

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 25 OF 2014

MR. TREVOR MASCARENHAS AND 2 ORS. ... Petitioner
Versus
STATE OF GOA THROUGH ITS CHIEF
SECRETARY AND 9 ORS. ... Respondent

Mr. Rohit Bras de Sa, Advocate for the petitioners.
Mr. S. D. Lotlikar, Advocate General with Mr. D. Lawande,
Additional Advocate General with Mr. P. Dangui, Addl.
Government Advocate for the respondent nos. 1 and 2.
Mr. S. S. Kantak, Senior Advocate with Mr. A. Kamat, Advocate
for the respondent nos.3 to 6.

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

Date:- 19th January, 2017

P.C.

The challenge in the above petition is two fold. One is that the Comunidade land cannot be used for entertainment activity which according to the petitioners is not provided under the Code of Comunidade. The next contention is that though the charges for such activities are fixed by the Managing Committee, there are no norms suggested or provided in the Code of Comunidade to fix such fees and as such according to the petitioners the action of the Managing Committee would be arbitrary.

2. As far as the first contention is concerned, in terms of Article 30 of the Code of Comunidade, it clearly provides that the Comunidade can decide different matters including all the

extraordinary acts which not foreseen therein but after the sanction of the Government. In such circumstances, the contention of the learned counsel appearing for the petitioners that the property cannot be given for the subject activity cannot be accepted. No doubt, the permission would have to be obtained in accordance with law by complying with all the statutory provisions for such programme.

3. As far as the contention of the learned counsel appearing for the petitioners that there are no norms provided to fix such fees, we find that some guidelines have to be framed by the Communitade to enable the Managing Committee to fix such fees. In such circumstances, we find that the General Body Meeting of the Communitade would have to draw out some parameters for fixing of such fees in terms of the Code of Communitade after following due process of law. The Managing Committee would have to thereafter follow such guidelines while proceeding to take a decision on such fixation of fees.

4. With the aforesaid observations, we dispose off the above petition.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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