

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 701 OF 2015

SHRI ELIANO PEREIRA. ... Petitioner
Versus
STATE OF GOA, THROUGH ITS CHIEF
SECRETARY AND 2 ORS., ... Respondents

Mr. Ashwin D. Bhobe, Advocate for the petitioner.
Mr. P. Dangui, Addl. Government Advocate for the respondents.

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

Date:- 10th September, 2015

P.C.

Heard Mr. A. D. Bhobe, learned counsel appearing for the petitioner and Mr. P. Dangui, learned Addl. Government Advocate appearing for the respondents.

2. The above petition inter-alia seeks for the following reliefs :

(a) For a writ of mandamus or any other appropriate writ, order in the nature of mandamus directing the respondent no.2 to dispose of the petitioner's application dated 27.07.2015 for permission to erect the temporary seasonal wooden huts at Anjuna, within a stipulated time.

(b) For an order calling for the records of the impugned directions bearing No. GCZMA/N/ILLE-COMPL/15/16/22/1243 dated 25.08.2015 and upon perusal of the legality and the propriety of the same to quash and set aside the impugned directions bearing No. GCZMA/N/ILLE-COMPL/15/16/22/1243 dated 25.08.2015, being in violation of the principles of natural justice.

3. Mr. Bhobe, learned counsel appearing for the petitioner has pointed out that the petitioner has filed an application to put up a temporary structure in his private property on 27.07.2015 which has not been considered by the respondent no.2. The learned counsel further submits that according to the petitioner, such temporary structures are permissible in terms of the relevant provisions of law and consequently, it is incumbent upon the respondent no.2 to decide such application in accordance with law. The learned counsel further submits that the delay in considering such application is causing grave prejudice to the petitioner as according to him such temporary structures are to be erected before the tourist season.

4. Mr. Bhobe, learned counsel has also pointed out that the petitioner is also challenging the notice of demolition dated 25.08.2015 issued by the respondent no.2. The learned counsel has further pointed out that such orders are passed without following the principles of natural justice and as such the demolition notice stands vitiated which would call for interference by this Court. The learned

counsel as such submits that the respondent no.2 be directed to hear the petitioner and proceed to pass appropriate orders in connection with the allegations made therein. The learned counsel has also pointed out that the petitioner has also made a representation to the respondent no.2 dated 22.8.2015 disputing the correctness of the allegations made in the show cause notice.

5. The learned Addl Government Advocate for the respondents has pointed out that as far as the application dated 27.07.2015 is concerned, the respondent no.2 shall proceed to examine such application in accordance with law within 15 days from today. The learned counsel further pointed out that the notice of demolition impugned by the petitioner is with regard to the structures which are already ordered to be demolished by the National Green Tribunal by order dated 13.08.2015. The learned counsel as such submits that the petition be rejected.

6. Mr. Bhobe, learned counsel appearing for the petitioner in answer to the contention of Mr. P. Dangui, learned Addl. Government Advocate has pointed out that the petitioner has already complied with the directions issued by the National Green Tribunal as referred to in the order dated 13.08.2015 by filing a compliance report on 10.08.2015.

7. Upon hearing the learned counsel and on perusal of records, we

find that as far as the grievance of the petitioner with regard to the application dated 27.07.2015 is concerned, accepting the statement of the learned Addl. Government Advocate on the basis of instructions of the concerned official of the respondent no.2 that such application would be disposed of within 15 days from today, the grievance of the petitioner on that count would not survive.

8. As far the next grievance of the learned counsel appearing for the petitioner is concerned, considering that such directions are stated to be in terms of the provisions of Section 5 of the Environment (Protection) Act, 1986, an alternate remedy is available to the petitioner to challenge such directions before the learned National Green Tribunal. Hence, we find that it would not be appropriate for this Court to interfere in such directions in the present proceedings considering the stand taken by the respondent no.2 which is otherwise disputed by the petitioner. In case any representation is made as stated by the petitioner, the authorities shall examine the same in accordance with law.

9. Subject to the above, the petition stands accordingly rejected. All contentions of the parties on merits are left open.

K. L. WADANE, J.

F. M. REIS, J.

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