

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 921 OF 2019**

1. Mahesh Krishna Naik,
Aged about 37 years,
Indian inhabitant,
Son of Krishna Naik,
Residing at A-21, Bhatlem,
Panaji Goa.
2. Krishna Kashinath Naik,
Aged 59 years, son of
Kashinath Naik, residing at
Block No.A-22, Bhatlem,
Panaji Goa.
3. Rakesh Yashwant Talwar
Aged 36 years, son of
Yashwant Talwar,
residing at Block No.A-1-A,
Altinho, Panaji Goa.
4. Dheeraj Manohar Naik,
Aged 37 years, son of
Manohar Naik
residing at Block No.A-1-B,
Altinho, Panaji Goa.
5. Akshata Manjunath Gudigar
Aged 33 years, wife of
Manjunath Gudigar
residing at Block No.A-1-F,
Altinho, Panaji Goa.

6. Deepak Jamnur Karishetty
Aged 34 years, son of
Jamnur Karishetty, residing at
Block No.A-3-M, Altinho,
Panaji Goa.
7. Rahul Kalappa Tulaskar,
Aged 36 years, son of
Kalappa Tulaskar
residing at Block No.A-12,
Altinho, Panaji Goa.
8. Kishore Rajaram Gaonkar
Aged 37 years, son of
Rajaram Gaonkar
residing at Block No.A-9, Altinho,
Panaji Goa.
9. Eknath Krishna Naik
Aged 41 years, son of
Krishna Naik,
residing at Block No.A-1, Altinho,
Panaji Goa.
10. Harichand Hanumant Kubal
aged 47 years, son of
Hanumant Kubal
residing at Block No.A-6, Altinho,
Panaji Goa.
11. Nandaram Pun
Aged 59 years, son of
A. Pun.
Residing at Block No.A-3, Altinho,

Panaji Goa.

12. Suresh Krishna Naik,
Aged 47 years, son of
Krishna Naik
residing at Block No.A-18,
Altinho, Panaji Goa.
13. Sham Pandurang Azjaonkar
Aged 35 years, son of
Pandurang Azjaonkar
residing at Block No.A-4, Altinho,
Panaji Goa.
14. Prakash Vitthal Mandelkar,
Aged 50 years, son of
Vitthal Mandelkar
residing at Block No.A-13,
Altinho, Panaji Goa.
15. Tilu Ladu Aroskar
Aged 55 years, son of
Ladu Aroskar
residing at Block No.A-16,
Altinho, Panaji Goa.
16. Supriya Baban Gurav,
Aged 60 years, wife of
Baban Gurav
residing at Block No.A-1, Bhatlem,
Panaji Goa.
17. Subhash Atmaram Kambli
Aged 54 years, son of

Atmaram Kambli
residing at Block No.A-2, Bhatlem,
Panaji Goa.

18. Sidhesh Dattaram Mahale
aged 30 years, son of
Dattaram Mahale
residing at Block No.A-3, Bhatlem,
Panaji Goa.

19. Riyaz Mehboob Nawar
Aged 40 years, son of
Mehboob Nawar
residing at Block No.A-4,
Bhatlem, Panaji Goa.

20. Sumitra Ramdas Naik,
Aged 55 years, wife of
Ramdas Naik
residing at Block No.A-5, Bhatlem,
Panaji Goa.

21. Manjali Mahadev Gaonkar,
Aged 42 years, wife of
Mahadev Gaonkar
residing at Block No.A-6, Bhatlem,
Panaji Goa.

22. Rekha Deepak Naik,
Aged 47 years, wife of
Deepak Naik,
residing at Block No.A-9, Bhatlem,
Panaji Goa.

23. Ashok Narayan Raut,
Aged 45 years, son of
Narayan Raut
residing at Block No.A-11, Bhatlem,
Panaji Goa.
24. Jacob Mendes
Aged 51 years, Orphan,
residing at Block No.A-12, Bhatlem,
Panaji Goa.
25. Laxmikant Kamlakant Tari
Aged 50 years, son of
Kamlakant Tari
residing at Block No.A-13,
Bhatlem, Panaji Goa.
26. Naresh Vithal Damekar,
Aged 42 years, son of
Vithal Damekar,
residing at Block No.A-14, Bhatlem,
Panaji Goa.
27. Ibrahim Abdul Saha
Aged 55 years, son of
Abdul Saha
residing at Block No.A-15, Bhatlem,
Panaji Goa.
28. Agnelo John Barretto
Aged 56 years, son of
John Barretto
residing at Block No.A-17, Bhatlem,
Panaji Goa.

