

Vinita

**IN THE HIGH COURT OF BOMBAY AT GOA.**

**WRIT PETITION NO.314 OF 2021**

SATELLITE SYNDICATE,  
REP. BY ITS PARTNER,  
RAJESH MOHAN GAUNKAR ... Petitioner.  
VS  
STATE OF GOA, THR. THE  
CHIEF SECRETARY AND 2  
ORS ... Respondents.

Mr. P. Pai Vernekar, Advocate for the petitioner.  
Mr. S. Sinai Priolkar, Addl. Govt. Advocate for the respondent  
nos.1 and 3.  
Mr. H. D. Naik, Advocate for the respondent no. 2.

**CORAM: MANISH PITALE J.**  
**DATE: 30<sup>th</sup> November, 2021.**

P.C.:

By this Writ Petition the petitioner has challenged a communication dated 18.5.2020 sent by the respondent no.3 to the managing director of the respondent no.2, as also a decision taken by respondent no.2 Goa Housing Board in its meeting dated 30.11.2016, whereby commercial plot no.102/4 at Colvale Satellite Township has been cancelled.

2. It is the case of the petitioner that the said impugned communication and decision have been issued behind the back of the petitioner, even when the proceedings before the managing director of respondent no. 2 were pending in pursuance of a show cause notice dated 23.2.2015, issued to the petitioner.

3. This Court issued notice on 20.9.2021, while recording the objection raised on behalf of respondent nos. 1 and 3 by the learned Addl. Govt. Advocate that the petition would lie before the Division Bench of this Court, in terms of the High Court Appellate Side Rules, 1960. Therefore, the question of maintainability of the Writ Petition before this Court was kept open.

4. Mr. P. Pai Vernekar, learned Counsel appearing for the petitioner submitted that this petition is maintainable before the present Court presided over by the Single Judge in terms of the High Court Appellate Side Rules. It is submitted that the managing director of respondent no. 2 Goa Housing Board had issued show cause notice dated 23.2.2015, to the petitioner as to why allotment of aforesaid plot in favour of the petitioner ought not to be cancelled. It is submitted that the petitioner had filed reply to the said show cause notice and hearings were conducted before the managing director of respondent no. 2, on as many as four occasions till 26.2.2016. Thereafter, on 29.9.2017, the managing director of respondent no.2 Board fixed the hearing on 27.10.2017. But, hearing on that date could not take place due to non-availability of the managing director and thereafter, the

matter remained pending at the aforesaid stage.

5. It is the case of the petitioner that when a request was placed before the respondent no.2 for information regarding status of the aforesaid proceedings, a response dated 10.2.2021, was received from the office of Public Information Officer of respondent no. 2, annexing therewith copies of the impugned communication dated 18.5.2020, issued by the respondent no. 3 to the managing director of the respondent no. 2. Thereafter, on further inquiry, the petitioner could get a copy of the minutes of the meeting dated 30.11.2016 of the respondent no.2 -Board. It is at this stage that the petitioner realized that the allotment of aforesaid plot was cancelled, behind his back. In this backdrop the learned counsel appearing for the petitioner invited attention of this Court to Rule 18 in Chapter XVII of the Bombay High Appellate Side Rules, specifically clause 7 thereof, to contend that orders passed under the Goa, Daman and Diu Housing Board Act, 1968, could be challenged by filing writ petition, which would lie before this Court presided over by the Single Judge.

6. On the merits of the matter, the learned counsel appearing for the petitioner submitted that the impugned communication and decision deserve to be set aside on the

ground of violation of principles of natural justice. Even from the reply filed on behalf of respondent no.2, it was clear that pursuant to the show cause notice issued to the petitioner, the proceedings were still pending. If that be so, the impugned order clearly deserves to be set aside and respondent no. 2 ought to be directed to give a proper hearing to the petitioner, before taking any decision in pursuance of the aforesaid show cause notice.

