

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 694 OF 2019

PRIYA D. DHAWASKAR.,

... Petitioner

Versus

STATE OF GOA, THR. THE CHIEF
SECRETARY AND 2 ORS.,

... Respondents

Mr. Salil Satish Saudagar with Ms. D. Tulkar, Advocates for the
Petitioner.

Mr. D. Pangam, Advocate General with Ms. Sapna Mordekar,
Addl. Government Advocate for Respondent No. 1.

Coram:- M. S. SONAK &
PRITHVIRAJ K. CHAVAN, JJ.

Date:- 5th August, 2019

P.C.:

Heard Mr. S. Saudagar, learned Counsel for the petitioner
and Ms. Sapna Mordekar, Addl. Government Advocate for the
respondent No. 1.

2. Ms. Mordekar, learned Addl. Government Advocate
appearing for respondent No.1 points out that ultimately, it is for
the respondent Nos. 2 and 3 to defend the impugned order but
that there is alternate and efficacious remedy available to the
petitioner under Section 303 of the Goa Municipalities Act, 1968
(the said Act).

3. Section 303 of the Goa Municipalities Act, 1968 inter alia provides that the Government may, at any time, for the purpose of satisfying itself as to the legality or propriety of any order passed by, or as to the regularity of the proceedings of, any Council or any officer subordinate to such Council or the Government, acting in exercise of any power conferred on it or him by or under this Act, call for and examine the record of any case pending before or disposed of by such Council or officer and may pass such order in reference thereto as it thinks fit. Provided that no order shall be varied or reversed unless notice has been given to the parties interested to appear and to be heard.

4. There is a bar to exercise the revisional powers where a party has a remedy by way of appeal. There is also a bar to exercise of these powers after one year from the date of passing of the order by the Council or by the officer concerned.

5. Mr. Saudagar pointed out that as against the impugned order dated 27.01.2019 there is no remedy of appeal.

6. According to us, looking to the provisions of Section 303 of the said Act, we are satisfied that the petitioner has remedy by invoking the revisional bar of the Government.

7. Accordingly, we propose not to entertain the present petition but to relegate the petition to avail of the revisional remedy under Section 303 of the said Act, if the petitioner so chooses.

8. However, looking at the prima facie circumstances and in order to enable the petitioner to avail of the remedy of revision, we direct that the impugned final notice dated 27.08.2018 be not given effect for a period of two weeks from today.

9. We further clarify that in the mean time, if the petitioner, is unable to secure an interim order from the revisional authority, then, this interim protection will not continue.

10. We further make it clear that we have not examined the merits of the matter and therefore, all contentions of all parties are left open for determination by the revisional authority in case the petitioner chose to institute appeal under section 303 of the said Act.

11. The petition is disposed of with liberty and limited interim protection in the aforesaid terms.

12. There shall be no orders as to costs.

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

PRITHVIRAJ K. CHAVAN, J.

M. S. SONAK, J.

MF/-