

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 531 OF 2017**

Smt. Telma De Sa Pinto, Indian National,
aged 82 years, r/o H. No. 508, Betim,
Bardez, Goa.

.... Petitioner

Versus

1. State of Goa, through the Chief
Secretary, having office at Secretariat,
Porvorim, Goa.

2. Goa Coastal Zone Management
Authority, through its Member
Secretary, having office at 3rd floor,
Dempo Towers, Patto, Panaji, Goa.

3. Anthony D'Souza, major of age,
resident of H. No. 65, Vaddy Siolim,
Bardez, Goa - 403 517.

4. Joseph A. Noronha, major of age,
resident of Bamon Vaddo, Siolim,
Bardez, Goa - 403 517.

.... Respondents

Shri Shivan Desai, Advocate for the Petitioner.

Shri Amir Jamadar, Additional Government Advocate for the
Respondent Nos. 1 and 2.

CORAM:- C.V. BHADANG, J.

DATE:- 3rd JULY, 2017.

ORAL JUDGMENT:

Rule made returnable forthwith. The learned
Additional Government Advocate waives service for the

respondent nos. 1 and 2. Respondent nos. 3 and 4, who are personally present, state that they do not want to engage an Advocate. Heard finally by consent of parties.

2. On the basis of the complaint lodged by the respondent nos. 3 and 4, proceedings were initiated against the petitioner for alleged violation of the Coastal Regulation Zone (CRZ) notification. A show cause notice was issued to the petitioner on 08.04.2013, which was followed by a site inspection. On 06.07.2015, the petitioner filed his objection to the findings of the preliminary site inspection report dated 09.06.2015 and subsequently, filed a detailed reply to the show cause notice on 20.10.2015.

3. The respondent no. 2 as per the decision taken in the meeting dated 28.02.2017, directed demolition of the subject structure.

4. The petitioner filed a representation against the said order on 03.03.2017, inter alia contending that the record about google images and the preliminary site inspection, cannot be replied upon. For this, reliance was placed on the decision of the Hon'ble Supreme Court in the case of **Anand Arya &**

Another Vs. Union of India & Others, (2011) 1 SCC 744.

The petitioner also raised certain other grounds in the representation. The record discloses that the respondent no. 2 in its meeting held on 18.04.2017 (147th meeting), decided to grant an opportunity to the petitioner and respondent nos. 3 and 4, of being heard. It appears that the petitioner was accordingly heard on 23.05.2017. However, the respondent no. 2 on the basis of the decision taken in the meeting held on 23.05.2017, has again directed demolition of the said structure vide order dated 29.05.2017, which is impugned in this petition.

5. It is submitted by Shri Desai, the learned Counsel for the petitioner that the impugned order and the resolution on which, the impugned order is based, are unreasoned. It is submitted that the impugned order does not show application of mind as to whether, the google images can be relied upon. The learned Counsel for the petitioner has placed reliance on the decision of the Supreme Court in the case of **State of Orissa Vs. Dhaniram Luhar, (2004) 5 SCC 568** and in particular para 8 thereof, in order to submit that an authority exercising judicial/ quasi-judicial/ administrative powers, has to record reasons in support of its decision. It is submitted that this is necessary for the affected party to know as to why the decision

has gone against him. The learned Counsel for the petitioner states that failure on the part of the respondent no. 2 to record reasons would tantamount to breach of principles of natural justice.

6. The learned Additional Government Advocate for the respondent nos. 1 and 2 submits that the petitioner has been heard on his representation and as such, no case for interference is made out.

7. I have carefully considered the circumstances and the submissions made. It does appear from the decision taken by the respondent no. 2 in its meeting dated 18.04.2017 that the respondent no. 2 had decided to hear the petitioner and the concerned parties on the representation dated 03.03.2017. One of the contentions raised in the representation is about the admissibility of the google images and the question whether, the said images can be relied upon. A perusal of the impugned order does not show that the respondent no. 2 has recorded any finding or has reached to any conclusion supported by reasons as to whether, such google images can be relied upon or not. There are certain other contentions raised in the said representation, which need to be gone into and considered by

the respondent no. 2 and then the respondent no. 2 can decide the matter afresh after hearing the concerned parties in accordance with law.

8. The learned Additional Government Advocate, on instructions, states that if this Court directs, the respondent no. 2 shall hear the petitioner afresh on the representation dated 03.03.2017 and shall pass appropriate orders in accordance with law.

9. In such circumstances, the following order is passed:

ORDER

(a) The petition is partly allowed.

(b) The impugned order is hereby set aside.

(c) The respondent no. 2 shall hear the petitioner and the respondent nos. 3 and 4 afresh, on the representation dated 03.03.2017 and shall decide the matter afresh, in accordance with law, preferably within a period of four months from receipt of this order.

(d) Rival contentions of the parties are left open.

(e) Rule is partly made absolute in the aforesaid terms, with no order as to costs.

C. V. BHADANG, J.

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