

Govt. of India
National Commission for Minorities
Lok Nayak Bhawan, Khan Market, New Delhi-3

Petitioner: Shri Abdul Matin Carol, General Secretary, Madrassa Raza –e- Mustafa,
Masjid Goasiya Ahla Sunnatul Jamat, Goa.

Respondent: Govt. of Goa

File No. M/GO/33/001/2009-NCM

The Bench of the NCM meeting on 4.07.2011 consisted of:

- i. Shri Wajahat Habibullah, Chairperson
 - ii. Dr. H.T. Sangliana, Vice Chairperson
 - iii. Shri H.S. Hanspal, Member
 - iv. Ms. Syeda Imam, Member
 - v. Shri Vinod Sharma, Member
 - vi. Shri K.N. Daruwalla, Member
2. Joint Secretary and Legal Officer assisted the bench.

Brief record of hearing held in the Conference Room of the National Commission for Minorities held at 11.00 AM on 4.07.2011.

Present:

- I. Shri Abdul Matin Carol, Shri Sayed Iftijar complainants of discrimination and harassment in acquisition and allotment of land for Muslim Qabristan.
 - II. Shri Sanjay Kumar Srivastava, Chief Secretary, Govt. of Goa, Shri Sandip Jacques, Collector, South Goa, Distt. Margao, Goa.
2. Petitioner submitted that the present Chief Minister of Goa, the then BJP MLA moved a resolution in the State Assembly for allotment of sufficient government land for *Qabristan* in the year 1999, which was unanimously passed by the State Assembly. Petitioner Shri Carol submitted that the resolution passed in 1999 has been reversed by the Margao Municipal Council. The land now under acquisition had been rejected by the resolution of 1999. Shri Carol also submitted that the State Government had issued notification for acquisition of land admeasuring 99513 Sq. Mtrs. However, the process of acquisition was stalled on a complaint of an individual who had a vested interest. He has further submitted that while other communities have been allotted suitable land there is discrimination being meted out to the Muslim community. Shri Carol further submitted that in year 2001 All Margao Muslim Jamat Association has submitted a written

representation to the Chief Minister to initiate the acquisition process to acquire land for burial ground for Muslims. The present site proposed for *Qabristan* at Sonsodo has already been rejected by the Muslims. On being informed that the Chief Minister Goa had personally called on the Commission and informed the Commission that the present site had been determined in a meeting with authorities of the Jamia Masjid, which has agreed to administer the *Qabristan*, complainant Shri Matin submitted that the Jamia Masjid cannot in isolation claim to speak for the Muslim community.

3. The Chief Secretary submitted that in pursuance to the direction of this Commission in the hearing dated 24.05.2011, five alternatives sites were shown to the petitioner by the Collector, South Goa. He then made a slide presentation of these sites. The first site shown to the petitioner was at Pajifond within the city of Margao in Salcete Taluka. A proposal was moved by the President, Madrasa Raza-e-Mustafa, Masjid Goasiya Ahle Sunnatul, Jamat, Margao for acquiring this site and deposited an amount of Rs.7, 30,600/- for payment. A notification u/s 4 of the Land Acquisition Act 1894 but due to strong objection from the residents of the locality acquisition was dropped and the amount refunded. The second site shown to the petitioner was at Davorlim of Salcete Taluka admeasuring 12450 Sq. Mtr. which is situated adjacent to the existing Catholic Cemetery of St. Sebastian. The land is used by the locals for cultivation of vegetables and paddy. There was opposition by the local residents who are cultivating this land which is agricultural, therefore the site was not considered for acquisition. The third site shown to the petitioner was at Chandrawaddo in Fatorda. This site was also not considered as the earlier site adjacent to this site was proposed for acquisition for *Qabristan* by the Margao Municipal Council, but was objected to by the locals. Therefore this site was also not considered. The fourth site shown to the petitioner is located in village Verna of Salcete Taluka, this site is situated at the centre of Mormugao and Salcete and can cater to the needs of the Muslim community for both the cities. But, the land is situated at about 10 – 12 KM from Margao City and therefore this site was not considered.

