

IN THE HIGH COURT OF BOMBAY AT GOA**PUBLIC INTEREST LITIGATION WP NO. 51 OF 2019**

Nevil Furtado,
major of age,
S/o Lindo J. Furtado,
Flat No. B-3,S-1,
Borda, Salcete Goa,
Phone No.9921452346
Faz No.Nil
PAN Number : ABKPF 97451
National Unique Identity Number :
Email: Nil
Income Rs.50,000/- p.a. ... Petitioner

Versus

1. The State of Goa,
Through its Chief Secretary,
Secretariat, Porvorim Goa.
2. The Executive Engineer,
Water Resource Department
Works Division II,
WRD, Rawanfond, Aquem,
Baixo, Salcete Goa.
3. The Margao Municipal Council,
Through its Chief Officer,
Margao Goa
4. The Executive Engineer,
Works Div – VI, PWD

Margao Goa.

5. The Health Officer
Urban Health Centre,
Margao Goa.
6. Mr. Prakash Ganesh Lotlikar,
M/s. Gold Gallary,
Shop No.518, New Market,
Margao Goa.
7. Mr. Ganesh Krishna Lotlikar,
M/s Jollaria Centre,
Marchon Building,
Shop No. 77, New Market,
Margao Goa.
8. Mr. Ramesh Raikar,
M/s. Laxmi Jewellers,
Marchon Building,
Shop No.76, New Market,
Margao Goa.
9. Mr. Vikram Verlekar,
M/s Ulhas Jewellers
Marchon Building,
Shop No.76, New Market,
Margao Goa.
10. Mr. Aditya Raikar,
M/s Anta Jewellers
Marchon Building,
Shop No.74, New Market,
Margao Goa.

11. M/s Kadnekar Jewellers
Marchon Building,
Shop No.75, New Market,
Margao Goa.
12. Mr. Abdul Ghafoor Khan,
R/o Vishwakrupa Apartment,
Bldg.- D, 4th Floor, Flat No.7,
Opp. Bank of Baroda,
Margao Goa.
13. M/s Namdeo A. Devkar & Sons
Behind UCO Bank,
near Municipal Market,
Margao Goa.

... Respondents

Mr. Nigel Da Costa Frias and Mr. G. Malik, Advocates for the Petitioner.
Mr. Manish Damodar Salkar, Government Advocate for Respondent
Nos.1, 2, 4 & 5.

Mr. P. Rao, Advocate for Respondent No.3.

Mr. S. Desai, Advocate for Respondent Nos.6 to 12.

**Coram:- M. S. SONAK &
SMT. M. S. JAWALKAR, JJ.**

Date:- 13th December, 2019

Oral Judgment (Per M. S. Sonak, J)

Heard Mr. Nigel Da Costa Frias, learned counsel for the
Petitioner. Mr. P. Rao appears for Margao Municipal Council- Respondent
No.3. Mr. S. Desai, appears for Respondent Nos.6 to 12. Respondent
No.13 is duly served. Mr. Salkar, learned Government Advocate for

Respondent Nos.1, 2, 4 and 5.

2. Rule. Rule is made returnable forthwith considering the nature of the order which is proposed to be made.

3. The Petitioner in public interest, complains against the obstruction and encroachment on public drain in Margao city and seeks removal of the same and restoration of the original position.

4. The Petitioner, points out that despite the complaint to the MMC no effective action was forthcoming and therefore, the Petitioner was constrained to institute the present petition.

5. The Respondents including in particular the private Respondents who are alleged to have made encroachment/obstruction dispute the aforesaid position.

6. Mr. Rao, learned counsel for the MMC places on record an affidavit filed by the Chief Officer of MMC which states that the show cause notices under Section 184 of the Goa Municipalities Act, 1968 have been issued to Respondent Nos.6 to 11 and 13 on 4th December, 2019, requiring them to show cause as to why the structures indicated in the report of the transgression be not demolished.

7. Mr. Rao also points out that no show cause notice has been issued to Respondent No.12 as the structure belonging to him which is depicted in letter 'B' in report of transgression neither encroaches on the storm water drain or it is extended. Mr. Rao states that the show cause notices will be disposed of within reasonable time after compliance with the principle of natural justice and fair play.

8. According to us, now that the MMC has issued show cause notices to all the Respondents except Respondent No.12, there is no reason for us to keep the present petition pending. We are sure that the MMC will dispose of the show cause notices as expeditiously as possible and in any case within a period of four months from today. There can be no dispute that no parties are entitled to encroach upon the public drain or otherwise obstruct the free flow of water in public drain by putting up construction or by making access through the drain to pass water difficult. Upon noticing *prima facie* violation, the MMC has issued show cause notices and these show cause notices are required to be taken to their logical conclusion as expeditiously as possible and in any case within four months from today.

9. According to us, with the aforesaid direction, the grievance of the Petitioner stands substantially redressed in the present case. Needless to add that if any issues persist the Petitioner, will have liberty to take out

appropriate proceedings.

10. All contentions of all the parties are obviously left open and the same will have to be taken into consideration by the Chief Officer while disposing of the show cause notices.

11. Rule is disposed of in the aforesaid terms. There shall be no order as to costs.

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

SMT. M. S. JAWALKAR, J.

M. S. SONAK, J.

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