



Shakuntala

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.586 OF 2024

DERICK D CRUZ

... PETITIONER

Versus

THE STATE OF GOA THR.

THE CHIEF SECRETARY AND 8 ORS

... RESPONDENTS

Mr. Nigel Da Costa Frias and Ms. Barbara Andrade, Advocates for the Petitioner.

Mr. Prashil Arolkar, Additional Government Advocate for Respondent Nos. 1, 2, 5, 6 and 7.

Mr. Manish Salkar, Government Advocate for Respondent No. 3.

Mr. Amey Kakodkar, Advocate for Respondent No. 4.

Mr. A. F. Diniz, Senior Advocate with Ms. Annelise Fernandes and Mr. A. Damania, Advocates for Respondent No.8.

Mr. S. S. Kantak, Senior Advocate with Ms. Neha Kholkar, Advocate for Respondent No.9

**CORAM:- BHARATI H. DANGRE &
NIVEDITA P. MEHTA, JJ.**

DATED :- 25th March, 2025

P.C.

1. Heard Mr. Frias, learned counsel for the petitioner as well as Mr. Diniz, learned Senior Advocate for respondent no 8 and Mr. Kantak, learned Senior Advocate for respondent no. 9.

2. The grievance of the petitioner against respondent no. 8 in respect of construction of temporary shed in properties bearing survey nos. 38/12, 38/13 and 38/18 of the village of Socorro in

contravention of the letter of no objection dated 10/7/2003 and the construction license dated 08/06/2004, as well as the approved plans of the Chief Town Planner (Planning) and the Village Panchayat of Socorro. It is alleged that the respondent no. 8 has also constructed two more sheds in the said properties without any permission from the State Authorities.

3. The grievance raised by the petitioner when the writ petition was filed, was about the inaction on the part of the Village Panchayat to take any action against the illegal structures. Similarly, a challenge was also raised to the establishment license dated 5/04/2024 and the order of consent to operate dated 14/07/2023 issued by the Village Panchayat and Goa State Pollution Control Board in respect of the commercial activities carried out in the alleged three temporary sheds constructed by respondent nos. 8 and 9. The petitioner therefore prayed for a direction to quash and set aside the said necessary permissions.

4. A show cause notice which was issued by respondent no. 4 on 01/03/2024 to respondent no. 8 in respect of demolition of three illegal temporary steel sheds was prayed to be expedited by taking a final decision. Similarly, the show cause notice issued

under Section 33 of the Goa land revenue code 1968, on 21/12/2023 was also prayed to be finally concluded.

5. As far as the allegations against respondent no. 8 are concerned, an affidavit in reply is filed by respondent no. 8, specifically stating that the son of the petitioner is having a business of workshop/auto-mobile repairs in the name and style of “M/s KingCarsGoa” on the road side i.e. in front of the property that is subject matter of the present petition. It is specifically pleaded that the petitioner has conveniently avoided making reference to the aforesaid facts as the petitioner himself has carried out illegal construction in his property and in order to demonstrate this pleading, the necessary photographs are also appended to the affidavit in reply.

6. Malafide intentions are attributed to the petitioner in filing complaints against respondent nos. 8 and 9 by specifically pleading that he has chosen to maintain stoic silence with regard to the workshop which operates at a distance of 10mts from the property where the petitioner resides.

7. On hearing the learned counsel for the petitioner, at

whose instance the Village Panchayat had issued notice to the respondent no. 9 for revocation of trade license, on the ground that it was carrying out an impermissible activity in the residential zone, by allowing Writ Petition No. 1816/2024(Filing) we have quashed and set aside the revocation order dated 25/07/2024 passed by the Village Panchayat of Socorro.

8. As far as the allegation about the temporary structure is concerned, pursuant to the show cause notice being issued, when the structures were declared to be illegal, the respondent no.8 went in appeal and thereafter a revision bearing no. 17/2025 is pending before the District Court at Panaji. Since the respondent no. 8 has a right to avail the statutory remedies and in the wake of the pendency of the revision at the District Court as mentioned above, no finality can be drawn as on the assertion of the petitioner that the structures constructed by respondent no. 8 are illegal. In any case, the Panchayat has abided by the duty cast upon it and accordingly issued notices, which would be taken to their logical conclusion, subject to the availability of statutory remedies available to the noticee whose structure is alleged to be illegal.

9. The second issue as regards the trade license/certificate in respect of respondent no. 9 issued on 05/04/2023, it is the contention of the petitioner that this license is issued in the premises which are unauthorisedly constructed and for which there is no occupancy certificate.

10. Since the accusation that the establishment license(Trade) is illegal in absence of an occupancy certificate being issued in its favour, since it is the case of the petitioner that the structure in which the licensee has been operating, itself are illegal and this issue is already pending before the Court upon a revision being preferred by the respondent no. 8, we are of the view that we cannot pronounce upon this issue unless and until the legality of the occupation of the respondent no. 8 of the structures which form the basis of issuance of trade license of respondent no. 9 is decided. In any case, we have found that along with the affidavit of respondent no. 8, a no objection from the Sarpanch of Village Panchayat Socorro dated 01/08/2002 to start business of sales and service (Garage) for cars/Jeeps, etc. in form of Service Centre, subject to certain stipulations is annexed. It is not the claim of the Panchayat that these terms and conditions have not been

abided.

11. In the wake of the aforesaid, since there are several disputes on questions of fact as the petitioner has disputed the statements made in affidavit of respondent no. 8 that his son is also carrying on business, leaving it open for him to approach the Village Panchayat as and when the curtains are drawn upon his objections about the structures in which respondent no 8 and 9 are operating, are illegal structures, the present writ petition is disposed of.

12. As far as the revision is concerned, we expect the Court to decide it expeditiously.

NIVEDITA P. MEHTA, J.

BHARATI H. DANGRE, J.