

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 775 OF 2019****DHAKTU NAIK.,****... Petitioner****Versus****STATE OF GOA, THR. CHIEF SECRETARY****AND 2 ORS.,****... Respondents**

Adv. Prasheen Lotlikar for the Petitioner.

Mr. Manish Salkar, Government Advocate for the Respondent nos.1 and 2.

**Coram:- M. S. SONAK &
NUTAN D. SARDESSAI, JJ.
Date:- 5th September, 2019****O R D E R:**

Heard Mr. Lotlikar, the learned counsel for the petitioner. The challenge in this petition is to the order dated 12/6/2019 made by the Director of Tourism (Respondent no.2) cancelling the shack licence allotted to the petitioner inter alia for filing of a false affidavit in relation to the pendency of criminal cases against him.

2. In the year 2013 and 2016, the petitioner, filed affidavits by making following statements:

“That I do not have a criminal background and there is no charge sheet pending against me in any criminal court in India as on date of submission of the application for temporary shack.”

3. The filing of aforesaid affidavits was necessary in terms of the tourism policy for erection of temporary structures, beach shacks and others 2016-2019 which embodies the terms and conditions for such purpose. The most relevant clause in this regard is Clause 25 which reads thus:

“ The applicant in public beach shacks should not have a criminal background or should not have been charged for an offence involving, violence, drugs, eye teasing, violence pertaining to women or any other criminal offence and there should not be a charge sheet pending against him in any criminal court located in India. All such applications to set up temporary shacks received from persons with criminal charge sheet pending against them in any court in India will be rejected forthwith.”

4. Now the material on record which is neither disputed nor is disputable indicates that when the first affidavit was filed in the year 2013, Criminal Case no.46/S/2013 was very much pending against the petitioner, in which, the petitioner was alleged to have committed offences punishable under sections 143, 147, 148, 324 427, 504, 506, 356 r/w 511, 149 of I.P.C . Allegation against the petitioner was that he, along with others formed an unlawful assembly, armed with wooden rib and abused the complainant with filthy words, threatened him with dire consequences.

5. No doubt, the petitioner was acquitted by the judgment and order dated

1/9/2018. However, looking to the provisions of Clause 25 of the policy, it was necessary for the petitioner to have disclosed whether he had been charged for offence involving violence and further there should have been no charge sheet pending against him in any criminal court located in India. The fact that the charge sheet was indeed pending was suppressed by the petitioner and in fact, patently false statement was made in the affidavit in order to secure shack licence.

6. Similarly when the affidavit was filed in the year 2016, again the record indicates that Criminal Case no.86/S/2015 was very much pending against the petitioner, in which the petitioner was charged for offences punishable under sections 423, 468, 471, 420 of IPC. By judgment and order dated 21/3/2018, the petitioner was in fact convicted for such offences. However, the petitioner, was given the benefit of the Probation of Offenders Act 1958.

7. Again, the issue is not about the effect of the benefit under the Probation of the Offenders Act 1958, but the issue is about the petitioner, suppressing the fact that the charge sheet was indeed pending against the petitioner and further, making a false statement in the affidavit that no such charge sheet was pending against him.

8. Mr. Lotlikar, the learned counsel for the petitioner submits that the petitioner is a rustic villager and there was no intention of making any false statement on affidavit or suppressing any material particulars. He submits that the petitioner was not charged with any offence relating to the operations at the shack. The petitioner was under a bonafide impression that as long as he is not charged with any offence which relates to the shacks operations, there was no necessity of any disclosure.

9. According to us, looking to the provisions in Clause 25 of the shack policy, such a submission cannot be accepted. In this case, the petitioner, was undoubtedly charged for an offence involving violence. Further, Clause 25 very clearly requires an applicant to state whether any charge sheet is pending against him in any criminal court located in India. There was absolutely no ambiguity in Clause 25 of the shack policy. Obviously, the present petitioner has not only suppressed material particulars, but also made misstatements in the affidavits in order to secure the shack licence.

10. In the aforesaid circumstances, we see no error whatsoever with the view taken by respondent no.2 in the impugned judgment and order dated 12/6/2019 so as to warrant any interference with the same. Consequently no

case is made out for entertaining the present petition.

11. This petition is, therefore, dismissed. There shall be no order as to costs.

NUTAN D. SARDESSAI, J

M. S. SONAK, J.

ap/-