

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 24.05.2011 consisted of:

- i. Shri Wajahat Habibullah, Chairperson
 - ii. Dr. H.T. Sangliana, Vice Chairperson
 - iii. Shri H.S. Hanspal, Member
 - iv. Ms. Spalzes Angmo, Member
 - v. Ms. Syeda Imam, Member
 - vi. Shri Vinod Sharma, Member
 - vii. 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 at 12.00 Noon on 24.05.2011.

Present:

- (i) Shri Abdul Matin Carol, Shri Sayed Iftijar who have complaint of discrimination and harassment in acquisition and allotment of land for Muslim Qabristan.
 - (ii) Shri S. Kumaraswamy, Secretary Revenue, Govt. of Goa authorized representative of Shri Sanjay Kumar Srivastava, Chief Secretary, Govt. of Goa, Ms. Valsala Vijayan, Dy. Resident Commissioner, Goa Sadan, Govt. of Goa.
3. Petitioner submitted that despite a resolution unanimously passed in 1999 by the Goa State Assembly for allotment of suitable land for Muslim Qabristan the state government failed to comply. Petitioner Shri Carol mentioned that he has not received any response to his reminders from the Govt. of Goa and that the Assembly Resolution of 1999 has actually been reversed by the Margao Municipal Council. Also, of the 30,191 Sq. mts. now proposed for notification as Kabristan, 14,000 sq. mtr. already stands allotted and the remaining is proposed to be allotted to three different communities. This will be in violation of Goa's own Cemeteries Act. Petitioner Shri Carol also mentioned that

he has asked under the RTI Act, for copies of objections received before finalization of allotment proposed in pursuance of the Assembly Resolution earlier, but there has been no response despite that act.

4. He has further submitted that while other communities have been allotted suitable land the Muslim community has been discriminated against. The present Qabristan is limited in space and located in a sloping terrain of hard rock across the road from the local garbage dump, making it very difficult to perform the last funeral rites or to observe the various memorials traditional for the departed amongst Muslims. The petitioner also submitted that despite Commission's direction in the hearing dated 25.5.2010 and 16.07.2010 and despite several representation/reminders by the petitioner to the Govt. of Goa nothing has been done. Because the land proposed to be acquired near Sansoda for Muslim Qabristan is adjacent to a garbage dump it stinks and is totally unhygienic. The Muslims go for night prayer at Qabristan on certain occasions. The present site proposed for the Qabristan was rejected by the Muslims in 1980.
2. Shri S. Kumaraswamy, at present Secretary Revenue submitted that he was no longer in charge of the concerned department, but had served as Secretary concerned in earlier hearings of the Commission. The resolution passed in 1999 was with the intention to find a suitable land for the Muslim Qabristan; the process of acquisition also started but due to objection/resistance by the local people land could not be acquired. After the last hearing of the Commission dated 16.07.2010, the Govt. of Goa identified 4 sites, but the site considered by the government to be most suitable was identified at Sansoda, Margao and the process of acquisition has already been notified with urgency clause for acquiring an area of 30,191 Sq. M. Shri S. Kumaraswami, Secretary, Urban Development mentioned that the position of the land claims to be under acquisition in the letter received from the Revenue Department of Goa dated 20.4.2011 is expected within a week. There are other educational institutions and a cemetery around the present site.
3. Shri Kumaraswamy admitted that the decision on location of the site was without consultation with the petitioner or indeed the Muslim community representatives. Nor could respondent give a satisfactory reply to the various questions raised by the Commission on why the other identified sites were not shown to the petitioner. Moreover, the Commission had in its earlier decision directed that the State Govt. of Goa should submit a report by the 25th day of every month on regular basis till the conclusion of the case, the first of which was expected to be submitted by 25th June, 2010. No such report has been submitted, which would have enabled the Commission to actually decide on the admissibility of the plot proposed to be used as a Kabristan, in consultation with the petitioner.

Discussion:

4. The Commission after hearing both the parties is of the view that the State Government has failed to comply with the direction of the Commission and the Commission also took strong objection and a dim view of the Chief Secretary deputing an officer who is not concerned with the subject at issue and could not give up to date information on the current status of the process of identification of suitable alternate sites as directed by the Commission. The Commission viewed this as action bordering dangerously on contempt

Decision notice:

5. The Commission decided to fix the next date of hearing within a week, summoning the Chief Secretary along with the District Collector of South Goa. The State Government should show the alternate sites to the petitioner before the next date of hearing.

(Wajahat Habibullah)
Chairperson

(Dr. H.T. Sangliana)
Vice Chairperson

(H.S. Hanspal)
Member

(Spalzes Angmo)
Member

(Syeda Imam)
Member

(Vinod Sharma)
Member

(K.N. Daruwalla)
Member