

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO.66 OF 2019

1. Ajit Narayan Parulekar and anr., Petitioners.

Versus.

1. The State Of Goa,
thr. its Chief Secretary and 4 ors. Respondents

Mr. Nigel Da Costa Frias with Mr. B. Pacheco, Advocates for the petitioners.

Mr. Shivadatta Munj, Additional Government Advocate for the respondents no.1, 2 and 5.

Mr. Ashwin D. Bhobe, Advocate for the respondent no.3.

Mr. Shivan Desai, Advocate for the respondent no.4.

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

Date : 14th February, 2020.

P.C. :

Heard Mr. Nigel Da Costa Frias with Mr. B. Pacheco,
the learned Counsels for the petitioners, Mr. Shivadatta Munj, the

learned Additional Government Advocate for the respondents no.1, 2 and 5, Mr. Ashwin D. Bhobe, the learned Counsel for the respondent no.3 and Mr. Shivan Desai, the learned Counsel for the respondent no.4.

2. The petitioners, by instituting this petition, has sought for certain omnibus reliefs with relation to the permissions issued to the respondent no.4 for carrying on constructions in the property bearing Survey no.90/9 Curchorem Village, Quepem, Goa. It is the case of the petitioners that the constructions put up by the respondent no.4 are unauthorized and that the Government property was sought to be passed of as access for this project.

3. The respondent no.4 has placed on record the Judgment and Order dated 11.09.2019 made by the Chief Officer of the Curchorem, Cacora Municipal Council, disposing of the petitioners' complaint dated 8.1.2019 with regard to the Occupancy Certificate issued for the construction project. Copy of the same has been furnished to the learned Counsel appearing for the petitioner.

4. The learned Counsel for the petitioners on the basis of instruction state that the petitioners will take necessary steps to challenge the said Judgment and Order dated 11.09.2019 before the

appropriate forum. We grant the petitioners liberty to do so, no doubt by keeping open all objections which the respondents no.3 and 4 may have to such challenge.

5. Mr. Nigel Da Costa Frias, the learned Counsel for the petitioners point out that the petitioners had also made a complaint to the Planning Authorities which, to the best of the petitioners' knowledge has not even been disposed of.

6. Mr. Shivan Desai and Mr. Ashwin D. Bhobe, the learned Counsels for the respondents no.3 and 4 referred to the paragraph 19 of Judgment dated 11.9.2019 which reads as follows:

“Subsequently letter was received from Town and Country Planning Department, Quepem Goa, stating that revised technical clearance issued by their Department bearing L. No.TPQ/Const/Curchorem/90/9/2018/1602 dtd.1/11/2019 is within the prevailing rules in force which is not in violation of any of the allegations made by the complainant Mr. Vishwanath D. Naik & Mr. Ajit Narayan Parulekar in their letter dtd. 21/01/2019 & 08/01/2019”.

7. Mr. Munj, the learned Additional Government Advocate

states that copy of the Letter No.TPQ/Const/Curchorem/90/9/2019/1196 dated 8.5.2019 which is what is referred to in paragraph 19 of the Judgment dated 11.9.2019 will be made available to the learned Counsel for the petitioners within one week from today.

8. Mr. Nigel Da Costa Frias, the learned Counsel for the petitioners state that the petitioners will be advised to challenge the said communication dated 11.9.2019 in accordance with law. He seeks leave to amend this petition for that purpose. Looking to the omnibus prayers in this petition, it will not be appropriate to amend this petition itself. However, liberty is granted to the petitioners to challenge the Letter dated 8.5.2019 by filing fresh proceedings, before the appropriate forum. Mr. Nigel Da Costa Frias, the learned Counsel for the petitioners state that perhaps only a writ petition will lie against such a communication. Liberty is granted, leaving objections of all the respondents open and intact.

9. This petition is accordingly, disposed of with liberty as aforesaid and all contentions of all parties are specifically left open.

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