

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 21 OF 2017

MRS. LAVITA FERNANDES., ... Petitioner
Versus
DIRECTORATE OF TOURISM AND 4 ORS., ... Respondents

Shri Pranay A. Kamat, Advocate for the Petitioner.
Shri P. Faldessai, Additional Government Advocate for
Respondent Nos.1 & 2.

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

Date:- 18th January, 2017

ORAL ORDER:

Heard Shri P.A. Kamat, the learned Counsel appearing for the petitioner and Shri P. Faldessai, the learned Additional Government Advocate for respondent nos.1 & 2.

2. The petition takes exception to the inaction on the part of the respondent no.1 in taking necessary action based on the complaints filed by the petitioner.

3. It is pointed out by Shri P.A. Kamat, the learned Counsel for the petitioner that though such complaints were lodged in November, 2016 no appreciable steps were taken by the respondent no.1 to look into the allegations made therein. It is further pointed out that one of the complaints even disclosed the

fact that the successful persons who obtained the right to put up a shack were ineligible for such permission as they were carrying out business activities which are not permissible in terms of the Shack Policy. It is also pointed out that the petitioner has also produced documentary evidence in support of such contentions. The learned Counsel has also brought to our notice the measures to be provided by the respondent no.1 for constituting a flying squad to ensure that the terms and conditions on which such permissions are granted are strictly complied with.

4. On the other hand, Shri Faldessai, the learned Additional Government Advocate has pointed out that as far as the grievance of the petitioner to the effect that the shack has been put up on the different place or of a bigger size, show cause notice has already been issued to the concerned persons and a hearing is fixed for today. It is further submitted that as far as the allegation of the petitioner that some of the allottees are ineligible to get such permission, the respondent no.1 has also issued show cause notice which is also fixed for hearing today. The learned Additional Government Advocate further points out that after hearing the concerned parties the respondent no.1 shall take a decision on the complaint lodged by the petitioner as expeditiously as possible within one month from today. The learned Counsel, as such, pointed out that the petition be accordingly disposed off.

5. We have heard the rival contentions of the learned Counsel and with their assistance we have perused the Shack Policy as well as the averments and the records produced before us. Considering the contention of the learned Addl. Government Advocate that action has already been initiated based on the complaints lodged by the petitioner, we find that to that extent the grievance of the petitioner no longer survives, but we would like to record that the Shack Policy at clause 2 reads thus:

"In case of any complaints received with documentary proof that the shack allottee has obtained the shack fraudulently in violation of this policy, the license issued to such allottee, shall be cancelled forthwith and the Shack shall be re-allotted to the next waitlisted applicant and the security deposit shall be forfeited without any notice."

6. Considering that it is contended by the petitioners that they have produced documentary evidence in support of their allegations, we expect the respondent no.1 to proceed to exercise such action if at all the allegations are found correct, in accordance with law. We accordingly direct the respondent no.1 to dispose off the subject show cause notice issued to the concerned respondents as expeditiously as possible and in any event on or before 28/02/2017. Needless to say that all the

contentions of both the parties on merits are left open. It is clarified that we have not examined the correctness or veracity of the allegations made by the petitioner in the above petition. The petition stands accordingly disposed off.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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