

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 47 OF 2020

ANIL VASANT PARMEKAR.

... Petitioner.

VS

STATE OF GOA, THR.
MINISTER FOR REVENUE,
GOVT. OF GOA AND 4 ORS.

... Respondents.

Mr. Vishnuprasad A. Lawande, Advocate for the Petitioner.

Mr. Manish Salkar, Government Advocate for Respondents No.1, 2 and 4.

Mr. Amey Kakodkar, Advocate for Respondent No.3.

WITH
PUBLIC INTEREST LITIGATION WRIT PETITION
NO. 23 OF 2016

KASHINATH JAIRAM SHETYE.

... Petitioner.

VS

THE STATE OF GOA, THR.
CHIEF SECRETARY, GOVT.
OF GOA AND 3 ORS.

... Respondents.

Mr. Ryan Menezes, Amicus Curiae.

Mr. Devidas Pangam, Advocate General with Mr. Deep D. Shirodkar,
Additional Government Advocate for Respondents No.1, 3 and 4.

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

Date: 24th June 2021

P.C.:

Heard Mr. Lawande for the Petitioner. Mr. Manish Salkar, Government Advocate for Respondents No.1, 2 and 4 and Mr. Amey Kakodkar for Respondent No.3. Respondent No.5 has been served in the matter.

2. The challenge in this petition is to the order dated 29.11.2019 by which the Deputy Collector / SDO Mapusa Sub Division, Mapusa, Goa rejected Petitioner's application for regularization under the provisions of Goa Regularisation of Unauthorised Construction Act, 2016 (said Act), on the only ground that the unauthorised construction exceeds 200 square metres in its entirety.

3. Today, Mr. Salkar, the learned Government Advocate states that since the unauthorized portion was only 28.90 square metres, the Deputy Collector will once again consider Petitioner's application for regularization under the provision of the said Act without raising the issue of maintainability.

4. Accordingly, without going into the validity of the rival contentions and based upon the concession made by the learned Government Advocate, the impugned order dated 27.07.2018 is hereby set aside. The statement that the Deputy Collector will consider afresh the Petitioner's application for regularization without going into the issue of maintainability is accepted.

5. The Deputy Collector to dispose of the Petitioner's application for regularization within three months from today.

6. The interim order made by this Court on 27.01.2020 which directs the Respondents herein, which includes the Village Panchayat, not to take any coercive action against the Petitioner's structure and which also directs the Petitioner to maintain status quo and not to put up any further construction will continue to operate until the disposal of the application for regularization by the Deputy Collector. In fact, this will continue to operate for period of three weeks from the date of intimation of the decision of the Deputy Collector to the Petitioner.

7. The Deputy Collector will grant an opportunity to all the parties which includes the Respondent No.5 herein to file written arguments. Mr. Lawande submits that in case it is convenient and the Covid-19 situation permits, oral hearing may also be granted. The Deputy Collector to consider whether oral hearing is feasible. However, if no oral hearing is feasible on account of the Covid-19 situation, the learned Counsel for the parties agree that the matter may be disposed of, based on the written arguments which they will file before the Deputy Collector.

8. The Deputy Collector shall dispose of the application within three months from today.

9. Needless to add, that even if the structure is regularized, the Petitioner will not have a right to make further constructions.

10. The Petitioner as well as Respondent No. 5 is reserved the liberty to challenge any adverse order.

11. With the aforesaid observations, this petition is disposed of. There shall be no order as to costs. All concerned to act on authenticated copy of this order.

12. All parties to appear before the Deputy Collector on 01.07.2021 at 3:00 p.m. and file authenticated copy of this order.
13. Public Interest Litigation Writ Petition No.23/16 is detached from the present matter and will come up for consideration in the usual course.

SMT. M.S. JAWALKAR, J.
jfd/-

M.S. SONAK, J.