

REPORT NO. 3

REPORT

The framers of the Constitution of India adopted the principle of separation of Judiciary from Executive. Accordingly the Constitution provides for independent and impartial Judiciary. Although the country proudly pronounces that they have independent Judiciary, a plethora of laws particularly Land/Reforms and Social Welfare laws effectively bars the jurisdiction of independent Civil Courts, in matters to be adjudicated under such laws. We thus have Courts managed by Mamlatdars, Tehsildars, Dy. Collectors, Collectors, etc. These are administrative Revenue Courts which enjoy exclusive jurisdiction to decide cases under Land Record and Social Reform Act. The Goa, Daman and Diu Agricultural Tenancy Act, The Goa, Daman and Diu Mundkars (Protection from Eviction) Act 1975 are the examples of such laws which bar the jurisdiction of Civil Courts and empowers the Taluka, Mamlatdar, Dy. Collectors, and Collectors, the exclusive jurisdiction to adjudicate the tenancy, mundkar and other matters.

The Collector and officers below him like Mamlatdars, Dy. Collectors, have multifarious duties along with duties as of judicial nature. Simultaneously, they are Magistrates with powers under Criminal Procedure Code, their Returning or Assistant Returning Officers whenever elections are held to The Parliament, Assembly, Zilla Panchayats, Village Panchayats and other local bodies. They are principal officers in charge of relief works during disasters. Besides they are also called upon to take census work and to conduct surveys, to attend public grievances, to maintain land records, to prepare list of beneficiaries under State and Centrally sponsored schemes etc. Quite often under the pressure of work the judicial functions of the Mamlatdar and other Revenue officers are sacrificed.

Ever since 1964, when the first Legislative Assembly of Goa, Daman and Diu was constituted a number of local laws have been enacted, many of which provide for adjudication of disputes by Revenue officers. Although almost

50 years have gone by the Liberation of Goa, the Revenue cases awaiting adjudication have remained unresolved for considerable time. Hundreds of tenants and mundkars are yet to get a declaration about their rights under the relevant laws. The cases filed under such cases are piled in these courts and large numbers of tenants and mundkars have not approached these courts for various reasons.

The Commission has taken suo moto reason of the clogging of the courts of the Mamlatdars and Collectors. They have also received complaints from the members of the public. The Commission is of the view, that the judiciary work of Mamlatdars and Collectors must be separated from other routine work so that they can exclusively function as Courts and complete the judicial work before them expeditiously and without any interference. The Commission is of the opinion that a hierarchy of Revenue Courts can be created by establishing Taluka Revenue Courts with original jurisdiction and District Revenue Courts with appellate and revisional jurisdiction. We are also of the view that these courts should function under overall supervision of Administrative Tribunal. We have therefore attempted to draft a piece of Legislation to be called "The Goa Revenue Courts Bill 2009" in the lines of The Goa Civil Courts Act, 1965.

The Goa Revenue Courts Bill 2009 (Bill No. of 2009)

An Act to provide for the Constitution and organization of District Revenue Courts and Subordinate Revenue Courts in the State of Goa.

Be it enacted by the Legislative Assembly of Goa in the sixtieth year of Republic of India as follows:

1) Short title, extent and commencement:-

This Bill may be called the Goa Revenue Courts Bill 2009.

- a) It extends to the whole of the State of Goa.
- b) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2) Definitions:-

- a) **Administrative Tribunal** means the Administrative Tribunal constituted under the Goa Administrative Tribunal Act.
- b) **Governor** means the Governor of Goa, appointed under the Constitution of India.
- c) **Official Gazette** means the Goa Government Gazette.

District Revenue Court

3) District Revenue Court :-

There shall be a District Revenue Court for each of the districts of the State of Goa. The District Revenue Court shall be presided over by the Chief Revenue Officer or the Collector or such other Revenue officer of the District to be called the District Revenue Judge and shall be appointed by the Government of Goa by notification in the Official Gazette.

4) Situation of District Revenue Court:-

The District Revenue Judge shall ordinarily hold the District Revenue Court at District Headquarters but may hold it elsewhere within the District with the previous sanction of the Administrative Tribunal.

5) Appellate Jurisdiction of District Revenue Court:-

The District Revenue Court shall be the Court of Appeal from all decrees and Orders passed by the Subordinate Revenue Courts from which an appeal lies under any law as may be notified by the Government from time to time.

6) Control and Inspection of Courts:-

i) The District Revenue Court shall have general control over the all Revenue Courts subordinate to the District Revenue court and their establishment and it shall be his duty to inspect, or to cause one of his Additional District Revenue judges to inspect the proceedings of all such Courts. Thereafter the District Revenue Judge or an Additional District Revenue Judge may give such directions with respect to matters not provided for by law as he may think necessary.

ii) The District Revenue Judge shall also refer to the Administrative Tribunal Court all such matters as appear to him to require that a rule of that Court should be made thereon.

7) Orders and Directions:-

i) The District Revenue Judge shall obey all directions, orders or processes issued to him by the Administrative Tribunal and shall make such returns or reports thereto under his signature and the seal of the Court, as the exigencies of the case require.

ii) He shall further furnish such reports and returns and copies of proceedings as may be called by the Administrative Tribunal.

