

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 1 OF 2016

Vision Aid Media
1st Floor, Kiran Apartments,
Chicalim, Goa.
Through its proprietor
Mr. Morison John Barreto,
Major, r/o Behind Desterro Church,
Vasco da Gama, Goa. Petitioner

V e r s u s

1. The Mormugao Municipal Council,
Through its Chief Officer,
Vasco da Gama, Goa.
2. The Deputy Collector and SDM,
Mormugao, Vasco da Gama, Goa.
3. The National Highways Authority of India,
Through its Project Director,
Project Implementation Unit, Goa,
Near Dr. Babasaheb Ambedkar
Vocational Centre,
Old Primary Health Centre, MPT,
Headland Sada, Goa 403 804.
4. The State of Goa,
Through its Chief Secretary,
Secretariat, Porvorim Goa.
5. The Village Panchayat of Chicalim,
Through its Secretary,
Chicalim Goa. ... Respondents

Mr. Nigel Da Costa Frias, Advocate for the petitioner.

Mr. S. D. Padiyar, Advocate for the respondent no.1.

Mr. D. Lawande, Government Advocate for the respondent nos. 2 and 4.

Mr. V. Rodrigues, Government Advocate for the respondent no.3.

Mr. Zeller D'Souza, Advocate for the respondent no.5.

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

Date :- 6th January, 2016

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

Heard Mr. Nigel Da Costa Frias, learned counsel appearing for the petitioner, Mr. S. D. Padiyar, learned counsel appearing for the respondent no.1, Mr. D. Lawande, learned Government Advocate appearing for the respondent nos. 2 and 4, Mr. V. Rodrigues, learned Government Advocate appearing for the respondent no.3 and Mr. Zeller D'Souza, learned counsel appearing for the respondent no.5.

2. Rule. Heard forthwith with the consent of the learned counsel.

3. The learned counsel appearing for the respective respondents waive service.

4. We have heard the learned counsel appearing for the respective parties at length. The main grievance of the petitioner is that the impugned order dated 04.12.2015 issued by the respondent no.1 is without jurisdiction as according to the petitioner all the requisite permissions from the respondent no.3 have been obtained by the petitioner. The learned counsel appearing for the petitioner points out that in addition to the permissions obtained from the respondent no.3

the requisite consent from the respondent no.5 to put up the unipole for hoarding facilities have already been obtained. The learned counsel as such points out that as the subject unipole for hoarding facilities are put up within the highway land, the question of seeking any permission from the respondent no.1 would not arise as such area is coming within the Village Panchayat of the respondent no.5. The learned counsel as such submits that the impugned order passed by the respondent no.1 deserves to be quashed and set aside.

5. On the other hand, Mr. Padiyar, learned counsel appearing for the respondent no.1 has submitted that the subject action taken by the respondent no.1 stands supported by an order received from the District Magistrate dated 10.12.2015. The learned counsel however fairly accept that the subject unipole for hoarding facilities put up by the petitioner does not come within the municipal area of the respondent no.1. The learned counsel as such points out that the impugned order dated 04.12.2015 would otherwise not survive.

6. Mr. Lawande, learned Government Advocate appearing for the respondent nos.2 and 4 points out that the order dated 10.12.2015 was erroneously sent to the respondent no.1 when it ought to have been sent to the respondent no.5.

7. We have considered the submissions of the learned counsel and we have also gone through the records. Taking note of the fact that

the subject unipole for hoarding facilities are not put up within the municipal area of the respondent no.1, the question of issuing a stop work order dated 04.12.2015 would not arise at all. Taking note of the submission of Mr. Padiyar, learned counsel appearing for the respondent no.1, we find that the stop work order dated 04.12.2015 cannot be sustained and deserves to be quashed and set aside.

8. Mr. Z. D'Souza, learned counsel appearing for the respondent no.5 submits that the impugned show cause notice dated 16.12.2015 would no longer survive as the respondent no.1 thereafter has granted the requisite permissions to the petitioner.

9. In view of the above, the impugned order dated 04.12.2015 stands quashed and set aside.

10. Mr. Padiyar, learned counsel upon instructions states that any seized material by the respondent no.1 based on the said order of the learned District Magistrate shall be returned to the petitioner within 48 hours. Rule stands disposed of accordingly with no order as to costs.

K. L. WADANE, J

F. M. REIS, J

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