

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 80 OF 2020**

Shekhar Sukhtanker,
major of age,
Indian National,
Office at 4th Floor, L-22,
Alfran Plaza Building,
Opp. Don Bosco School,
M.G. Road,
Panaji Goa.

... Petitioner

Versus

1. State of Goa,
through the Chief Secretary,
having office at Secretariat,
Porvorim Goa.
2. Village Panchayat of Se-Old Goa,
Through the Secretary,
Office at Old Goa
Tiswadi Goa.

... Respondents

Mr. A. Sardessai, Advocate for the Petitioner.

Mr. Geetesh Ramesh Shetye, Addl. Government Advocate for Respondent No.1.

Mr. S. Mahambrey, Advocate for Respondent No.2.

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

Date:- 11th February, 2020

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

Heard Mr. A. Sardessai, learned counsel for the Petitioner, Mr. G. Shetye, learned Addl. Government Advocate for Respondent No.1 and Mr. S. Mahambrey, learned counsel for Respondent No.2.

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

3. The Petitioner in this case, has applied for occupancy certificate on 03.07.2019 in respect of Block E of “*Samarth Enclave*” situated at Survey No.114/H-3 of Ella Village, Old Goa.

4. For no justifiable reason whatsoever the application of the Petitioner is not being processed by the Respondent No.2-Panchayat. The Petitioner was constrained to address a legal notice and even approached the Director of Panchayats seeking direction to the Panchayat for expeditious disposal of his application for occupancy certificate. The Deputy Director took a view that he does not have jurisdiction in the matter.

5. The Panchayat, quite belatedly issued notice dated 30.11.2019 raising certain queries and calling for explanation within 15 days from the

Petitioner. The explanation was furnished by the Petitioner on 11.12.2019. However, till date the Respondent No.2-Panchayat, has not made any order on the Petitioner's application dated 03.07.2019.

6. On 4th February, 2020, we made an order issuing notice to the Respondent No.2. Further, in our order, we directed that the notice should indicate that the petition will be disposed of at the stage of admission and the Respondent No.2, to set the time limit within which the Petitioner's application dated 03.07.2019 will be disposed of.

7. Today, Mr. Mahambrey, learned counsel for Respondent No.2 states that 45 days time will be required to dispose of this application.

8. According to us, the time limit proposed by the Respondent No.2 is totally unreasonable in the facts and circumstances of the present case. As it is, the application for occupancy certificate was made on 03.07.2019 and the same, should have been disposed of one way or the other long ago.

9. The Panchayat without any justification failed to dispose of such application. At the belated stage, the Panchayat, has attempted to raise several issues thereby, making its intention quite clear. As against the rejection of an application, seeking occupancy certificate, the learned

counsel for both the Petitioner as well as the Respondent No.2 point out that there is remedy by way of an appeal before the Block Development Officer.

10. From all this it is quite apparent that the Respondent/Panchayat neither wishes to grant any occupancy certificate to the Petitioner nor wishes to reject the application so that the Petitioner can at least seek redressal by way of an appeal.

11. According to us, this is not the manner in which the citizen is to be treated. If the Panchayat has any legitimate ground to reject the application for occupancy certificate, the Panchayat is no doubt entitled to do so. But this should be done within a reasonable time. Otherwise, the application for grant of occupancy certificate should be considered and granted within a reasonable time. The Panchayat, however cannot sit on such application so that the party is left without any proper remedy.

12. In the circumstances, we direct the Respondent No.2-Panchayat to consider and dispose of the Petitioner's application for occupancy certificate within a period of seven days from today. The decision is to be communicated to the Petitioner within seven days from the date of decision.

13. Taking cognizance of the conduct of the Panchayat, we impose costs of Rs.10,000/- upon the Panchayat which shall have to be paid by the Panchayat to the Petitioner within seven days from today.

14. We also direct the Director of Panchayats to enquire into the circumstance of the delay. In the course of the enquiry, the Director to examine whether the applications for occupancy certificate take such a long time to be disposed of by this Panchayat. If ultimately, the Director comes to the conclusion that the delay was on account of the individual Panchayat member or Sarpanch who has addressed a notice dated 30.11.2019 then, the Director should fix the responsibility upon such member and also recover the costs from such member so that the same can be credited to the funds of the Panchayat. This exercise is to be completed by the Director within one month from today and compliance report to be filed before this Court.

15. In case the Panchayat rejects the application for occupancy certificate and the Petitioner files an appeal to the Appellate Authority, the Appellate Authority to dispose of such appeal within a period of 30 days. The Panchayat to cooperate in expeditious disposal of such appeal and no request for unnecessary adjournments by the Panchayat should be entertained in such an appeal.

16. Rule is made absolute in the aforesaid terms with costs.

17. Since, the Respondent No.2-Panchayat appear through its Advocate, it is made clear that no further notice shall be necessary and the time limit of seven days shall commence from tomorrow itself.

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

SMT. M. S. JAWALKAR, J.

M. S. SONAK, J.

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