8) Additional District Revenue Judges:-

The Government may appoint one or more Additional Judges to the District Revenue Court who shall be invested with co-extensive powers and a concurrent jurisdiction with the District Revenue Judge, except that an Additional District Revenue Judge shall not keep a file of suits or appeals and shall transact such business only as he may receive from the District Revenue Judge, or as may have been referred to him by order of the Administrative Tribunal.

9) Appellate jurisdiction of Additional Revenue Judge:-

i) An Additional Revenue Judge shall have jurisdiction to try such appeals from the decrees and orders of the subordinate courts as would lie to the District Revenue Judge and as may be referred by him to the District Revenue Judge or the Administrative Tribunal.

ii) Decrees and orders passed under this section by an Additional Revenue Judge shall have the same force and shall be subject to the same rules as regards procedure and appeals as decrees and orders passed by the District Revenue Judge.

Taluka Revenue Courts

10) Number of Taluka Revenue Courts:-

There may be as many Taluka Revenue Courts as there are Talukas in each District.

11) Appointment of Taluka Revenue Judges:-

The Judges of such Taluka Revenue Courts shall be appointed by the Government and shall be called Taluka Revenue Judges.

12) Local limits of Taluka Revenue Judges:-

The local limits of the jurisdiction of Taluka Revenue Judge shall extend to the entire Taluka in which he is appointed.

13) Situation of Taluka Revenue Court:-

i) The Taluka Revenue Judge shall hold his Court at the Taluka Headquarters or at such other place in consultation with the District Revenue Judge.

Provided that for special reasons it shall be lawful for the Government to order that a Revenue Judge shall hold his Court at a place outside the local limits of his jurisdiction.

ii) Where ever more than one such place is appointed, the District Revenue Judge shall, subject to the approval of Administrative Tribunal fix the days on which the Revenue Judge shall hold his Court at each of such places, and the Revenue Judge shall cause such days to be duly notified throughout the local limits of his jurisdiction.

iii) The same person may be the Revenue Judge of more than one Taluka Revenue Court and may dispose of the Revenue business of any of his Courts at the headquarters of any other of his Courts, and in such cases the Revenue Judge shall, subject to the control of the Administrative Tribunal prescribe rules for regulating the time during which the Revenue Judge shall sit in each Court.

14) Additional Taluka Revenue Judges; -

i) For the purposes of assisting the Judge of any Taluka Revenue Court in the disposal of the Revenue business on his file, the Government may appoint to such Court one or more additional Taluka Revenue Judges. An additional Taluka Revenue Judge shall dispose of such revenue business within the limits of his jurisdiction as may, subject to the control of the District Revenue Judge, be referred to him by the Revenue Judge of such Court.

ii) For the purpose of this section the provisions of this Act applicable to Revenue Judges shall be, applicable to additional Taluka Revenue Judges.

15) Local limits of jurisdiction:-

i) The local limits of the jurisdiction of every Taluka Revenue Judge shall extend to each Taluka within the District.

ii) A senior Revenue Judge in addition to his ordinary jurisdiction, shall have and exercise jurisdiction in respect of such suits and proceedings of a revenue nature as may arise within the local jurisdiction of such Courts presided over by a Junior Revenue Judge as may be specified by the Government in consultation with the Administrative Tribunal by notification in the Official Gazette.

16) Appellate jurisdiction of Revenue Judge:-

i) The Government may invest any Senior Revenue Judge with power to hear appeals from such decrees and orders of a Junior Revenue Judge as may be referred to him by the District Revenue Judge.

ii) Decrees and orders so passed in appeal by a Senior Revenue Judge, shall have the same forces as if passed by a District Revenue Judge.

iii) A senior Revenue Judge, on whom the power of hearing appeals has once been conferred under this section shall continue to have this power so long and so often as he may fill the office of Senior Revenue Judge, without reference to the place in which he may be employed.

Provided that the Government may by notification in the Official Gazette at any time withdraw such power.

17) Power to make rules : -

The Government may, by notification in the Official Gazette, make rules to carry out the purposes of the Act.

18) Power to remove difficulties: -

If any difficulty arises in giving effect to the provisions of this Act, the Government may, by Order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

19) Repeal and Savings: -

i) As from the commencement of this act any law in force in the State of Goa making provisions for the constitution and organization of Revenue Court or any part of such law will stand repealed.

ii) The Goa, Daman and Diu Mamlatdar Act is hereby repealed.

FINANCIAL MEMORANDUM

The Bill envisages the separation of the Judicial cadre amongst the Revenue officers which are presently functioning in the Revenue Administration. Hence, the expenditure required to carry out the purposes of this Act will be nominal.

2 RECOMMENDATION

2.1 It is therefore suggested that the Revenue Courts Bill 2009 may be introduced in the forthcoming Assembly Session as proposed.

2.2 We recommend accordingly.

Sd/-

(Ramakant D. Khalap)

Chairman

Sd/-

(Cleofato Coutinho)

Member

Sd/-

(Mario Pinto Almeida)

Member