

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 787 OF 2019**

Mr. Mark Ephrem Fernandes, son of Paulo Victor Fernandes, 52 years of age, Indian National, resident of G 202, Annette Beach Apartments, Cobravaddo, Calangute Bardez, Goa. Petitioner

Versus

1. The Goa State Coastal Zone Management Authority, Thr. its Member Secretary, having office at 1st floor, Pt. Deendayal Upadhyay Bhavan, Pundalik Nagar, Alto Porvorim, Bardez-Goa.
2. State of Goa, Through Chief Secretary, Secretariat, Alto-Porvorim, Bardez, Goa. Respondents

Mr. Jitendra P. Supekar, Advocate for the Petitioner.

Ms. Priyanka Kamat, Additional Government Advocate for the Respondents.

CORAM : C.V. BHADANG, J.

DATE : 18th October, 2019

ORAL JUDGMENT:

Rule made returnable forthwith. The learned Additional Government Advocate for the respondents, waives service. Heard finally by consent of parties.

2. The challenge in this Petition is to the order dated 15.07.2019, passed by the respondent no. 1, Goa Coastal Zone Management Authority (GCZMA) in respect of the subject structure belonging to the petitioner.

3. The respondents have filed an affidavit in reply and have enclosed a resolution adopted in its 213th meeting held on 13.09.2019, which reads thus:

Case No. 1.2

To decide on review of the orders of demolition passed in respect of North Goa District pursuant to order of NGT Pune (WZ) in OM No. 23/14 dated 2/11/2017 of the following cases on account of having not properly evaluating the documents.

Background:

As per the directions of the NGT (WZ) Pune in OM 23/2014 the Authority had initiated action and issued orders of demolition on 15/07/2019 pursuant to the decision taken in the 207th GCZMA meeting held on 13/07/2019. Subsequently some representations came to be pleaded by the aggrieved parties stating that no inspection of the site was done nor their representations have been taken into account while disposing/issuing directions under Section 5 of the EP Act. Therefore the Authority decided to re examine all of the orders that had been issued of North Goa District and the following cases were seemingly having some documents.

10. Sico Bar & Restaurant through Mark Fernandes

Decision: The Authority had reexamined the case on account of the fact that it had not taken into consideration the reply tendered by the respondent on 27/05/2019 which had placed on record the photographs of dismantling of the shack. He has also relied upon permissions granted by us to erect the shack on 23/05/2018. The report prepared by the three member committee speaks about construction of permanent ground plus one storeyed structure but what is seen on the photographs is something different. The possibilities of misrepresentation cannot be ruled out and hence the Authority decided to have a re-inspection of the site to ascertain the correctness of the position on loco and if in case there are any

violations than to initiate action which may include withdrawal of the permission granted on 23/05/2018 and also demolition of the shack.

4. The learned Additional Government Advocate states that the Petition can be disposed off in view of the aforesaid resolution. She submits that the next meeting of the Authority is scheduled to be held on 22.10.2019.

5. The learned Counsel for the petitioner, on instructions, submits that the petitioner or his duly authorized representative shall remain present in the said meeting.

6. In that view of the matter, the Petition is disposed off in the following terms:

- (i) The petition is allowed.
- (ii) The impugned order is hereby set aside.
- (iii) It will however be open to the respondents to conduct a fresh inspection, in the presence of the petitioner or his representative and then take action, if any, in accordance with law.
- (iv) The petitioner or his representative to remain present before the respondent no. 1 on 22.10.2019.

- (v) Rival contentions of the parties are left open.
- (vi) Rule is made absolute in the aforesaid terms, with no order as to costs.

C. V. BHADANG, J.

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