

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NOS. 542, 543 AND 544 OF 2018

WRIT PETITION NO.542 OF 2018

Pratap A. Mardolkar ... Petitioner

Versus

State of Goa & 3 Ors. ... Respondents

WRIT PETITION NO.543 OF 2018

Ramnath Naik ... Petitioner

Versus

State of Goa & 3 Ors. ... Respondents

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WRIT PETITION NO.544 OF 2018

Mr. Mariano B. Coutinho ... Petitioner

Versus

State of Goa & 3 Ors. ... Respondents

Mr. S. S. Kantak, Senior Advocate with Mr. Kher Simoes,
Advocate for the Petitioner.

Ms. Priyanka Kamat, Additional Government Advocate for the
Respondent nos.1 to 3 in WP No.542/2018.

Mr. H. D. Naik, Advocate for the Respondent no.4.

Mr. A. Naik, Advocate for the Respondent no.5.

Ms. Susan Linhares, Additional Government Advocate for the
Respondent nos.1 to 3 in WP No.543/2018.

Ms. Deep Shirodkar, Additional Government Advocate for the
Respondent nos.1 to 3 in WP No.544/2018.

Coram :- C. V. BHADANG, J.

Date : 16th July, 2019.

ORAL ORDER

Heard Mr. Kantak, the learned Senior Counsel for the petitioners and the learned Counsel appearing for the respondents.

2. The main contention raised on behalf of the petitioner challenging the impugned order dated 20.04.2018 passed by the Administrator of Comunidade, is that the Officer who actually heard the petitioners has not passed the impugned order. It is therefore submitted that the matter has to go back to the Administrator of Comunidade for deciding the issue of regularisation afresh in accordance with Article 380 of the Code of Comunidade.

3. It is a matter of record that the petitioners were heard by the then Administrator of Comunidade on 13.04.2018 and the matter was fixed for orders. However, before the orders could be passed, the Officer was transferred and a new Officer assumed charge and the matter was fixed on 18.04.2018. On that day, the applications for review were fixed on 20.04.2018

for hearing and order and on that day without hearing the petitioners, the impugned order came to be passed.

4. It can thus be seen that the Officer who heard the petitioners has not passed the impugned order and thus there is a clear breach of the principles of natural justice.

5. In such circumstances, the petitions are partly allowed. The impugned orders are hereby set aside. The applications dated 21.11.2017 filed by the petitioners are restored to the file of the learned Administrator of Comunidade, South Zone, Margao, for disposal on their own merits and in accordance with law. The Administrator of Comunidade shall decide the applications as expeditiously as possible and preferably within a period of eight weeks from today.

6. Needless to mention, that Administrator of Comunidade shall decide the applications upon hearing the petitioners, the respondent no.5 (original Complainant) and the Comunidade of Sancoale.

7. The parties to appear before the Administrator of Comunidade on 02.08.2019 at 10.00 a.m.

8. The order of demolition shall be subject to the outcome of the applications dated 21.11.2017.
9. Rival contentions of the parties on merits are left open.
10. In the circumstances, there shall be no order as to costs.

C. V. BHADANG, J.

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