7. On the hand Mr. S. Priolkar, learned Addl. Govt. Advocate for respondent nos.1 and 3 and Mr. Naik, learned counsel for respondent no.2, submitted that a perusal of the prayer clause of the Writ Petition would show that the documents challenged in the present Writ Petition were not in pursuance of any quasi-judicial proceeding and that therefore, the Writ Petition ought to be heard by the Division Bench of this Court. It was submitted that since the impugned communication and decision were not in pursuance of the show cause notice, the challenge would lie before the Division Bench of this Court. On the merits of the matter, it was submitted that even as per affidavit of respondent no. 2, final decision in the matter was yet to be taken and that therefore, there was no substance in the

present Writ Petition.

8. Heard learned Counsel for the rival parties and perused the material on record.

9. In so far as the preliminary objection of maintainability of the Writ Petition before this Court is concerned, a perusal of Rule 18 in Chapter XVII of the Bombay High Court Appellate Side Rules, would show that orders passed under Goa, Daman and Diu Housing Board Act, 1968, could be challenged by filing Writ Petition, which would lie before this Court presided over by the Single Judge. Explanation appended to the Rule 18 clarifies that an “order” would mean any order passed by such an authority under the statute specifically mentioned in various clauses of the said Rule. In the present case, admittedly, the show cause notice dated 23.2.2015, was issued to the petitioner in respect of the aforesaid plot. There is material placed on record to show that number of hearings were conducted by the managing director of the respondent no.2 housing board till 29.9.2017, but thereafter no further hearing was conducted.

10. The minutes of the meeting dated 30.11.2016, signed by the managing director of respondent no. 2, refers to the notice issued to allottees of the commercial plots like the

petitioner. There is reference to the replies received from such allottees and thereupon, it was resolved that allotment of 10 commercial plots, including the plot of the petitioner, shall be cancelled and withdrawn.

11. The communication dated 18.5.2020, issued by the managing director of the respondent no.2-Board specifically communicates that the Government had decided to cancel the entire process of allotment of commercial plots, including plot no. 102/4 allotted to the petitioner.

12. This Court is convinced that when there is a reference made in the minutes of the meeting to the show cause notices issued to the allottees of plots like the petitioner and specific plot allotted to the petitioner is found to be cancelled as per the communication issued by the respondent no. 3, challenge raised to the said documents would certainly be covered under Rule 18 in Chapter XVII of the Bombay High Court Appellate Side Rules and therefore, the present petition is found to be maintainable before this Bench. Therefore, the preliminary objection is rejected.

13. On the merits of the matter, a bare perusal of the impugned decision and communication would show that the petitioner was not heard in the matter, although

consequences of the impugned decision and communication were clearly adverse to the interest of the petitioner. Statement made in the affidavit in reply filed on behalf of respondent no.2 Board that the proceedings in pursuance of the show cause notice dated 23.2.2015, are still pending makes the matter worse for the respondent no.2, because it demonstrates that even when such a proceeding is pending and it has yet to reach finality, the impugned decision has been taken behind the back of the petitioner and without affording any hearing to it. The impugned communication also conveys that the adverse decision and cancellation of allotment of plot to the petitioner, was not only without granting any hearing but even without marking a copy to the petitioner.

14. This Court finds that there is patent violation of the principles of natural justice and on this ground alone the present Writ Petition deserves to be allowed. Since the respondent no. 2 has come forward and submitted that in pursuance of the show cause notice dated 23.2.2015, proceedings are still pending, a direction deserves to be issued for finally disposing of the proceedings, in accordance with law.

15. In view of the above, Writ Petition is allowed. The impugned communication dated 18.5.2020, addressed by the respondent no. 2 to respondent no.3 is quashed and set aside, in so far as the petitioner is concerned and similarly the impugned decision dated 30.11.2016, is also quashed and set aside qua the petitioner before this Court.

16. The respondent no. 2 shall now proceed further to decide the proceedings initiated in pursuance of the show cause notice dated 23.2.2015. The petitioner shall be granted proper hearing in the matter with an opportunity to place on record documents in support of its claim. The Respondent no. 2 shall expedite the said proceedings and decide the same, preferably within a period of 12 weeks from today. Writ Petition stands disposed of.

**MANISH PITALE, J.**

VINITA VIKAS NAIK Digitally signed by VINITA VIKAS NAIK  
Date: 2021.12.02 10:59:04 +05'30'