

Amrut

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.796 OF 2017

1. Alex J. Fernandes,
major of age, Indian National,
resident of House No.5/140,
Umtawado, Calangute,
Bardez-North Goa.

2. Agostinho Coutinho,
major of age, Indian National,
resident of House No.5/207,
Umtawado, Calangute,
Bardez-North Goa.

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Petitioners

Versus

1. State of Goa,
through its Chief Secretary,
having office at Secretariat,
Porvorim, Bardez-North Goa.

2. Director of Tourism,
Government of Goa,
having Office at Paryatan Bhavan,
Patto, Panaji, North Goa.

3. Lavita Fernandes,
major of age, Indian National,
resident of House No.5/160,
Umtawado, Calangute,
Bardez-North Goa,

4. Alex Fernandes,
major of age,
husband of respondent no.3,
Indian National,
resident of House No.5/160,
Umtawado, Calangute,
Bardez-North Goa. Respondents

Mr. S.D. Lotlikar, Senior Advocate with Mr. P. S. Lotlikar, Advocate for the Petitioners.

Mr. P. Dangui, Government Advocate with Ms. P. Bhandari, Additional Government Advocate for Respondent Nos.1 & 2.

Mr. A. D. Bhobe, Advocate for Respondent Nos. 3 & 4.

***Coram : N.M. Jamdar &
Nutan D. Sardessai, JJ.***

Date : 6 November 2017.

ORAL JUDGMENT (Per N.M. Jamdar, J) :

By this Writ Petition under Article 226 of the Constitution of India, the Petitioners have challenged the orders passed by the Director of Tourism, Panaji Goa dated 19 April 2017 and 24 May 2017 cancelling the allotment of shacks granted to the Petitioners under the Tourism Policy formulated by the State of Goa for the year 2016-2019, on a complaint filed by Respondent No.3.

2. The Petitioners applied to the Director of Tourism for allotment of shacks on 25 and 27 October 2016. As per the policy, the lots were drawn on 11 November 2016. The permission cum licence was granted to the Petitioners by the Director on 1 December 2016 to erect the shacks on the beach and carry out business. In pursuance to the permission so granted, the Petitioners erected their shacks at location nos.3 and 4 at Umtawado, Calangute, North Goa.

3. A complaint was filed by Respondent No.3 on 16 December 2016 to the Director of Tourism. In the complaint, the Respondent No.3 stated that the Petitioners have been granted permission for running a shack in total violation of the Policy as the Petitioners are having a flourishing business of Rent-a-Bike. Respondent No.3 complained that the allotment of the shacks in favour of the Petitioners, being in violation of the policy, should be cancelled. In view of the Complaint, a show cause notice was issued to the Petitioners. During pendency of the first show cause notice dated 16 December 2016, the Respondent No.3 filed an additional complaint on 20 January 2017. The Petitioners filed their response to both the complaints and denied the allegations. The Petitioners contended that the Petitioners applied for permission to erect a shack under the policy as the Petitioners were unemployed. It was stated that they had no source of income and the business they had earlier

was already sold to the third party much prior to making an application. The Petitioners contended that they had not violated any terms of the Tourism Policy and they were entitled to the grant of a licence for shack. By order dated 27 February 2017, Respondent No.2- Director of Tourism cancelled the allotment of the shacks made in favour of the Petitioners. The Director concluded that the Petitioners had violated the Clause No.2 of the Tourism policy. The order dated 27 February 2017 passed by the Director was challenged by the Petitioners by filing Writ Petition Nos.240 of 2017 and 246 of 2017. The Division Bench of this Court (*Mohta and Bhadang, JJ*) by order dated 7 March 2017 set aside the order passed by the Director dated 27 February 2017 and remanded the proceedings to Respondent No.2 – Director of Tourism for fresh consideration.

4. Pursuant to the remand, the Director heard the Petitioners and the Respondent-Complainant. The Petitioners placed certain material on record to show that the vehicles were sold and that necessary legal formalities pursuant to the same had also taken place. The Director did not accept the case of the Petitioners and concluded that the allotment of shacks in favour of the Petitioners was against the terms of the Policy. The Director held that the documentations of transfer of vehicles were bogus, and there was no satisfactory evidence that the business was no longer under the

control of the Petitioners. The Director held that the policy expressly prohibited a person having a business, such as of Rent-a-Bike, from applying for licence and that the shack is to be allotted to the unemployed persons. The Director concluded that the conduct of the Petitioners of creating on paper arrangement was fraudulent. The Director, by order dated 19 April 2017, cancelled the shack allotted to the Petitioners.

