

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 572 of 2015.

Akar Creation Pvt. Ltd., a Private Limited Company, duly registered under the Indian Companies Act, 1956 with its Office at Lake Plaza, Opposite Nehru Stadium, Fatorda, Margao-Goa, represented by its duly authorized representative, Shri Nitin M. Raut Dessai, Civil Engineer, In-charge of Construction Projects.

..... Petitioner.

Versus

1. Village Panchayat Sancoale, Village Panchayat of Sancoale, Mormugao-Goa, through its Sectary.
2. State of Goa, through its Secretary(Panchayats), with his Office at Secretariat, Porvorim, Bardez-Goa.

..... Respondents.

Mr. S. D. Lotlikar, Senior Advocate with Ms. M. Furtado, Advocate for the petitioner.

Mr. Vivek Rodrigues, Additional Government Advocate for the respondent nos.2.

None for the respondent no.1 though served.

Coram:-F. M. REIS,

K. L. WADANE,JJ.

Date:-26th August, 2015.

ORAL JUDGMENT (Per F. M. Reis, J.

Heard Mr. S. D. Lotlikar learned Senior Advocate appearing for the petitioner, Mr. Vivek Rodrigues, learned Additional Government Advocate appearing for the respondent nos.2. None for the respondent no.1 though served.

2. Rule.

3. Heard forthwith by consent as the notice to the respondents indicated that the petition would be disposed of finally at the stage of admission. Learned Additional Government Advocate waives service of notice.

4. Mr. Lotlikar, learned Senior Counsel appearing for the appellant has taken us through the impugned communication dated 26.6.2015 of the respondent no.1 inter alia disclosing that the licence which was duly issued by the respondent no.1 was revoked without giving any show cause notice nor an opportunity of being heard to the petitioner. The learned Senior Counsel further points out that pursuant to the development permission dated 5.5.2010 and the construction licence dated 2.6.2010 issued by the concerned Authority the construction activity commenced and infact has substantially been completed. Mr. Lotlikar, learned Senior Counsel has thereafter taken us through the photographs produced on record to disclose the stage of the construction put up by the petitioner in the property in dispute. The learned Senior Counsel has also taken us through another photograph to point out that the allegation in the impugned communication that there is no approach road is totally erroneous and patently false. The learned Senior Counsel further submits that after the second renewal was granted, the respondent no.1 arbitrarily revoked the licence issued to the petitioner. The respondent no.1

though served has failed to remain present.

5. Before we proceed to examined the contentions of the learned Senior Counsel, we would like to put on record that we deprecate the conduct of the respondent no.1 in not putting up their appearance despite of two notices issued to the respondent no.1 by this Court. This conduct of the respondent no.1 would itself disclose that the respondent no.1 is not in a position to support or justify the impugned communication in the above writ Petition. We as such would like to record that we expect the respondent no.1 in future to ensure that they shall remain present when they receive notice or summons from this Court or else serious view shall be taken.

6. Considering the merits of the contentions raised by the learned Senior Counsel appearing for the petitioner, we find that admittedly, there was no show cause notice issued to the petitioner to justify the alleged contentions of the respondent no.1 in such communication. As such, the impugned communication itself stand vitiated for breach of the principle of natural justice and cannot be sustained and deserves to be quashed and set aside.

7. Hence, the impugned communication dated 26.6.2015 is quashed and set aside. Rule is made absolute in the above terms.

K. L. WADANE,J.
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F. M. REIS,J.