

Andreza

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.879 OF 2023

Celestial Cruises & Hospitality LLP, Through its authorised representative Mr. Niraj Vagle, Having registered address at A-2, 6th Floor, Silvio Heights, Opp. Govt., Quarters, St. Inez ... Petitioner
Goa.

V e r s u s

1. State of Goa, through Chief Secretary, Secretariat Porvorim, Bardez, Goa.
 2. Department of Tourism, Through its Director, Payatan Bhavan, Panjim, Goa.
 3. Goa Tourism Development Corporation Ltd., Through its Managing Director, 3rd Floor, Payatan Bhavan, Panjim, Goa.
 4. Dr. Director of Tourism, (North Zone Office), Presently held by Shri Kuldeep Arolkar, Payatan Bhavan, Panjim, Goa. ... Respondents
- *All registered Addresses.

Mr. S. D. Lotlikar, Senior Advocate with Mr. Terrence Sequeira, Advocate for the Petitioner.

Mr. Deep Shirodkar, Additional Government Advocate for Respondent nos. 1, 2 and 4.

Mr. Shivan Desai, Advocate with Ms. Tahira Menezes, Advocate for the Respondent no.3.

CORAM: M. S. SONAK &
VALMIKI SA MENEZES, JJ.
DATED: 5th DECEMBER 2023

ORAL JUDGMENT

1. Heard Mr. Lotlikar, learned Senior Advocate, who appears for the Petitioner, Mr. Deep Shirodkar, learned Additional Government Advocate, who appears and waives service on behalf of Respondent nos. 1, 2 and 4 and Mr. Shivan Desai, who appears and waives service on behalf of third Respondent.

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

3. The challenge in this Petition is to the communication dated 08.11.2023 (*Exhibit Q at page 144*), by which, the Department of Tourism rejected Petitioner's application for registration of its cruise vessel under the Goa Registration of Tourist Trade Act, 1982 (for short, '*Prescribed Authority*'). The only reason stated in the impugned communication dated 08.11.2023 is that "*the Government has imposed a ban on new registration of water sport activities vide order No. N5/3(796)/2022-DT/43 dated 05.09.2022*".

4. Earlier, the Petitioner had instituted Writ Petition no. 628 of 2023 in this Court complaining that its application for registration was being disposed of by Department of Tourism. The Petitioner had pointed out that the Petitioner was already awarded a tender by the

Goa Tourism Development Corporation Limited (GTDC) in respect of this very cruise vessel but the Petitioner was unable to provide this cruise vessel to GTDC for want of registration. In the said Petition, on behalf of Department of Tourism, it was submitted that there was some deficiency in the application. This deficiency was set right by the Petitioner and, accordingly, by our Order dated 04.10.2023, directions were issued to the Department of Tourism to dispose of Petitioner's application for registration within ten days.

5. Since our Order was not complied, the Petitioner was forced to institute a Contempt Petition no. 2599 of 2023(F). This Contempt Petition was disposed of on 08.11.2023 based on the statement made by the learned Advocate General that Petitioner's application for registration of the cruise vessel would be disposed of by 09.01.2023.

6. As noted earlier, the only reason for rejecting the Petitioner's application for registration of the cruise vessel is that the Government has imposed a ban on new registration of water sports activities vide Order dated 05.09.2022 (sic. 09.05.2022).

7. On perusal of the Order dated 09.05.2022, (*Page 149*), it is apparent, that the direction concerns issue of granting new licences/NOCs of water sports activities in the State until further

orders. This order dated 09.05.2022 has been modified by further order dated 17.07.2023 by excluding certain water sports activities which do not create congestion on the beaches, for example, water sports activities in canoeing, flow boarding, kayaking, dolphin trips, rowing, crocodile dundee and any other activity non-related to water sports have been specifically excluded from the Order dated dated 09.05.2022.

8. Therefore, relying upon the Order dated 09.05.2022, there was no reason to deny the Petitioner's cruise vessel registration.

9. Mr. Shirodkar, learned Additional Government Advocate, agreed that plying of a cruise vessel would not result in congestion on the beaches. Besides, this is a case where the Petitioner has been awarded tender by GTDC to provide this cruise vessel and in the interim to ply this cruise vessel. The GTDC is also a Government Company. Accordingly, we are satisfied that based on the reason stated in the impugned communication dated 08.11.2023, registration could not have been refused by the Department of Tourism.

10. Neither in the earlier Writ Petition nor in the present Writ Petition, any other reason was cited or even suggested for denial of registration to the cruise vessel. Therefore, no point would be served

by simply remanding the matter to the Department of Tourism with a direction to consider the Petitioner's application afresh.

11. In the peculiar facts of the present case, therefore, we direct the Prescribed Authority to register the cruise vessel subject to payment of the specified fees and compliance with the specified formalities. This exercise must be completed by the Prescribed Authority within one week from today without requiring the Petitioner to once again institute a Contempt Petition.

12. The impugned communication dated 08.11.2023 is accordingly set aside. The Prescribed Authority is directed to register the Petitioner's cruise vessel under the Prescribed Authority within a week from today.

13. Rule is made absolute in the above terms without any order as to costs.

14. All concerned to act on the basis of the authenticated copy of this Order. Writ Petition stands disposed of.

VALMIKI SA MENEZES, J.

M. S. SONAK, J.

ANDREZA PEREIRA  Digitally signed by ANDREZA PEREIRA
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