

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3711 OF 2018

Naresh Ranchod Tandel and Another. ..Petitioners.

Versus

The Member Secretary, Planning &
Development Authority, Daman and Others. ..Respondents.

Mr. Vishwajit Sawant, Rohan Kelkar, Kishore Mhatre, Adryan
Gonsalves, Manasi Tipnis i/b Mhatre & Associates for the Petitioner.
Mr. S. S. Deshmukh for the Respondent.

Coram : Ranjit More &
Smt. S. S. Jadhav, JJ.

Date : **April 3, 2018.**

P. C. :

1. By this petition filed under Article 226 of the Constitution of India, the Petitioner is challenging the notice issued by Respondent No.5 to show cause why occupation certificate in respect of the construction carried out by the Petitioner should not be cancelled.

2. Mr. Deshmukh, learned Counsel for the Respondent submitted that subsequent to the filing of the present petition, Respondent No.5 has passed an order on 9th March 2018 and has cancelled the occupation certificate in respect of the subject structure. This fact is not disputed by Mr. Sawant, learned Counsel for the Petitioner.

3. Admittedly, statutory appeal under the provisions of Goa, Daman and Diu Town and Country Planning Act, 1974, against the order cancelling occupation certificate is provided for, which in our view, is an efficacious alternate remedy to the Petitioner. In that view

of the matter, we are not inclined to entertain this petition in exercise of writ jurisdiction of this Court. Writ petition is **dismissed**.

4. Needless to mention that the Petitioner is at liberty to challenge before the appellate authority the order cancelling occupation certificate. All points and contentions of the respective parties are kept open. It is made clear that this Court has not gone into merits of the matter and the appellate authority shall decide such appeal of the Petitioner independently, on its own merits and in accordance with law. Appellate authority shall make an endeavour to decide such appeal of the Petitioner as expeditiously as possible and in any case within the period of four weeks from the date of filing of appeal.

5. In order to enable the Petitioner to approach the appellate authority, both parties shall maintain status quo as of today for the period of two weeks from today. The Petitioner is at liberty to approach this Court in the event their appeal is not disposed of by the appellate authority within the afore-stated period.

6. Writ petition stands disposed of.

[Smt. S. S. JADHAV, J.]

[RANJIT MORE, J.]