5. The Petitioners thereafter filed a Review Application No.1/2017. Since it was pending, the Petitioners filed a Writ Petition No.446 of 2017 to expedite the hearing of the Review. The Writ Petition was disposed of directing that the Review Application will be disposed of within 10 days. The Review Application was rejected by Respondent No.2-Director by order dated 24 May 2017. The Petitioners thereafter have approached this Court by way of this Writ Petition under Article 226 of the Constitution of India challenging both the orders. Rule was issued by order dated 6 September 2017 and an ad-interim relief in terms of prayer clause (B) was granted.

6. We have heard Mr. S. D. Lotlikar, learned Senior Counsel for the Petitioners, Mr. P. Dangui, learned Government Advocate for Respondent Nos. 1 and 2 and Mr. A.D. Bhobe, learned Advocate for Respondent Nos. 3 and 4.

7. Mr. Lotlikar, learned Senior Counsel for the Petitioners in short submitted: The Respondent No.2- Director by earlier order dated 16 December 2016 had allowed the complaint filed by the Respondent-complainant on the ground that since there was no documentation under the provisions of Motor Vehicles Act the transfer of ownership had not taken place. This view taken by the Director was expressly set aside by the Division Bench of this Court in the order passed on 7 March 2017. Upon remand, the Director has again taken the same view that lack of legal documentation such as transfer under Section 50 of the Motor Vehicles Act, 1988, the ownership cannot be stated to be transferred. The matter was remanded by the Division Bench for the Director to verify the factual aspect which was within the scope and power of the authority, but not for considering legal position, which was earlier settled. Even though the registration may not have been changed following Section 50 of the Act of 1988, the unquestionable documents such as sale letter, payment receipts and possession receipts clearly showed that the control of the vehicles was transferred in favour of the third party. As on the date even the formalities of registration under Section 50 of the Act of 1988 stand completed. The complainant has not produced any evidence to show that the Petitioners have any flourishing business or anything to indicate that the documents produced by the Petitioners were sham and bogus. The registration

of a transfer of vehicle is not a mandatory requirement under the Motor Vehicles Act and the control of the ownership stands transferred when possession is handed over. Since the Petitioners had sold their business of Rent-a-Bike much prior to applying for shack licences they could not have been held in breach of any conditions and as on the date they were qualified to apply as they were unemployed. The Director has mechanically passed the order by holding that the documents were fabricated when there was no such challenge to the genuineness of documents. There is no enquiry into the factual aspect whether the Petitioners were carrying out any business, which was mandatory as per the decision of the Division Bench. There is no prohibition in law to sell a business and then apply as all that the policy requires that on the date of making an application, the person must fall within the ambit of policy which the Petitioners did on the date of the application. The Petitioners completed all necessary legal requirements of transfer. The Petitioners had already run the business for almost one year and made a substantial investment and if the licence is cancelled, the Petitioners will be put to irreparable loss as they have already sold their earlier business. The impugned order also directs the forfeiture of the security deposit and other fees. The Respondent-Complainant is also a businessman and at her behest a complaint ought not have been considered and even if the licences in favour of the Petitioners are

cancelled, it will not benefit the Complainant. The order being beyond jurisdiction and perverse, it needs to be set aside.

8. Mr. Dangui, the learned Government Advocate for the State and Mr. Bhobe, the learned Advocate for the Respondent-Complainant submitted: The order passed by the Director is in consonance with the object of the policy. The Director was considering a complaint of the abuse of the beneficial policy of the State and therefore the Director was within its jurisdiction to consider and prohibit the abuse of such policy. The Petitioners only made a paper arrangement of transfer and did not take steps as contemplated under Section 50 of the Act of 1988, which the Petitioners took only after grant of licence in their favour. This was nothing but playing a fraud to seek benefit of the policy. The Petitioners were to be disqualified as on the date of making an application. The Director considered all the documents and has given adequate hearing and the view taken is a plausible view. The policy mandates that shack is to be allotted to unemployed persons and a person already having a business cannot apply.

