

Amrut

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.385 OF 2022

Mr. Anand Chandru Naik,
69 years of age,
Son of late Chandru Naik,
Resident of H.No.737,
Nerul, Bardez Goa.

... Petitioner

Versus

1 State of Goa,
Through its Chief Secretary,
Secretariat, Alto Porvorim Goa.

2 The Additional Collector – II,
Office of the Collector,
North Goa District,
Civil Administration Branch,
Collectorate Building,
Panaji Goa.

3 The Under Secretary (Revenue),
Revenue Department,
Secretariat, Porvorim Goa.

4 The Administrator of Comunidade,
Mapusa Goa.

5 Comunidade of Serula,
Through its Attorney,
Porvorim, Bardez Goa.

... Respondents

Mr A. D. Bhohe, Advocate for the Petitioner.

Mr Geetesh Shetye, Additional Government Advocate for
Respondent Nos. 1 to 4.

Mr. Y. V. Nadkarni and Mr. S. Kamat, Advocates for Respondent
No.5.

**CORAM: M. S. SONAK &
BHARAT P. DESHPANDE, JJ.**

DATED: 19th SEPTEMBER 2022

ORAL JUDGMENT (Per M. S. Sonak, J)

1. Heard the learned counsel for the parties.
2. The Petitioner had applied for allotment of the Comunidade plot on 07.04.1995. The Petitioner claims that the formalities prescribed for such allotment were significantly completed. However, there was some delay. Therefore, the Petitioner addressed representation and even caused a legal notice to be served seeking expeditious disposal of his request.
3. The Petitioner ultimately instituted Writ Petition No.731 of 2018, complaining about the non-disposal of his request in accordance with the law. Accordingly, by order dated 10.09.2018, this Court directed the concerned authorities to dispose of the Petitioner's request in accord with the law. Additionally, this Court took cognizance of the recommendation made in favour of the Petitioner and directed the Collector to take an appropriate decision at the earliest.

4. The Petitioner has pointed out that despite directions of this Court, there was no compliance. Therefore, the Petitioner was constrained to institute Contempt Petition No.37 of 2019. By order dated 02.12.2019, this Contempt Petition was disposed of after the learned Advocate General stated that the competent authority would take a final decision within eight weeks.

5. Finally, by memorandum dated 22.07.2020, the Additional Collector informed the Petitioner that his case cannot be considered until Writ Petition No.108 of 2011, pending before this Court is finally decided. The departmental file was also returned to the Administrator of Comunidade. This is the memorandum that the Petitioner has impugned in this petition.

6. The record bears out that Writ Petition No.108 of 2011 was disposed of vide order dated 22.03.2011. The memorandum, identical to the one issued to the Petitioner, was also issued to one Rajesh Verenkar.

7. Rajesh Verenkar questioned the identical memorandum by instituting Writ Petition Stamp Number Main No.1766 of 2020 (Filing No.). By judgment and order dated 15.12.2021, the memorandum was struck down, and directions were issued to the

competent authority to consider Rajesh Verenkar's request/representation for allotment of the plot within a time-bound manner.

8. Following the reasons in Rajesh Verenkar's case, we strike down the memorandum dated 22.07.2020. Further, we direct the competent authority to consider and process the Petitioner's case for allotment of the plot according to law.

9. At this stage, Mr Nadkarni learned counsel for Respondent No.5 – Comunidade submits that the Petitioner may not be eligible for such allotment. According to us, the objections of the Comunidade can as well be considered by the competent authority while deciding on the claim of the Petitioner. At this stage, it will not be appropriate for us to go into such rival contentions without any decision from the competent authority, i.e. the Collector or Additional Collector of North Goa.

10. Accordingly, we direct the competent authority to afford an opportunity of hearing to the Petitioner and the representatives of the Comunidade before any final decision is taken in the matter. If the Comunidade wishes to file any written objection, it may do

so within two weeks from today by giving an advance copy to the learned counsel for the Petitioner.

11. Both parties should cooperate with the competent authority so that the competent authority can take the final decision as expeditiously as possible and, in any case, within a maximum period of two months from today. Additionally, the competent authority should communicate its decision to the Petitioner and Respondent No.5 within two months.

12. We make it clear that we have not examined the rival contentions, including the arguments about eligibility etc., because we think that such matters will have to be examined in the first instance by the competent authority. Therefore, all contentions of all parties on merits are kept open for decision by the competent authority.

13. The rule is made absolute in the above terms. There shall be no order for costs.

14. All concerned are to act on the authenticated copy of this order.

BHARAT P. DESHPANDE, J.

M. S. SONAK, J.