

Maria S.

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.407 OF 2022

Villa Calangute Resort Pvt. Ltd., rep. by its
Director Dexter Savio De Souza

..Petitioner

Versus

State of Goa rep. Thr. Chief Secretary And 6
Ors.

...Respondents

Mr. Jayant J. Mulgaonkar with Ms. Rupa D. Banaulikar,
Advocates for the Petitioner.

Mr. Devidas J. Pangam, Advocate General with Mr.
Shubham Priolkar, Additional Government Advocate for
Respondents No.1 to 5.

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

Date: 29th August 2022

P.C.

Heard Mr. J. J. Mulgaonkar, learned counsel for the petitioner.
Learned Advocate General appears alongwith Mr. Shubham Priolkar,
learned Additional Government Advocate for respondents no.1 to 5.

2. The petitioner, by filing this petition and mentioning it for
urgent circulation, has applied for the following reliefs:

*'(a) For a Writ of Mandamus directing the Respondent No.4 to
decide the Petitioner's Application dated 01/08/2022(2nos.)
and 5/08/2022 in accordance with the law as the Authority
designated under the Rule 2(c) of the Noise Pollution and
Regulation Control Rules, 2000.*

(b) For a Writ of Certiorari quashing and setting aside the Communication/decision dated 26/07/2022 and consequently directing the Respondent No.3 to decide the Application afresh and in accordance with the law.

3. Mr. Mulgaonkar, learned counsel submits that the allegations in the show-cause notices are vague because no particulars of violation have been specified. He points out that the Authorities were duty bound to state the decibel levels and demonstrate in the show-cause notices itself that there was any breach of the Noise Pollution And Regulation Control Rules, 2000 and the provisions of Section 15 of Environment Protection Act, 1986.

4. Mr. Mulgaonkar states that the allegations in the show-cause notices are false and the petitioner has already filed a reply stating that no loudspeaker was used and the guests in the resort were playing the music through “Alexa”. He submits that these are good grounds for this Court to interfere even at the stage of issue of show-cause notices.

5. Mr. Mulgaonkar states that the petitioner has applied for permission to play music to the designated authority under Rule 2(c) of the 2000 Rules. He states that two applications dated 01.08.2022 and 05.08.2022 were made and the same are not disposed of.

6. On considering the submissions made by Mr. Mulgaonkar, learned counsel for the petitioner, we are satisfied that this petition and its mentioning for circulation was entirely misconceived.

7. The issue as to whether the allegations in the show-cause notices are true or false, will have to be decided by the Authority that has issued the show-cause notices based on the material before it. However, on the petitioner's unilateral contention that the allegations are false, the show-cause notices cannot be set aside as being without jurisdiction.

8. The show-cause notices, very clearly refer to playing loud music at the venue/place, i.e. Villa Calangute Resort on 06.05.2022 at 00:31 hrs and on 27.06.2022 at 22:33 hrs. Unless the petitioner places on record any permissions authorising it to play music at these hours, it cannot be said that the show-cause notices are vague or bereft of any particulars.

9. As it is, monitoring issues of noise pollution is quite difficult. The show-cause notices have been issued by giving specific instances in this case. There is record about several complaints against the petitioner. This record has been produced by the petitioner alongwith this petition.

10. The defence about “Alexa” playing the music or the guest in the resort playing the music is a novel defence and we are sure that the same will be dealt with by the Authority which has issued the show-cause notice. But, atleast, prima facie, we feel that the petitioner cannot pass on the blame on its guests and even more, to Alexa. If,

such defences are to be upheld, then, it will be very difficult for the Authorities to enforce the noise pollution rules.

11. There are decisions of the Hon'ble Supreme Court as well as this Court on the issue of enforcement of the Noise Pollution Rules of 2000. The implementation of such rules cannot be frustrated by raising such prima facie frivolous defences. In any case, the show-cause notices cannot be said to be in excess of jurisdiction to warrant interference at this stage.

12. Though, the petitioner's applications are pending since 01.08.2022, we think that the Authorities must first dispose of the show-cause notices and other complaints against the petitioner. From the material on record, it looks like there are repeated complaints being filed against the petitioner. If, there is any truth in these complaints, then, the findings in the show-cause notices will have some bearing on the petitioner's application seeking permission. Therefore, it is only appropriate that the show-cause notices are disposed of before the petitioner's application seeking permission are considered one way or the other.

13. Accordingly, we dismiss this petition with costs quantified at ₹10,000/-. Such costs should be paid to the respondent no.1 within 4 weeks from today.

14. After the costs are paid, the Authorities to dispose of the show-cause notices in accord with law and on their own merits.

R. N. LADDHA, J

M. S. SONAK, J

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