

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.237 OF 2015**

Mr. John Alleluia Colaco Noronha,
s/o. Late Mr. Newton Noronha,
aged 32 years, Indian National,
mariner, resident of H.No.298,
Mangor Hill, Vasco da Gama, Goa.

....Petitioner

Versus

1. Health Officer Dr. Vikas Kuvelkar,
Urban Health Center,
Vasco da Gama, Goa-403 802.
2. Director of Health,
Directorate of Health Services,
Campal, Panaji, Goa-403 001.
3. State of Goa,
through Under Secretary (Health),
Public Health Department,
Secretariat, Porvorim, Goa-403 521.
4. Mr. Ashok Kumar,
Shop No.3, Mukund Building,
F.L. Gomes Road,
Vasco da Gama, Goa – 403 802.

....Respondents

Mr. Bhargav Khandeparkar, Advocate for the Petitioner.

Mr. P. Faldessai, Additional Government Advocate for Respondents
No.1 to 3.

**Coram:- F.M. REIS &
K.L. WADANE, JJ.**

Date:- 4th AUGUST, 2015

ORAL JUDGMENT : (Per F.M. REIS, J.)

Heard Mr. B. Khandeparkar, learned Counsel appearing for the

petitioner and Mr. P. Faldessai, learned Additional Government Advocate appearing for respondents no.1 to 3.

2. Rule. Heard forthwith with the consent of the learned Counsel. Learned Counsel appearing for the respondents waives service.

3. Upon hearing the learned Counsel appearing for the respective parties, a short point for consideration is whether the letter dated 13/02/2015 at annexure "D" can be considered to be a decision on the complaint dated 9/02/2015 filed by the petitioner under Section 39 of the Public Health Act, 1985.

4. On perusal of the said letter dated 13/02/2015, we find that there are no reasons given by the respondent no.1 on the allegations made in the complaint lodged by the petitioner. The learned Additional Government Advocate however points out that respondent no.1 had material before him to come to such conclusion. But however, on plain reading of the said decision, we find that the material relied upon by the respondent no.1 to arrive at such decision is not reflected therein. On this short ground alone, the decision in the letter dated 13/02/2015 stands vitiated and deserves to be quashed and set aside.

5. In view of the above, we pass the following order;

O R D E R

(i) The impugned letter dated 13/02/2015 is quashed and set aside.

(ii) The Health Officer of the concerned area is directed to take a decision on the said complaint dated 9/02/2015 after hearing the petitioner and all other concerned parties in accordance with law.

(iii) Rule is made absolute in the above terms with no order as to costs.

K.L. WADANE, J.

F.M. REIS, J.

NH/-