

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 1102 OF 2016**

1. Shri Laxmikant Naik,
Major of age, married, business,
H. No. 388, Takwada,
Usgao, Ponda, Goa

... Petitioner*Versus*

1. The Chief Executive Officer
South Goa Collectorate,
South Goa District,
Margao – Goa.
2. Mr. Dnyaneshwar N. Naik
Major of age, married, business,
R/o – 1246, Usgao,
Ponda – Goa
3. Village Panchayat of Village
Usgao Ganje
Through its
i) Sarpanch
ii) Secretary
Usgao Ganje.
4. Goa State Election Commission,
Altino, Panaji – Goa.

... Respondents

Mr. Abhay Khandeparkar, Advocate with Mr. Rohan P. Desai, Advocate for the Appellants.

Mr. P. Dangui, Additional Government Advocate for respondent no. 1.

Mr. Shivan Desai, Advocate for respondent no. 2.

Mr. A. D. Bhobe, Advocate for respondent no. 3.

Mr. S. N. Joshi, Advocate for Respondent no. 4.

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

Date : 18th July, 2017.

ORAL JUDGMENT: (Per. F. M. REIS)

Heard Mr. Abhay Khandeparkar, learned Counsel appearing for the Petitioner, Mr. Shivan Desai, learned Counsel appearing for the Respondent no. 2, Mr. A. D. Bhobe, learned Counsel appearing for the respondent no. 3 and Mr. S. N. Joshi, learned Counsel appearing for the Respondent no. 4.

2. Rule. Heard forthwith with the consent of the learned Counsel. Learned Counsel appearing for the respondents waive service.

3. The grievances of the Petitioner are two-fold; one is the contention that Respondent no. 2 has carried out construction activities in the property without taking the requisite permission from the statutory authorities and is occupying such premises without an Occupancy Certificate. It is also pointed out by the Petitioner that no action has been taken by the Respondent no. 3 with regard to the said construction put up by the Respondent no. 2. Mr. Shivan Desai, learned Counsel appearing for the Respondent no. 2 however disputes the said contention, but, however, points out that presently the Respondent no. 2 is not occupying the subject premises located in Survey no. 207/1(Part) of Usgao Village.

4. The next grievance of the Petitioner is that the Respondent no. 2 stands

disqualified as a member of the Zilla Panchayat as he is in arrears of the payment of house tax to the Respondent no. 3.

5. Mr. A. D. Bhobe, learned Counsel appearing for the Respondent no. 3 states that the Petitioner has not filed any complaint before the Panchayat nor produced any such complaint alongwith the above Writ Petition and, as such, action could not be taken as claimed by the Petitioner. Mr. Khandeparkar, learned Counsel appearing for the Petitioner however submits that a complaint is already lodged before Collector raising all these grievances as against the Respondent no. 2.

6. Having heard the learned Counsel appearing for the Petitioner and the Respondents we are of the view that the Petitioner, if he so desires, is at liberty to file a complaint before the Respondent no. 3 with regard to his said grievances which the Respondent no. 3 shall examine on its own merits in accordance with law. Needless to say, in case no action is taken by the Respondent no. 3, it is open to the Petitioner to move the Dy. Director of Panchayat in terms of Section 66(5) of the Panchayat Raj Act, 1994 in accordance with law. Reserving such liberty to the Petitioner on such ground, as far as the first grievance of the Petitioner stands redressed.

7. Dealing with remaining prayer of the Petitioner claiming that the

Respondent no. 2 stands disqualified, Mr. Khandeparkar, learned Counsel appearing for the Petitioner upon instructions states that the Petitioner will not press for such prayer as the Petitioner shall move the authority with appropriate proceedings in accordance with law. Reserving the said right of the Petitioner, rule stands disposed of. All contentions of the parties on merits are left open.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

msr.