

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 128 OF 2020

Indrajit Banerjee,
s/o. Chandan Banerjee,
26 years of age, business,
r/o. House No.103,
Opp. Monginis, Cake Shop,
Near Baga Circle,
Bardez, Goa.

..... Petitioner.

Versus.

1) The State of Goa,
through its Chief Secretary,
having office at Secretariat,
Porvorim, Bardez, Goa.

2) The Collector, North,
Having office at Collectorate Bldg.,
Panaji, Tiswadi - Goa.

3) The Deputy Collector North,
Mapusa, Bardez, Goa.

4) The Mamlatdar of Bardez,
Mapusa, Goa.

5) The Medical/Health Officer,
Primary Health Center,
Porvorim, Goa.

6. The Police Inspector,
Porvorim Police Station,
Porvorim, Bardez, Goa.

..... Respondents.

Mr. Kapil D. Kerkar, Advocate for the Petitioner.

Mr. D. J. Pangam, Advocate General with Mr. Sagar Dhargalkar, Addl. Government Advocate for the Respondents.

***Coram : M.S. Sonak &
Smt. M.S. Jawalkar, JJ.***

Date : 13th February, 2020.

ORAL JUDGMENT : (Per M.S. SONAK, J.)

Heard Mr. Kapil Kerkar for the Petitioner and Mr. D. Pangam, learned Advocate General with Mr. Sagar Dhargalkar, learned Additional Govt. Advocate for the Respondents.

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

3. The complaint in this Petition is that the premises, through which the Petitioner was operating the saloon and spa, have been sealed by the Collector (Respondent No.2), without complying with the principles of natural justice and fair play.

4. There is no dispute that the Petitioner was required to obtain NOC from the Medical/Health Officer prior to commencing

the activity of saloon and spa from the premises, which have now been sealed. There is also no dispute that till date, the Petitioner does not have any such NOC from the Medical/Health Officer. Therefore, even if some show cause notice were to be issued to the Petitioner, in the absence of any NOC from the Medical/Health Officer the position of the Petitioner would remain the same. In such a situation, the action of the Collector cannot be interfered with on the basis of a mere technical breach, in the facts and circumstances of the present case. Besides, the learned Advocate General points out that the sealing is, otherwise, in accordance with the procedure prescribed under law.

5. Be that as it may, the Petitioner has now applied for the NOC to the Medical/Health Officer. The learned Advocate General states that the Medical/Health Officer has found out some deficiencies in the application and has, today in the Court, handed over a communication dated 12/02/2020, to the learned Counsel for the Petitioner, in which such deficiencies have been set out.

6. Mr. Kerkar, learned Counsel for the Petitioner states that the Petitioner will address the issue of deficiencies within a period of one week from today. He, however, points out that since the premises

are sealed, various statutory Authorities will not be in a position to inspect the premises and give their clearances. He, therefore, requests that suitable orders be made for desealing, at least for the purpose of enabling the statutory Authorities to inspect the said premises.

7. We find the request made by Mr. Kerkar is quite reasonable and the same is not even opposed by the learned Advocate General. Further, since the premises are sealed, we expect the Authorities to dispose of the Petitioner's application for NOC/permissions expeditiously. The learned Advocate General states that the Medical/Health Officer shall dispose of the Petitioner's application for NOC within one week from the date of receipt of the response to the communication dated 12.2.2020.

8. Further, we direct that if any of the statutory Authorities wish to inspect the Petitioner's premise for the purpose of considering/processing his application for NOC/permissions, then, the Collector, North Goa shall, for this limited purpose, desal the premises, so as to facilitate such inspection. Obviously, the Collector will reseal the premises after such inspection.

9. Further, we hold that if the Petitioner secures all the

necessary NOCs/permissions from the statutory Authorities, the Collector, North Goa shall immediately make report to the Director of Health Services and the Director of Health Services shall, thereafter, make immediate orders for desealing of the premises.

10. We make it clear that there should be proper coordination between the Collector and the Director of Health Services, so that if and when the Petitioner secures NOCs/permissions from all the statutory Authorities, there is no unnecessary delay in desealing of the premises.

11. Rule is disposed of in the aforesaid terms. There shall be no order as to costs.

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

Smt. M.S. Jawalkar, J.

M.S. Sonak, J.