

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION No.157/2021

COMUNIDADE OF SANCOALE,
THR. ITS ATTORNEY

... Petitioner

Versus

THE STATE OF GOA, THR.
THE CHIEF SECRETARY,
GOVT. OF GOA AND 5 ORS.

... Respondents

Mr. H. D. Naik, Advocate for the Petitioner.

Mr. G. Shetye, Additional Government Advocate for Respondents
No.1, 3 and 6.

Mr. K. Noorani, Advocate for Respondent No.2.

Mr. Zeller De Sousa, Advocate for Respondent No.4.

Mr. Sudin Usgaonkar, Senior Advocate with Ms. V. Palyekar, Advocate
for Respondent No.5.

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

Date:- 7th April 2021

P. C.:

Heard Mr. H. D. Naik for the Petitioner, Mr. G. Shetye, learned Additional Government Advocate for Respondents No.1, 3 and 6, Mr. K. Noorani for Respondent No.2, Mr. Zeller De Sousa for Respondent No.4 and Mr. Sudin Usgaonkar, learned Senior Advocate who appears with Ms. V. Palyekar for Respondent No.5.

2. Mr. Noorani, the learned counsel for respondent no.2 states that the Mormugao Planning and Development Authority (MPDA) has already issued a show cause notice cum stop work order on 15.03.2021 and will dispose of the show cause notice in accordance with law at an early date. This statement is accepted and the MPDA is directed to act accordingly.

3. Mr. De Sousa, the learned counsel for the Panchayat i.e. respondent no.4 submits that the Panchayat had issued show cause notice to respondent no.5 and after considering the response has further issued a demolition notice as well. He filed a reply on behalf of the Panchayat to place these facts on record. The reply is taken on record.

4. Mr. De Sousa states that after the period prescribed in the demolition notice expires, action will be taken to demolish the construction in question, as long as there is no interim relief granted by any authority. Even this statement is accepted.

5. Mr. Shetye, the learned Additional Government Advocate states that even the Administrator of Comunidades (respondent no.6) has issued the necessary show cause notices in the matter and the same will be disposed of in accordance with law at an early date. Even this statement is accepted and the Administrator is directed to act

accordingly.

6. Mr. H. D. Naik states that respondent no.5 may be restrained from occupying the structure in question. To this, Mr. Usgaonkar responds by pointing out that the structure is only half complete. Mr. De Sousa, the learned counsel for the Panchayat also submitted that the status of the structure is clear from the demolition order issued by the Panchayat. Mr. De Sousa also submits that the stage of the construction is reflected in the photographs, including the last photograph appended to the affidavit-in-reply filed by Mr. Kapil Naik, Secretary of Respondent No.4-Panchayat. Thus, at least at present, there appears to be no basis for the apprehension expressed by Mr. H.D. Naik.

7. However, in case, there is any apprehension, we grant the petitioner liberty to file appropriate proceedings before the appropriate authorities in this regard.

8. Now that the authorities have taken some action in pursuance of the complaints made by the petitioner, there is no necessity to keep this petition pending.

9. We clarify that we have not gone into the rival contentions and our only concern was that the authorities should take cognizance of the

complaints made by the petitioner and in case, there is any *prima facie* merit in them, take action in accordance with law. We are now satisfied that the authorities have initiated action in the matter.

10. This petition is disposed of in the aforesaid terms. There shall be no order as to costs.

11. All concerned to act based on the authenticated copy of this Order.

SMT. M. S. JAWALKAR, J.

M. S. SONAK, J.