Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION No.287/2015

The Archbishop Patriarch Of Goa,

... PETITIONER

Versus

1. State Information Commission, with office at Shrama Shakti Bhavan, Ground Floor, Patto Plaza - Goa.

2. Smt. Antonia Michelle Abel

... RESPONDENTS

Mr J. E. Coelho Pereira, Senior Advocate with Mr B. Fernandes and Mr Sagar Rivankar, Advocates *for the Petitioner*.
Mr J. P. Mulgaonkar, Senior Advocate with Ms Diksha Sharma, Advocate *for Respondent No.2*.

CORAM: M. S. SONAK, J.

Reserved on: 11th August 2023
Pronounced on: 17th August 2023

JUDGMENT:

1. Heard Mr J. E. Coelho Pereira, learned Senior Advocate who appears along with Mr B. Fernandes and Mr Sagar Rivankar

for the Petitioner and Mr J. P. Mulgaonkar, learned Senior Advocate who appears along with Ms Diksha Sharma for Respondent No.2.

2. The challenge in this petition is to the order dated 16.12.2014 made by the Goa State Information Commissioner holding that the petitioner, in his capacity as the Patriarchal Tribunal of the Archdiocese of Goa and Daman, is a "public authority", within the meaning of Section 2(h) of the Right to Information Act, 2005 (RTI Act).

3. The respondent no.2, by her application dated 19.04.2011, applied to the Public Information Officer (PIO) of this Court for the following information:-

> *"a) A certified xerox copy of His Eminence, Most Revd Fr Filipe Neri Ferrao's Apostolic Letter of Appointment to the post of Archbishop-Patriarch of the East Indies.*
>
> *b) A certified xerox copy of His Eminence, Most Revd Fr Oswald Cardinal Gracias's Apostolic Letter of Appointment to the post of Archbishop of Bombay.*
>
> *c) A certified xerox copy of the accreditation received from the Hon'ble Supremo Tribunale della Segnatura Apostolica, Vatican City/State, Italy, on the Ecclesiastical Offices and Courts of the Patriarchal Tribunal of the Archdiocese of*

Goa and Daman in Goa and the Metropolitan Tribunal of the Archdiocese of Bombay in Mumbai.

d) A certified xerox copy of the authorization received from Her Exceilency's, the President of India, predecessor for the functioning of the Patriarchal Tribunal of the Archdiocese of Goa and Daman in Goa and the Metropolitan Tribunal of the Archdiocese of Bombay in Mumbai.

e) A certified xerox copy of the Acts and Laws of the Patriarchal Tribunal of the Archdiocese of Goa and Daman and the Metropolitan Tribunal of the Archdiocese of Bombay.

f) A certified xerox copy of the authorization received from His Holiness, the Supreme Roman Pontiff to use the Portuguese Decree Law No 35461 dated 22.1.1946 under the title of the Law of Canonical Marriage contained in the Family Laws of Goa, Daman and Diu as well as other Portuguese Laws still in force in Goa to execute the Order/Judgement of annulment of marriage made on the margin of the certificate of marriage by the Patriarchal Tribunal of the Archdiocese of Goa and Daman duly ratified by the Metropolitan Tribunal of the Archdiocese of Bombay.

g) A certified xerox copy of His Eminence, Most Revd Fr Filipe Neri Ferrao's Letter of Appointment to the post of

Diocesan Judge of the Patriarchal Tribunal of the Archdiocese of Goa and Daman.

h) A certified xerox copy of His Eminence, Most Revd Fr Oswald Cardinal Gracias's Letter of Appointment to the post of Diocesan Judge of the Metropolitan Tribunal of the Archdiocese of Bombay.

i) A certified xerox copy of the last Report submitted to His Excellency, the Most Hon'ble Chief Justice of the High Court of Bombay on the execution of the orders/ judgements of annulment of marriages by the Patriarchal Tribunal of the Archdiocese of Goa and Daman.

j) A certified xerox copy of the last Report submitted to the Hon'ble Supremo Tribunale della Segnatura Apostolica, Vatican City/State, Italy in the prescribed formulae of the Holy See."

