

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.317 OF 2019

Goa University,
a body Corporate, having its
Principal Place of Office
at Taleigao Plateau
through its Registrar, having
registered Office at the
University Campus,
Taleigao Plateau, Ilhas, Goa.

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Petitioner.

Versus

1. The Town and Country
Planning Board, with Office at
Patto, Panaji, Goa.
2. North Goa Planning and
Development Authority,
with Office at Archdiocese
Building, 1st Floor,
Mala Link Road, Mala,
Panaji, Goa 403 001.
3. Dr. Suresh B. Shetye,
MZ-1, Sukerkar Mansion,
M.G. Road, Panaji, Goa.
4. State of Goa,
through Chief Secretary,
having Office at Secretariat,
Porvorim, Bardez, Goa.
5. Greater Panaji Planning &
Planning Development Authority,

1st Floor, Archdiocese Building,
Mala Link Road,
Panaji, Goa Pin 403 001.

.... Respondents.

Ms. A. A. Agni, Senior Advocate with Ms. J. P. Sawaikar, Advocate for the Petitioner.

Mr. D. J. Pangam, Advocate General with Mr. Deep Shirodkar, Additional Govt. Advocate for Respondents No.1 & 4.

Ms. Sayuli Bandodkar, Advocate for Respondent No.2.

Mr. Shivan Desai, Advocate for Respondent No.3.

Mr. Sahish Mahembrey, Advocate for Respondent No.5.

***Coram : M.S. Sonak &
Nutan D. Sardesai, JJ.***

Date : 30th July, 2019.

ORAL JUDGMENT : (Per M.S. SONAK, J.)

Heard learned Counsel for the parties.

2. Rule. Rule is made returnable forthwith with the consent of and at the request of the learned Counsel for the parties.

3. Apart from the larger challenge to the order of the Town and Country Planning Board (Board), made on 27.10.2015, the Petitioner-Goa University challenges the orders dated 15.10.2018 and 12.11.2018, made by the Board and the Government, respectively, directing the Petitioner-University to remove the

blockage and provide access to the property bearing Survey Nos. 193,197 and 198 of Village Calapur, Tiswadi and to all other land owners, who have land surrounding the Petitioner-University's property.

4. There is no dispute that the order dated 15.10.2018 was made by the Board on the basis of three representations made by Respondent No.3 to this Petition. The order dated 12.11.2018 merely approves the order of the Board dated 15.10.2018. There is also no dispute that before the order dated 15.10.2018 was made by the Board, no hearing was given to the Petitioner-University even though the direction now issued is to the Petitioner-University.

5. The issue as to whether the grievance of Respondent No.3 was indeed covered by the directions issued in the order dated 27.10.2015 or not, could not have been decided behind the back of the Petitioner-University. Ms. Agni, learned Senior Advocate appearing for the Petitioner-University submits that the Petitioner-University has a number of other contentions to raise, not only with regard to certain directions in the order dated 27.10.2015, but also with regard to the directions issued in the order dated 15.10.2018. According to us, the order dated 15.10.2018 could not have been made without afford of opportunity of hearing to the Petitioner-University. Therefore, without going into other contentions raised by

and on behalf of the Petitioner-University, we deem it appropriate to set aside the order dated 15.10.2018, made by the Board on the sole ground that it should have been preceded with compliance of principles of natural justice. Consequently, even the order dated 12.11.2018, which merely approves the order made by the Board, does not survive and is required to be set aside.

6. Accordingly, we set aside the orders dated 15.10.2018 and 12.11.2018. Mr. Desai, learned Counsel for Respondent No.3 states that within a period of one week from today, he will furnish copies of the representations made by Respondent No.3 to the Petitioner-University. If the Petitioner-University desires to file any response, it may do so within a period of three weeks from the date of receipt of such representations.

7. Thereafter, the Board is directed to afford an opportunity of hearing to both, the Petitioner-University, as well as Respondent No.3, and to dispose of the representations made by Respondent No.3 as expeditiously as possible and, in any case, within a period of three months from the date of the Petitioner-University filing response to the representations made by Respondent No.3. It is made clear that the Petitioner-University must file its response within three weeks from the date of receipt of representations, without seeking any further extension in this regard.

8. We make it clear that all contentions of all the parties, are left open for decision by the Board. We further clarify that in case the decision of the Board is adverse to the interest of the Petitioner-University, then, the Petitioner-University will have liberty to revive the challenges raised in the present Petition. At the same time, we also make it clear that Respondents will be at liberty to raise all permissible defences if and when such occasion arises. This means that though the Petition is being disposed of, it is not as if we have concluded the challenge in so far as the the Board's order dated 27.10.2018 is concerned. Similarly, we have also not preempted any of the defences that may be available to the Respondents, as well.

9. Rule is, accordingly, made absolute in the aforesaid terms. There shall be no order as to costs.

10. All concerned to act on the basis of an authenticated copy of this order.

Nutan D. Sardesai, J.

M.S. Sonak, J.