

IN THE HIGH COURT OF BOMBAY AT GOA

LD-VC-CW NO. 77 OF 2020

1. Beachfront Resorts Pvt Ltd.
Registered office at C-68,
Lal Kothi Scheme, Tonk Road,
Jaipur-Rajasthan 302015;
Rep. Through its
Director Mr. Suil Batta.

2. Mr. Sunil Kumar Batta,
Major of age, Indian National,
Director of Petitioner no.1, C-185,
Sector – 108, Noida-201304,
District Gautam Budh Nagar, Uttar
Pradesh.

..... Petitioners

V e r s u s

1. The State of Goa
through the Chief Secretary,
having office at Secretariat,
Porvorim, Goa.

2. Village Panchayat of Velsao-Pale-Issorcim
through the Secretary,
Office at Cansaulim,
Mormugao – Goa 403712

3. Goa Coastal Zone Management Authority,
Office at 1st Floor,
Deendayal Updhyay
Bhavan, Near Pundalik
Devasthan, Pundalim

Nagar, Porvorim-Goa.

..... Respondents

Mr. Shivan Desai, Advocate for the Petitioner.

Mr. D. Pangam, Advocate General with S.P. Munj, Additional Government Advocate for the Respondent nos. 1 and 3.

Mr. Nigel Da Costa Frais and Mr. B. Pacheco, Advocates for the Respondent no.2.

Coram :- M. S. SONAK &
M. S. JAWALKAR, JJ.

Date : 6th August, 2020

ORAL JUDGMENT (*Per M. S. Sonak, J.*)

1. Heard Mr. Desai, the learned Counsel for the petitioner, Mr. D. Pangam, the learned Advocate General for the respondent nos.1 and 3 and Mr. Nigel Da Costa Frias, the learned Counsel for the respondent no.2.

2. Rule. The Rule is made returnable forthwith with the consent and request of the learned Counsel for the parties. Learned Counsel for the respondents, waive service.

3. The challenge, *inter alia*, in this petition, is to the communication dated 02.03.2020, in terms of which, permission dated 20.09.2019 earlier granted to the petitioner was purported to be revoked.

4. Though, atleast, *prima facie*, the petitioner had an alternate remedy as against the impugned order, we were inclined to entertain this petition because the contention raised was that there was complete failure of natural justice.

5. Today, Mr. Nigel da Costa Frias, the learned Counsel for the Panchayat, which has issued the impugned order dated 02.03.2020, makes a suggestion that the impugned order may itself be treated as a show cause notice; the petitioner may file its reply by 10.08.2020 and the Panchayat will re-consider the matter in accordance with law in its meeting scheduled on 12.08.2020.

6. According to us, rather than treating the impugned order as a show cause notice, it will be better if the impugned order is set aside. However, now that the controversy is known to the petitioner, the petitioner can

always file response without insisting upon the issue of any formal show cause notice. This, according to us, will comply with the requirements of natural justice in the peculiar facts and circumstances of the present case.

7. The learned Counsel for the petitioner as well as the Panchayat are agreeable to the aforesaid course of action. However, Mr. Desai, the learned Counsel for the petitioner, requests that all rights and contentions of the petitioners be kept open to be raised before the appropriate authorities and at the appropriate stage. Obviously, there can be no difficulty to acceding such a request which we do so.

8. Accordingly, the impugned order dated 02.03.2020 is hereby set aside on the ground of failure of natural justice. The petitioner will file response or show cause as to why the permission dated 20.09.2019 be not revoked on the tentative grounds referred to in the impugned order dated 02.03.2020, by 10.08.2020. The Panchayat, as submitted by Mr. Nigel da Costa Frias, to take into consideration such response and to decide the matter strictly in accordance with law and on its own merits. We make it clear, that the

Panchayat, ought not to permit itself to be influenced by the order dated 02.03.2020, which we have now set aside. In fact, what is expected, is a genuine application of mind by the Panchayat to the entire matter followed by a decision in accordance with law.

9. In the meeting to be held on 12.08.2020, the panchayat to also consider the petitioner's application for erection of bio-fencing and grant of NOC for water and electricity supply.

10. Mr. Desai, the learned Counsel for the petitioner, states that if there are any infirmities in the application submitted, the same will be cleared by 10.08.2020. In particular, he states that the plan insofar as the bio-fencing is concerned, will be submitted by 10.08.2020.

11. We, however, make it clear, that we have ourselves not examined the merits of the matter and, therefore, we leave it to the Panchayat to take a decision in accordance with law. We also clarify that the rights and contentions of all parties are expressly kept open since, we have ourselves, not examined the merits of the matter.

12. The Rule is made absolute in the aforesaid terms.
13. There shall be no order as to costs.
14. All concerned to act on the basis of an authenticated copy of this order.

M. S. JAWALKAR

M. S. SONAK, J.

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