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IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 398 OF 2024****WITH****WRIT PETITION NO. 399 OF 2024**

Village Panchayat of Sernabatim

Vanelim-Colva-Gandaulim,

Salcete, Goa.

Through its Sarpanch

Mr. Suzie Fernandes,

47 years of age,

R/o H. No. 24, Pequeno Vanelim,

Colva-Goa 403708.

...Petitioner***Versus***

1. The Deputy Director of Panchayats,
South Goa District,
Matanhy Saldanha
Administrative Complex,
2nd Floor, Room No. 228,
Margao, Goa.

2. The Block Development Officer-I,
Matanhy Saldanha
Administrative Complex,
2nd Floor, Room No. 228,
Margao, Goa.

3. Mr. Baltazar Rodrigues,
48 years,
R/o H. No. 297, 4th Ward,
Colva, Salcete, Goa.

...Respondents***Mr. Anthony Joe Dsilva, Advocate for the Petitioners.***

Mr. Shivdatt P. Munj, Additional Government Advocate for, Respondent Nos. 1 and 2.

Mr. Balkrishna Sardessai with Ms. Ashwini Bandekar, Advocates for Respondent No. 3

CORAM : VALMIKI MENEZES, J.

DATED : 13TH FEBRUARY, 2025.

ORAL JUDGMENT:

1. Heard learned Advocates for the parties.
2. Rule.
3. Rule is made returnable forthwith with the consent of the parties.
4. These petitions arise from two separate orders both dated 22.12.2023, passed by the Deputy Director of Panchayats, South Goa, Margao allowing two separate Appeals filed by Respondent No. 3, purporting to be in terms of Section 201(A)(2) of the Panchayat Raj Act. Respondent No.3 had originally applied through two separate applications for a licence to use two premises constructed in Survey No. 16/14 of

village Colvale, the first licence being one for use of the structure for a Bakery and second for running a Restaurant.

5. The Colva Panchayat did not act upon these applications and under the provisions of Section 70(2)A of the Act. On expiration of 30 days from applying for the licence, it was incumbent upon the Secretary of the Panchayat to forward these applications to the Block Development Officer (BDO) for exercising jurisdiction under Section 70(2A) of the Act to consider the applications and grant or reject these applications. Under this provision, the Applicant also has a right to file an Appeal to the BDO, for the grant of the licence based upon the applications which were pending before the Panchayat. Accordingly, Respondent No. 3 filed an Appeal before the BDO.

6. The BDO, on considering the applications has rejected the same mainly, on the ground that the structures within which the activity was to be conducted of the Bakery and Restaurant was itself unauthorised and without required licences and

permissions. Against the rejection of the applications by the BDO, Respondent No. 3, preferred an Appeal before the Deputy Director, purporting to be one in terms of Section 201(A)(2) of the Act, when such Revision was otherwise not maintainable in terms of the provisions of Section 72(2)(A) read with Section 72(3). In terms of Section 70(3) of the Act, an Appeal is provided against the rejection of the applications for licence under Section 70(2)(A) to the Director of the Panchayats, which was the proper course to be filed by Respondent No. 3 but, instead erroneously filed a Revision under Section 201(A) of the Act.

7. Since the Deputy Director obviously has acted without jurisdiction vested under provisions of the Act, the impugned orders are required to be quashed and set aside. However, following this course could leave Respondent No. 3 with no remedy, as otherwise, he would be entitled to file an Appeal under provisions of Section 72(3) of the Act, which he is entitled now to file, subject to the Rules of limitation. In the

event, such Appeal is filed, which the learned Advocate for Respondent No.3 submits would be filed within 10 days from today. The Director of Panchayats shall consider these Appeals and to condone delay in filing the same after considering the fact that Respondent No. 3 had erroneously approached the wrong forum (Deputy Collector).

8. For the reasons stated above, the impugned orders stand quashed and set aside with the observations made above.

9. Rule is made absolute in the above terms.

VALMIKI MENEZES, J.