

IN THE HIGH COURT OF BOMBAY AT GOA

**PUBLIC INTEREST LITIGATION WRIT PETITION NO.18 OF
2015**

- 1 Mr. Rousseau Rodrigues
son of Gabriel Rodrigues
aged 31 years, Professional Member of
NGO, “Amchem Goem Amcho Lok”,
Having its office at H.No.306/B-1,
Maina Dongorim, Salcete-Goa. Phone
No.Nil Fax No. Nil. Mobile
No.9850436276 PAN Number :
AXWPR9828C National Unique
Identity Number : Nil, Email-Address:
rousseau062@rediffmail.com.

- 2 Mr. Felicidade Dias, Son of Piedade
Dias, Aged 62 years, Social Worker and
President of the NGO, “Amchem Goem
Amcho Lok”, Having its office at
H.No.306/B-1, Maina Dongorim,
Salcete-Goa. Phone No. Nil, Fax No.
Nil, Mobile No.8007353963, PAN
Number : National Unique Identity
Number : Nil, Email -Address: NIL.

- 3 Mr. Santana Piedade Afonso
s/o. Sebastiao Domingos Floriano
Afonso, Aged 53 years, Chairman,
President and CEO, Cuncolim Peoples
Forum, Registered under
No.335/Goa/2012, Resident of
H.No.263, Comba Central, Cuncolim,
Salcete, Goa. Phone No. Nil, Fax No.
Nil, Mobile No.8087650691, PAN
Number : AQGPA6319Q, National
Unique Identity Number : Nil
Email-Address :
santana_afonso@hotmail.com

.... Petitioners

- 4 The Benaulim Civic and Social Forum represented by its vice president Mr. Jose Rodrigues, having office at H.No.1191/1, Rysen Enterprises, Mazilwaddo, Benaulim, Salcete, Goa. Phone No. Nil, Fax No. Nil, Mobile No.9922853825, PAN Number : BHJPR8987A National Unique Identity Number: Nil Email- Address:jose3852@gmail.com

... Petitioners

V/s

- 1 The State of Goa, Through its Chief Secretary, Secretariat, Alto Porvorim, Bardez, Goa.
- 2 The Village Panchayat of Cana-Benaulim, Represented by its Secretary Benaulim, Salcete, Goa.
- 3 The Block Development Officer, of Salcete, Mathany Saldanha Building, South Goa, Margao.
- 4 The Deputy Collector & SDO, Salcete, Matanhy Saldanha Building, South Goa, Margao.
- 5 The Collector, South Goa, Mathany Saldanha Building, South Goa, Margao.
- 6 Mr. Shantappa Lakappa Hunchiaak, Major in age, r/o. Tolleamband, Pulvaddo, Benaulim, Salcete, Goa.
- 7 Mr. Babusab Mohammod Sab Sheikh, Major in age, r/o. Tolleamband, Pulvaddo, Benaulim, Salcete, Goa.

- 8 Mr. Shivappa Yellapa Unichikatti,
Major in age, r/o. Tolleamband,
Pulvaddo, Benaulim, Salcete, Goa.
 - 9 Mr. Akbar Shap, Major in age, R/o.
Tolleamband, Pulvaddo, Benaulim,
Salcete, Goa.
 - 10 Mr. Nabi Sab, Major in age, R/o.
Tolleamband, Pulvaddo, Benaulim,
Salcete, Goa.
 - 11 Mr. Toplowali, Major in age, R/o.
Tolleamband, Pulvaddo, Benaulim,
Salcete, Goa.
 - 12 Mr. Xetappa Lamani, Major in age, R/o.
Tolleamband, Pulvaddo, Benaulim,
Salcete, Goa.
 - 13 Mr. Abdul Jeeloni Sheikh, Major in age,
R/o. Tolleamband, Pulvaddo, Benaulim,
Salcete, Goa.
 - 14 Mr. Hanumant Laxman Bongari, Major
in age, R/o. Tolleamband, Pulvaddo,
Benaulim, Salcete, Goa.
 - 15 Mr. Shoukat Abdul GaniJaleghar, Major
in age, R/o. Tolleamband, Pulvaddo,
Benaulim, Salcete, Goa.
 - 16 Mr. Sagar Mohamed Gaus Mohiddin,
Major in age, R/o. Tolleamband,
Pulvaddo, Benaulim, Salcete, Goa.
- Respondents

Mr. Niegal Da Costa Frias, Advocate for the Petitioners.

