

Maria S.

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.181 OF 2022

Joseph D'Souza ...Petitioner

Versus

State of Goa, thr. Chief Secretary And 3 Ors. ... Respondents

Mr Gaurang D. Panandikar, Advocate for the Petitioner.

Mr Devidas J. Pangam, Advocate General with Mr Shubham Priolkar, Additional Government Advocate for Respondents No.1 and 2.

Mr John Lobo with Ms A. Gawas, Advocates for the Respondent No.4.

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

DATED : 3rd January, 2023

P.C.:

Heard Mr Panandikar, learned counsel for the petitioner and learned Advocate General appears alongwith Mr Priolkar, learned Additional Government Advocate for respondents no.1 and 2 and Mr John Lobo with Ms A. Gawas, learned counsel for respondent no.4.

2. The challenge in this petition is to the technical clearances dated 05.11.2015 and 18.01.2021 issued in favour of respondent no.4 for extending the existing church and for construction of parochial house.

3. The technical clearances dated 05.11.2015 and 18.01.2021 proceeded on the same basis and grant some relaxations to respondent no.4 considering the status of their properties being in the conservation zone.

4. The petitioner has his house/property across the road where the extension/construction in pursuance of the impugned technical clearances have been put up. The first of such extension was completed in the year 2017 and the other in the year 2022.

5. Since the basis for the two technical clearances is common, the petitioner, who is a neighbour, if aggrieved, should have approached the Court within a reasonable period from 05.11.2015. Instead, the petitioner watched the construction come up and be complete in 2017 and 2022. This petition was instituted on 19.04.2022.

6. To our query on the aspect of delay and laches, Mr Panandikar referred us to paragraphs 13 and 17 of the petition. Upon

considering what is set out in these two paragraphs, we think that the same affords no explanation whatsoever for inordinate delay in instituting this petition. From the tenor of the petition, it is obvious that the petitioner is more aggrieved by the rejection of certain permissions applied by him in the past by the authorities, than, by the issue of the impugned technical clearances in favour of the church.

7. Further, it appears that the petitioner has certain private disputes with respondent no.4 which are attempted to be articulated by instituting the present petition and invoking the extraordinary jurisdiction of this Court.

8. Even Mr Panandikar, learned counsel for the petitioner has not disputed that the construction/extension was complete in the year 2017 pursuant to the impugned technical clearance dated 05.11.2015. Even the construction/extension in pursuant to the impugned technical clearance dated 18.01.2021 was completed before the petition was instituted. Based on the so-called explanation, which is itself, unverifiable and mostly irrelevant, this petition cannot be entertained.

9. If the petitioner seeks to invoke the extraordinary and discretionary jurisdiction of this Court, then, he must promptly approach the Court before any parallel rights or equities are created in the respondents. At least, the petitioner must offer a proper explanation for the delay and laches. The technical clearance dated 18.01.2021 proceeds on the same basis as the technical clearance dated 05.11.2015. Therefore, the latter technical clearance, did not afford any fresh cause of action to the petitioner. The cause of action, if at all, accrued on 05.11.2015. There is no explanation of the delay between the year 2015 and 2022. In the meanwhile, respondent no.4 completed the construction/extension in 2017 and 2021. Learned Advocate General pointed out that some limited relaxation as permissible under the law was granted considering the fact that the church property was in the conservation zone. Though we are not going into the issue of relaxation, considering the delay and laches, we decline to entertain this petition.

10. For all the above reasons, we dismiss this petition. However, there shall be no order for costs.

BHARAT P. DESHPANDE, J.

M. S. SONAK, J.