

**IN THE HIGH COURT OF BOMBAY AT GOA****LD-VC-CW-245-2020**

Beachfront Resorts Pvt. Ltd. & Anr. ... Petitioners  
Versus  
State of Goa & Ors. ... Respondents

Mr. Shivan Desai, Advocate for the Petitioners.

Mr. D. Pangam, Advocate General with Ms. Ankita Kamat, Additional Government Advocate for Respondent Nos.1 and 3.

Mr. Nigel Da Costa Frias, Advocate for Respondent No.2.

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

**Date:- 6<sup>th</sup> October, 2020**

**P.C.**

Heard Mr. Desai, learned counsel for the Petitioners. Mr. D. Pangam, learned Advocate General appears alongwith Ms. A. Kamat, learned Additional Government Advocate for Respondent Nos.1 and 3 and Mr. Nigel Da Costa Frias, learned counsel for Respondent No.2.

2. This petition questions the communication/order dated 21.08.2020 by which, the Panchayat has once again revoked the NOC which was earlier granted to the Petitioners for erection of temporary shack/huts in the property bearing survey No.54/1-C belonging to the Petitioners.

3. As against the impugned order, there is a remedy of appeal available to the Petitioners. However, Mr. Desai points out that in the earlier round, the Petitioners had availed of such remedy and it is in pursuance of the directions issued by the Appellate/Revisional Authority, the Panchayat had issued NOC dated 20.09.2019. Mr. Desai points out that thereafter without the minimum compliance of principle of natural justice, this NOC was revoked by the Panchayat.

4. Mr. Desai points out that thereafter the Petitioners had instituted writ petition in this Court, where the revocation was set aside with liberty to the Panchayat to decide the matter once again after complying with the principle of natural justice and being uninfluenced by the previous order. He points out that on this occasion also the adverse decision has been made by the Panchayat essentially for the same reasons.

5. Mr. Nigel Da Costa Frias, learned counsel for the Panchayat points out that the Petitioners have an alternate remedy available and therefore, this petition may not be entertained. He points out that the Petitioners in the plan submitted by them had indicated that there are no sand dunes in the area where the temporary shack/huts are proposed to be erected. However, on inspection, the Panchayat has found that there were sand dunes. He points out that the Petitioners had also indicated that they have access to this property and in fact at the site

there is no such access. He points out that these are two reasons for revocation of the NOC dated 20.09.2019 as the Panchayat was satisfied that this NOC was obtained by the Petitioners on the basis of the misrepresentation of factual position at site.

6. Taking into consideration the past history of this matter, the issue of availability of alternate remedy can be considered a little later. The Panchayat has made the impugned order only on the ground that there are sand dunes in the property and further there is no access.

7. The existence of sand dunes can be verified if the GCZMA is directed to depute its officials to visit the site to report whether in property where the Petitioners proposes to erect temporary shack/huts is indeed affected by the sand dunes. Mr. Desai has pointed out that the GCZMA had in fact granted its NOC and it is only thereafter the Petitioners had applied to the Panchayat for grant of NOC.

8. Accordingly, we direct the GCZMA to depute its officials to inspect the site and file a report in this Court within two weeks from today. The representatives of the Petitioners and the Panchayat can remain present at such inspection.

9. The GCZMA to indicate the date to both the Petitioners as well as the Panchayat. We make it clear that neither the Petitioners nor

the Panchayat should raise any issue as regards the date and should, attend the inspection on the date fixed by the GCZMA.

10. On the issue of access, Mr. Desai points out that this access is shown on the regional plan. He points out that the Panchayat in its earlier inspection report had accepted that there is access.

11. Mr. Nigel Da Costa Frias, learned counsel for the Panchayat states that opportunity may be given to the Panchayat to file reply on the aspect of access.

12. The affidavit in reply on the issue of access to be filed within a period of 10 days from today by service of a copy of the same by email to the learned counsel for the Petitioners.

13. Depending upon the inspection report as also the stance which the Panchayat adopts in its reply on the aspect of access, we will consider whether the objection relating to alternate remedy is to be sustained or not.

14. Now this matter to be taken up for further consideration on 21<sup>st</sup> October, 2020.

**SMT. M. S. JAWALKAR, J.**

**M. S. SONAK, J.**

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