

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.679 of 2015**

TRADE WINGS HOTELS LIMITED,
a Company, incorporated under
the Companies Act, 1956,
having its registered office,
at 6, Mascarenhas Building,
M.G.Road, Panaji-Goa-403 001 .. Petitioner

Versus

- 1) State of Goa, through the
Secretary (Home), Government
of Goa, Home Department,
Secretariat, Porvorim-Goa
- 2) The Under Secretary (Home),
Government of Goa, Home
Department, Secretariat,
Porvorim-Goa. .. Respondent

Mr. S. S. Kantak, Senior Advocate with Mr. Preetam Talaulikar,
Advocate for the petitioner.

Mr. V. Rodrigues, Additional Government Advocate for the
respondents.

CORAM :- C. V. BHADANG, J.

Date : 1st September, 2015.

ORAL JUDGMENT :

Shri Kantak, the learned Senior Counsel for the
petitioner seeks leave to amend the petition by incorporating the
challenge to the order dated 26/08/2015. Leaved granted.
Amendment to be carried out forthwith.

2. Rule. Rule, made returnable forthwith. Learned

Additional Government Advocate waives service for the respondents.

3. By an order dated 26/08/2015, the Under Secretary (Home) of the Government of Goa had directed the petitioner to stop Casino Operations with immediate effect till such time a fresh Five Star Classification Certificate is produced before the Government and upon renewal of the said licence. The impugned order also stipulates that failing compliance, action as may be deemed fit will be taken. The petitioner had challenged the said order before the Administrative Tribunal along with an application for stay. The learned President of the Administrative Tribunal, by an order dated 28/08/2015, has refused to grant ad interim stay of the order dated 26/08/2015. Feeling aggrieved, the petitioner is before this Court.

4. I have heard Shri Kantak, the learned Senior Counsel for the petitioner and Shri Rodrigues, the learned Additional Government Advocate for the respondents.

5. The main contention raised on behalf of the petitioner is that the order dated 26/08/2015 was passed without issuance of show cause notice and without affording an opportunity of hearing. It is submitted that this has not even been considered by

the Administrative Tribunal, while refusing to grant ad interim stay.

6. Shri Rodrigues, the learned Additional Government Advocate fairly submits that no prior show cause notice was issued nor any opportunity of hearing was granted to the petitioner before passing the impugned order.

7. The learned Senior Counsel for the petitioner has placed reliance on the judgment of the Division Bench of this Court in **Writ Petition /Stamp Number Main No.2681/2015 (Raffles Square Development Pvt. Ltd Vs. State of Goa and Others)** dated 31/08/2015 . It is submitted that on a similar fact situation, the impugned order was quashed and set aside as being vitiated for breach of the principles of natural justice.

8. The learned Senior Counsel for the petitioner further submitted that even so far as challenge to the order dated 26/08/2015 is concerned, the petition would pertain to the jurisdiction of this Court under Rule 18(56) of Chapter XVII of the Bombay High Court Appellate Side Rules, 1960.

9. In view of specific statement and concession on behalf of the respondents and having regard to the fact that the impugned order dated 26/08/2015 does not demonstrate that any

show cause notice was issued or any opportunity of hearing was granted to the petitioner, no useful purpose would be served by relegating the parties to the Administrative Tribunal, as it would be an empty formality. Thus, the petition will have to succeed. In such circumstances, the following order is passed :

ORDER

- (i) The impugned order dated 26/08/2015 passed by the Under Secretary (Home), Government of Goa is hereby quashed and set aside.
- (ii) Consequently, the challenge to the order dated 28/08/2015 is rendered infructuous.
- (iii) It will be open to the respondent no.2 to take appropriate action, if so advised, after serving a show cause notice on the petitioner and giving the petitioner an opportunity of hearing, in accordance with law.
- (iv) The rival contentions of the parties are kept open.
- (v) Rule is made absolute in the aforesaid terms, with no order as to costs.

Parties to act on the authenticated copy of the order.

C. V. BHADANG, J.

SMA