

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 19 OF 2017

HARIHAR CHODANKAR.

... Petitioner

Versus

THE STATE OF GOA, THR. ITS CHIEF
SECRETARY AND 10 ORS.

... Respondents

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

Mr. D. Pangam, Advocate General with Mr. D. Shirodkar, Addl.
Government Advocate for Respondent Nos. 1 to 3 and 6 to 10.

Mr. A. Kamat, Advocate for Respondent No.5.

***Coram:- S. C. GUPTE &
NUTAN D. SARDESSAI, JJ***

Date:- 27th June 2019

P.C.

This PIL petition seeks a writ of mandamus directing the Respondent State to take action against alleged illegal structures raised by Respondent No.5 - Goa Cricket Association in a plot forming part of the property surveyed under No.170/0 of village Penha de France and restore the plot as a common play ground for the benefit of residents of the locality. It is the grievance of the Petitioner that the allotment of the subject plot to Respondent No.5 has been illegal and that unauthorised construction has been raised

on the plot by Respondent No.5 including a stadium.

2. The State's affidavit, filed through Under Secretary (Home), indicates that an inquiry was made in this behalf by the Superintendent of Police (Crime) and the inquiry report was placed before the Government for appropriate action. It is submitted that based on the inquiry report, the Government had decided to take steps to recover the property and resume the land and hand over the same to the Education Department. It appears that in pursuance of this proposal, on 4th February, 2019, a show cause notice was even issued to Respondent No.5 calling upon it to show cause why the action to resume the land as per the Government directions should not be initiated. The show cause notice has not been heard as yet; the matter is pending consideration before the State Government. In the meanwhile, it appears that Respondent no.5 has applied to the State Government for regularisation of the allotment as well as the construction carried out by Respondent No.5 at the site. It is not in dispute that the stadium erected by Respondent no.5 on this plot, which is the only cricket stadium in the State of Goa, has been extensively used for State and National level matches including Ranji trophy matches. It is submitted that in the light of these circumstances, the State Government, rather than resuming the land and demolishing the structure should regularise the allotment and

construction.

3. These are, of course, matters for the State Government to decide. The main grievance of the Petitioner, and which alone sounds truly in public interest, is that by usurpation of the land for private use of Respondent No.5, the use of the subject plot for sports has been denied to the local residents. Even if the allotment of the plot is regularised and the construction of the stadium therein is sustained, there is no reason why the State Government should not stipulate appropriate conditions to the allottee, namely, Respondent No.5, to make available the use of the subject plot to local residents and others subject to regulation. The interim order passed by this Court during the pendency of the suit may serve as an appropriate guide for prescribing such conditions. The State is not averse to consider such conditions.

4. In the light of the foregoing observations, the PIL petition is disposed of in terms of the following order :

(i) The Respondent State shall decide the show cause notice issued to Respondent No.5 on 4th February, 2019 as well as the regularisation application made by Respondent No.5 expeditiously and preferably within a period of eight weeks from today;

(ii) The Petitioner and other interested parties may file their objections in the matter and these shall also be considered by Respondent No.1 whilst deciding the matter;

(iii) Until the show cause notice and regularisation application are decided by Respondent No.1, the interim arrangement ordered by this Court vide its order dated 2nd May, 2018 shall continue to apply;

(iv) The Directorate of Sports and Youth Affairs as well as the Directorate of Education shall see to it that this order is communicated to all local educational institutions and local sports clubs falling within the villages of Socorro, Penha de France and Salvador do Mundo by private or public notice, as the Directorate may deem fit;

(v) This order shall be displayed prominently by Respondent No.5 on its notice board maintained at the site;

(vi) Even whilst deciding the show cause notice and regularisation application, the Respondent State shall bear in mind the imperative need to make available the ground for the use of public including sports clubs in the locality subject to regulation and subject to availability of the ground;

(vii) This consideration and the Government decision on the same shall form part of the final orders that may be passed by Respondent No.1 in the matter;

(viii) In case any party has a grievance with regard to the

observance of this order by Respondent No.5, the same may be carried before the Collector, North Goa, who shall take appropriate action concerning such grievance;

(ix) The petition is disposed of in the above terms;

(x) It is made clear that whilst disposing of this petition, this Court has not decided the respective rights and contentions of the parties before the Court. These will be open and debated before Respondent No.1 when the show cause notice and regularisation application are decided.

NUTAN D. SARDESSAI, J.

S. C. GUPTE, J.

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