

Amrut

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 545 OF 2022

Village Panchayat of Colvale,
Through its Sarpanch,
having office at
Colvale, Bardez Goa.

... Petitioner

Versus

1 Mr Gurudas B. Natekar,
Son of late Bhalchandra Y. Natekar,
Age 67 years, married, landowner,
R/o Natekar Smruti,
E-27, Ganeshpuri, Mapusa,
Bardez Goa.

2 Block Development Officer,
Bardez Taluka,
having office at
Mapusa, Bardez Goa.

... Respondents

Mr Pranay A. Kamat, Advocate for the Petitioner.

Mr A. D. Bhobe, Advocate for Respondent No.1.

Mr Tukaram Gawas, Additional Government Advocate for
Respondent No.2.

CORAM: M. S. SONAK, J.

DATED : 7th JULY 2023

ORAL JUDGMENT

1. Heard Mr P. A. Kamat, learned counsel for the Petitioner, Mr A. D. Bhobe, learned counsel for Respondent No.1 and Mr T. Gawas, learned Additional Government Advocate for Respondent No.2.

2. Rule. The rule is made returnable immediately at the request and with the consent of the learned counsel for the parties.
3. The challenge in this petition is to the order dated 23.05.2022 made by the Appellate Authority under the Goa (Right of Citizens to Time-Bound Delivery of Public Services) Act, 2013.
4. Respondent No.1 applied to the Panchayat seeking permission to sink a bore well. The Panchayat denied this vide resolution dated 13.12.2021.
5. Against the denial of permission, Respondent No.1 had the remedy of appealing to the Director of Panchayats within 30 days from the date of communication of such rejection. However, Respondent No.1 appealed the Panchayat's decision under Section 6 of the Goa (Right of Citizens to Time-Bound Delivery of Public Services) Act, 2013, by claiming that the service rendered was deficient.
6. The Goa (Right of Citizens to Time-Bound Delivery of Public Services) Act, 2013 was enacted to provide for the delivery of public services to the people of the State of Goa within the stipulated time limit, including liabilities of Government servants in case of default, administrative efficiency and for the matters connected therewith and incidental thereto. In this case, the Panchayat did decide Respondent No.1's application seeking permission to sink a bore well. Because this decision was not to the liking of Respondent No.1, it cannot be said

that there was a deficiency in rendering public services within a reasonable period. Admittedly, no period is stipulated under the Panchayat Raj Act for disposing such an application. Even though no such period is stipulated, the Panchayat is expected to dispose of such application within a reasonable time.

7. In the present case, the allegation is not about delay in disposing of the application but about deficiency in the final decision. No deficiency as contemplated under the Goa (Right of Citizens to Time-Bound Delivery of Public Services) Act, 2013, was pointed out. The proper remedy for Respondent No.1 could have been to appeal the Panchayat's decision before the Director of Panchayats. The impugned order will have to be set aside on this short ground.

8. Respondent No.1 has been bonafide pursuing an incorrect remedy under the Goa (Right of Citizens to Time-Bound Delivery of Public Services) Act, 2013. Therefore, though the impugned order will have to be set aside, Respondent No.1 should be given the opportunity to institute an appeal before the Director of Panchayats.

9. Mr P. A. Kamat, learned counsel for the Petitioner-Panchayat, states that if Respondent No.1 institutes an appeal before the Director of Panchayats within 15 days from today, the same will not be opposed on the ground of limitation. This statement is accepted.

10. The record discloses that Respondent No.1 has been diligently pursuing the issue of permission for sinking a bore well. Respondent

No.1 even persuaded the appellate authority under the Goa (Right of Citizens to Time-Bound Delivery of Public Services) Act, 2013, to grant him relief. Now that it is found that Respondent No.1 incorrectly invoked the provisions of the Goa (Right of Citizens to Time-Bound Delivery of Public Services) Act, 2013, it is only appropriate that Respondent No.1 is allowed to institute an appeal before the Director of Panchayats. Respondent No.1 has been bonafide pursuing the matter, and therefore the time spent must be excluded for limitation.

11. Accordingly, the impugned order dated 23.05.2022 is set aside. However, Respondent No.1 is granted the opportunity to institute an appeal against the Panchayat's decision dated 13.12.2021 before the Director of Panchayats. If such an appeal is filed within 15 days from today, the Director of Panchayats must decide the appeal on merits without going into the issue of limitation. All contentions of all parties on the merits of the appeal are however left open for determination by the Director of Panchayats. Further, the Director of Panchayats is requested to dispose of this appeal expeditiously.

12. The rule is made absolute in the above terms with liberty to Respondent No.1 as above.

13. There shall be no order for costs.

14. All concerned are to act on an authenticated copy of this order.

M. S. SONAK, J.