4. The respondent no.2, by the same application dated 19.04.2011 also sought for leave to inspect the register of cases of annulment of marriages sent by the Archbishop-Patriarch of the East Indies to this Court. A request was made to permit the inspection of all other registers maintained by the Court and scrutinise the records and documents in that regard.

5. The application dated 19.04.2011 stated that respondent no.2 had made an application dated 21.02.2011 under Section 6

of the RTI Act to the PIO, Patriarchal Tribunal of Archdiocese of Goa and Daman, Altinho Panaji Goa. However, Fr. Rosario Oliveira, Judicial Vicar, after perusing the application, refused to accept the same, and therefore such an application was sent by Registered Post A/D. But again, the application was refused and sent to respondent no.2. Copies of the application dated 21.02.2011 and the endorsement of refusal were annexed to the application dated 19.04.2011.

6. It appears that the PIO of this Court forwarded respondent no.2's application to the petitioner since most of the information sought by respondent no.2 was not available to the Court or did not pertain to the Court's functions.

7. Respondent no.2 filed a complaint before the Goa State Information Commission (GSIC) under Section 18 r/w Section 20 of the RTI Act by impleading only the petitioner herein as the respondent. By this complaint dated 22.03.2011, respondent no.2 sought the following reliefs:-

> *"a) that an Inquiry be initiated against the Respondent;*
>
> *b) that appropriate orders be passed directing the Respondent to open a Public Information Office and designate Public Information Officer(s) and First Appellate Authority;*

c) that penal action be taken against the Respondent in accordance with the law in terms of Section 20 of the Right To Information Act 2005;

d) that such and other orders be passed as may be deemed fit and appropriate in the facts and circumstances of the present case."

8. The petitioner raised a preliminary objection before the GSIC, urging that the petitioner was not a public authority within the meaning of Section 2(h) of the RTI Act and invited the Commission to make an order on this preliminary objection.

9. The GSIC, upon hearing the parties, made the impugned order dated 16.12.2014, dismissing the petitioner's preliminary objection and holding that the petitioner is a public authority under Section 2(h) of the RTI Act.

10. Aggrieved by the impugned order dated 16.12.2014, the petitioner has instituted this petition urging that the petitioner is not a public authority within the meaning assigned to this term under Section 2(h) of the RTI Act.

11. Mr Coelho Pereira, learned Senior Advocate submitted that the petitioner, even in the capacity as the Patriarchal Tribunal, is not an authority or body constituted by or under the Constitution of India, law made by the Parliament or the State Legislature. He submitted that there is no notification issued or

order made by the appropriate Government constituting the petitioner as a public authority. Therefore, he submitted that the petitioner cannot be regarded as a public authority under Section 2(h) of the RTI Act.

12. Mr Pereira submitted that the Canon Law under which the Ecclesiastical Tribunals are constituted is a private law that applies only to Roman Catholics. He submitted that under Section 19 of Decree No.35461 (Law of Canonical Marriage), recognition was granted to canonical marriages and annulment orders made by the Ecclesiastical Tribunals like the Patriarchal Tribunal. He submitted that Section 19 of this Decree was struck down by the Division Bench of this Court in *Elmas Fernandes v/s. State of Goa & Ors. - 2019 SCC OnLine Bom 2902*. Therefore, even this limited recognition which was granted to the annulment orders made by the Patriarchal Tribunal, no longer applies. He therefore submits that the reasoning of GSIC reflected in paragraphs 19, 20 and 21 of the impugned order is entirely flawed and warrants interference.

13. Mr Pereira submitted that the Patriarchal Tribunal is constituted under the Canon Law and not even under Decree No.35461 (Law of Canonical Marriage). Therefore, he submitted that merely because Decree No.35461 continues to apply by virtue of the Goa, Daman and Diu (Administration) Act, 1962, the Patriarchal Tribunals constituted under the Canon Law cannot be regarded as any body or authority established or

constituted by any law made by the Parliament or the State Legislature.

