

Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.149 OF 2020

Bharat Hotels Limited,
with its registered office at
Barakhamba Lane, New Delhi,
110001, having its local office at
Raj Baga, Canacona, Goa 403702,
represented by Mr. Ankur Saluja,
Executive Assistant Manager,
41 years old, Indian National,
residing at The Lalit Golf and
Spa Resort Goa, Raj Baga, Canacona,
Goa 403702, duly authorized vide
Resolution of the Board of Directors
dated 21-11-2019 bearing
No.BM/2019-2020/23.

... Petitioner

Versus

1. State of Goa,
through the Secretary (Home),
Government of Goa,
with office at Secretariat,
Porvorim, Bardez, Goa.
2. State of Goa,
through the Under Secretary (Home),
Government of Goa,
with office at Secretariat,
Porvorim, Bardez, Goa.
3. The Mamlatdar of Canacona Taluka
with office at Government Complex,
Canacona, Goa.

... Respondents

Mr. J. Coelho Pereira, Senior Advocate along with Mr. Sagar B. Rivankar, Advocate for the Petitioner.

Mr. Deep Shirodkar, Addl. Government Advocate for Respondents No.1, 2 and 3.

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

Dated:- 9th March, 2020

ORAL JUDGMENT (Per M. S. Sonak, J.)

Heard Mr. J. Coelho Pereira, Senior Advocate along with Mr. Sagar B. Rivankar for the Petitioner and Mr. Deep Shirodkar, Additional Government Advocate for Respondents No.1, 2 and 3.

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

3. On 18.02.2020 we made the following order in this matter:-

“Heard Mr. Coelho Pereira, the learned Senior Counsel along with Mr. Vledson Braganza, the learned Counsel for the petitioner and Mr. Devidas Pangam, the learned Advocate General with Mr. Deep Shirodkar, the learned Additional Government Advocate for the respondents.

2. The petitioner states that show cause notice dated 16.11.2015, issued to the petitioner was never disposed off and despite such non-disposal, notice of demand was served upon the petitioner demanding Rs.53,22,874/-. There is also an averment that the petitioner was never granted any personal hearing in the matter.

3. *Mr. Pangam, the learned Advocate General pointed out that order dated 07.06.2016, disposing off the show cause notice, shows that personal hearing in the matter was given by the Under Secretary, wherein Shri Joaquim Martins filed a detailed reply to the show cause notice dated 18.01.2015.*

4. *Mr. Pereira, the learned Senior Counsel, on instructions, states that this order dated 07.06.2016 was never served upon the petitioner and further, no personal hearing was given in the matter.*

5. *Accordingly, the concerned respondents to file an affidavit in relation to the service of the order dated 07.06.2016 and on the issue of personal hearing. Such affidavit to be filed by 25.02.2020 and advance copy of the same to be furnished to the learned Counsel appearing for the petitioner. Rejoinder, if any, to be filed by 06.03.2020.*

6. *Place the matter for further consideration on 09.03.2020.”*

4. Today, the learned Advocate General fairly states that the order dated 07.06.2016 purporting to dispose of the show cause notice dated 16.11.2015 was never communicated to the petitioners. He further states that the order dated 07.06.2016 will not be acted upon and instead, the show cause notice dated 16.11.2015 will now be disposed of afresh after afford of opportunity of hearing to the petitioners. He states that the Under Secretary (Home) will now dispose of the show cause notice dated 16.11.2015 after giving hearing to the petitioners.

5. According to us, the aforesaid statement, which we accept as a

statement made to this Court, will substantially protect the interest of the petitioners. We further direct that the show cause notice dated 16.11.2015 shall now be disposed of without, in any manner, being influenced by the order dated 07.06.2016.

6. Until, the show cause notice is disposed of and in case, the decision is adverse to the petitioners, for a period of two weeks from the date of its communication to the petitioners, the adverse decision will not be acted upon. Needless to add that the demand notice dated 13.01.2020 will not be enforced, now that the show cause notice dated 16.11.2015 is to be freshly disposed of.

7. All contentions of all parties are expressly kept open. Rule is disposed of in the aforesaid terms.

8. The petitioners will appear before the Under Secretary (Home) on 16.03.2020 at 11.30 a.m. so that, the date for hearing can be fixed.

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

SMT. M. S. JAWALKAR, J.

M. S. SONAK, J.