Mr. P. Dangui, Additional Government Advocate for Respondents

No.1,3,4 & 5.

Mr. Byron Rodrigues, Advocate for Respondent No.2.

Mr. Joaquim Godinho, Advocate for Respondents No.6,7,8,9 & 13.

**Coram:- F. M. REIS &
C. V. BHADANG, JJ.**

Date:- 16th December, 2015

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

Heard Mr. Nigel Da Costa Frias, the learned Counsel appearing for the petitioners, Mr. P. Dangu, the learned Additional Government Advocate appearing for respondents no.1,3,4 & 5, Mr. Byron Rodrigues, the learned Counsel appearing for respondent no.2 and Mr. J. Godinho, the learned Counsel appearing for respondents no.6,7,8,9 & 13.

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

3. The above petition filed in public interest on the ground that despite of an order for demolition issued way back in the year 2009 by the local Panchayat - respondent no.2, no finality has been attained to comply with such demolition order. But, however, Mr. Godinho, the learned Counsel appearing for respondents no.6,7,8,9 & 13/occupants of the subject structures, has pointed out that the said respondents have preferred an appeal before the Directorate of Panchayat against the order

of demolition which appeal came to be allowed and liberty was given to the said respondents to file an appropriate application for regularisation. The learned Counsel further submits that though such respondents did not submit the requisite application within the time specified in such order nevertheless, they have filed an application before the Directorate of Panchayat for further extension of time to submit an appropriate application for regularisation. The learned Counsel further points out that an application for regularisation is in fact pending before the local Panchayat which was submitted on 8/12/2008. The learned Counsel further points out that the application before the Directorate of Panchayat came to be rejected, but however, the challenge to such order before the learned District Judge in revision came to be allowed and the matter is now pending before the Directorate of Panchayat for examining such application afresh.

4. Mr. Nigel Da Costa Frias, the learned Counsel appearing for the petitioners however points out that this exercise is unnecessarily delaying the process of demolition of the subject structures and, as such, it would be appropriate to issue directions to ensure that the order of demolition if at all no regularisation is granted is taken to its logical conclusion expeditiously.

5. The learned Additional Government Advocate appearing for said respondent has submitted that in case any application for technical approval is submitted by the local Panchayat such application shall be considered by the concerned authorities in accordance with law.

6. The learned Counsel appearing for the Local Panchayat - respondent no.2 states that the local Panchayat shall proceed to take action in connection with the subject structures occupied by the persons other than 8 persons who had applied for such regularisation, expeditiously.

7. In view of the aforesaid rival contentions of the parties, following order is passed by consent:

O R D E R

(i) The respondent no.2 shall proceed to submit application for regularisation filed by the concerned respondents dated 8/12/2008 to the concerned department of the planning authority for technical approval within two weeks from today.

(ii) After receipt of such application, the concerned authority shall proceed to examine whether the application for technical approval can be granted for such claim of regularisation within three months after receipt of such request.

(iii) Local Panchayat shall proceed to take further action in the matter based on the decision of the planning authority on technical approval, within 2 months from receipt of such decision.

(iv) The concerned respondents have undertaken to withdraw any proceedings pending before the Directorate of Panchayat in connection with the subject structures within one week from today.

(v) Liberty to the concerned respondents to submit supplementary documents in support of their claim for regularisation within ten days from today.

(vi) The security furnished pursuant to order dated 29/9/2015 stands discharged.

(vii) Rule stands disposed of in the above terms.

(viii) All contentions of both the parties are left open.

C. V. BHADANG, J.

F. M. REIS, J.

NH/-