29. Fatima Albino Carvalho
Aged 58 years, wife of
Albino Carvalho
residing at Block No.A-19, Bhatlem,
Panaji Goa.
 30. Arjun Krishna Gad
Aged 51 years, son of
Krishna Gad
residing at Block No.A-20, Bhatlem,
Panaji Goa.
 31. Harichandra Sada Jadhav
Aged 51 years, son of
Sada Jadhav
residing at Block No.A-23, Bhatlem,
Panaji Goa.
 32. Sagar Kishor Parsekar,
Aged 40 years, son of
Kishor Parsekar
residing at Block No.A-24, Bhatlem,
Panaji Goa.
- Petitioners

Versus

1. The State of Goa
Through the Secretary,
General Administration,
Department having his
Office at Secretariat,
Porvorim Goa.

2. The Executive Engineer,
Works Division (Bldgs),
Public Works Department,
Altinho, Goa.

.. Respondents

Mr. Nikhil Deelip Pai and Mr. R. Shiroadkar, Advocates for the Petitioners.

Mr. Pravin N. Faldessai, Additional Government Advocate for Respondents.

**Coram:- M. S. SONAK &
SMT. M. S. JAWALKAR, JJ.**

Date:- 10th December, 2019

ORAL JUDGMENT (Per M. S. Sonak, J)

Heard Mr. N. Pai, learned counsel for the Petitioners and Mr. Faldessai, learned Addl. Government Advocate for the Respondents.

2. Rule. Rule is made returnable forthwith with the consent and at the request of the learned counsel for the parties.

3. Mr. Faldessai, learned Addl. Government Advocate waives service on rule on behalf of the Respondents.

4. The Petitioners question the notice dated 11th October, 2019, by which they have been directed to vacate the quarters within seven days and hand over the vacant possession of the quarters after settling the water

and electricity bills and any other dues. The notice states that the same was preceded by yet another notice dated 12th July, 2019. The notice also records that the Government has directed to demolish the building as per Non Destructive Test (NDT) report carried out by the Public Works Department. The notice also states that the Government will not be responsible in whatsoever manner for loss of any life, limb and property arising out of any incident from dangerous/dilapidated condition of building in which the Petitioners have been allotted the quarters. Such identical notices have been issued to each of the Petitioners and all such notices have been questioned in the present petition.

5. The Petitioners are all Government servants and the quarters which they have been directed to be vacated were allotted to them as a condition of their services. The Petitioners have now been directed to vacate these quarters because the quarters in this building are found to be dilapidated and not safe for use or continue for the residence of the Petitioners and their family members.

6. We had issued some interim orders in this matter particularly it was pointed out to us that some of the Petitioners are having school going children and any disruption during the course of academic year will cause serious prejudice. No doubt, the Petitioners were permitted to stay in the quarters at their own risk and consequences.

7. Taking into consideration the reasons given by the Respondents namely the dilapidated status of the structure and the fact that even the building in which the said quarters situated are extremely old, it would not be appropriate to interfere with the impugned notices.

8. Mr. N. Pai however submits that the Respondents have with them almost 90 vacant quarters in an around Panaji. He submits that the Petitioners are eligible to be allotted the quarters at such places in an around Panaji. He submits that such entitlement is in terms of Rules called as the Government General Pool Residential Accommodation Rules, 1995. He submits that suitable direction therefore liable to be issued to the Respondents to make such allotment, before the Petitioners can be required to vacate from the present quarters.

