

IN THE HIGH COURT OF BOMBAY AT GOA**LD-VC-CW-84-2020**

Smt. Gisela Andrade e Marchon Petitioner
Versus
State of Goa & Another Respondents

Mr. Raunaq Rao, Advocate for the Petitioner.

Mr. Devidas Pangam, Advocate General with Ms. Maria Correia, Additional Government Advocate for Respondent Nos. 1 to 5, 7 and 8.

Mr. Joaquim Godinho, Advocate for Respondent No. 9.

Mr. Vithal Naik, Advocate for Respondent No. 10.

Mr. P.A. Kamat, Advocate for the Panchayat.

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

Date:- 21st July, 2020

P.C.

Heard Mr. Raunaq Rao for the petitioner, Mr. Pangam, the learned Advocate General, who appears on behalf of respondent nos. 1 to 5, 7 and 8. Mr. Godinho appears for respondent no. 9, Mr. Vithal Naik appears for respondent no. 10 and Mr. P.A. Kamat appears for the Panchayat.

2. The grievance of the petitioner in this Petition is that the statutory authorities have failed to take any action on the complaint made by the petitioner in relation to the activity of selling of fish, allegedly carried out by respondent no. 10 in the property, which the petitioner claims is their property.

3. Mr. Vithal Naik, the learned Counsel for respondent no. 10, at the outset, submits that the petitioner has suppressed material facts in this Petition and patently false allegations have been made that the respondent no. 10 has been indulged in the trade of fish at the site in question. He disputes that the site in question belongs to the petitioner. He pointed out that the wife of respondent no. 10 in pursuance of trade license was carrying on activity of selling of fish on retail basis for some time. However, he submits that no sooner she received notices from the Directorate of Health Services and Food and Drug Administration, such activity was forthwith halted. He points out that the wife of respondent no. 10 has now applied for necessary permissions to the Food and Drug Administration and there is absolutely no intention to recommence any such activity until all such permissions are in place.

4. The learned Advocate General pointed out that the Food and Drug Administration has issued show cause notice to the wife of respondent no. 10 way back on 11.06.2020 and the same will be disposed of in accordance with law. He pointed out that even the Health Authority has issued a notice on 17.07.2020 to the wife of respondent no. 10 and the same will be disposed of in accordance with law.

5. Mr. Godinho, the learned Counsel for respondent no. 9 also confirms that a complaint has been received from the petitioner and states that the same will be dealt in accordance with law.

6. Mr. Raunaq Rao, the learned Counsel for the petitioner submits that the Health Authority must be directed to abate the nuisance at the site and suitable directions may be issued for the said purpose.

7. According to us, both, the Food and Drug Administration as well as the Health Authority have taken cognizance of the petitioner's complaint and necessary show cause notices have also been issued to the wife of respondent no. 10. The learned Advocate General has stated that these

show cause notices will be disposed of in accordance with law within a reasonable period.

8. According to us, this takes care, at least substantially, of the grievance raised by the petitioner in this Petition. Besides, as stated by Mr. Vithal Naik, the wife of respondent no. 10 has already stopped the activity at the site and further, will not take such activity until the permissions are in place.

9. The issue as to whether, the nuisance was occasioned and the same is required to be abated or not, will have to be looked into by the Health Authorities in the show cause notice issued by them. In the peculiar facts and circumstances of the case, we grant the petitioner liberty to seek suitable orders/directions from the Health Authority. According to us, it would be better if the Health Authorities hear the petitioner as well, at the time of disposal of the show cause notice. The Food and Drug Administration Authority may also hear the petitioner as well, at the stage of disposal of the show cause notice.

10. The allegations and counter allegations that the respondent no. 10, who was undertaking this activity despite being government servant are not gone into in this Petition. All such contentions and counter contentions are therefore left open.

11. With the aforesaid directions, this Petition is disposed of without expression of any opinion on the merits of the rival contentions. The Authorities are directed to dispose of the notices issued by them in accordance with law. The respondent no. 9-GSPCB may also dispose of all the complaints made by the petitioner in accordance with law.

12. All concerned to act on the basis of an authenticated copy of this order.

M.S. JAWALKAR, J.

M.S. SONAK, J.

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