

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 795 OF 2019**

Hotel Aquaril,
through its Proprietor,
Mr. Sandeep Morje,
Temb Wada,
Morjim, Pernem, Goa.

..... Petitioner

v e r s u s

1. STATE OF GOA
through the Chief Secretary,
having office at Secretariat,
Porvorim, Goa.

2. The Member Secretary,
Goa Coastal Zone Management
Authority, Department of Science,
Technology & Environment,
Pundalik Nagar, Porvorim,
Goa.

3. The Collector & District
Magistrate (North),
Office of the Collector,
(North), Panaji, Goa.

..... Respondents

Mr. N. Sardessai, Senior Advocate with Adv. Vibhav Rajiv Amonkar for the
Petitioner.

Ms. Kamat Ankita Avdhut, Addl. Government Advocate for Respondent
nos.1,2 & 3.

Coram:- C. V. BHADANG, J.

Date:- 16th October, 2019.

Oral Judgment:

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

2. The challenge in this petition is to the order of demolition dated 15/7/2019 passed by the second respondent. Mr. Sardessai, the learned Senior Counsel for the petitioner has pointed out that the demolition order which is based on the report of a three Member Committee constituted by the National Green Tribunal (NGT) cannot be sustained in as much as the subject structure of the petitioner does not figure in the list of violators as set out in the report of the said Committee. He also points out that the order of demolition has been issued without conducting any inspection so as to ascertain whether the suit structure violates the CRZ Notification. He, therefore, submits that the impugned order is passed in breach of the principles of natural justice.

3. The learned Additional Government Advocate has pointed out that the second respondent, Goa Coastal Zone Management Authority in its 213th Meeting held on 13/9/2019 has resolved to conduct a site inspection and to verify whether the suit structure is located within the CRZ area. She,

therefore, submits that this Court may pass appropriate orders in the matter.

4. I have considered the submissions made. The Resolution passed by the GCZMA in its meeting dated 13/9/2019 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 15/7/2019 pursuant to the decision taken in the 207th GCZMA meeting held on 13/7/2019. Subsequently some representations came to be plead 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.

3. Hotel Aquaril at Morjim by Mr. Sandeep Morje:

Decision: The demolition order was issued by stating that the 3 member committee constituted by NGT in OM No.23/2014 has identified him to be one of the violator. In fact the respondent is not figuring in the list of violators in the resort prepared by 3 members committee. There was no inspection carried out by the Expert

Members so as to ascertain whether the suit structure is of such a nature which would attract CRZ notification. It was brought to the notice of all the members that writ petition has been filed by the respondent pointing out that the suit structure bearing no.1300 has been assessed for the purpose of tax since year 1987-88.

Since the demolition order dated 15/7/2019 has been issued without having the inspection report in the place. It was decided to conduct inspection and to verify whether the suit structure is located within CRZ area.”

5. It can thus be seen that the GCZMA has found that the subject structure does not figure in the list of violators as set out in the report of the 3 member Committee and before the order of demolition was issued, no inspection was carried out. The GCZMA has also resolved to conduct a site inspection and to verify whether the suit structure is located within the CRZ area. In such circumstances, the impugned order cannot be sustained and will have to be set aside. In the result, the petition is allowed. The impugned order is hereby set aside. It will, however, be open to the GCZMA to conduct inspection and to verify whether the suit structure is within the CRZ area. In the circumstances, there shall be no order as to costs.

C. V. BHADANG, J.

ap/-