

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 1084 OF 2019**

Kunda Bablo Gavli,
35 years of age,
Daughter of Bablo Gavli,
Resident of House no. 281,
Talematha,
Ambegal, Pale-Goa.

... Petitioner***Versus***

1. The Sarpanch/Secretary,
Village Panchayat Pale Cortombi,
Ambegal, Pale Goa.
2. Director of Panchayat,
Through its Secretary,
Junta House,
Panaji, Goa.
3. Block Development Officer,
Bicholim-Goa.
4. State of Goa,
Through its Chief Secretary,
Porvorim, Goa.

... Respondents

Mr. Ashwin D. Bhobe, Advocate for the Petitioner.

Mr. Manish Salkar, Government Advocate for Respondents No. 2, 3 and 4.

Mr. Ganesh Naik, Advocate for Respondent No. 1.

Ms. Prashila Gawde, Sarpanch, Village Panchayat Pale Cortombi present in Court.

Mr. Pramod M. Naik, Secretary, Village Panchayat Pale Cortombi present in Court.

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

Date : 17th December, 2019.

Oral Judgment: (Per M. S. Sonak, J.)

Heard Mr. Bhobe, learned Counsel for the Petitioner, Mr. Ganesh Naik, learned Counsel for Respondent No. 1 and Mr. Manish Salkar, learned Government Advocate for Respondents No. 2, 3 and 4.

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

3. The short issue in this case is whether the Respondent No. 1-Panchayat is justified in refusing the Petitioner a Residence Certificate in her maiden name i.e. in the name of Kunda Bablo Gavli.

4. The Petitioner has pleaded that her maiden name is Kunda Bablo Gavli and in support of the same, she has produced her birth certificate. She was married to one Babu Patkar alias Babu Patkaro. Though the marriage certificate is not produced, she has

placed on record the birth certificates of her children Puja, Pratiksha and Pratigya. The certificates indicate the name of the parents as Kunda Patkaro and Babu Patkaro as well as Kunda Patkar and Babu Patkar. The Petitioner has also placed on record death certificate which indicates that her husband Babu Janu Patkaro expired on 01.11.2019. The Petitioner has also produced copy of Aadhaar card.

5. The Petitioner has pleaded that she wishes to remarry consequent upon the demise of her late husband. For registration of marriage her Residence Certificate is necessary and therefore, the Petitioner, applied for the same to the 1st Respondent-Panchayat.

6. The Panchayat, upon verification of the fact that the Petitioner is indeed a resident of House No. 281 in Ward Talematha, Pale of Village Pale Taluka Bicholim, Goa since over last 5 years has in fact issued a Residence Certificate on 23.09.2019. This certificate, has however been issued in the name of "Kunda Babu Patkaro" which is undoubtedly the name of the Petitioner consequent her marriage to late Babu Patkaro.

7. The Petitioner, apprehending that the Sub Registrar will create hurdle to the registration of her marriage, applied to the 1st Respondent for issuance of Residence Certificate in her maiden name, i.e. Kunda Bablo Gavli. In her application dated 08.10.2019,

the Petitioner set out several particulars, which have now been pleaded in this petition. The Petitioner, also annexed copies of the documents referred to above alongwith the application dated 08.10.2019. Since there was no response the Petitioner addressed yet another communication dated 19.10.2019 followed by communication dated 23.10.2019 to the 1st Respondent.

8. On 01.11.2019, the Sarpanch, replied by stating that since the Residence Certificate has already been issued on 23.09.2019 and the Petitioner has already paid the Residence Certificate Fee on 24.09.2019, the Panchayat was unable to issue any further Residence Certificate.

9. The Petitioner placed on record communication dated 09.10.2019 addressed by the Sarpanch to the Block Development Officer seeking advice in the matter by pointing out the maiden name of the Petitioner is not registered or recorded in the office of Panchayat.

10. The Panchayat, vide letter dated 07.11.2019 then wrote to the Petitioner that in case she wants to have Residence Certificate in her maiden name, then, she will have to furnish documents such as ration card, election voting card and Aadhar card in her maiden

name, failing which the Residence Certificate in her maiden name cannot be issued.

11. The Petitioner then addressed representation to the Chief Secretary, the Sarpanch and the Secretary of the Panchayat dated 11.11.2019 and in the absence of any response from the said authorities has instituted the present petition.

12. Mr. Ganesh Naik, learned Counsel has tendered the affidavit on behalf of Respondent No. 1 in which, nothing different from what has been pleaded by the Petitioner has been set out. The affidavit also makes reference to the advice sought for by the Panchayat from the Block Development Officer and the response from the Block Development Officer directing the Panchayat “to take necessary action under the Goa Panchayat Raj Act, 1994.”

13. This petition, explains the plight of a citizen simply to obtain a Residence Certificate from the authorities. Some of the parties, it appears, were too busy to take cognizance of the Petitioner's complaint and some of the officials were not willing to apply their mind and take any responsibility in the matter. Therefore, the Petitioner was forced to make several representations to several authorities and ultimately institute the present petition. The Panchayat also, had asked for advice from the Block

Development Officer but there was no advice forthcoming and therefore expressed inability to issue the Residence Certificate in the maiden name of the Petitioner.

14. The Panchayat, does not dispute that the Petitioner indeed resided in House No. 281 in Ward Talematha, Pale of Village Pale Taluka Bicholim, Goa since last over 5 years. On the basis of this, the Panchayat has even issued Residence Certificate to the Petitioner though, in the name based on her marriage. There is absolutely nothing wrong in the exercise of the Panchayat in issuing such a Residence Certificate.

15. However, in the peculiar facts and circumstances of the present case, we do not agree with the contention of the Panchayat that it is powerless to issue the Residence Certificate in the maiden name of the Petitioner particularly where the Petitioner has produced ample documentary evidence to establish her maiden name and also established that she is the mother of the 3 children and wife of late Babu Patkar alias Babu Patkaro. The Panchayat, in the peculiar facts of the present case, should not have adopted such a rigid approach even assuming that there are no malafides involved in the conduct of the Panchayat Sarpanch/Secretary.

16. We also feel that when the Panchayat applied to the Block Development Officer for advice in the matter, the concerned

Block Development Officer should have applied his mind and tendered some advice in the matter. Merely to direct the Panchayat to take action as per the provisions of the Panchayat Raj Act is really nothing but abdication of responsibilities.

17. In the peculiar facts of the present case, therefore, we direct the Respondent No. 1-Panchayat, to forthwith issue to the Petitioner a corrected Residence Certificate, in which, the Panchayat may indicate both the names i.e. the Petitioner's maiden name as well as her name after her marriage. Such corrected Residence Certificate should be issued within 2 days from today.

18. The Sarpanch and the Secretary of the 1st Respondent who are present in the Court state that they will issue the necessary Certificate within 2 days from today.

19. Rule is made absolute in the aforesaid terms. There shall be no order as to costs.

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

SMT. M. S. JAWALKAR, J.

M. S. SONAK, J.