a pending application under Section 27 of the Goa Lokayukta Act. This Court, through a detailed judgment, has held that the Lokayukta can regulate its own procedure. Once again, today, Shri Jatin Sehgal, the petitioner's counsel, has moved a writ petition, out of turn, for an urgent hearing.

3. The petitioner's grievance, as it turns out, is that the learned Lokayukta has been proceeding with the matter on a day-to-day basis, without providing any breathing time for the petitioner to come down to

Goa from New Delhi and participate in the proceedings. Shri Sehgal has narrated in detail about the difficulties the petitioner is being put to because of, as he calls, the flurry orders the Lokayukta is passing in quick succession. We need not go into those details. As I have noticed, the petitioner's grievance entirely centres on the procedure being adopted by the Lokayukta in trying to dispose of, as the petitioner's counsel puts it, post-haste. But I also notice that this is a writ petition under Article 226 of the Constitution of India, requiring a writ of certiorari, among others.

4. Under these circumstances, the Tribunal is a necessary party. Given the urgency pleaded by the petitioner's counsel, I post the matter tomorrow. In the meanwhile, the petitioner must add the Lokayukta as a respondent.

5. Before adjourning the matter, I may place on record the developments in this case. In the morning, at 10.30 am, Shri Sehgal, appearing from Delhi online, mentioned this matter. He told me that he uploaded his Writ Petition into the High Court Website just 15 minutes ago. Therefore, the Court did not have the advantage of going through the file. So it presumed that the Lokayukta was a party to the proceedings. Then, it insisted on the petitioner's counsel sending a copy of the Writ Petition to the Institution of Lokayukta through email, besides informing the learned counsel who represented the Lokayukta in the previous Writ Petition. True, he is not the standing counsel *per se*.

6. I wanted to ensure that whatever adjudication should take place in the present Writ Petition must be after notice to the parties concerned.

7. Responding to the Court's directive, Shri Sehgal wanted the Court to keep the matter aside to enable him to serve the notice. Accordingly, I took up the matter at 1.20 pm, mentioned by the learned counsel. Meanwhile, the Registry uploaded the file and made it available for me.

8. Shri S. D. Padiyar, the learned counsel who represented the Lokayukta in the earlier round of litigation, to his credit, secured instructions from the Lokayukta. He informed me about today's developments before the Lokayukta. According to him, the parties came up with two applications: one by a third party for impleadment and another by the petitioner himself for the "joinder of a party". Shri Padiyar, in this context, informs the Court that the Lokayukta has dismissed both the applications today.

9. According to Shri Padiyar, because the petitioner approached this Court, the Lokayukta has got the matter posted for tomorrow. Shri Padiyar has also informed me that there are two more applications filed by the petitioner requiring copies of certain documents, such as the CDR (Call Details Record?). On instructions, he also informs the Court that those documents have been kept in a sealed cover. If the Lokayukta desires to rely on them, it will undoubtedly provide copies to the parties

concerned. It seems to that effect the Lokayukta has already passed an order.

10. Shri Padiyar also further elaborates on the proceedings before the Lokayukta. According to him, the Lokayukta has recorded the complainant's statement and wanted the petitioner to cross-examine the complainant. For that purpose, the matter stands adjourned for tomorrow.

11. In the above context, I may underline one fact. So far the Lokayukta has not been made a party to this Writ Petition, yet I heard Shri Padiyar at length only to ensure that all concerned get have an opportunity and that nobody suffers unheard. Whether the Lokayukta, an adjudicatory forum, can be treated as an aggrieved party is beside the point.

12. At any rate, Shri Jatin Sehgal, the learned counsel for the petitioner, wants me to place on record that the petitioner has not received copies of any orders passed today by the learned Lokayukta.

Post the matter tomorrow high on board.

DAMA SESHADRI NAIDU, J.

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