14. Mr Mulgaonkar, learned Senior Advocate for respondent no.2, defended the impugned order based on the reasoning reflected therein. He relied on *Elmas Fernandes (supra)* to point out how it was the petitioner's case that the Canon Law had statutory force and the orders of annulment made by the Patriarchal Tribunals considered under the Canon Law were binding upon Roman Catholics. He pointed out how this Court had held that the Patriarchal Tribunal was subject to the supervisory jurisdiction of this Court under Article 227 of the Constitution of India and how judicial review against the orders made by the Patriarchal Tribunal was guaranteed by Articles 226 and 227 of the Constitution of India. For all these reasons, Mr Mulgaonkar submitted that the Patriarchal Tribunal was a public authority under Section 2(h) of the RTI Act.

15. Mr Mulgaonkar submitted that the Canon Laws became an integral part of the law of the land by virtue of Decree No.35461 (Law of Canonical Marriage). This Law of Canonical Marriage continues in force given the provisions of the Goa, Daman and Diu (Administration) Act, 1962. Mr Mulgaonkar, therefore, submitted that the Patriarchal Tribunal must be construed as a body or authority established or considered under the Law of Canonical Marriage, still in force in the State of Goa. Based on this, Mr Mulgaonkar submitted that no case is made out to interfere with the impugned order made by the GSIC.

16. The rival contentions now fall for my determination.

17. The main issue involved in this petition is whether the petitioner, in his capacity as the Patriarchal Tribunal, is a "public authority" within the meaning assigned to this term under Section 2(h) of the RTI Act.

18. Section 2(h) of the RTI Act reads as follows:-

> *"**h)** "public authority" means any authority or body or institution of self government established or constituted-*
>
> *(a) by or under the Constitution;*
>
> *(b) by any other law made by Parliament;*
>
> *(c) by any other law made by State Legislature;*
>
> *(d) by notification issued or order made by the appropriate Government,*
>
> *and includes any-*
>
> *(i) body owned, controlled or substantially financed;*
>
> *(i) non-Government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;"*

19. Admittedly, the Patriarchal Tribunal is not established or constituted under the Constitution or by notification issued or

order made by the appropriate Government. No contention was advanced about the Patriarchal Tribunal being covered by the inclusive portion of the definition in Section 2(h) of the RTI Act. The debate was restricted to the Patriarchal Tribunal being an authority or body established or considered by any law made by the Parliament or the State Legislature.

20. The Patriarchal Tribunal, Mr Pereira urged, is a Tribunal constituted under the Canonical Law. In ***Most Rev. P.M.A. Metropolitan & Ors. v/s. Moran Mar Marthoma & Anr. - 1995 Supp (4) SCC 286***, the Hon'ble Supreme Court referred to the meaning of "Canon" as explained in Black's Law Dictionary and the expression "Canon Law" as explained in the Encyclopedia of Religion, Vol. 3. This discussion is found in paragraphs 54 and 55 which read as follows:-

> *"**54.** Canon is explained in Black's Law Dictionary as under:*
>
> > *"A law, rule or ordinance in general, and of the church in particular. An ecclesiastical law or statute. A rule of doctrine or discipline. A criterion or standard of judgment. A body of principles, standards, rules, or norms."*
>
> *Canon means both a norm and attribute of the scripture. The term "canon law" is explained in The Encyclopaedia of Religion, Vol. 3, as under:*

"The term canon is based on the Greek word Kanon. Originally signifying a straight rod or bar, especially one used to keep something else straight, canon came to mean something that is fixed, a rule or norm. The term has several applications in church usage: the canon of scripture, or that fixed list of books that are determined to belong to sacred scripture; the canon of the Mass, the fixed portion of the eucharistic prayer; the process of declaring a deceased person to be among the fixed list of saints in heaven, or canonisation. From the third century, directives for church living and norms for church structures and procedures have been issued as canons.

