

**IN THE HIGH COURT OF BOMBAY AT GOA**

WRIT PETITION NO. 267 OF 2017

MRS. LAVITA FERNANDES AND ANR., ... Petitioners  
Versus  
DIRECTORATE OF TOURISM AND ANR., ... Respondents

Mr. Pranay A. Kamat, Advocate for the petitioners.  
Mr. P. Faldessai, Addl. Government Advocate for the respondent no.1.  
Mr. Prasheen Lotlikar, Advocate for the respondent no.2.

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

Date:- 7th April, 2017

P.C.

Heard Mr. P. A. Kamat, learned counsel appearing for the petitioners, Mr. P. Faldessai, learned Addl. Government Advocate appearing for the respondent no.1 and Mr. P. S. Lotlikar, learned counsel appearing for the respondent no.2.

2. The challenge in the above petition is to the judgment and order dated 27.02.2017 passed by the Director of Tourism on a complaint lodged by the petitioners in connection with the shack allotted to the respondent no.2.

3. Mr. P. Kamat, learned counsel appearing for the petitioners raised three contentions in support of the above petition. His first contention is that the shack erected by the respondent no.2 is not at the place where the original allotment was made in favour of the respondent no.2. The next contention is that the inspection which was carried out by the Tourism

Department was not notified to the petitioners. The third contention is that the respondent no.2 has not installed CCTV cameras and chemical toilets at the shack. The learned counsel has also raised the contention that as far as the respondent no.1 is concerned, there is no flying squad available as per the directions issued by this Court.

4. Mr. P. Lotlikar, learned counsel appearing for the respondent no.2 submits that the location of the shack to the respondent no.2 itself stipulates that the identification on the plan is only tentative and that such location would vary depending upon the local condition as identified by the officials of the respondent no.1. It is further pointed out that the respondent no.2 has erected the shack as per the direction of the respondent no.1. As far as the contention that the respondent no.2 has not installed CCTV cameras and chemical toilets, the learned counsel has taken us through the affidavit filed on record on behalf of the respondent no.2 to point out that at para 10 of the said affidavit this aspect has been reiterated and the allegation made by the petitioners has been seriously disputed. The learned counsel further pointed out that the respondent no.2 has complied with the terms and conditions of the Tourism Shack Policy and as such there is no substance in the allegation made by the petitioners and consequently, the petition deserves to be rejected.

5. Mr. Faldessai, learned Addl. Government Advocate

appearing for the respondent no.1 has pointed out that the order impugned itself suggest that an inspection in fact was carried out by the respondent no.1. The learned Addl. Government Advocate upon instructions has also pointed out that the CCTV cameras as well as the chemical toilets have been installed at the shack of the respondent no.2 in terms of the conditions of the Tourism Shack Policy. The learned Addl. Government Advocate also submits that the flying squad is also available and such flying squad has been duly notified. The learned Addl. Government Advocate further pointed out that the petitioners were unsuccessful applicants for allotment of shack and as such filed the above petition on erroneous consideration.

6. We have duly considered the rival contentions and we have also gone through the records. As far as the contention of the location of the subject shack is concerned, on perusal of the impugned order, it clearly stipulates that the identification of such location would be rectified in the year 2018. The learned Addl. Government Advocate also submits that the observations in the impugned judgment/order would be complied with by the concerned department. Taking note of the plan produced on record identifying the shack allotted to the respondent no.2, it clearly stipulates that the location therein is only tentative and would depend upon the identification carried out by the concerned department. In such circumstances, considering the observations in the said judgment, we find that it would not be

justified for this Court to interfere on such count under Article 226 of the Constitution of India with that regard.

7. As far as the grievance of the petitioners in connection with the installation of CCTV cameras and the chemical toilets, accepting the said statement of the respondent no.2 as well as the respondent no.1 upon instructions, we find that there is no reason to look into such grievance at this stage in the present petition.

8. As far as the grievance of the petitioners in connection with the site inspection, we find that the impugned order itself notes that the learned advocate appearing for the petitioners has even raised objections to the site inspection which was carried out. In such circumstances, the contention that the inspection report was without informing the petitioners cannot be accepted.

9. Subject to the above, we find that there is no case made out in the above writ petition for interference in the allegation made by the petitioners under Article 226 of the Constitution of India.

10. The petition stands disposed of accordingly.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

at\*