

(2009) 01 BOM CK 0073

In the Bombay High Court

Case No : Suo Motu PIL Writ Petition No. 3 of 2001, PIL Writ Petition No. 6 of 2006 and Suo Motu PIL Writ Petition No. 3 of 2001

The Managing Director, (Goa Constructions Housing and Finance Corporation Limited), State of Goa and Mr. Siddharth Kuncalienkar, Shantaban Co-operative Hsg. Society

APPELLANT

Vs

State of Goa and Director, Directorate of Health Services

RESPONDENT

Date of Decision : 05-01-2009

Acts Referred:

Citation : (2009) 1 BomCR 486

Hon'ble Judges : P.B. Majmudar, J;N.A. Britto, J

Bench : Division Bench

Advocate : M.S. Sonak, Amicus Curiae and Sudin Usgaonkar, for Navhind Times, for the Appellant; J. Vaz for Respondent No. 3, S.S. Kantak, General and A. Kamat, Additional Government Advocate, for the Respondent

Judgement

P.B. Majmudar, J.—Since common point is involved in both these petitions, both are taken up for hearing together. The question which is to be considered in this Writ Petition is as to whether the public exchequer should be allowed to suffer in the matter of giving advertisement wherein activity of a particular individual is highlighted. In the present case, the advertisement was given on the occasion of the birthday or marriage anniversary of a particular person at the costs of public exchequer. On 25/04/2001 and 2/12/2005, the Division Bench of this Court took cognizance regarding local newspaper reports that is the Navhind Times. The said newspaper had published a quarter page public advertisement released by Board of Directors, Management and the staff of Goa Constructions Housing & Finance Corporation Ltd. which is a Government of Goa undertaking, wishing happy birthday and wedding anniversary to the Chairman. The Court took cognizance of the said advertisement as the Court was of the opinion that the said advertisement could not have been issued at the costs of the said public sector undertaking. The Court, therefore, issued notice to the State Government. Subsequently, Union of India was also joined as party respondent. Thereafter,

this Court passed various orders from time to time.

2. On 25/04/2001 this Court recorded statement of Advocate General to the effect that the Chief Minister of Goa has already issued directions and the Chief Secretary was expected to issue written orders pursuant to the directions of the Chief Minister advising all the Local Self Government Bodies, State Undertakings and the other instrumentalities of the State, not to release advertisements of the nature which have been brought on record and which advertisements are intended to give individual publicity to a leader belonging to any political party, or otherwise, out of the funds to be spent by such bodies/instrumentalities. The said instructions are also placed on record, which fact is recorded in order dated 25/04/2001. The State Government was asked to inform the Court as to whether any guidelines have been framed in this behalf.

3. By order dated 13/02/2006, the Division Bench passed an order for listing the matter for final hearing. By another order dated 18/09/2008 Division Bench had adjourned the matter on the ground that similar issue is also pending before the Bombay High Court at Mumbai as well as a petition pending before the Supreme Court. Today, however, learned advocates for Central Government as well as State Government submit that said matters are still pending disposal. Learned advocate for the Central Government informed the Court that the matter against Central body is pending before the Supreme Court.

4. We have heard learned Advocates and we have perused the record. Since the State Government has now already framed policy in connection with the subject-matter, it is not necessary to keep the matter pending, as the petition is pending since last more than 7 years. Learned Counsel Mr. Sonak who is appointed as Amicus Curiae, however, submitted that the guidelines nowhere prescribes as to what type of official duties can be advertised. In our view, it is true that some more clarification is required to be given, however, at present in view of the decision taken by the State Government, it is clear that the State Government has now decided not to issue any advertisements at the cost of the public exchequer highlighting the work of any political leader or any particular individual. The learned Advocate General has pointed out that no amount shall be spent from the State exchequer in connection with any advertisements concerning with any particular individual, but the advertisements will be restricted only in connection with educating the people or highlighting the people regarding certain aspects, as well as works carried out by certain organizations of the Government or by Government Corporations. It is further pointed out by the learned Advocate General that no attempts will be made to project any individual or no benefit will be given to any individual at the cost of public exchequer in the matter of giving such advertisements. We are of the opinion that the Government actions should be transparent and attempts should be made to see that the public revenue and exchequer is not wasted for irrelevant purposes. In the democratic system of the country, every action of the State should be for the benefit of the public at large. We, accordingly, direct that as per

the policy framed by the State Government the concerned Departments of the State or public bodies shall give advertisements in connection with the work relating to any official matters of a particular Department or Body and no advertisement should be given appreciating the work of a particular individual. If any officer of the Department/Authority commits any breach, the State shall take strict action against him by recovering the amount from the salary of such officer. An attempt should be made to see that public fund is not wasted in any manner in this behalf. It is to be noted that no Government funds should be allowed to be wasted in highlighting or permitting any individual and the public exchequer and the revenue should be spent only in the matter where the public at large is benefited and further it is in the public interest only. Government should see to it that strict compliance is carried out by various Departments and agencies in this behalf, so that public fund is not diverted for any other purpose giving undue publicity to any public individual.

5. As stated earlier, the Court was required to take cognizance of this matter in view of the fact that the particular Corporation had given advertisements in the newspaper, congratulating Chairman of particular body on his birthday and his marriage anniversary. By no stretch of imagination, it can be said that such type of advertisements can benefit the people at large in any manner. We are sure that the Government shall see to it that its policy is strictly complied with.

6. At this stage, the learned Advocate General pointed out that so far as the advertisement in the present petitions is concerned, the Corporation has not contributed any amount and the amount, in question, was shared by the individuals. However, it is not necessary for us to go in detail about this aspect. Suffice it to say that appropriate care will be taken while giving advertisements at the cost of public exchequer and the State Government will ensure that the advertisement which is required to be given, will be issued as per the policy framed by the Government and as per the observations made in this Judgment. The learned Central Govt. Standing Counsel Shri Vaz states that the Central Government has also framed its own policy in this behalf. However, it is not necessary for us to go into this aspect, in detail, as the aforesaid issue is already pending before the Supreme Court. We direct that appropriate action will be taken by State Government or the Public Bodies or Institutions to see that the Government machinery and the public exchequer is not utilized for any irrelevant purpose.

7. In view of what is stated herein above, nothing further is required in the petition. Petitions are disposed of accordingly in view of the observations made herein above.