

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.1106 OF 2019**

Mr. Suresh Sharma,
40 years of age,
Indian National,
r/o. Row No.5 (22/412)
Ocean Mist, Dona Paula,
Panjim – Goa.

.... Petitioner.

V/s.

1. The Village Panchayat of Taleigao,
Through its Secretary,
Taleigao, Tiswadi – Goa.
2. Greater Panjim Planning and
Development Authority,
Through its Member Secretary
Having its office at
Archdiocese Building,
1st Floor, Mala Link Road,
Panaji – Goa.
3. Mr. Suresh Kumar Borana,
Major of age,
Indian National,
r/o. H. No. R-6, (22/413),
Ocean Mist, Dona Paula,
Panjim Goa.
4. Town and Country Planning Board,
Through its Member Secretary,
The Chief Town Planner,

Patto, Panaji, Goa.

.... Respondents

Mr. Nigel Da Costa Frias, Advocate for the Petitioner.

Mr. S.D. Padiyar, Advocate for the Respondent no.3.

Mr. D. Pangam, Advocate General with Ms. M. Correia, Additional Government Advocate for the Respondent no.4.

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

Date : 18th December, 2019.

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

Heard Mr. Nigel Da Costa Frias, the learned Counsel for the Petitioner. Mr. D. Pangam, Advocate General along with Ms. M. Correia, Additional Government Advocate for the Respondent no.4. Mr. S.D. Padiyar, Advocate for the Respondent no.3.

2. Though, private service is effected on the respondent no.2, their representative is neither present nor is the Authority represented. However, the Order which we propose to make, the presence of the respondent no.2 is really not necessary.

3. Accordingly, we issue Rule and make the Rule returnable forthwith with the consent of the learned Counsel for the parties.

The petitioner challenges the Order dated 11.10.2019 made by the respondent no.4 on the ground that the petitioner received the notice of the adjourned hearing on 12th of October, 2019, when the hearing was in fact fixed on 11th of October, 2019.

4. Although the aforesaid, would have ordinarily been a good ground to set aside the order of the Board, in the peculiar facts and circumstances of the case, we are not inclined to set aside the Order of the Board for reasons indicated hereinafter. Instead, we are of the opinion, that the interest of justice would be met if the respondent no.2, i.e. the Greater Panjim Planning and Development Authority is directed to hear the petitioner whilst disposing of the Show Cause Notice dated 25th June, 2018 issued to the respondent no.3, in pursuance of the remand by the Board.

5. We notice that the Board, by the Impugned Order, has set aside the demolition order issued to the structure put up by the respondent no.3 primarily on the ground that the respondent no.3 was not afforded hearing by the PDA. The Board has therefore remanded the matter to PDA with a direction to offer a personal hearing to the respondent no.3. In these circumstances, if we were to set aside the impugned order made by the Board, perhaps the Board, even after hearing the petitioner herein might have been obliged to

take the same view. Therefore, no purpose would be served in setting aside the impugned order. Instead, as noted earlier the interest of justice would be better served if the PDA, i.e. the respondent no.2 to hear both the petitioner as well as the respondent no.3, which would dispose of the Show Cause Notice dated 25.6.2018, in pursuance to the remand. We order accordingly.

6. However, we direct the PDA to dispose of the Show Cause Notice dated 25.6.2018 in the aforesaid manner as expeditiously as possible within a period of three months from today. The petitioner and the respondent no.3 to file an authenticated copy of this Order before the PDA within a period of one week from today with a suitable covering letter.

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

8. All concerned to act on the basis of an Authenticated copy of this order.

SMT. M.S. JAWALKAR, J. M. S. SONAK, J.

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