Canon law refers to the law internal to the church. In the early centur of Christianity, canon was used for internal church norms, to distinguish them from the imperial nomos (leges in Latin) or laws. Church norms have also been known as sacred or divine, to distinguish them from civil or human laws. At times they are referred to as the 'sacred canons' or the 'canonical order'. The term ecclesiastical law is used synonymously with canon law, although at times ecclesiastical law also refers to the civil law adopted in various nations to regulate church affairs. The term canon law is used in the Roman Catholic, Anglican, and Orthodox communions.

> *Canon law is drawn from sources in scripture, custom, and various decisions of church bodies and individual church authorities. Over the centuries these have been gathered in a variety of collections that serve as the law books for various churches.*

55. *Canons are thus the principal scriptural bases for the religious practices observed in a Church. Syrian Orthodox Church is very old. But its canon appears to have come in existence sometime in 13th century collected and written by Bar Hebrew who was the Catholico of Tigris. In the appeal arising out of interpleader suit this Court after examining the evidence in detail particularly of C. Philip, PW 5, who was the Professor of the Sriram College, Calcutta and was examined, as expert on canon law held that there was no authorised edition of these canons even though one of the resolutions at the Mulunthuruthy Synod ran thus:*

> *"It will be very good if a book containing the Canons and procedure necessary for the firmness in the Orthodox faith is printed in Syriac or Malayalam as per orders (of the Holy Father) and a copy with his seal given to each church and decided that future conduct shall not be except in accordance with that."*

21. In *Moran Marthoma (supra)* at paragraph 42, in the context of application of Ecclesiastical Laws of England to its colonies, the Hon'ble Supreme Court noted that no law in respect of Christian Churches was framed and therefore, there was no statutory law. Consequently, any dispute in respect of religious office in respect of Christians was cognizable by the Civil Courts, given the wide and expansive provision of Section 9 of the Civil Procedure Code.

22. The position in Goa, insofar as the Canonical Laws are concerned, may not be the same as the position of Ecclesiastical Laws of England applying to its colonies. In 1867, the Portuguese Civil Code was enacted, which regulates aspects relating to marriage, inheritance, contracts, civil rights etc. Originally, the said Portuguese Civil Code did not have provisions for divorce, the Portuguese being a Roman Catholic Monarchy, and marriages in Canon Law being indissoluble. With effect from 1st July 1870, the said Portuguese Civil Code was made applicable to Goa, Daman and Diu by Enactment dated 18th November 1869. On 25th December 1910, a separate Law of Marriages and Law of Divorce were enacted, allowing for divorce to take place. For the first time, the dissolution of marriage was permitted by divorce, including mutual consent. Portugal was a Monarchy till 1910, which was thereafter replaced by Republic, leading to these changes in succession.

23. On 4th November 1912, the Code of Civil Registration was enacted by the decree dated 4th November 1912 and was enforced

w.e.f. 1st January 1914. By virtue of the said Code of Registration, marriages, births and deaths were made compulsory. There is no dispute that on 16th December 1930, the Portuguese Government published an amended version of the Portuguese Civil Code, consolidating all these changes. On 7th May 1940, Concordat (Treaty) was entered into by the Portuguese Republic and the Holy See of the Vatican City, introducing changes in relation to Catholicism in Portugal and its Territory. Concordat was an agreement between the Portuguese State and the Holy See dated 7th May 1940.

24. In pursuance of the Concordat, a new enactment, Decree No.35461, was issued dated 22nd January 1946 w.e.f. 4th September 1946. Under the said decree, Christian marriages could be performed before the Church authorities upon the production of a no-objection certificate from the Registration Officer appointed under the Code of Civil Registration, and such a marriage would have civil effects if transcribed in the Office of the Civil Registration.

25. Article 19 of the Decree No.35461 dated 04.09.1946, is relevant, and reads as follows:-

"*ARTICLE 19*

The cognizance of the causes regarding the nullity of canonical marriage and regarding the exemption of non consummated religious marriage is reserved by the competent Ecclesiastical Courts and Offices.

