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IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 706 OF 2024**

The Village Panchayat of Calangute
Through its Secretary,
Calangute, Bardez-Goa.

... Petitioner***Versus***

1. Indrajeet Banerjee,
S/o Chandan Banerjee,
Age 31 years, businessman,
R/o 35, Bindubasini Road, Bhatpara,
North 24, Parganas,
West Bengal, 743123.
2. Mr. Ajay Sud,
Son of Late Shree Amrik Ral Sud,
Age 61 years, Businessman,
R/o Flat No. C-701-704, Arenja Towers,
Sec-11, C.B.D., Belapur,
Navi Mumbai-400614.
3. Deputy Director of Panchayat,
North Goa, 4th Floor, Myles High,
Patto, Panaji-Goa.

...Respondents

Mr. Pranay A. Kamat, Advocate for the Applicant.

Mr. Sarvesh Kamat Mayeker, Advocate for Respondent No. 2

Mr. Suhas Parab, Additional Government Advocate for
Respondent No.3.

CORAM : VALMIKI MENEZES, J.
DATED : 7TH MARCH, 2025.

ORAL JUDGMENT:

1. Heard learned Counsel for the parties.
2. Rule. Rule is made returnable forthwith; at the request of and with the consent of learned Counsel for the parties, the matter is finally heard and disposed of.
3. This is a petition which takes exception to order dated 23.08.2024, passed by the Deputy Director of Panchayats, exercising revisional jurisdiction under Section 201-A(2) of the Panchayat Raj Act, 1994 (Panchayat Act).
4. Respondent No. 1 claims that he was a licensee with respect to a premises owned by Respondent No. 2, under a Leave and Licence Agreement dated 10.03.2023. On the strength of this licence agreement, he applied for a Trade licence with the Petitioner's Panchayat on 13.08.2023, which according to the provisional Section 72 of the Panchayat Act, would be deemed to be rejected within 30 days, if the Panchayat does not communicate its decision as to whether it stood granted or rejected. On 19.10.2023, the Panchayat rejected the application after the period of 30 days prescribed

under the provision, which was challenged in the Appeal under Section 201-A, before the Block Development Officer(BDO). The Appeal ought to have been treated as an Appeal under Section 72(2) of the Act, but was ultimately rejected by the BDO on 18.03.2024, holding that he has no jurisdiction to decide the matter under Section 201-A of the Act.

5. On filing of a revision application challenging BDO's order, the Deputy Director of Panchayat has held that under Section 72(2) of the Act, the BDO is required to decide the Appeal within 30 days of receiving the Appeal, and the application for Trade licence is deemed to have been granted. Consequently, the Deputy Director of the Panchayat directed the Panchayat to issue a Trade licence.

6. It is now pointed out by the learned Advocate appearing for the Petitioner that according to two letters respectively written on 22.08.2024 and 03.09.2024, by Respondent No. 2 to the Petitioner, the licence agreement was terminated. However, there is nothing placed on record to show the acceptance of the permission by Respondent No.1 nor Respondent No. 1 being given notice by the Panchayat to ascertain its position. Though Section 72(2) contemplates a deemed grant of a licence, after 30 days have elapsed from the date of filing the Appeal, the provision has to be read to mean

that deemed granted is when the original application before the Panchayat has not been granted or rejected. In the present case, though beyond the period of 30 days specified under Section 72(2) of the Act, the Panchayat has specifically rejected the application. In the light of these facts, there is an error in law committed by the Deputy Director in passing the impugned order to issue direction to grant the licence. In my opinion, the correct course to be adopted was to set aside the order of the BDO impugned dated 18.03.2024, which only holds that the BDO does not have the jurisdiction to decide the Appeal and to remand the matter back to BDO to decide the matter on merits. This unfortunately was not the course, followed by the Deputy Director of Panchayat, while passing the order.

7. Respondent No. 2 submits that he is not been impleaded as a party in the proceeding Appeal No. BDO-I-BAR/201(A)/18/2023, before the BDO, and now he is required to be impleaded in this proceeding. Accordingly, the order of the Deputy Director dated 23.08.2024, is quashed and set aside and so also the order of the BDO dated 18.03.2024, holding that it has no jurisdiction to entertain the case. The Case is now remanded back to the BDO to decide the Appeal of Respondent No.2 on its own merits.

8. The BDO shall implead Respondent No. 2 as a party to its proceeding and hear the matter on merits and decide the Appeal preferably within 60 days on the receipt of this order.
9. Rule is made absolute in the above terms.

VALMIKI MENEZES, J.