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***IN THE HIGH COURT OF BOMBAY AT GOA***

***WRIT PETITION NO.212 OF 2020***

Alison Britto

.... Petitioners

Versus

State of Goa, thr. its Chief  
Secretary and others.

.... Respondents

Mr. Padgaonkar Chaitanya Prakash, Advocate for the Petitioner.

Ms. Maria Correia, Additional Government Advocate for Respondents  
No.1 and 2.

Mr. Shivan Desai and Mr. Varun Bhandankar, Advocates for  
Respondent No.3.

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

Date:- 5<sup>th</sup> March, 2020

**ORAL ORDER (Per M.S. Sonak, J.)**

Heard Mr. Padgaonkar Chaitanya Prakash for the Petitioner, Ms.  
Maria Correia, Additional Government Advocate for Respondents  
No.1 and 2 and Mr. Shivan Desai for Respondent No.3.

2. The challenge in this petition is to the order dated 02.03.2020  
made by the Director of Tourism cancelling the allotment of shack in  
favour of the petitioner.

3. Having considered the rival contentions, we find that the petitioner has clearly breached the condition of allotment namely that he should have been unemployed at the time of seeking the allotment. Though, the petitioner had filed an affidavit to the effect that he was unemployed, record indicates that the petitioner had a goods carrier vehicle registered in his own name. The contention that the vehicle in fact belonged to the petitioner's father but was registered in the name of the petitioner can hardly be accepted. In the circumstances which were less severe than the present case, the Division Bench of this Court in *Alex J. Fernandes and another v. State of Goa and others – decided on 06.11.2017 in Writ Petition No.796 of 2017*, declined the relief in favour of a petitioner who claimed that the vehicles in his name had already been transferred but the transfer remained to be recorded with the RTO Authorities.

4. We find that the Director of Tourism has considered the matter in the proper perspective and there is really no case made out for interference with the impugned order.

5. Mr. Padgaonkar, on instructions submits that the petitioner will not pursue the challenge to the impugned order any further but the respondents no.1 and 2 may be directed to return to the petitioner the security deposit of ₹30,000/- and the shack fee of ₹50,000/-.

6. Ms. Correia points out that the clauses of the Shack Allotment Policy clearly provides that in case of breach the security deposit has to be forfeited. She points out that the petitioner, on the basis of incorrect statements in the affidavit has undertaken business through the shack and therefore there is no question of the refund of fees.

7. According to us, the contentions of Ms. Correia are well founded. Atleast insofar as the shack fee is concerned, there is really no question of any refund now that the petitioner has utilized the shack for commercial purposes at the height of the season.

8. Mr. Padgaonkar however points out that the petitioner is hardly 25 years of age and the amount of ₹30,000/- will mean much to the petitioner. He submits that the petitioner, on his own, within a week will dismantle the shack and therefore, the respondents no.1 and 2 will be spared the requirement of incurring expenses for this purpose. Accepting this statement as an undertaking on behalf of the petitioner, in the peculiar facts and circumstances of the present case, we direct respondents no.1 and 2 to return ₹30,000/- to the petitioner, provided the petitioner, within one week from today, dismantles the existing shack and restores the land beneath the same in its original condition. However, if this is not done within one week from today as undertaken, there will be no obligation to return the amount of ₹30,000/-. We clarify that this order is made in the peculiar facts and

circumstances of the present case where, the petitioner has expressed remorse and has pointed out that this amount will enable him to atleast make a new beginning.

9. The petition is accordingly disposed of in the aforesaid terms. There shall be no order as to costs.

10. All concerned to act on the basis of an authenticated copy of this Order.

***SMT. M. S. JAWALKAR, J.***

***M. S. SONAK, J.***