

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 1067 OF 2018**

M/s. Goa Brewcrafts Pvt. Ltd.,
Having registered office at “F-3”,
Chidvilasanand Apts, St. Inez, Panaji Goa,
Represented through its Managing Director
Mr. Suraj U. Shenai,
Major of Age, Indian National,
r/o F-3, Chidvilasanand Apts.,
St.Inez, Panaji-Goa.

..... Petitioner

V e r s u s

Village Panhayat of Sangolda,
through its Secretary,
Office of the Village Panchayat of
Sangolda, Bardez-Goa-403 511.

..... Respondent

Mr. Shivan Desai, Advocate for the Petitioner.

Mr. C. Padgaonkar, Advocate for the Respondent.

Mr. R. Menezes with Mr. Nigel Fernandes, Advocates for the Intervenor.

Coram:- C. V. BHADANG, J.

Date:- 31st July, 2019.

Oral Judgment:

Rule, made returnable forthwith. The learned counsel for the respondent waives service. Heard finally by consent of parties.

2. The challenge in this petition is to the communication dated 24/10/2018 from the Respondent, Village Panchayat, Sangolda, Bardez-Goa to the Excise Inspector thereby communicating the revocation of No Objection Certificate (NOC) issued by the respondent in favour of the petitioner for establishment of a micro-brewery. The said communication is based on a Resolution No.6(1) dated 24/10/2018 passed by the respondent. A perusal of the said Resolution shows that it refers to a Resolution passed by the Gram Sabha taking exception to the operation of the micro-brewery inter alia on the ground that it is at a distance of about 32 metres from a chapel.

3. The principal contention raised on behalf of the petitioner is that the NOC granted on 17/8/2017 to the petitioner has been canceled behind the back of the petitioner without issuance of any show cause notice and the action of the respondent is patently in breach of the principles of natural justice.

4. Mr. Padgaonkar, the learned counsel for the first respondent has raised a preliminary objection to the maintainability of the petition on the ground of availability of an alternate remedy to the petitioner to challenge the resolution. It is submitted that the communication was issued to the petitioner for a joint inspection where the petitioner or its representative failed to

remain present. It is submitted that the impugned communication merely writes to the Excise Authority to revoke the licence.

Mr. Padgaonkar has also placed reliance on section 68 of the Goa Panchayat Raj Act, 1994 (act, for short), in order to submit that the operation of the micro-brewery is in breach of the said provision as there is no permission for establishment of the micro-brewery granted by the Village Panchayat.

5. Mr. Menezes, the learned counsel for the intervenor has also raised a preliminary objection as to the maintainability of the petition on the ground of availability of an alternate remedy. He submits that looking to the distance between the micro-brewery and the chapel, the NOC has rightly been revoked.

6. I have considered the submissions made.

7. One of the exceptions for this Court to entertain a petition of the present nature in the wake of availability of alternate remedy is that the impugned order or the decision passed in breach of principles of natural justice (See the decision on the case of **Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and others**) (1998) 8 SCC 1). In the present case, admittedly, there was no show cause notice issued to the

petitioner before the revocation of the NOC. Although reliance is placed on section 68 of the Act, the Resolution dated 24/10/2018 does not show that action is taken on the basis of section 68 of the said Act. Be that as it may, in view of the ground that the cancellation of the NOC has been taken behind the back of the appellant without issuance of show cause notice in my considered view the petitioner is right in contending that the action is clearly in breach of principals of natural justice and therefore, the preliminary objection in my considered view cannot be upheld. In the result the following order is passed:

O R D E R:

- (i) The petition is allowed.
- (ii) The impugned communication and the Resolution dated 24/10/2018 is hereby set aside. It would however, be open for the respondent no.1 to issue a show cause notice to the petitioner and then pass appropriate orders after considering the reply and the documents, the objection, if any, filed by the respondent no.2.
- (iii) It will be open to the respondent no.1 to consider granting an opportunity of hearing to the petitioner or its representative and the respondent no.2, if a request is made in that regard, in accordance with law.

(iv) Rival contentions of the parties are left open.

(v) Rule is made absolute in the aforesaid terms, with no order as to costs.

C. V. BHADANG, J.

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