

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.696 OF 2017

Paresh Naik.

..... Petitioner.

Versus

The State of Goa through Chief
Secretary and others.

..... Respondents.

Mr. Preetam Talaulikar, Advocate for the Petitioner.

Mr. Amir Jamadar, Additional Govt. Advocate for the Respondents
No.1 & 2.

Mr. Ashwin D. Bhobe, Advocate for Respondents No.3 and 4.

Mr. Nilesh Takkekar, Advocate for Respondent No. 5.

***Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.***

Date : 4 September 2018.

P.C.:

By this Petition, the Petitioner has sought a writ of mandamus, directing the Municipal Council to issue renewal construction licence or fresh construction licence to the Petitioner. A writ of mandamus is also sought directing the Town and Country Planning Department to grant a completion certificate.

2. A perusal of the prayers by itself clearly indicates that

what the Petitioner is calling upon this Court to do is evaluation of various factual positions and carry out the exercise of grant of certain permissions.

3. On a complaint made by the private Respondent, the Municipal Council had suspended the construction licence of the Petitioner on 30 June 2015. This order was challenged by the Petitioner by way of an appeal to the Director of Urban Development, Panaji. This appeal was allowed and the order of suspension was set aside. It appears that the Petitioner had made an application to the Municipal Council for grant of construction licence. An order has been passed by the Municipal Council on 20 June 2018, stating that in the meanwhile the construction licence has expired and unless the Petitioner complies with certain conditions, the same cannot be considered. The learned Counsel for the Petitioner submitted that the licence is still in existence, as the licence stood automatically renewed and the various conditions imposed are not necessary.

4. Since the Municipal Council is not accepting the contention of the Petitioner of automatic renewal, against such decision of the Municipal Council, the Petitioner has a remedy of approaching the Director of Urban Development wherein the Petitioner can agitate all the issues which the Petitioner seeks to

agitate in this Petition.

5. In view of the fact that an alternate remedy is available and various factual aspects are involved, including that of rights of the private parties, we deem it appropriate that the Petitioner avails of the alternate remedy available. In such circumstances, keeping all contentions of the parties open, we intend to dispose of the Petition.

6. In the circumstances, the Writ Petition is disposed of.

Prithviraj K. Chavan, J.

N.M. Jamdar, J.