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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.620 OF 2023

SANDHYA SURESH KARALKAR

... Petitioner

Versus

THE SECRETARY VILLAGE PANCHAYAT
CUMBHARJUA AND 6 ORS.

... Respondents

Mr Mahesh Raikar, Advocate *for the Petitioner.*

Mr Nilesh Shirodkar with Ms Varsha Thakur, Advocates *for Respondent Nos.1 and 2.*

Mr D. Pangam, Advocate General with Mr Shubham Priolkar, Additional Government Advocate *for Respondent Nos.3, 4, 5 and 6.*

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

DATED: 3rd October 2023

P.C.:

1. Heard Mr Raikar for the Petitioner. Mr D. Pangam, learned Advocate General appears along with Mr Priolkar, for Respondent Nos.3, 4, 5 and 6. Mr Nilesh Shirodkar appears along with Ms Varsha Thakur for Respondent Nos.1 and 2.

2. The Petitioner seeks a mandamus to direct Respondent No.1 to issue “deemed licence/NOC” in accordance with Section 66(2A) of the Goa Panchayat Raj Act 1994 (said Act) in terms of Petitioner’s letter dated

09.06.2023 addressed to Respondent No.1-Panchayat. The Petitioner also seeks quashing of the stop notice cum order dated 29.07.2023 issued by Respondent No.2-Sarpanch.

3. Heard learned Counsel for the parties.

4. According to us, both reliefs are quite misconceived at this stage particularly because the Petitioner has already availed of the alternate remedy by instituting an appeal before the Block Development Officer (BDO) vide Appeal No.201(A)/04/2023-24.

5. The learned Advocate General pointed out that the BDO vide his communication dated 21.02.2023, has advised the Petitioner to resubmit the complete proposal. Mr Raikar, however, states that this communication cannot be regarded as a disposal of his appeal. He points out that the Petitioner has already responded to the communication dated 21.02.2023 by taking appropriate grounds in his appeal.

6. Since the appeal is said to be pending, we do not wish to enter into the merits and demerits of the rival contentions. However, Mr Raikar has admitted that the Petitioner does not have a licence to construct a staircase or a structure covering the ground floor of his existing house. In such circumstances, at least, prima facie, we cannot find fault with the Sarpanch's order restraining the Petitioner from undertaking any works of construction of a staircase or covering the ground floor. Still, we leave this matter to the decision of the BDO where the appeal is pending.

7. We request the BDO to dispose of the Petitioner's appeal, after hearing the Petitioner, the Village Panchayat and Respondent No.7 as

expeditiously as possible, and in any case, within a month from the parties placing an authenticated copy of this order. Mr Raikar states that Respondent No.7 will be immediately impleaded as a party in the appeal before the BDO so that in future, there is no grievance about compliance with principles of natural justice. Mr Raikar admits that Respondent No.7 was the complainant based on whose complaint, a stop work order was issued by the Panchayat.

8. Accordingly, this petition is disposed of by directing the BDO to dispose of the Petitioner's appeal as expeditiously as possible and in any case within a month from the parties placing an authenticated copy of this order. All concerned to act on an authenticated copy of this order.

BHARAT P. DESHPANDE, J.

M.S. SONAK, J.

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