

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 426 OF 2019

Mr. Suresh Sharma,

... Petitioner

Versus

1. Greater Panaji Planning and
Development Authority,
Through its Member Secretary,
& 2 ors.

... Respondents

Mr. Nigel Da Costa Frias, Advocate for the Petitioner.

Mr. V. Fernandes, holding for Mr. S. Mahambrey, Advocate for
Respondent No. 1.

Mr. Pranay Kamat, Advocate for Respondent No.2.

Mr. S.D. Padiyar, Advocate for Respondent No. 3.

***Coram : S.C.Gupte &
Prithviraj K. Chavan,JJ.***

Date : 18th June 2019.

P.C.:

This writ petition challenges a Trade and Establishment licence as well as occupancy certificate granted by the Village Panchayat to respondent No.3 for running of a hotel. The objection is on the

ground that the Trade licence was granted without hearing the petitioner and without considering germane matters.

2. An earlier petition of the very same petitioner resulted into an order passed by this Court requiring the Village Panchayat to decide the petitioner's objections and pass an order.

3. The Panchayat by its resolution dated 18.02.2019 observed that the law relating to unauthorised work carried out by respondent No. 3 is under the Planning authority and that the petitioner was free to follow up his complaint in that behalf, before the Planning authority.

4. Learned Counsel for the petitioner submits that the unauthorised work carried out by respondent No.3 is but a part of the subject matter of challenge by respondent No. 3 before the Goa Town & Country Planning Board. So far as the Trade licence and Occupancy certificate granted by Panchayat are concerned, learned Counsel submits that the other grievance of the petitioner is that the original building permission was granted by the Panchayat to respondent No. 3 for residential purposes and that the Panchayat could not have unauthorisedly allowed the petitioner to convert the user of the premises from residential to commercial.

5. As the aspect concerning unauthorised construction carried out by respondent No.3 at site is the subject matter of a pending appeal by respondent No. 3 before the Goa Town & Country Planning Board, the petitioner may approach the Board and agitate its grievance in that appeal.

6. So far as the other aspect of the petitioner's grievance, namely, unauthorised conversion of user by respondent No. 3, is concerned, the action of the Panchayat, particularly in terms of its resolution dated 18.02.2019, may be more appropriately challenged by the petitioner before the Director of Panchayats under Section 178 of the Goa Panchayat Raj Act, 1994.

7. The writ petition is accordingly disposed of in terms of the following order:-

O R D E R

(a) The petitioner may raise his grievance concerning unauthorised construction by respondent No.3 before the Goa Town & Country Planning Board, in the appeal filed by respondent No.3 and which is registered under Challan reference No.02 dated

08.04.2019. The Board shall permit the petitioner to make his submissions and pass an order in the appeal, only after hearing the petitioner. The Board shall endeavour to dispose of the appeal as expeditiously as possible and preferably by 31.08.2019.

(b) The petitioner will be at liberty to approach before the Director of Panchayats challenging the decision of the Village Panchayat to allow change of user as also its resolution dated 18.02.2019 as unjust, unlawful or improper or causing injury or annoyance to the public. The petitioner has to file his application under Section 178 of the Goa Panchayat Raj Act, 1994 in that behalf within a period of one week from today. The Director of Panchayats shall decide the said application as expeditiously as possible and preferably by 31.08.2019.

(c) All rights and contentions of the parties on merits are kept open.

(d) The petition is disposed of on the above terms.

PRITHVIRAJ K. CHAVAN, J.

S. C. GUPTE, J.