Paragraph 1. The decisions and judgments of the said Offices and Courts, when final, shall be forwarded to the highest Ecclesiastical Court for the purpose of verification and shall be thereafter with the respective judgments of that highest Ecclesiastical Court, transmitted through the diplomatic channel to the competent High Court, which will enforce them without revision and confirmation, and order that they be endorsed in the books of Civil Registration on the margin of the certificate of the marriage.

Paragraph 2. The Ecclesiastical Tribunal may request the Civil Court for service of summons or notice to the parties, experts, witnesses, as well as doing of any acts of enquiry which they deem convenient."

26. The above Article 19 of Decree No.35461 gives some recognition to the orders made by the Ecclesiastical Courts or Tribunals annulling religious marriages solemnised under Canon Law. The decisions and judgments of the Ecclesiastical Courts and Tribunals had to be transmitted to the competent High Court, which was then to enforce them without revision and confirmation and in order that they be endorsed in the book of civil registration on the margin of Certificate of Marriage.

27. In *Elmas Fernandes (supra)*, the main issue which fell for consideration of the Division Bench was whether the role of the High Court was purely an administrative role of enforcing the decisions and judgments of the Ecclesiastical Courts "without revision and confirmation" or whether the High Court was competent to judicially review the decisions and judgments of the Ecclesiastical Courts and Tribunals under its extraordinary

jurisdiction under Articles 226 and 227 of the Constitution of India.

28. The Division Bench in *Elmas Fernandes (supra)*, reasoned that since the decisions and judgments of the Ecclesiastical Courts and Tribunals were intended to produce legal effects and further, since such decisions and judgments were recognised under Article 19 of Decree No.35461, there could be no exclusion of judicial review of the High Court under Articles 226 and 227 of the Constitution of India. The Division Bench held that the role of the High Court was not merely administrative, but the High Court had the powers of judicial review under Articles 226 and 227 of the Constitution of India, even in the context of decisions and judgments of the Ecclesiastical Courts and Tribunals. This, according to me, is the ratio of *Elmas Fernandes (supra)*.

29. The Division Bench, in the operative portion of its Judgment and Order (paragraph 178), declared Article 19 of the Decree No.35461 as unconstitutional and struck down the same, but the application of respondent no.4 for annulment of marriage with the petitioner in the said petition was restored before the Patriarchal Tribunal for fresh adjudication and decision. From the discussion in the decision of the Division Bench, the precedents cited, and the fact that the application for annulment was restored before the Patriarchal Tribunal, it appears that the Division Bench really struck down the portion of Article 19 of Decree No.35461 that had expressly or impliedly barred judicial review under Articles 226 and 227 of the Constitution of India.

This means that the expression "*without revision and confirmation*" in paragraph 1 of Article 19 of the Decree No.35461 was struck down as *ultra vires* and unconstitutional. This portion was severable, and it was this portion that had taken away the powers of judicial review.

30. In ***Islamic Academy of Education & Anr. v/s. State of Karnataka & Ors. - (2003) 6 SCC 697***, the Constitution Bench of the Hon'ble Supreme Court has explained that the ratio decidendi of a judgment has to be found out only by reading the entire judgment. In fact, the ratio of the judgment is what is set out in the judgment itself. The answer to the question would necessarily have to be read in the context of what is set out in the judgment and not in isolation. In case of any doubt, as regards any observations, reasons and principles, the other part of the judgment has to be looked into. By reading a line here and there from the judgment, one cannot find out the entire ratio decidendi of the judgment.

