

Esha

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 349 OF 2022

RAMKRISHNA MANDREKAR ... PETITIONER

VS

SHAILESH PEDNEKAR AND ANR ... RESPONDENTS

Ms. Shreya Arur, Advocate for the Petitioner.

Ms. Sapna Mordekar, Additional Government Advocate for
Respondent Nos. 3 and 4.

CORAM: G.S. KULKARNI, J.

DATED: 12 OCTOBER 2022

ORAL ORDER.

1. This Petition assails an order dated 14 July 2022 passed by the Block Development Officer-I & II (BDO) Bardez, Mapusa, Goa, on an Appeal as filed by respondent no. 1. The Appeal was filed under Section 201-A of the Goa Panchayat Raj Act, 1994 (for short, "the Act") before the BDO. Sub-section (2) of Section 201-A provides that a revision shall lie before the Deputy Director against any order order passed by the BDO under sub-section (1) to be filed within a period of thirty days from the date of the said order.

2. On a perusal of the impugned order itself, it is quite clear that the BDO on subjective satisfaction has recorded that a *prima facie* case was made out by respondent no. 1 for grant of an ex-parte stay to the notice dated 9 September 2019 issued by the Village Panchayat of Nerul and accordingly, granted an ex-parte stay. Considering the nature of the application, it is certainly an order which can be carried in revision under sub-section (2) of Section 201-A of the Act.

3. This petition was earlier heard by this Court (Sandeep K. Shinde, J.) on 5 August 2022 when an ad-interim protection was granted in favour of the petitioner. This protection continues to operate till date. In my opinion as a remedy of a revision is provided to the petitioner, this Petition ought not to be entertained. The petitioner is thus required to be relegated to avail of the remedy of a revision as provided under sub-section (2) of Section 201-A of the Act. This, however, would be required to be ordered by continuing the protection granted by this Court vide order dated 5 August 2022 for a certain period only to enable the petitioner to avail of the said alternative remedy. The Petition is accordingly disposed of by the following order:

O R D E R

(a) The petitioner shall avail of the remedy of revision under sub-section (2) of Section 201-A of the Goa Panchayat Raj Act, 1994 against the order dated 14 July 2022 passed by the Block Development Officer-I & II, Bardez Mapusa, Goa.

(b) Ad-interim protection granted by this Court on 5 August 2022 shall continue to operate for a period of four weeks from today, provided that the revision is filed within a period of two weeks from today.

(c) The continuation of the ad-interim protection is in no manner expression of any opinion on the merits of the disputes between the parties. The revisional authority shall decide the revision on its own merits and without being influenced by the continuation of the ad-interim protection.

(d) All contentions of the parties on merits of the dispute pending before the BDO are expressly kept open.

(d) As the petitioner was pursuing the present Petition, the revisional authority shall decide the revision without any objection as to limitation.

4. Petition is disposed of in the above terms. No costs.

G.S. KULKARNI, J.