

Meena

**IN THE HIGH COURT OF BOMBAY AT GOA**

**WRIT PETITION NO.125 OF 2022**

The Board of Trustees of  
El Shaddai Charitable Trust, El Shaddai House,  
#251, Socol Vaddo Assagao, Bardez- Goa, 403  
507 Through its Chief Executing Officer Ms.  
Julia Kurian Resident of Assagao, Bardez- Goa. ... Petitioners

*Versus*

1. The State of Goa,  
Through its Chief Secretary, Secretariat,  
Alto Porvorim, Bardez- Goa.
2. The Director  
Directorate of Education, Alto, Porvorim,  
Bardez- Goa. ... Respondents.

Mr. Nigel da Costa Frias with Mr. Gauresh Malik, Advocates *for the Petitioners.*

Ms. Sapna Mordekar, Additional Government Advocate *for the Respondents-State.*

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

**DATED: 5<sup>th</sup> May, 2022**

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

Heard Mr. Nigel Da Costa Frias, learned Counsel for the Petitioners and Ms. Sapna Mordekar, learned Additional Government Advocate for the respondents.

2. Rule. Rule is made returnable forthwith at the request and with the consent of the learned Counsel for the parties.

3. The Petitioners' by their application dated 04/11/2020, applied to the respondents to grant recognition to their primary school and to open standard 1(First) in the said school.

4. The Petitioners' application was rejected on 18/06/2021 in the following terms :

“  
***Government of Goa***  
***DIRECTORATE OF EDUCATION***  
*Alto – Porvorim, Bardez - Goa*

*No.Acad/open/Pry./22/2021-2022/1090*

*Dated: 18/06/2021*

*To,*  
*El Shaddai Charitable Trust,*  
*El Shaddai Academy,*  
*El Shaddai House, #251,*  
*Socol Vaddo Assagao,*  
*Bardez- Goa.*

*Sub: Regarding request to grant permission to open Std 1<sup>st</sup> in*  
*English Medium from the Academic year 2021-22*

*Sir,*

*With reference to your letter No. ET/EA/20/10-404 dated 04/11/2020 on the above cited subject, I am directed to inform you that your request for opening of Std. 1<sup>st</sup> in English Medium in New High School cannot be considered as there is objection from neighbouring schools.*

*Yours faithfully,*

*Sd/-*  
*(Dr. S.S. Ghadi)*  
*Dy. Director of Education (Acad)”*

5. Mr. Costa Frias has pointed out that before the rejection of the request there was no hearing given to the Petitioners or their representatives. He has further pointed out that in terms of the proviso to Section 4(5) of The Goa School Education Act, 1984, the restrictions in terms of distance from neighbouring schools shall not apply to any category of unaided schools. He submits that the Petitioners' school is an unaided school and therefore, the restriction as to distance was incorrectly applied.

6. According to us, the communication dated 18/06/2021 is required to be set aside because the same was issued without giving an opportunity of hearing to the Petitioners. Such opportunity of hearing, at least in the facts of the present case, was necessary because at least, *prima facie*, proviso to Section 4(5) provides that the restriction as regards distance from the schools will not apply to unaided schools, subject to the condition that the school in question fulfills other infrastructural requirements as specified under The Goa School Education Act, 1986. This aspect of the matter does not even appear to have been considered whilst rejecting the Petitioners' claim for recognition by virtually a non-speaking order based upon objections from neighbouring schools.

7. For the above reasons, we set aside the communication dated 18/06/2021 and direct the respondents to decide the Petitioners' application dated 04/11/2020 as expeditiously as possible and in any case within 15 days from today after granting the Petitioners an opportunity of hearing. If the neighbouring schools who had filed objections, wish to be heard on their objections, hearing may also be granted by the Director to

them. The Director should immediately notify such schools so that they may also be heard on the appointed date.

8. The Director should however complete this exercise within 15 days from today because Mr. Costa Frias points out that the Petitioners are desirous recognition from the commencement of the academic year in June, 2022. The decision should be communicated to the Petitioners within this period of 15 days.

9. The Rule is made absolute in the above terms. There shall be no order as to costs.

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

**R.N. LADDHA, J.**

**M.S. SONAK, J.**