

Maria S.

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.318 OF 2021

Prataprao M. Naik

... Petitioner

Versus

The State of Goa, thr. Chief
Secretary And 5 Ors.

... Respondents

Mr Nigel Fernandes, Advocate for the Petitioner.

Mr Manish Salkar, Government Advocate for Respondents No.1,
3, 5, 7 and 8.

Mr I. Rodrigues, Advocate for Respondent No.2-Panchayat.

Mr S. S. Kantak, Senior Advocate with Mr Deepak Gaonkar and
Ms Saicha Desai, Advocates for Respondent No.6.

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

DATED : 13th FEBRUARY 2023

ORAL ORDER.

1. Heard Mr Nigel Fernandes, learned counsel for the petitioner, Mr Manish Salkar, Government Advocate for respondents No.1, 3, 5, 7 and 8, Mr I. Rodrigues, learned counsel for respondent No.2-Panchayat and Mr S. S. Kantak, Senior Advocate with Mr Deepak Gaonkar, and Ms Saicha Desai, learned counsel for respondent No.6.

2. The petitioner's grievance in this petition concerns the structure which respondent no. 6 is putting up on Comunidade plot.

3. The Administrator of Comunidade has filed an affidavit before us and paragraph 4 of the affidavit reads as follows:

'4. I say that on receipt of the Complaint from Shri Prataprao Naik, an enquiry was initiated on 15/06/2022 by my predecessor and notices were issued to parties. I say that, I shall complete the enquiry within six months & will initiate necessary action will be taken. In the meantime, I say that, I have issued Show Cause Notice dated 31/01/2023 to Shri Ashok Bhimapa Lamani Respondent No.6 t6o Show Cause as to why action should not be initiated under Article 371 of Code of Comunidade against him. I have not yet received any reply from the Respondent No.6. I say that I shall complete the proceedings under Article 371 of Code of Comunidade within a period of 6 months. Annexeed hereto is a Copy of the notice dated 31.01.2023 issued to Ashok Lamani and marked Exhibit R2.'

4. Mr Kantak, learned Senior Advocate, on instructions, states that respondent no.6 is yet to receive the Show Cause Notice dated 31.0-1.2023 but now that such Show Cause Notice is annexed along with the Administrator's affidavit, respondent no.6 will cognizance of such Show Cause Notice and file response. Mr Kantak, however, submits that the report referred to in the Show Cause Notice may be supplied to respondent no.6.

5. Mr Salkar states that the report referred to in the Show Cause Notice will be supplied to respondent no.6 within a week from today. Liberty is granted to furnish this report to Mr Kantak, learned counsel for respondent no.6 who has agreed to accept the report on behalf of respondent no.6. Mr Kantak states that response will be filed to the Show Cause Notice latest by 06.03.2023.

6. The Administrator to dispose of the Show Cause Notice in accord with law and after complying with principles of natural justice as expeditiously as possible and not later than 6 months from today. The Administrator should communicate its decision to the petitioner and the respondent no.6 within this period of 6 months.

7. Mr Salkar states that as per the records of the Administrator, there is no allotment favouring the respondent no.6. Mr Salkar states that this fact will be communicated to the Planning Authorities who have granted certain permissions to respondent no.6 based on respondent no.6's statement that such plat was allotted to him by the Comunidade. Mr Salkar states that intimation in this regard will be given to the Planning Authorities within a week from today.

8. The Planning Authorities, upon receipt of the above intimation, should take such steps as are permissible under the law regarding the permission issue. The Planning Authorities must also comply with principles of natural justice before any precipitative action is taken in regard to the permission issue. Such action should be completed

within 2 months from the receipt of intimation from the Administrator.

9. Mr I. Rodrigues, learned counsel for the Panchayat states that the Panchayat has already acted upon the petitioner's complaint and issued a stop-work order to respondent no.6. Mr Kantak, based on instructions states that presently no work is being undertaken at the site. However, Mr Kantak also points out that this stop-work order has been challenged before the learned Single Judge of this Court by filing a writ petition.

10. Since the Authorities are seized of the matter and are taking action in accord with law, it is not necessary to keep this petition pending. Accordingly, by accepting the above statements and directing the parties to act accordingly, we dispose of this petition.

11. All concerned to act based on the authenticated copy of this order.

BHARAT P. DESHPANDE, J.

M. S. SONAK, J.

MARIA SUZANA
REBELLO

Digitally signed by MARIA
SUZANA REBELLO
Date: 2023.02.14 11:14:07 +05'30'