31. Besides, in the context of judicial review of legislation, the Hon'ble Supreme Court in ***Motor General Traders and Another Versus State of Andhra Pradesh and Others - (1984) 1 SCC 222*** has applied the Doctrine of Severability, the Hon'ble Supreme Court put it this wise, "*A statute bad in part is not necessarily void in its entirety. Provisions which are within legislative power and which are otherwise in conformity with the Constitution may survive if they are capable of being separated from the bad.*"

32. *Cooley's Constitutional Limitations (8th Edn.), Vol. 1, at pp. 360-362*, explains principles underlying the doctrine of severability:

> *"Where, therefore, a part of a statute is unconstitutional, that fact does not authorise the courts to declare the remainder void also, unless all the provisions are connected in subject-matter, depending on each other, operating together for the same purpose, or otherwise so connected together in meaning, that it cannot be presumed the Legislature would have passed the one without the other. The constitutional and unconstitutional provisions may even be contained in the same section and yet be perfectly distinct and separable, so that the first may stand though the last fall. The point is not whether they are contained in the same section; for the distribution into sections is purely artificial; but whether they are essentially and inseparably connected in substance.* ***If, when the unconstitutional portion is stricken out, that which remains is complete in itself, and capable of being executed in accordance with the apparent legislative intent wholly independent of that which was rejected, it must be sustained.****"*
>
> (Emphasis Supplied)

33. In *R.M.D. Chamarbaugwalla v. Union of India - AIR 1957 SC 628*, Venkatarama Ayyar, J. after a review of the law on the

doctrine of severability, speaking for the constitution bench summarised the principles governing the said doctrine in the following paragraph :

> *"**2.** If the valid and invalid provisions are so inextricably mixed up that they cannot be separated from one another, then the invalidity of a portion must result in the invalidity of the Act in its entirety.* ***On the other hand, if they are so distinct and separate that after striking out what is invalid, what remains is in itself a complete code independent of the rest, then it will be upheld notwithstanding that the rest has become unenforceable.*** *Vide Cooley's Constitutional Limitations, Vol. 1 at pp. 360-361; Crawford on Statutory Construction, pp. 217-218"*
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> **(Emphasis Supplied)**

34. This means that by striking down the offending portion, if the legislation or the legislative provision can be saved, then the constitutional courts will not rush to strike down the entire legislation or the entire legislative provision but restrict the striking down only to severable and offending portions. The power to strike down offending law is a scalpel, not a machete.

35. From the reading of the decision in *Elmas Fernandes (supra)* in its entirety, it is clear that the Division Bench found the portion of Article 19 of the Decree No.35461 to be

unconstitutional because it was this portion which purported to deny judicial review, which is now accepted as part of the basic structure of the Constitution of India. Upon striking down the expression "*without revision and confirmation*" in Article 19 of Decree No.35461, the judicial review of the decisions and judgments of the Ecclesiastical Courts, as recognised by Article 19 of Decree No.35461, would be fully available to the parties. Even the status of the High Court would not be reduced to that of a postman merely transmitting the decisions and judgments of the Ecclesiastical Courts to the Civil Registrar for endorsement or to make an endorsement in the margin of the marriage certificate.

36. Thus, it will not be appropriate to overemphasise the operational order, which gives the impression that the entire Article 19 of the Decree No.35461 was declared *ultra vires* and unconstitutional. The ratio of *Elmas Fernandes (supra)* is that Article 19 of Decree No.35461, to the extent this provision purported to bar judicial review by the High Court under Articles 226 and 227 of the Constitution of India, was *ultra vires* and unconstitutional. This emerges from the reading of the decision in its entirety.

37. The learned Senior Counsel for the parties did not dispute that Decree No.35461 constitutes "law" for the purpose of the Goa, Daman and Diu (Administration) Act, 1962. Section 5 of this Parliamentary Legislation provided that all laws in force immediately before the appointed day in Goa, Daman and Diu or any part thereof shall continue to be in force therein until

amended or repealed by a competent legislature or other competent authority. Further, Section 8 of this Parliamentary Legislation provided that for the purpose of facilitating the application of any law in relation to Goa, Daman and Diu, any Court or other authority may construe any such law in such manner not affecting the Substance, as may be necessary or proper to adapt it to the matter before the Court or other authority.

38. Thus, the decisions and judgments of the Ecclesiastical Courts under the Canon Law were granted statutory recognition under Decree No.35461, which was a law made by the Portugal Parliament for its colonies, including Goa, Daman and Diu. This Decree No.35461 (Law) was "law in force" immediately before the appointed day, i.e. 20th day of December 1961, in Goa, Daman and Diu. Accordingly, Decree No.35461 (Law in force) continued to be in force because the same has not been amended or repealed by the competent Legislature.

