

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 599/2015**

MR. CHANDRAKANT U.
KALANGUTKAR AND ORS. PETITIONERS.

V e r s u s

THE VILLAGE PANCHAYAT OF
ALDONA AND OTHERS. RESPONDENTS.

Shri Nigel Costa Frias, Advocate for the petitioners.

Shri C. A. Ferreira, Advocate for the respondent No.1.

Shri Mahesh Amonkar, Central Govt. Standing Counsel for the
respondent No.3.

Shri P. Sawant, Advocate for respondent No.6.

Shri. P. P. Singh, Advocate for respondent No. 11.

Shri Nikhil Vaze, Advocate for the respondent No.12.

**CORAM :- F.M. REIS &
NUTAN D. SARDESSAI, JJ.**

Date : - 6 June 2016.

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

Heard Shri Nigel Costa Frias, learned Counsel appearing
for the petitioners, Shri C. A. Ferreira, learned Counsel appearing for
the respondent No.1, Shri Mahesh Amonkar, learned Central Govt.

Standing Counsel appearing for the respondent No.3, Mr. P. Sawant, learned Counsel appearing for the respondent No.6, Mr. P. P. Singh, learned Counsel appearing for respondent No. 11 and Shri Nikhil Vaze, learned Counsel appearing for the respondent No.12.

2. Though the petitioners have raised a dual challenge in the above petition, firstly regarding the licence to build a mobile tower and the secondly with regard to the licence to operate such tower, it was brought to our notice during the course of hearing that in the meanwhile, the erection of the mobile tower itself has been held to be illegal and the action has been initiated by the respondent No.1 for demolition of such tower under the Goa Panchayat Raj Act, which action has been upheld by the learned Director of Panchayats.

3. Shri Ferreira, learned Counsel appearing for the respondent No.1 submits that the appeal preferred by the respondent No.12 has been dismissed and, as such, the respondent No.1 shall proceed to enforce the demolition order dated 22/2/2014 passed by the respondent No.1 at Annexure P, in accordance with law. The learned Counsel appearing for the respondent No.12, however, submits that the respondent No.12 may take recourse in law to challenge such orders.

4. As the erection of the mobile tower by the respondent No.12 itself has been found to be in breach of the provisions of the Goa Panchayat Raj Act, the issue of licence to operate such tower by the concerned Authorities has become academic. In such circumstances, we find it appropriate to keep all contentions of both the parties with regard to the operation of the mobile tower open, to be examined in appropriate proceedings. But, however, taking note of the contention of Mr. Ferreira, learned Counsel appearing for the respondent No.1 that the order of demolition at Annexure P shall be taken to its logical conclusion, we find that no further directions are required to be issued at this stage in the above writ petition. Needless to say that the remedies, if any, available to the respondent No.12 to challenge such orders are left open to be examined on its own merits, in accordance with law.

5. Subject to the observations made herein above, we dispose of the above writ petition. Needless to say that all contentions of both the parties, on merits are left open. Liberty to apply.

NUTAN D. SARDESSAI, J.

ssm.

F.M. REIS, J.