

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 629 OF 2018

PRAKASH GANESH PARAB., ... Petitioner

Versus

STATE OF GOA, THR. CHIEF SECRETARY
AND ANR., ... Respondents

Mr. Anthony Joe D'Silva, Advocate under the Legal Aid Scheme for the Petitioner.

Ms. Neha Umesh Kholkar, Additional Government Advocate for the Respondents.

Coram:- C. V. BHADANG, J.

Date:- 1st August, 2019

ORAL ORDER:

The challenge in this petition is to the order dated 31.03.2017, passed by the learned Collector & District Magistrate, South Goa, by which, the allotment of plot no. 13, from out of survey no. 40/0 of village Orgao, Ponda Taluka, admeasuring 100 square metres, which was allotted to the petitioner under the 20 Point Programme Housing Scheme, somewhere in the year 1982, has been cancelled, on the ground that the petitioner has parted with the possession of the said plot in favour of one Anil Naik.

2. It appears that on the basis of a complaint dated 16.03.2015, the learned Mamlatdar of Ponda submitted a report

to the learned Deputy Collector on 27.04.2015. The learned Deputy Collector after hearing the petitioner sent the matter to the learned Collector, who issued a show cause notice to the petitioner on 14.02.2017. The petitioner filed a reply to the show cause notice. The learned Collector after considering the documents and the reply to the show cause notice found that the reply was not satisfactory and directed cancellation of the allotment. It is a matter of record that by a subsequent order dated 12.03.2018, the said plot has been allotted to Mr. Anil Naik, who is not a party-respondent to this petition.

3. I have heard Mr. D'Silva, the learned Counsel for the petitioner and Ms. Kholkar, the learned Additional Government Advocate for the respondents. With the assistance of the learned Counsel for the parties, I have gone through the record.

4. The only contention raised on behalf of the petitioner is that the Collector, who decided the matter and directed cancellation of the allotment has not heard the petitioner. It is submitted that for this reason, the impugned order cancelling the allotment is vitiated on account of breach of principles of natural justice.

5. The learned Additional Government Advocate submitted that the petitioner was heard by the Deputy Collector, who in

turn, had submitted his report to the Collector and the Collector had also issued a show cause notice, to which, the petitioner had filed reply, which has been considered by the Collector, which is insufficient compliance with the principles of natural justice.

6. The learned Additional Government Advocate has pointed out that the petitioner has not disputed that the possession of the plot and the house thereon was parted in favour of Mr. Anil Naik. She also pointed out the agreement for sale dated 27.11.1996, which is purportedly executed in favour of Mr. Anil Naik. She submits that there is sufficient material on record to show that there is violation of the condition of allotment and therefore, the cancellation is just and proper.

7. In rejoinder, Mr. Silva, the learned Counsel for the petitioner submitted that the agreement for sale is a forged document. He, however, did not dispute that the possession of the plot was given to Mr. Anil Naik. According to the petitioner, it was done on some humanitarian ground.

8. I have carefully considered the rival circumstances and the submissions made. Affording an opportunity of personal hearing, is not invariably a part of observance of principles of natural justice. Here is a case where the Mamlatdar acting on the complaint had submitted his report to the Deputy Collector, who

after issuing the show cause notice had heard the petitioner and submitted his report to the learned Collector. The Collector also issued a show cause notice, which the petitioner has replied, in which, the petitioner did not dispute the parting of the possession in favour of Mr. Anil Naik. The learned Collector after considering the report of the Deputy Collector as well as the reply, in my considered view, has rightly found that the reply is not satisfactory.

9. In my considered view, no useful purpose would be served by remitting the matter back to the Collector in order to afford an opportunity of personal hearing, as from the reply filed by the petitioner itself, it is writ large that the petitioner has parted possession in favour of Mr. Anil Naik. It is not possible to accept that a landless/homeless person, would be in a position to part with the possession of the suit house on humanitarian ground. The reply thus, is rightly found to be not acceptable.

In the result, no case for interference is made out. The petition is dismissed with no order as to costs.

C. V. BHADANG, J.