

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 528 OF 2016**

M/s. Little Hearts,
Through its proprietor
Mr. Armando Barreto,
Major of age,
r/o H. No.409/A,
Suclem, Curtorim,
Salcete Goa.

... Petitioner

V e r s u s

1. State,
Through Chief Secretary,
Secretariat, Porvorim,
Bardez Goa.

2. Goa State Pollution Control Board,
Dempo Towers,
1st Floor,
EDC Patto Plaza,
Panaji Goa.

3. The Collector (South)
South Goa District,
Collectorate Building,
Margao Goa.

4. Mr. Jamie Rodrigues,
resident of H.No.421,
Bandol Curtorim,
Salcete Goa.

.... Respondents

Mr. Anthony Joe D'Silva, Advocate for the petitioner.

Mr. A. Gomes Pereira, Addl. Government Advocate for the respondent nos. 1 and 3.

Mr. D. Lawande, Government Advocate for the respondent no.2.

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

Date:- 22nd June, 2016

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

Heard Mr. A. D'Silva, learned counsel appearing for the petitioner, Mr. D. Lawande, learned Government Advocate for the respondent no.2 and Mr. A. Gomes Pereira, learned Addl. Government Advocate appearing for the respondent nos. 1 and 3.

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

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

4. The above petition takes an exception to the order dated 09.05.2016 passed on the ground that the petitioner had breached the directions issued by the respondent no.2 in the order dated 07.03.2016 and consequently, the subject premises were ordered to be sealed. The learned counsel appearing for the petitioner points out that the petitioner

shall not carry out any commercial activities in the subject premises unless all the requisite permissions including the 'consent to operate' is duly obtained from the respondent no.2 in accordance with law. The learned counsel further pointed out that an application was filed by the petitioner to obtain such consent which the respondent no.2 now points out has been rejected by order dated 21.06.2016. The learned counsel for the petitioner as such submits that the petitioner shall take the remedy in law to challenge the said order and in any event, according to him the question of directing the sealing of the premises would not arise in view of the said statement.

5. Mr. D. Lawande, learned Government Advocate appearing for the respondent no.2 submits that as the consent to operate sought by the petitioner has been rejected, the petitioner cannot be permitted to carry out any commercial activities in the subject premises unless such consent is obtained in terms of law.

6. Mr. D'Silva, learned counsel appearing for the petitioner in reply reiterates upon instructions that the petitioner shall not carry out any commercial activities in the subject premises unless such consent to

operate is obtained in accordance with law.

7. Considering the rival contentions, as in the meanwhile, by order dated 21.06.2016 the application filed by the petitioner to obtain the consent to operate has been rejected, the petitioner if so advised would have to resort to an appropriate remedy in law to challenge such order before the concerned forum. No doubt, the petitioner cannot carry out any commercial activities in the subject premises without obtaining the consent to operate in terms of the relevant provisions of law from the respondent no.2. Accepting the statement of the learned counsel appearing for the petitioner upon instructions that the petitioner shall not carry out any commercial activities in the subject premises unless consent to operate is obtained from the respondent no.2, we find that the above petition can be conveniently disposed of accordingly and quashing and setting aside the order dated 09.05.2016 to the extent it directs the sealing of the subject premises. Rule is made absolute in the above terms. The petition stands disposed of accordingly.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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