IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 1195 OF 2018

TOM MENINO MONTEIRO, BY HIS ATTORNEY, WAMAN K. NAYAK., ... Petitioner

Versus

STATE OF GOA, THR. CHIEF SECRETARY AND 6 ORS., ... Respondents

Mr. P. A. Kholkar, Advocate for the petitioner.
Mr. A. Prabhudessai, Additional Government Advocate for the respondent nos.1,2,4 and 6.
Mr. Pavithran A. V., Advocate for the respondent no.5.
Mr. Bhobe, Advocate for the respondent no.7.

Coram:- M. S. SONAK &
PRITHVIRAJ K. CHAVAN, JJ.

Date:- 21st January 2019

P.C.

Heard Mr. P. A. Kholkar, learned Counsel for the petitioner, Mr. A. Prabhudessai, learned Additional Government Advocate for the respondent nos.1,2,4 and 6, Mr. Pavithran A. V., learned Counsel for the respondent no.5 and Mr. Bhobe, learned Counsel for the respondent no.7.

2. Mr. Kholkar, submits that the respondent no.7 has carried out some illegal construction/development. He submits that despite complaints to the authority, no action is being taken. He, therefore, submits that writ of mandamus must be issued to the respondents to take appropriate action on the complaints made

by the petitioner on some time bound manner.

3. Petitioner, in the present case, has made complainants to the respondent no.5/village panchayat. In the case of Nazar Silva vs State of Goa, 2000(2) Goa Law Times 168, this Court, took cognizance of circular dated 10.7.2000 issued by the Director of Panchayats to all the panchayats, requiring the panchayats to take action against the complaints on illegal construction within a time bound schedule.

4. Mr. Bhobe, learned Counsel for the respondent no.5 disputes that respondent no.7 has carried out any illegal constructions/development.

5. It is obvious that in so far as respondent no.5 panchayat is concerned,the directions contained in circular dated 10.7.2000 have been observed only in breach.

6. Mr. Prabhudessai, learned Addl. Govt. Advocate has produced in this matter yet another circular dated 18.1.2019, inviting the attention of all village panchayats in the State of Goa to the circular dated 10.7.2000. This circular dated 18.1.2019 states that failure on the part of the village panchayat to take action against illegal construction would amounts to remiss in the discharge of duties and render Panchayats liable for action under Section 50 of the Goa Panchayats Raj Act 1994 which deals with removal of Sarpanch and Deputy sarpanch.

7. Mr. Prabhudessai, learned Addl. Govt. Advocate has also produced memorandum dated 9.1.2019, which indicates that

Deputy Director of Panchayats(North) proposes to initiate necessary action under Section 66(5) of the Goa Panchayats Raj Act 1994. The petitioner has also made complaints to the respondent no.2 and it is the case of the petitioner that even this complaints have not been attended to.

8. In terms of the provisions of the Goa Panchayats Raj Act 1994 and Goa Town and Country Planning Act, 1979, if any, complaints are made with regards illegal construction/development, then the statutory authorities under the said enactment are required to atleast examine such complaints and if, any merit is found in such complaints, to initiate action as is permissible in law.

9. No doubt, in doing so, statutory authorities are required to comply with the principles of natural justice and fair play. However, statutory authorities cannot simply ignore the complaints or refuse to take any action on the complaints one way or other. Such inaction might, in a given case, amount to dereliction in discharge of statutory duties.

10. In the present case, at least after present petition was filed some of the Statutory Authorities have indicated some interest in initiating action or atleast in looking into the complaints made by the petitioner.

11. We, therefore, direct respondent no.2,4, and 5 to look into the complaints made by the petitioner as regards the alleged illegal construction/development undertaken by the respondent no.7 and

if, any merit is found in such complaints, to take appropriate action as is permissible in law. We once again reiterate any action is proposed to be taken, the same shall be preceeded byh due compliance of principles of natural justice and fair play.

12. Aforesaid authorities to take decision/action one way or other within a period of three months from today. This is only outer limit and it is expected that Statutory Authorities would take decision/action as expeditiously as possible. The result of such decision/action to be communicated to the Petitioner.

13. We make it clear that we have not examined the allegations made by the petitioner on merit and therefore, issue as to whether or not there is any merits in the complaints made by the petitioner is left for the determination of the Statutory Authorities.

14. Petition is disposed of in aforesaid terms. There shall be no order as to costs.

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

PRITHVIRAJ K. CHAVAN, J. M. S. SONAK, J.

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