

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.220 OF 2020**

BRIGIDA FERNANDES,

widow of late Pedro Conceicao Cardozo, aged 76 years,
Indian National, resident of House No. 52, Village
Nagorcem, Ourem, Palolem, Canacona-Goa.

... Petitioner.

Versus

1. GOA COASTAL ZONE

MANAGEMENT AUTHORITY,

through its Member Secretary, having Office
at First Floor, Pt. Deendayal Upadhyay Bhavan,
behind Pundalik Devasthan, Porvorim-Goa.

2. CANACONA MUNICIPAL COUNCIL

Through its Chief Officer having office at the Municipal
Building Chaudi, Canacona Goa

3. THE DISTRICT MAGISTRATE AND

COLLECTOR, Chairman of South Goa District Level
Coastal Monitoring Committee Goa, Canacona – Goa.

4. SHRI PRAMOD PRABHAKAR NAIK,

Major in age, s/o Prabhakar Naik Gaonkar,
r/o Devabagh, Canacona-Goa.

5. SHRI PRASAD NAIK GAONKAR,

Major in age, s/o, Prabhakar Naik Gaonkar,
r/o Devabagh, Canacona-Goa.

6. SHRI KRISHNA BHIKU NAIK GAONKAR,

Major in age, s/o Bhiku Naik Gaonkar,
r/o Nagarcem-Palolem, Canacona-Goa.

7. SHRI HEMANTKUMAR S.N. GAUNKAR,

major in age, s/o Sadanand Naik Gaonkar
Nagarcem-Palolem, Canacona-Goa.

8. SHRI BHANUDAS Y.N. GAUNKAR,

s/o Late Yeshwant Bhiku Naik Gaonkar,
r/o Devabagh, Canacona-Goa.

9. SHRI PRATAPRAO PRABHAKAR GAONKAR,
s/o Prabhakar Naik Gaonkar,
r/o Devabagh, Canacona-Goa.

10. THE DEPUTY COLLECTOR & SDO,
Chairman, Government of Goa,
Having office at Canacona-Goa.

... Respondents.

Mr. Parag S. Rao with Ms. Meghana Naik, Advocates for the Petitioner.

Mr. Devidas Pangam, Advocate General with Mr. Shivdatta P. Munj,
Additional Government Advocate for Respondents No. 1, 3, and 10.

Ms. S. Pereira, Advocate for Respondents No.4 to 9.

**Coram: M.S. SONAK &
SMT. BHARATI H. DANGRE, JJ.**

Date: 8th March 2021

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

Heard Mr. Rao and Ms. Meghana for the Petitioner, Mr. S.P. Munj, learned Additional Government Advocate for Respondents 1, 3, and 10, and Ms. S. Pereira for Respondents No. 4 to 9.

2. For the order which is proposed to be made, the appearance of Respondent No.2 is not necessary.

3. On 09.03.2020, we made the following order:-

“Heard Mr. Rao, learned counsel for the Petitioner and Mr. S.P. Munj, learned Addl. Government Advocate for Respondent Nos.1 and 3.

2. Leave is granted to amend the cause title and prayer clause and also to add an additional Respondent. Amendment to be carried out by 12th March, 2020 and copies of the amended petition to be served on the Respondents immediately thereafter.

3. Issue notice to the Respondents, returnable on 30th March, 2020.

4. In addition to the usual mode of service, private service is permitted. The Petitioner to file affidavit of service.

5. *Notice to indicate that subject to constraints of time endeavour shall be made to dispose of this petition finally at the stage of admission.*

6. *Normally, we are not inclined to entertain such petitions because the Petitioner has alternate remedy before the NGT. However, Mr. Rao submits that this is a case where the principles of natural justice were breached before the impugned directions dated 3rd February, 2020 were issued by the GCZMA. He submits that whilst declining the adjournment to the Petitioner who is 76 years of age, endorsement made was that the GCZMA will rely upon the report of the District Level Committee. He submits that the Petitioner had sought for a copy of the DLC report which was however never furnished to the Petitioner. Mr. Rao submits that no show cause notice was issued to the Petitioner though, notices were issued to attend personal hearing.*

7. *In the aforesaid circumstances till the next date there shall be ad-interim relief in terms of prayer clause (C).*

8. *The GCZMA to file affidavit in response to this petition. Affidavit to also indicate whether any action has been taken on the complaints made by the Petitioner dated 18th December, 2018 and 24th April, 2019 in connection with certain structures put up by the Respondent Nos. 4 to 9.*

9. *It is made clear that in case the Petitioner delays in effecting service or delays in serving copy of the amended petition upon the Respondents, this Court will consider vacating ad-interim relief granted today.*

10. *Stand over to 30th March, 2020.”*

4. Today, we issue Rule and make the Rule returnable forthwith with the consent of the Counsel for the parties.

5. We are satisfied that an adjournment should have been granted to the Petitioner on 18.02.2019 because the Petitioner was 76 years of age and remained present before the authority and applied for a short adjournment. Again, there is some dispute about the Petitioner being furnished with a copy of the DLC report. The impugned order relies on

the DLC report and therefore, the copy of the same should have been furnished to the Petitioner.

6. Therefore, for want of grant of sufficient opportunity to the Petitioner, we set aside the impugned order dated 03.02.2020 issued by Respondent No.1.

7. Mr. Munj states that the copy of the DLC report will be furnished to the Petitioner latest by tomorrow, without prejudice to the contention that the same was already furnished to the Petitioner. Thereafter, Respondent No.1 i.e. the GCZMA to hear the parties afresh and take a final decision on the show cause notice dated 19.11.2019 as expeditiously as possible and in any case within one month from today. Both the Petitioner and the private Respondents to cooperate with the GCZMA and this time none of the parties will seek any unnecessary adjournments. The parties have to remember that the authority comprises several members and therefore, it is quite difficult to organize the hearings.

8. Mr. Rao assures this Court that the Petitioner will not seek any adjournment and will attend hearings on the date scheduled. Similarly, assurance is given by Ms. S. Pereira, since, she has also requested that the proceedings before Respondent No.1 be disposed of expeditiously.

9. The Petitioner to attend the office of Respondent No.1 on 09.03.2021 at 10:30 a.m. and contact the Member Secretary of GCZMA. Mr. Munj states that the Member Secretary will furnish the copy to the Petitioner without prejudice.

10. The Petitioner has filed complaints about some structures put up by the private Respondents i.e. Respondents No. 4 to 9. Mr. Munj on

instructions points out that an order for demolition of the compound wall has already been made. Mr. Rao states that the construction of the compound wall was only one of the illegalities and there are other illegalities in the construction of the cottages as well.

11. Mr. Munj now points out and this is even admitted by Mr. Rao that there was no formal complaint as far as cottages are concerned. If there was no formal complaint, then, obviously there was no requirement of looking into this decision. Mr. Rao states that a formal complaint will be filed within one week from today. If such a complaint is filed, then, GCZMA to look into such a complaint and dispose of the same within a maximum period of three months from today. No doubt the GCZMA will have to comply with principles of natural justice if any parties are to be affected.

12. The Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

13. We make it clear that we have not adverted to the merits of the matter and therefore, all contentions of all parties are left to the Respondent No.1 to decide.

14. All concerned to act based on an authenticated copy of this order.

BHARATI H. DANGRE, J

M.S. SONAK, J.

jfd/-