

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION No. 884 OF 2017

1. Pace Tel Systems Pvt. Ltd.
A Company registered under the
Companies Act 1956 and having
its registered office at D-13/I,
Model Town-III, New Delhi-110009
Represented herein through its
authorised signatory,
Vinayak Sudhakar Gangeputra,
son of Sudhakar Sairoba
Gangeputra, aged about 30
years, Service Engineer, resident
of House No.202/1, Curti
Coppa Wada, Ponda, Goa-403 401.
2. Pavneet Singh Malik
son of Mohinder Singh Malik
aged about 26 years, resident of
D13-1, Model Town 2,
New Delhi – 110 001

... Petitioners

Versus

Chief Officer
The Margao Municipal Council
Office of the Margao Municipal Council
Margao-Goa

... Respondent

Shri Kaif Noorani, Advocate for the petitioners.
Shri C.A. Coutinho, Advocate with Shri Shailesh Redkar, Advocate for the
Respondent.

Coram :- C. V. BHADANG, J.

Date : 11th October, 2017

ORAL JUDGMENT:

Rule made returnable forthwith. Mr. C. A. Coutinho, learned Counsel

for the respondent waives service on behalf of the respondent. Heard finally with consent of the parties.

2. The petitioner is challenging the Order dated 29.09.2017 by which the Trade licence issued to the petitioner bearing no. T/O/6884 has been revoked. The said Order shows that it is based on the Council Resolution No. 4624 dated 31.08.2017.

3. It is contended by the learned Counsel for the petitioner that under the Trade and Occupation Licensing Bye-Laws, 1989 ('bye-laws' for short), it is the Chief Officer who is the competent authority to grant and or to cancel the licence. Learned Counsel submits that under bye-law no. 33 the licence is liable to be suspended or revoked, if the licenced premises are so kept, or any process or operation connected with it, is so carried on, as to be in the opinion of the Chief Officer, a source of nuisance or danger to life, health or property. It is further submitted that the Order of the Chief Officer is subject to an appeal to the Council under Bye Law no. 27. It is thus submitted that the Council could not have resolved to revoke the Trade licence of the petitioner, that too, without issuing any show cause notice or giving an opportunity of being heard to the petitioner. It is submitted that the impugned Order passed is in clear breach of principles of natural justice.

4. On the contrary, it is submitted by Shri Coutinho, the learned Counsel for the respondent that under Section 74(b) of the Goa Municipal Act, the Chief Officer has to give effect to all the decisions or resolutions of the Council. It is, thus, submitted that the Chief Officer was duty bound to give effect to the said resolution passed by the Council. Secondly, it is submitted that the petitioner has an alternate remedy to challenge the resolution before the Director under Section 293 of the said Act. The learned Counsel has produced a copy of the resolution dated 31.08.2017 which is taken on record and marked 'X' for identification.

5. I have carefully considered the rival circumstances and the submissions made. Bye-Law no. 3 and 4 clearly show that it is the Chief Officer who is competent to grant or to refuse to grant the licence applied for. The Chief Officer is obliged to record reasons why the licence is refused. Under bye-law no. 33 the licence is liable to be suspended or revoked if the licenced premises are so kept, or any process or operation in connection with it is so carried on, as to be in the opinion of Chief Officer a source of nuisance or danger to life, health or property. The Order passed by the Chief Officer in this regard is subject to appeal before the Council as per bye-law no. 27. It can thus clearly be seen that primarily it is for the Chief Officer to exercise the powers for grant or to refuse or in respect of suspension or revocation of the licence. In

the present case the Chief Officer has not taken any independent decision and the impugned Order is merely based on the resolution dated 31.08.2017 passed by the Municipal Council. Admittedly, there was no show cause notice issued to the petitioner nor any opportunity of hearing was granted to the petitioner before revocation of the licence. It can thus be seen that the resolution passed by the Municipal Council is clearly in breach of the principles of natural justice. It is now well settled that the availability of an alternate remedy is not an absolute bar to the entertainment of the petition. When there is a clear breach of principles of natural justice this Court can interfere. Perusal of the resolution dated 31.08.2017 shows that it is not based on any of the grounds on which the licence can be revoked. In such circumstances, the petition is allowed. The impugned Order is hereby set aside. Needless to mention that, this shall not preclude the Chief Officer from taking action in respect of the Trade Licence in accordance with the bye-laws if so advised.

C. V. BHADANG, J.

msr.