

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.140 OF 2019**

Assumsao Teodosio Fernandes,
Represented by his Cont. Attorney
Neil Fernandes

.... Petitioner

V/s

Goa Coastal Zone Management
Authority, Represented by its
Member Secretary & Anr.

.... Respondents

Shri A.D. Bhobe and Shri Byron Rodrigues, Advocates for the Petitioner.
Ms. Susan Linhares, Additional Government Advocate for Respondent
No.1.
Shri Preetam Talaulikar, Advocate for Respondent No.2.

Coram:- DAMA SESHADRI NAIDU, J.

Date:- 11th December 2019

ORAL ORDER:

The second respondent complained to the first respondent that the petitioner has violated the Coastal Zone Regulations. On that allegation, the petitioner was put on notice and hearing took place. Eventually, the first respondent passed an order. Though it is appealable before the National Green Tribunal, the petitioner has filed this Writ Petition.

2. The petitioner's counsel has submitted that it is a clear case of the authority's violating the principles of natural justice. To elaborate, the learned counsel has submitted that the first respondent has relied on certain documents, but they have never been supplied to the petitioner. According

to him, the petitioner came to know about those documents only from the impugned order. Had they been given in advance, the petitioner would have come up with a proper defence.

3. At any rate, the learned counsel for the second respondent submits that the petitioner has taken this objection, first, to avoid the alternative forum and, second, to drag the proceedings. According to him, earlier also there were proceedings, and the previous notice contained all these documents. At any rate, about the present proceedings, he submits that the documents the authority has relied on are much within the petitioner's knowledge.

4. The learned Additional Government Advocate for the respondent No.1 supports the impugned order and submits that it is in accordance with the law.

5. I reckon, the petitioner may have been aware of the documents but that does not mean that those documents form a part of the record. Despite his being aware of those documents, perhaps he might not have visualized that they would be used against him. This technical snag could have been avoided had the authority sounded to the petitioner that those documents did form part of the record and that they would be used for adjudication. Then, inevitably, they must have been supplied to him.

6. The principles of natural justice form a fundamental facet of fair adjudication. Once a candidate, *prima facie*, establishes before a judicial

forum that those principles have been breached, the alternative remedy does not bar that person from approaching the Constitutional Court. It is in the lore of our adjudicatory practices that every person must be given every opportunity to know beforehand about the material likely to be used against him.

7. Under these circumstances, without advertent to the merits, I dispose of the Writ Petition by setting aside the impugned order and remanding the matter to the first respondent. The first respondent will decide the matter expeditiously, preferably, in six weeks from the date the order is uploaded.

The parties to appear before the first respondent on 18.12.2019 at 3.30 p.m.

DAMA SESHADRI NAIDU, J.

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