

**IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO. 219 OF 2019**

HELEN LOURENCO., PETITIONER
Versus
DEPUTY COLLECTOR AND SDO,
PANAJI AND 2 ORS., RESPONDENTS

Mr. Ryan Menezes with Mr. Nigel Fernandes, Advocates for the Petitioner.

Mr. Vibhav Rajiv Amonkar, Advocate for Respondent No. 2.

Coram:- M.S. JAWALKAR, J.

Date:- 1st March 2021

ORAL ORDER:

Heard Mr. Ryan Menezes, the learned Counsel for the petitioner and Mr. Vibhav Amonkar, the learned Counsel for respondent no. 2.

2. The present Petition is filed by the petitioner being aggrieved by the order passed by the learned Deputy Collector & Sub-Divisional Officer & SDM dated 14.06.2019 and 18.06.2019, which were challenged before the learned Sessions Judge, North Goa, Panaji in Criminal Revision Application No. 45/2019. The said Revision Application was dismissed on 04.10.2019, which is challenged by the petitioner before this Court in the present Writ Petition.

3. It appears from record that there was an application filed by respondent no. 2 for grant of police protection to carry out the work of replacement of overhead tank and monsoon drain. By order dated 14.06.2019, the said application was allowed and police protection was granted. The present petitioner objected the same. Accordingly on 18.06.2019, the parties were heard. The petitioner objected the same before the learned Deputy Collector on the ground that there was no permission of the said construction, whereas it is the contention of the respondent no. 2 herein that they have due permission to that effect.

4. Considering the larger interest, the permission granted earlier, allowing police protection for construction was maintained. This order came to be passed on 18.06.2019 and construction was carried out. There were directions issued by this Court to the Deputy Collector to conduct an inquiry in respect of the present state of affairs by nominating any Health Officer. Accordingly, the report was placed on record by the learned Deputy Collector & SDM. The learned

Deputy Collector by issuing order dated 13.01.2021 has called for the report of the Health Officer.

5. Be that as it may, the question here is the order challenging grant of police protection, which was already granted and some construction was also carried out. The only question is that whether there is any nuisance caused to the complainant as per her contentions.

6. After hearing the learned Counsel for the parties at length, it is submitted by the learned Counsel for the petitioner that if the Deputy Collector & SDM, Panaji proceeds with Case No. MAG/SDM/133 CR.P.C./04/2018/3464 pending before it, without being influenced by these two orders of police protection and if the parties are granted liberty to make their submissions on this issue before the learned Deputy Collector, the purpose would be served. It is just and reasonable approach. By keeping all contentions of all parties open, following order will suffice the purpose.

7. As such, I proceed to pass the following order:

O R D E R

- i. The Petition is partly allowed.
- ii. The learned Deputy Collector & SDM, Panaji is directed to dispose of Case No. MAG/SDM/133CR.P.C./04/2018/3464 after hearing both the parties, within three months from today.
- iii. All contentions of the parties are left open, which can be raised by both the parties before the learned Deputy Collector & SDM, Panaji.
- iv. Needless to mention that the learned Deputy Collector & SDM, Panaji shall proceed to decide Case No. MAG/SDM/133 CR.P.C./04/2018/3464 on its own merits and in accordance with law and without being influenced by orders dated 14.06.2019 and 18.06.2019.
- v. No orders as to cost.

8. All concerned to act on the basis of an authenticated copy of the order.

M.S. JAWALKAR, J.

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