

Amrut

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.940 OF 2023

SITARAM ATMARAM CHODANKAR

... PETITIONER

Versus

STATE OF GOA THR ITS CHIEF
SECRETARY AND 3 ORS

... RESPONDENTS

Mr Prasheen Lotlikar, Advocate for the Petitioner.

Mr S. Parab, Additional Government Advocate for the State.

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

DATED :- 21st February, 2024

P.C.:

Heard Mr Lotlikar, learned counsel for the Petitioner and Mr Parab, learned Additional Government Advocate for Respondent Nos. 1 and 3.

2. Mr Lotlikar states that Respondent Nos.2 and 4 have been duly served. The record indicates that Mr Balkrishna Sardessai has filed his Vakalatnama on behalf of the fourth Respondent. However, today neither the fourth Respondent nor his Advocate are present.

3. The Petitioner had made a complaint against the construction put up by the fourth Respondent. Based on the same, Respondent No.2-Panchayat issued show cause notice dated 24.08.2019 to the

fourth Respondent. The Panchanama was also carried out on 31.07.2019 in which prima facie illegalities were noted. There is also a sketch of illegal construction placed on record by the Petitioner.

4. Mr Lotlikar pointed out that this show cause notice was challenged by the fourth Respondent before the Additional Director of Panchayats. Initially an ex-parte stay was granted on the show cause notice itself but ultimately this appeal was dismissed vide order dated 13.03.2020. Even this order is placed on record.

5. Mr Lotlikar pointed out that the fourth Respondent applied to the Deputy Collector for regularisation. This application dated 04.09.2018 was rejected vide order dated 04.12.2019 which is placed on record at page 29. Mr Lotlikar submits that despite all this the Panchayat is taking no action for demolition of the illegal construction. He fairly accepted that there is no formal order disposing of the show cause notice dated 24.08.2019 issued by the Panchayat.

6. According to us, there is no justification for the Panchayat not disposing of the show cause notice dated 24.08.2019. This show cause notice should have been disposed of long ago particularly after the Additional Director dismissed the appeal instituted by Respondent No.4 and lifted ex-parte stay on the show cause notice dated 24.08.2019.

7. Accordingly, we direct Respondent No.2 to dispose of the show cause notice dated 24.08.2019 as expeditiously as possible and in any case within two months from the Petitioner placing an authenticated copy of this order before the Panchayat. The Panchayat must also take into account the Deputy Collector's order dated 04.12.2019 by which Respondent No.4's application for regularisation was rejected.

8. The Panchayat to dispose of the show cause notice in accordance with law and after complying with principle of natural justice. In the peculiar facts of this case, even the Petitioner should be granted an opportunity of hearing. The Panchayat should communicate this decision to the Petitioner and the fourth Respondent within this period of two months.

9. The petition is disposed of in the above terms without any order for costs.

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

BHARAT P. DESHPANDE, J.

M. S. SONAK, J.