

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 537 OF 2015

Shri Cajeton Fernandes, major in
age, C/o Ferns Tours and Travels,
Rajinipushp Bldg., Shop No. 8,
I. Gr. Floor, Near Police Quarters,
Bebquegal, Curchorem, Goa.

.... Petitioner

Versus

The Chief Officer, Curchorem-
Cacora Municipal Council,
Curchorem, Goa.

.... Respondent

Mr. Anthony D'Silva, Advocate for the Petitioner.

Mr. Ashwin D. Bhohe, Advocate for the Respondent.

CORAM:- S.B. SHUKRE, J.

DATE:- 29th FEBRUARY, 2016.

ORAL ORDER:

Heard learned Counsel for the petitioner and learned
Counsel for the respondent.

2. It is submitted by learned Counsel for the petitioner
that the regularisation application filed by the petitioner with the

respondent-authority has not been considered only on the ground that the Town and Country Planning Department has not given its approval to the disputed structure. He submits that the Town and Country Planning Department is not giving its approval because the structure is a temporary structure. However, in the order of the Goa Municipalities Appellate Tribunal dated 30.04.2015 it has been recorded that the argument that the construction is of temporary nature is also misplaced, thereby implying that the construction of the structure is of permanent nature. This finding has attained finality. If this is the position, liberty can be given to the petitioner to approach the Town and Country Planning Department afresh for seeking its approval of the structure in question. If the petitioner is able to obtain such an approval from the Town and Country Planning Department, further liberty can be granted to the petitioner to file application for regularisation of the structure, which then can be decided by the respondent within the given time frame.

3. In the result following order is passed:
 - (a) Petitioner is given liberty to approach the Town and Country Planning Department afresh

for seeking approval of the constructed structure. In case, the petitioner desires to file such an application, same should be filed within a weeks' time from the date of the order. Upon it's being filed, the Town and Country Planning Department shall decide the same within one month from the date of filing of the application, in accordance with law and on its own merits.

(b) If the petitioner succeeds in securing approval as above, he may file fresh application for regularisation within one week from the date of the approval of the Town and Country Planning Department before the respondent and in that case the respondent shall decide the application in accordance with law and on its own merits within one month from the date of filing of the application for regularisation.

(c) Till the process is over, in terms of the order above, no coercive action shall be taken by the respondent against the petitioner.

(d) In case the petitioner does not succeed in obtaining approval of the Town and Country Planning Department, the respondent shall be at liberty to implement the final notice.

(e) Writ Petition is disposed of in the above terms.

S. B. SHUKRE, J.

EV