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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.8/2022

SAO JOSE DE AREAL VILLAGES
UNION, REP. BY ITS PRESIDENT
FIDELIS FREDY TRAVASSO

... PETITIONER

Versus

STATE OF GOA THR. CHIEF
SECRETARY AND 5 ORS.

...RESPONDENTS

Mr. Gajendra Usgaonkar, Advocate for the Petitioner.

Mr. D. Pangam, Advocate General with Mr. Prashil Arolkar,
Additional Government Advocate for the Respondent Nos.1 to 4.

Mr. J. Supekar, Advocate for Respondent No.5.

Mr. Shivan Desai, Advocate for Respondent No.6.

**CORAM: M. S. SONAK &
R. N. LADDHA, JJ.**

DATED: 11th April 2022

ORAL ORDER :

1. Heard Mr. Usgaonkar, learned Counsel for the Petitioner, Mr. D. Pangam, learned Advocate General along with Mr. P. Arolkar, learned Additional Government Advocate for respondents nos.1 to 4, Mr. J. Supekar, learned Counsel for respondent no.5 and Mr. Shivan Desai, learned Counsel for respondent no.6.

2. The Petitioner claims to be a registered Society under the Societies Registration Act incorporated for the welfare of the villagers of Sao Jose de Areal, South Goa. It is their case that the Panchayat, by Resolution dated 11.07.2005, had proposed to the Government to acquire 15,000 sq. mtrs. of land in the village for setting up a sports academy. Initially, the proposal was not agreed upon, but ultimately the proposal was agreed to.

3. Mr. Usgaonkar referred to NOC dated 27.06.2014 issued by the Town and Country Planning Department in which it is stated that this department has no objection from the planning point of view for the acquisition of land admeasuring 18,950 sq. mtrs—surveyed under no.18/1 of Sao Jose de Areal for the development of a playground. This communication also indicates that the proposed acquisition is from the property then zoned as partly industrial and partly settlement.

4. The records indicate that nothing substantial was done either towards the acquisition of the above property or setting up a playground or a sports academy for several years. Ultimately, the planning authorities and several other authorities have permitted respondent no.6, a private party, who claims an interest in the above property, to develop the same. A technical clearance order dated 29.06.2020 has been issued by the Deputy Town Planner

favoring respondent no.6. The Panchayat has also permitted respondent no.6 to proceed with the project.

5. The petitioners have therefore instituted this petition seeking the following substantive reliefs :

“(a) This Hon'ble Court be pleased to exercise its powers vested under Article 226 and 227 of the Constitution of India and issue writ of certiorari and writ direction in the nature of certiorari quashing the technical clearance order dated 29.06.2020 issued by Dy. Town Planner in office of Respondent No.3 to respondent no.6, the Panchayat Inspection report dated 10.07.2020, Resolution dated 03.08.2020 granting construction License dated 11.08.2020, Government approval dated 30.12.2020 and Final approval dated 15.01.2021 for subdivision of plots, provisional approval by the respondent no.5 to respondent no.6.

(b) This Hon'ble High Court be pleased to direct to take disciplinary action against the Officers in the office of respondent no.2 & 3 and further action against the members of the Village Panchayat respondent no.5 under the Panchayat Raj Act, 1994.”

6. Mr. Usgaonkar submits that in terms of the Goa Town and Country Planning (Public Project/Schemes/Development Works by the Government) Rules, 2008, once NOC is issued in terms of Rule 3, necessary changes have to be effected in the Regional Plan. He submits that based on the NOC dated 27.06.2014, such

changes must have been effected in the Regional Plan. He further submits that the permissions now granted for the project of respondent no.6, therefore, must be in conflict with such changes in the Regional Plan. He submits that this is the first ground based on which the rule in this petition must be made absolute in terms of prayer clause (a) above.

7. Mr. Usgaonkar then submits that the Petitioner, representing the interest of the villagers, has a legitimate expectation that the above property would be acquired and a sports academy would be set up thereon. He submits that merely because there is some change in the Government, commitments made earlier cannot be reneged. He submits that the doctrine of legitimate expectation is clearly attracted to the facts of the present case and, based upon the same as well, the rule is liable to be made absolute in terms of prayer clause (a) of the petition.

8. Mr. Usgaonkar points out that the Officers of the Government have failed to bring to the notice of the Officers of the planning authorities the earlier decisions for the acquisition and setting up of sports academy and, therefore, this Court should take disciplinary action against those officers. He states that even the members of the village panchayat have failed to protect the interest of the villagers and, therefore, this Court

should take disciplinary action even against the members of the village panchayat.

