

IN THE HIGH COURT OF BOMBAY AT GOA***PIL WRIT PETITION NO. 31 OF 2017***

Colva Civic and Consumer Forum,
Registered under No.268/GOA/2009
H.No.257/1, Bagdem, Ward 3,
Colva, Salcete Goa, 403708
Through its Secretary, Mrs. Judith Almeida
Aged 62 years
Daughter of Joseph Henry Baptiste
R/o H.No.257/1, Bagdem, Ward 3,
Colva, Salcete Goa – 403708.
Phone No.9823085206.
Fax No. Nil
PAN Number AKDPAO142L
National Unique Identity Number: Nil
Email: Judith.almeida1707@gmail.com
Annual Income : Rs. approx. 1.50 lakhs. ... Petitioner

Versus

1. The State of Goa,
Through its Chief Secretary
Secretariat, Porvorim Goa.
2. The Village Panchayat of
Sernabatim, Vanelim,
Colva & Gandalim.
Through its Secretary/Sarpanch,
Salcete Goa.

3. The Town Planner
Town & Country Planning Department,
South Goa District,
Margao Goa.
4. Hermitage Builders Pvt. Ltd.,
Registered office at C-4/5,
Lower Ground Floor,
Safdarjung Development Area,
New Delhi – 110016
Through his duly authorized Signatory,
5. The Goa Coastal Zone Management
Authority,
Through its Member Secretary
1st Floor, D. P. Bhavan,
Porvorim Goa.
6. The Union of India,
Through the Ministry of Environment,
Forests & Climate Change,
Indira Paryavaran Bhavan,
Aliganj, Jor Bagh Road,
New Delhi – 110003. Respondents

Mr. Nigel Da Costa Frias and Ms. M. Correia, Advocates for the Petitioner.

Mr. A. Prabhudessai, Additional Government Advocate for Respondent Nos.1, 3 and 5.

Mr. A. D. Bhobe, Advocate for Respondent No.4.

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

Date : 19 June 2018.

Oral Judgment (Per N.M. Jamdar, J)

Rule. Rule made returnable forthwith. Respondents waive service.

2. By this petition, the Petitioner has challenged the technical clearance order dated 23 August 2017 issued to the Respondent No.4 for construction and development of the property bearing survey No.16/4 of Sernabatim Village, Salcete Goa and also for a writ of mandamus to restrain the Respondent No.4 from carrying out or commencing any construction in the property.

3. On 3 October 2017, the Division Bench of this Court had passed an order noting that the technical clearance granted to the Respondent No.4 has been put on hold pending the permission from the Ministry of Environment and Forests.

4. On 20 April 2018, it was informed to the Court that the

Goa Investment Promotion and Facilitation Board had revoked in-principle development approval granted to Respondent No.4 by order dated 24 January 2018. Copy of the order dated 24 January 2018 which is addressed to the Respondent No.4 is placed on record. It reads thus :

"No.14/2016/Goa-IPB-63/276 Date: 24/01/2018

*To,
M/s. Hermitage Builders Pvt. Ltd.,
Survey No.16/4, Village Sernabatim,
Salcete Goa.*

*Sub:- Revocation of In-principle approval granted
for Development of 30 rooms boutique hotel
project at Survey No.16/4, Village
Sernabatim, Salcete Goa.*

*Ref: In-principle approval bearing No.14/2016/
Goa-IPB-63/171 dated 04/02/2016.*

Sir,

Goa-IPB, in its 18th meeting held on 02/12/2017, has reviewed all the project proposals which were granted 'In-Principle Approval' in CRZ areas. After taking into account the appropriate legal opinion, the Board has come to a conclusion that projects proposed in CRZ areas do not fall under purview of Goa-IPB in terms of the restrictions imposed upon Section 8 of the Goa Investment Promotion Act, 2014. Accordingly, we would like to inform you that the 'In-Principle Approval' granted to your project and communicated vide

aforementioned letter is hereby withdrawn.

However, as decided by the Board, we are referring your matter to the State Government through the Director, Directorate of Industries, Trade & Commerce for further course of action and appropriate decision. On receipt of the decision of the State Government, the same will be also communicated to you accordingly.

Yours faithfully,

Sd/-

(Srinet Kothwale)

Chief Executive Officer

*Goa Investment Promotion &
Facilitation Board"*

The copy of the order is also marked to the Town and Country Planning Department. The copy is taken on record.

5. The Town and Country Planning Department by the order dated 23 August 2017 which is impugned in this petition, had granted permission to Respondent No.4. Certain conditions were imposed regarding the construction. Clause 18 of the order made it clear that the technical clearance was issued based on the approval granted by the Goa Investment Promotion and Facilitation Board and the conditions laid in the clearance approval are to be followed. Therefore, the order which is passed by the Town and Country

Planning Department is clearly based on the order passed by the Goa Investment Promotion and Facilitation Board. Once this order is revoked, the order passed by the Town and Country Planning Department will not survive. In these circumstances, the Respondent No.4, unless it obtains all lawful clearances, permissions etc., cannot proceed to construct in the said property. In view of this position, it is not necessary to keep the petition pending.

6. Needless to clarify that the Respondent No.4 has its remedy in law open to obtain all the necessary permissions as per law. In view of the revocation of in-principle approval and the effect of the same on the technical clearance as above, we do not find it necessary to examine the other issues raised by the Petitioner on merits in this petition. PIL Writ Petition is accordingly disposed of.

Prithviraj K. Chavan, J.

N.M. Jamdar, J.