9. We have considered the rival contentions. We will prefix the discussion by highlighting few basic positions.

10. Firstly, we are considering the challenge under Article 226 of the Constitution of India questioning the correctness and legality of the order passed by the Director not to extend the benefits of the beneficial policy of the State in favour of the Petitioners. The power of the Director is to check whether the beneficiary policy made by the State is not abused, cannot be disputed. The enquiry before the Director is a summary inquiry and not a civil suit. The Director records a subjective satisfaction regarding the factual aspects of the case. In writ jurisdiction we cannot sit in appeal over the decision of the Director. We have to see whether the view taken by the Director is possible view of the matter, that the Director has acted within its jurisdiction and that the Director has complied with the principles of natural justice.

11. Secondly, we must keep in mind, though extensively arguments were advanced to that effect, we are not considering the proceedings arising from the Motor Vehicles Act or under statutory enactment. We will have to consider the arguments in the context of the object of the policy of the State under the benefit is sought.

12. Keeping these positions in mind, we firstly turn to the policy in question. The department of Tourism, State of Goa issued a Notification No.7/7(375)/2015-16/DT to adopt a Tourism Policy for

State of Goa for erection of temporary seasonal structures, beach shacks, huts etc., for the years 2016-19. The policy, vide the Notification, deals with terms and conditions for grant of licence for erection of temporary structures on the beach. The structures shall be allowed to be erected only for a period of three years from 2016-19. The Notification identifies the stretches of beach in which the shacks can be permitted to be erected. The specifications, size and structures of the shacks have been specified. The manner in which the business is to be regulated, to ensure that there is no public nuisance committed, is specified.

13. The relevant clause for the said Notification is the Clause 2. Clause 2 of the Notification reads thus:

“2. Application in the prescribed form as per enclosure for allotment of temporary beach shacks to be erected on identified beach stretches will be invited from the persons and license shall be issued to put up only one beach shack by one member of a family who is unemployed and no other family members can apply. The applicant should not be employed or engaged, directly or indirectly in any business, vocation or profession, such as Tourist Taxis, hotels, Bars or Restaurants, sale of Handicrafts, Souvenirs, Toddy tapping, fishing or any other form of business not so specified. License shall be granted for putting up only one beach shack to a member of the family.

Explanation.-For the purpose of this section, family shall include husband or wife, as the case may be, dependent parents and unmarried children, provided they figure in the same ration card as that of the applicant.

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.

In case of death of the successful shack allottee the shack may be transferred in the name of the “legal heirs” in the family upon request of the member of family of such deceased shack allottee and after careful consideration of the facts by the Director of Tourism.”

It is clear from the Clause reproduced above that the license will be granted for only one beach shack to one member of a family, who is unemployed and no other family member can apply. It is provided that the applicant should not be employed or engaged directly or indirectly in any business, vocation or profession such as tourist taxis, hotels, bars or restaurants, sale of handicrafts, souvenirs, toddy tapping, fishing or any other form of business not so specified.

14. The object of the Clause 2 and the Notification in general is that the shacks are to be allotted to the persons who have no means of income. This policy to grant licences to the needy to erect the shacks on the beach to earn livelihood is formulated by the State with a view to alleviate the problem of unemployment. There cannot be any dispute on the object of the policy. The Notification provides that upon a complaint if it is found that there is a breach of the terms of the policy or that the applicant was not entitled to the grant of shack, the licence shall be revoked and be granted to the next applicant on the waiting list. The Director, while deciding a complaint has to ensure that the object behind the policy is not defeated.

15. It is not in dispute that the Petitioners had a business of Rent-a-Bike. The record would indicate that the Petitioners had one four wheeler and 12 two wheeler with which the Petitioners were doing the business of Rent-a-Bike. Under the terms of the policy, a person who is carrying out such business is not entitled for grant of licence. The applicant should not be employed. Thus the first established fact is that the Petitioners carried on a business of Rent a Bike. The second established fact is that the document of sale in favour of the third party was dated 24 September 2016 and the application for licence within one month on 27 October 2016.

Thirdly, on the date of the application and till the date of remand the Petitioners did not apply for certificate of registration under the Act of 1988. Fourthly, the Petitioners had to apply within 14 days of transfer as per the provisions of Section 50 of the Act of 1988. In this backdrop, the Director scrutinized the record and passed the impugned order.