9. Mr. Usgaonkar, in support of his contentions, has relied upon *Jitendra Kumar & Ors. V/s. State of Haryana & Anr.*¹, *National Buildings Construction Corporation V/s. S. Raghunathan & Ors.*² and *Punjab Communications Ltd. V/s. Union of India & Ors.*

10. The learned Advocate General has submitted that this petition is entirely misconceived and should therefore be dismissed. He points out that based on the Resolution of the Panchayat, NOC was issued by the Town and Country Planning Department. There were no changes effected in the Regional Plan. He points out that the State has no intention of acquiring the land surveyed under No.18/1 or setting up any sports academy thereon because the State has already acquired another property at a distance of about 2 km in the same village for the development of a playground way back in the year 2010. He submits that even tenders have been floated for developing this alternate land as a playground. He pointed out that there are two more grounds available within a distance of 1 km from the

1 (2008) 2 SCC 161

2 (1998) 7 SCC 66

property bearing Survey No.18/1 in the same village. Based upon all this, he submitted that the Petitioner could have no expectation, much less legitimate expectation, and insist upon the acquisition of lands by the Government. He submitted that all these are purely policy decisions, and there is no question of any right or legitimate expectations involved.

11. Mr. Supekar, learned Counsel for the Panchayat, on instructions, states that permissions were validly granted and, therefore, the Panchayat does not support the Petitioner. Mr. Desai submits that private properties cannot be frozen based on some NOCs which were never even acted upon. He points out that no case has been made out for grant of any reliefs in this petition.

12. We have considered the rival contentions, and even according to us, the Petitioner has not made out any case for grant of any reliefs based either on the Rules of 2008 or the doctrine of legitimate expectation.

13. The Director of Sports and Youth Affairs, Government of Goa, has filed an affidavit before us, and paragraphs 8 to 12 of this affidavit read as follows:

“8. I state that within the distance of about 2 kilometers from the property bearing survey no. 18/1, this Respondent acquired land admeasuring 12,215 square meters bearing survey no. 73/1 (part) of Village Sao Jose De Areal for development of playground way back in the year 2010. I state that after completing all the tender formalities, this Respondent has issued a letter of acceptance of tender dated 07/01/2022 to M/s VXL and Company for development of football ground on the said acquired property for an amount of Rs. 3,00,85,743.69/- (Rupees three crore eighty-five thousand seven hundred forty-three and paise sixty nine). Hereto annexed and marked as **Exhibit A (colly)** is the copy of the Award dated 11/05/2010 letter of acceptance of Tender dated 07/01/2022 issued to M/s VXL and Company.

9. I state that so also there are two more grounds available within the distance of one kilometer from the property bearing survey no. 18/1.

10. I state that at present this Respondent has no intention of acquiring the said land bearing survey no. 18/1 of village Sao Jose de Areal as this Respondent has already started the work of development of ground which area was acquired by this Respondent way back in the year 2010 and which is within 2 kilometers from the property bearing survey no.18/1.

11. I submit that there can be no legitimate expectation from this respondent to acquire the portion of land. I submit that as the property bearing survey no. 18/1 has not been acquired by the Government, a private person owning such property cannot be prevented from developing the said

property in case that he is intending to develop the same in accordance with law. There can be no relief sought against the Government to acquire a particular portion of land.

12. I deny the contention of the Petitioner that there is corruption by the persons occupying the public offices which has become rampant and that such acts are rarely investigated and culprits are punished. I deny the allegation that corruption has been thriving on all levels of Government.”

14. From the above, it is clear that the State has no intention of acquiring the property bearing Survey No.18/1. The reasons for this have also been spelled out in paragraphs 8,9, and 11. This Court cannot ordinarily compel the State to acquire some land because such a decision, in most cases, would involve elements of policy, finance, etc. Merely because, at some stage, such a proposal was being considered, that does not mean that the State cannot review its policy. The NOC cannot be construed as some action of firm decision or commitment to either apply the principles set out in *Jitendra Kumar* (supra) or to invoke the doctrine of legitimate expectation as explained in *National Buildings Constructions Corporation* (supra) and *Punjab Communications Ltd.* (supra). The factual position in the three decisions bears no comparison whatsoever with the present case.

15. There is no record of any changes in the Regional Plan pursuant to the NOC relied upon by Mr. Usgaonkar. No deficiencies have been pointed out concerning the permissions, NOC, or approvals that have been challenged before us by the Petitioner. The challenge is only on the ground that earlier, this property was, in principle, agreed to be acquired for the setting up of the sports academy. The change of such position is explained by the Director of Sports and Youth Affairs. The explanation is fairly reasonable. No malafides have been alleged, pressed, or, in any case, made good. The pleadings are also quite sketchy. The scope of judicial review in such matters is also quite limited.

16. The Petitioner has failed to establish any right as such in themselves to insist upon the State acquiring the property or setting up the sports academy. In the absence of such a right being made out, it will not lie within the province of this Court to issue a mandamus directing the State to acquire the land or, in the meanwhile, quashing permissions granted to private parties on such grounds.

17. The relief that this Court should initiate disciplinary proceedings against Government Officers or members of the Panchayat is entirely misconceived. Based upon the sketchy

pleadings, there is no question of this Court even directing the appropriate authorities to take action against any officers or members.

18. For all the above reasons, we see no good ground to entertain the present petition. Accordingly, we dismiss this petition without any order for costs.

R. N. LADDHA, J.

M. S. SONAK, J.

NITI K
HALDANKAR

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