9. According to us, linking two issues will not be appropriate. In this case, the eviction of the Petitioners has been ordered by taking into consideration the dilapidated nature of the building and the proposal of the Government to demolish such building in order to put up a fresh building at the site. If however there are indeed vacant quarters available with the Respondents and the Petitioners are entitled to be allotted these quarters, it is open to the Petitioners to apply/represent to the Respondents to make such allotment, in terms of the rules.

10. Mr. Faldessai, learned Addl. Government Advocate states that if such applications/representations are made by the Petitioners, the same will be disposed of expeditiously by the Respondents.

11. Mr. N. Pai, learned counsel for the Petitioners on the basis of the instructions from the Petitioners states that such applications/representations will be made within a period of one week from today to the appropriate authority i.e. the Secretary (General Administration Department). The learned Addl. Government Advocate also states that the Secretary (GAD) will be competent authority to deal with such applications/representations.

12. If such applications/representations are indeed made, we direct the Secretary (GAD) to dispose of the same as expeditiously as possible and in any case before 31st January, 2020. The decision to be communicated to the respective Petitioners/Applicants maximum on or before 7th February, 2020.

13. The Petitioners have placed before us, the communication dated 2nd December, 2019 and 5th December, 2019 which they have received under Right to Information Act. The communication dated 2nd December, 2019 relates to 'B' type, 'C' type and 'D' type quarters. The Petitioners are presently occupying 'A' type quarters. The communication

dated 5th December, 2019 refers to 'A' type quarters. At least seven quarters, as per the said communication are ready for allotment. Two quarters are to be repaired. Remaining quarters are proposed for demolition and reconstruction. However, there is no clarity as to whether occupants of the said quarters have also been served with a notice of eviction.

14. Accordingly, until the applications/representations of the Petitioners herein are considered and disposed of in accordance with law, we restrain the Respondents from allotting any 'A' type quarters, which are vacant in terms of the communication dated 5th December, 2019 to any other parties/Applicants. Mr. Pai points out that in terms of the rules, the Petitioners are also entitled to be considered for allotment of 'B' type quarters. This is also an aspect which the Secretary (GAD) will have to be considered while dealing with the applications/representations of the Petitioners/Applicants. Therefore, at this stage, we cannot grant any restraint order with regard to 'B' type quarters is concerned. However, if ultimately, it is pointed out to us that during the interregnum and in order to defeat the right of the Petitioners, if any, the allotments are made, obviously will not be averse to examining the legality of such allotment.

15. In case the Petitioners are aggrieved, they are granted liberty to take out appropriate proceedings against such decision, which no doubt,

will be considered on its own merits and in accordance with law. However, we make it clear that the issue of allotment of new quarters to the Petitioners is not to be linked with the issue of eviction from existing quarters, which are in a dilapidated stage.

16. Mr. Pai, learned counsel for the Petitioners submits that liberty be granted to the Petitioners to continue in occupation in the present quarters at least upto 30th April, 2020 i.e. till the end of the academic year. Mr. Faldessai, learned Addl. Government Advocate states that if such liberty is to be granted to the Petitioners, the same, shall be at the risk and consequences of the Petitioners and the Government should no manner be held responsible for any untoward incident.

17. Accordingly, we permit the Petitioners to continue in occupation of the present quarters until 30th April, 2020 subject to, all the Petitioners filing an undertaking in this Court within a period of two weeks from today that they will occupy these quarters at their own risk and further most importantly they will hand over the vacant and peaceful possession of these quarters to the Executive Engineer, PWD, Division-I (Bldgs.) on or before 7th May, 2020 without fail.

18. If such undertaking is indeed filed within two weeks from today and copy thereof is furnished to the learned Addl. Government

Advocate who appears on behalf of the Respondents, the Respondents, will not execute the impugned notices. However, if no such undertaking is filed within two weeks from today, then, the Respondents will be at liberty to execute the impugned notices. Notwithstanding with the execution of the impugned notices, the Secretary (GAD) will be obliged to dispose of the applications/representations, if any, made by any Petitioners/Applicants who are presently occupying the quarters in question.

19. Rule in this petition is disposed of in the aforesaid terms. There shall be no order as to costs.

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

SMT. M. S. JAWALKAR, J.

M. S. SONAK, J.

at*