39. This being said the question in this matter is whether, based upon the above, it would be correct to hold that the Ecclesiastical Courts and Tribunals constituted under the Canon Law can now be regarded as authorities or bodies established or constituted by a law made by the Parliament of India or Goa State Legislature. Because unless these predicates are satisfied, the Patriarchal Tribunal would not qualify as a public authority defined under Section 2(h) of the RTI Act.

40. Admittedly, the Patriarchal Tribunal is neither established nor constituted under Decree No.35461 (Law of Canonical Marriage) or the Goa, Daman and Diu (Administration) Act, 1962. Merely because Article 19 of the Decree No.35461 gives recognition to orders of annulment made by the Ecclesiastical Courts and Tribunals like the Patriarchal Tribunal, it cannot be concluded that Decree No.35461 establishes or constitutes the Ecclesiastical Courts and Tribunals like the Patriarchal Tribunal. The act of giving recognition to the decisions and judgments of the Ecclesiastical Courts and Tribunals like the Patriarchal Tribunal is not the same thing as establishing or constituting the Ecclesiastical Courts or Tribunals like the Patriarchal Tribunal.

41. Similarly, the Canon Law or the Canonical Law cannot be regarded as the law made by the Parliament of India or the law made by the State Legislature. Merely because some of the decisions and judgments of the Ecclesiastical Courts and Tribunals constituted under the Canon Law may have acquired limited recognition under the State Law or the Parliamentary Law, that by itself would not be sufficient to hold that such Ecclesiastical Courts or Tribunals like the Patriarchal Tribunal are authorities or bodies established or constituted by a law made by the Parliament or the State Legislature.

42. The GSIC has held the petitioner, whether acting as a Patriarchal Tribunal or otherwise, is a public authority under Section 2(h) of the RTI Act because "*his authority comes from the pope at Vatican as ratified by government through above*

decree, according to which (Decree No. 35461), the Portuguese Government had a Treaty with the Holy See under which the canonical marriage were solemnized by the Archbishop". The GSIC has further reasoned that the annulment orders made by the Patriarchal Tribunal affect the whole of Christian society in Goa, and all other Civil or Legal Officers authorised to transcribe the Tribunal's decisions are restricted only to maintaining a list of such marriages or annulments.

43. Therefore the GSIC reasoned that "*a citizen of Goa is allowed to inspect not only the list but also the register in respect of process of annulment which is kept by Patriarachal Tribunal. For the same reason a citizen is also entitled to see the information relating to his appointment as asked in RTI for question No. 1(a), l(b) and 1(c) in particular and 1(a) to 1(i) alongwith other questions in general. A differentiation may perhaps be made in future between any citizen asking such RTI querry and a Christian Citizen asking such querry, but the present occasion is not for such a differentiation as the RTI applicant belongs to Christian Community*".

44. With respect to the GSIC, the above reasoning for concluding that the petitioner is a public authority under Section 2(h) of the RTI Act cannot be accepted. The GSIC should have examined whether the petitioner, when acting in his capacity as a Patriarchal Tribunal, could be held to be an authority or body established or constituted by a law made by the Parliament or the State Legislature. The GSIC posed this question in paragraph 14

of the impugned order. But this question was never answered, or in any case, never adequately answered. The reasoning in paragraph 18 of the impugned order that the Patriarchal Bishop gets his authority from Decree No.35461 issued by the Government of Portugal and later continued by the Government of Goa is neither here nor there because such reasoning does not squarely address the issue of whether the petitioner, acting as a Patriarchal Tribunal can be said to be an authority or a body established or constituted by a law made by the Parliament or State Legislature.

45. For all the above reasons, the impugned order dated 16.12.2014 is set aside, and it is held that the petitioner is not a "public authority" as defined under Section 2(h) of the RTI Act.

46. The petition is disposed of in the above terms without any order for costs.

M. S. SONAK, J.