16. The reasoning of the Director in the impugned order is as below:

“15.The Clause No.2 of Shack Policy clearly speaks that at the time of making application for allotment of temporary beach shack, the applicant should be unemployed and only one member of family can apply and the applicant should not be employed or engaged, directly or indirectly in any business, vocation or profession such as tourist taxis, hotels, bars or restaurants etc., and in case of any complaints received with documentary proof that the shack allottee has obtained the shack fraudulently in violation of the policy, the licence issued to such allottee, shall be cancelled forthwith.

16.The whole intention of clause 2 of the shack policy was to give employment to the unemployed. The shack policy further states that in case of any complaint received with documentary proof that the shack allottee has obtained shack fraudulently in violation of this policy, the license issued to such allottee shall be cancelled forthwith and the shack shall be

reallotted to the next wait-listed applicant and the security deposit shall be forfeited without any notice.

17.The complaint filed by complainant against Respondent No.1 stating that he is having flourishing business of rent-a-bike consisting of many bikes and permissions are issued to him by Government of Goa and he has been allotted shack No.3 which is in violation of clause no.2 of the shack policy and produced 3 registration documents under rent-a-motor cycle scheme and prayed to revoke the allotment done to Respondent No.1. Complainant filed complaint against Respondent No.2 who is also having a flourishing business of tourist taxi along with taxi permit a rent a bike permission issued by Government of Goa and produced registration documents of car under registration No.GA-03-K-3815 which is in the name of Respondent No.2 as tourist vehicle and prayed to revoke allotment done in favour of Respondent No.2.

18.The Respondent No.1 in his reply produced a sale letter dated 24.09.2016 notarized before notary advocate D.S. Petkar and agreement for sale dated 4.2.2016 which is also notarized before notary advocate S.G. Deshpabhu. Both the documents are appeared to be sham and fabricated one, since till date no documents were produced to show that as per the sale letter and agreement for sale the vehicles were transferred in the respectively person's name from the Department of Transport to substantiate the claim of transfer of the said vehicle. The

permission/license which are also in the name of Respondent No.1 till date and therefore it violates the clause No.2 of the shack policy. The receipt were produced by the Respondent No.1 to substantiate his claim of transfer. But those receipts were produced when matter was remanded back and directed by this authority and not earlier. Those receipts which were produced does not bear receipt Nos., and it appears that those are only fabricated and doctored documents. Respondent No.2 produced documents of sale letter and receipts which also sham and fabricated and only prepared to grab the shack illegally. The receipt produced by the Respondent No.2 does not bear any receipt numbers as well as these documents were only prepared to grab the shack.

19.The transaction which exceeding Rs.20,000/- should be in cheque drawn on a bank or account payee bank draft as per notification No.97/2008 dated 10.10.2008 Rule 6DD of Income Tax (Seventh Amendment) Rules, 2008 (emphasis supplied). Most of the receipts shown are exceeding Rs.20,000/- and therefore these are the documents prepared to cover up the illegality of the Respondent No.1 of transferring the permissions/license of vehicles in the respective names. It is pertinent to note that no document has been shown from the Regional Transfer Authority to show that or to substantiate the claim of transfer of the said vehicles.

20.Both the Respondents also cited judgment of Hon'ble Bombay High Court reported in 1991

Vol III Bombay CR 218 between Virendra Kumar Handa v/s Dilawar Khan Alij Khan to substantiate the case of the Respondents. The facts and circumstances of that case and ratio decided in that matter is not applicable to that preset case since the facts and circumstances are totally different. The case above cited with regard to the custody of vehicle wherein Hon'ble High Court held that once ownership and possession has been passed to particular person that the custody of the said vehicle to be given to him nor withstanding that registration stands in the name of other person. Present matter is not regarding the custody of the vehicle but with regard to the transfer which is on record not there from the concerned department to substantiate the case of the Respondents.

21.Both the Respondents blatantly failed to produce the documentation wherein they have validly transferred the license/permission and vehicles which were there in their names to the concerned persons. The application was made for transfer on 9.1.2017 which is only after thought and to illegally grab the shack thereby violating clause No.2 of the said shack policy. If this type of things allowed, then the purpose of Government making the Bench shack policy for providing business to unemployed will be defeated and in future many persons who are directly or indirectly involved in business will apply for shack allotment. The allotment therefore made in favour of both the respondents is liable to be cancelled since they have violated clause No.2 of shack policy.

The Director looked into the cumulative effect of the factual situation to arrive at the above conclusion.