4. The proposed site at Sonsodo was identified in pursuance to the meeting held on 05.11.2009 in the Margao Municipal Council. The Government in view of the proposal issued notification for acquisition under the land Acquisition Act 1894, the Land Acquisition officer passed over and the possession of the land has been handed over to the Chief Officer, Margao Municipal Council. The Margao Municipal Council decided to hand over the land to the Government for further development. The site situated at Sonsodo has been acquired by the Government and has been entrusted to Public Works Department for proper planning and development. He further submitted that a Catholic Cemetery existed adjoining the *Qabristan* site. The garbage dumped situated near the proposed site for *Qabristan* is being developed for sanitary landfill site with Modern composting plant and the government has sanctioned approximately 8 crores for the said work and after completion of the work the waste disposal site will not pose any nuisance to both Catholic Cemetery, to which it is more closely located, or the Muslim *Qabristan*. The site at Sonsodo for *Qabristan* has also been approved by the Jami Masjid Committee of Margao. He also submitted that the government has already entered into an agreement with the private company for this purpose. The Collector also described the development work being undertaken by government in the existing *Qabristan* in Pajiford in Margao city. He also assured that the government has undertaken full responsibility to develop the *Qabristan* now acquired to ensure suitability, including development of access roads and leveling. For this purpose, a detailed plan for landscaping has been prepared.
5. In response to a question of the Commission Collector Jacques submitted that government had decided to allot the site proposed for the *Qabristan*, and the alternative sites were only shown to the complainants in compliance with the orders of the NCM. There were, moreover, no records of acquisition of land at Aquem as averred by petitioner Carol. However, he reassured the petitioner that the entire 30,191 sq. m is exclusively for the *Qabristan* and not to be shared as apprehended.
6. Petitioner in rebuttal has submitted that the Jamia Masjid Committee (excluded)

could not speak for the entire Muslim community/population (the entire Muslim) of Margao **and also that** it is not the(ir) the responsibility **of the Jamia Masjid** to manage a *Qabristan*. He also submitted that the pace of work for development at Pajiford is very slow. The development as has been shown by the government of Goa had actually started by the Muslims of Margao. The proposed site at Sonsodo for Muslim burial is located in proximity of the garbage dump, in violation of Sanitary Regulation of Cemetery's Act. In response to a question by the Commission as to what might be the objection of the Muslim community when the Catholics had been agreeable to a cemetery in closer proximity to the dump, petitioner Carol submitted that the jurisdiction of the particular parish left no alternative to the Church.

Discussion:

7. The Commission after hearing both the parties is curious as to why, if the State Government was determined to allot a plot of land for Muslim *Qabristan* at Sonsodo, supposedly alternative sites were shown to the petitioner. The Commission is of the view that the State Government should be open to shifting the garbage dump if required, or allot an alternate site for Muslim *Qabristan*.
8. Simultaneously the much quoted resolution of 1999 makes no mention of a specific site. It is only in responding to the resolution that the government had proposed a specific site. It is not entirely correct therefore that, as contended by petitioner Carol, the Municipal council had overridden the Assembly Resolution .

Decision notice:

9. The Commission decided to recommend to the Government of Goa to specify a time frame for completion of the restoration of the existing graveyard at Pajifond, and ensure adherence to the same, and intimate the Commission within a period of 10 days of receipt of the Commission's directions.

10. The Commission also decided to undertake a visit to Margao by Vice Chairman Dr. Sangliana and Ms. Imam to ascertain the suitability of the location of the *Qabristan* allotted by the state government and also to meet local Muslims and Church Leaders, to determine public opinion in the matter.

Sd/-
(Wajahat Habibullah)
Chairperson

Sd/-
(Dr. H.T. Sangliana)
Vice Chairperson

Sd/
(H.S. Hanspal)
Member

Sd/-
(Syeda Imam)
Member

Sd/-
(K.N. Daruwalla)
Member

Authenticated true copy. Additional copies of order shall be supplied on application

Sd/-
Ms Esther Kar
(Jt Secretary)
8.7.2011