

Jose

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.1091 OF 2019

LINC PROPERTY DEVELOPERS
LTD., THR. ITS MAN. DIRECTOR,
PRAKASH JALAN

... Petitioner

Versus

GOA HOUSING BOARD,
THR. ITS MANAGING
DIRECTOR AND ANR.

... Respondents

Mr Chirag Angle, Advocate *for the Petitioner.*

Ms Maria Correia, Additional Government Advocate *for the Respondents.*

CORAM: M.S. SONAK, J.

DATED: 24th March, 2023

P.C.:

1. Heard Mr Chirag Angle for the Petitioner. Ms Maria Correia appears for the Respondents.
2. The challenge in this petition is to the order dated 18.10.2019 made by the Managing Director of the Goa Housing Board, cancelling the allotment of the plot favouring the Petitioner.
3. The learned Single Judge of this Court, in his order dated 12.10.2022 in Writ Petition No.314/2022 (Satellite Syndicate. Rep. By Partner Rajesh Mohan Gaunkar Vs. State of Goa Thr. Chief Secretary and Anr.), in similar circumstances, has held that such an order

cancelling the allotment relates to the exercise of powers under Section 61 of Goa Housing Board Act, 1968. This order further holds that Section 64 of the said Act provides for a remedy of appeal to any person aggrieved by any order passed by the competent authority under Sections 61 and 62 of the said Act to the State Government. Accordingly, Writ Petition No.314/2022 was disposed of by relegating the Petitioner therein to avail of the alternate remedy of appeal under Section 64 of the said Act.

4. By adopting a similar course in this petition, the Petitioner is relegated to availing of the alternate remedy under Section 64 of the said Act.

5. In terms of Section 64, an appeal had to be filed within a month from the order under Section 61 of the said Act. The impugned order, in this case, was made on 18.10.2019 and this petition was instituted on 28.11.2019. Possibly, the marginal delay was because the petition was instituted post the communication of the impugned order. Be that as it may, the Petitioner has been bona fide pursuing his petition from the date of its institution till today. In between, the Covid pandemic set in. Accordingly, it will be appropriate if the Petitioner's appeal, if instituted within a week from today, is considered and disposed of on merits rather than adverting to the issue of limitation.

6. Mr Angle states that within a week from today, an appeal would be instituted. If the appeal is indeed instituted within a week, then the appropriate appellate authority to dispose of the same on merits and in accord with the law. Ms Correia states that such an appeal would be

disposed of expeditiously and in any case within three months from the date of its institution.

7. Accordingly, this petition is disposed of by granting the Petitioner liberty to avail of the alternate remedy under Section 64 of the said Act. The above directions will apply and the appeal will have to be disposed of on merits and in accord with the law.

8. There shall be no order for costs.

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

M.S. SONAK, J.

JOSE
FRANCISCO
DSOUZA

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