17. It is vehemently contended by Mr. Lotlikar, that the Director has not considered the effect of the unquestioned documents such as the sale agreement, possession receipts and affidavit of the third party indicating that the possession has been received. According to Mr. Lotlikar, this was the completed act of transfer and therefore nothing was required to be done by the Petitioners in furtherance of their case as on the date of application the Petitioners were not having any business. Mr. Lotlikar, relied upon the decisions of the Division Bench of this Court in *Kishan Pandurang Kagde v Baldev Singh Gian Singh and another*,¹ of the learned Single Judge of Punjab and Haryana High Court in *Munni Ram v Fakir Chand and another*², of the Apex Court in the case of *Panna Lal v Shri Chand Mal and others*³. Mr. Lotlikar cited these decisions in furtherance of his contention that under the provisions of the Motor Vehicles Act, handing over possession, agreements and receipts are good enough requirements of transfer.

18. We have considered the decisions cited. As far as the decision in the case of *Kishan Pandurang Kagde* is concerned, the

1 1977 Mh LJ 656

2 AIR 2010 P & H 50

3 (1980) 2 SCC 314

matter arose before the Division Bench of this Court from a criminal complaint filed to challenge the order passed by the Additional Chief Metropolitan Magistrate under Section 451 of the Code of Criminal Procedure Code, 1973. An order was passed that the motor lorry which was the subject matter of theft to be given in custody of accused no.1. In this context the Division Bench considered the provisions of Section 31 of the Motor Vehicles Act, 1939. The Division Bench held that under Section 31 of the Act of 1939, the transfer of possession means change in ownership even though there is no corresponding change recorded in the certificate of registration. It observed that once the possession is handed over the provisions of Section 31 is only to the effect of recording the said change. The Division Bench observed in para 8 of the report, that under the provisions of the Act of 1939, after there is a change in ownership, the provisions of the section 31 have to be followed. The bench observed the transferee also has to report the fact of the transfer within 30 days of the transfer to the Registering Authority and the language of the Section itself thus makes it clear that it is only after the ownership of the vehicle is transferred that a report has to be made to the registering authority to effect a change in the name of the owner in the certificate of registration where the name of the previous owner has been recorded. The Division Bench held that the transfer of registration thus follows the transfer of ownership and not

vice versa. In other words, the transfer of ownership does not flow from the transfer of registration. The Bench held that the object underlying the provisions in Section 31 is that the Registering Authority must have the name of the proper person who is liable to pay taxes and also, in the case of an accident, the authorities must have the name of the proper person upon whom liability can be fixed for damages or compensation resulting from the accident. Second decision relied upon is of the Apex Court in the case of *Panna Lal*. This case arose from a suit for recovery of money. The Apex Court was considering a question whether the lack of taking steps for registration in the name of the plaintiff, the sale was ineffective and it really amounted to an agreement to sale. The Apex Court, considering Section 31 of the Motor Vehicles Act of 1939 held that it was not so and dismissed the appeal. The decision of the learned Single Judge of Punjab and Haryana High Court in the case of *Munni Ram* was rendered in a Second Appeal wherein the transfer of title in respect of the vehicle was in question and the learned Single Judge, after considering the various decisions reiterated the above view.

19. In our opinion, the position of law laid down in the above decision will not *ipso facto* apply in the context of the interpretation of the present policy. The degree of proof required may

differ in the context of the lis. It is not that there is no provision under the Motor Vehicles Act of 1988, for registration within 14 days of the transfer. The documentation of sale, payment receipts etc. are arrangements between private entities. The registration of transfer with the public authority puts the transaction in public domain. The Director, while enquiring into the allegation of abuse of policy can insist upon a step to be taken by the applicant which unquestionably evinces the transfer of business. Insisting on a high degree of proof to ensure that the policy is not abused is within the powers of the Director. There is a distinction between the transfer of ownership by a private arrangement, and placing the same in public domain. There is nothing to indicate that the Director cannot insist on a Registration Certificate. The question we have to consider in this petition is whether the view taken by the Director that the Petitioners had deliberately created a situation to fit themselves within the ambit of the policy, is correct. No doubt, the Petitioners have executed the sale document, possession receipts and that the affidavit of third party, which have been produced on record. The Director in the impugned order looked into these documents. One of the grounds that the Director held against the Petitioners was that the Petitioners did not give any application for registration of the vehicles and did not produce any cogent material that the payment had been made.

20. Mr. Lotlikar submitted that the complainant has not produced any documents and only asserted the absence of registration by the Petitioners and therefore the Director should have rejected the complaint. This contention has no force. It is the cumulative effect that had to be taken into consideration by the Director. The Director was not deciding a civil suit, and the evidentiary value of each document need to be considered in isolation. Mr. Lotlikar also submitted that upon remand the Director has to ascertain whether the Petitioners were carrying out any business on the date of the application which the Director has failed to do so. This submission does not taken into account on the nature of the proceedings before the Director. The Director had issued a show cause notice to the Petitioners on the ground that the Petitioners had attempted to abuse the policy on the premise that the Petitioners were not entitled to grant a licence. If the object of the policy was to provide employment to the needy, the burden cast upon the Petitioners to show material to the satisfaction of the Director.

21. There is one more facet. As per the scheme of the policy, an applicant cannot be sure whether he would be allotted shack as a lottery system is followed by the authorities. The person applying for shack licence therefore cannot be certain whether he would be granted such a licence. In normal course of human conduct one

would not transfer the entire business and make himself completely unemployed based on an uncertain premise. The Director was faced with the case of alleged transfer of the entire business, a month prior to making an application. This put the Director on guard to be cautious and the Director scrutinized the documents produced on record more carefully and found that no cogent material of payment was placed on record. All that was produced was *inter se* private document on a mere stamp paper. No steps were taken to get the transfer registered to bring the authenticity to the transaction. If the Director demanded high degree of proof in view of the facts of the present case and considered the material produced by the Petitioners as inadequate we cannot say that the view taken by the Director was perverse.

22. As far as the reliance by the Petitioners on the earlier order of this Court dated 7 March 2017 is concerned, as rightly pointed out by the counsel for the Respondents that, while remanding the matter the Division Bench has kept all points open and in fact observed that it is for the Director to decide the issue considering the factual matrix of the case. We do not find that the Division Bench had concluded the question of transfer of ownership in favour of the Petitioners.

23. Mr. Lotlikar submitted that it is a normal practice, and not an illegality to apply for licence after giving up the other business. He submitted that a lower income group employee can apply for licence after resigning and such a step can be taken in other various fields such as contesting an election, for instant, a person can resign from the post and contest the election. With respect, we do not find these analogies relevant. There could be various reasons why a person is forced to sell the business to apply for a licence. As a matter of fact, the Petitioners have given no reason as what made the Petitioners to sell the entire business except that was done to apply for licence. Be that as it may, in the present case we are concerned with the conclusion of the Director that the Petitioners were financially sound and had in fact carried out the business even on the date of application. Each case will differ on the facts of each case and inquiry and the conclusion of the Director would also differ. Therefore based on analogy of different factual position, we cannot hold in favour of the Petitioners. The analogy for resigning and standing for election is not applicable, as that course is governed by the statutory rights of a person. What we have to consider is the beneficial policy of the State. We do however say that if there are several instances as suggested, the Director of Tourism must, while granting the licence for erection of shacks under the policy should demand strict proof to ensure that only the rightful claimant get the

benefit of the policy.

24. As regards the contention of Mr. Lotlikar that the substantial investment has been made and the complainant will not get the benefit if the licence is cancelled, what we have to consider is whether the view taken by the Director is correct or otherwise. We are not proceeding to cancel a licence already granted. The Petitioners were granted licences as per the policy of the State and the Director, upon an inquiry, found that the Petitioners have abused the policy. Mr. Dangui, the learned Government Advocate pointed out that there are other persons put on waiting list and if the licences are cancelled, the next person on the waiting list would get the licences and there still two years for the period of licence. Therefore, even though the Complainant may not get benefit from the cancellation of licences, the other needy persons on the waiting list would get the benefit. If the findings of the Director that the Petitioners created an artificial situation to show themselves to be unemployed to deprive other genuine candidates, is affirmed, then no equity will arise in favour of the Petitioners to set aside the order of the Director only on that ground.

25. In these circumstances, we do not find any error committed by the Director of Tourism in passing the impugned

order. The Writ Petition is accordingly dismissed. Rule is discharged. No order as to costs.

26. At this stage, the learned counsel for the Petitioners seeks continuation of the interim order granted. The learned counsel for the State and the Complainant submit that the Petitioners have not erected any shack as of date. Therefore, we direct that the parties will maintain status quo as of date for a period of eight weeks from the date the order is uploaded on the server of the Court.

Nutan D. Sardesai, J.

N.M. Jamdar, J.