

**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

**Appeal No.37/2023(WZ)  
I.A. No.245/2023(WZ)**

Trivesh Manohar Ajgaonkar

.....Appellant

*Versus*

State of Goa & Ors.

....Respondent(s)

Date of hearing: 05.02.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER  
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Appellant : Mr. Sushant Adelkar, Advocate  
Respondent(s) : Mr. Abhijeet Kamat, Advocate for R-2/GSPCB  
Mamlatdar of Bardez, in-person for R-5

**ORDER**

1. From the side of appellant, learned counsel Mr. Sushant Adelkar has appeared.
2. From the side of respondent No.2-GSPCB, learned counsel Mr. Abhijeet Kamat has appeared, who has filed reply affidavit dated 02.02.2024, where-in it is made clear in para no.7 of this affidavit that Public Interest Litigation (PIL) Writ Petition No.01 of 2024 is being considered by the Hon'ble High Court of Bombay at Goa, involving the sealing of the applicant's premises along-with similar other premises, where-in hearing is going on. He has annexed with this affidavit several orders of the Hon'ble High Court and our attention is drawn to the order dated 13.12.2023 passed by the Hon'ble High Court in PIL Writ Petition No.2853 of 2023 (F), in which in para no.4, it is recorded that the establishments of Devils Club, whose owner is Mr. Trivesh Manohar

Ajgaonkar (appellant before us), is not having any license nor any occupancy certificate. In the next order of the Hon'ble High Court dated 10.01.2024 passed in PIL Writ Petition No.01 of 2024, it is recorded in para no.8 that "after the Applicant obtains all permissions from all authorities, including but not restricted to consent to operate from the GSPCB and the occupancy certificate from the Panchayat, liberty is granted to the Applicant to apply to this Court (Hon'ble High Court) for discharge of undertaking. The Applicant shall not, without the leave of this Court, either occupy the premises or carry out any activities therefrom".

3. The learned counsel for appellant submits that the matter, which is under consideration before Hon'ble High Court, is different, which deals with following prayers:-

- "A. For a Declaratory Writ or any other Writ, Order or Direction in the nature of Declaration under Article 226 and 227 of the Constitution of India declaring that running a business of Dance Bar in illegal; unauthorised structures without Occupancy Certificate is per se illegal and ultra vires the provisions of the Goa Panchayat Raj Act, 1994, Goa (Regulation of Land Development and Building Construction) Act, 2008 and the Goa (Land Development and Building Construction) Regulations, 2010.*
- B. For a declaratory Writ or any other Writ, Order or Direction in nature of declaration under Articles 226 and/or 227 of the Constitution of India declaring that the business activity of-Dance Bar is beyond the scope of a Bar and. Restaurant Licence and requires a separate Trade License under the provisions of the Goa Panchayat Raj Act, 1994 read with compulsory mandatory registration under the Goa, Daman and Diu Registration of Tourist Trade Act, 1982 and Rules, 1985 and that operation of the said business activity of Dance Bar under Bar and. Restaurant Licence is illegal and ultra vires the Goa Panchayat Raj Act, 1994.*
- C. For a Writ of Mandamus or any other Writ, Order or Direction in nature of Mandamus under Articles 226 and or 227 of the Constitution of India directing the Respondent State Authorities to immediately hold a Site Inspection of the structures shown and depicted in the aforesaid public Interest Litigation Writ Petition and after the said inspection to take immediate measures to seal the said premises from operating without Occupancy Certificate which is mandated under Rule 3.11 of the Goa Building Rules and Regulations, 2010.*

- D. For a Writ of Mandamus or any other Writ, Order or Direction in nature of Mandamus under Articles 226 and 227 of the Constitution of India directing the Respondent State Authorities upon holding a Site Inspection to immediately stop and prohibit the Dance Bar activity which are of operating without obtaining a Trade License under the Goa Panchayat Raj Act, 1994, without obtaining a registration under the-GO-a, Daman and Diu Registration, of Tourist Trade Act, 1982 and Rules 1985, without registration under the Goa, Daman and Diu Entertainment Tax Act, 1964 and Rules 1965.*
- E. For a Writ of Mandamus or any other Writ, Order or Direction in nature of Mandamus directing the Respondent State of Goa to depute a responsible officer to hold an enquiry as to, how the illegal Dance Bar in illegal unauthorised structure could continue and profiteer without obtaining an Occupancy Certificate wider Rule 3.11 of the Goa Building Rules and Regulations, 2010.*
- F. For a Writ of Mandamus or any other Writ, Order or Direction in nature of Mandamus directing the Commercial Taxes Officer to hold an enquiry as to the loss of revenue caused to the public exchequer on account of the illegal, illicit Dance Bar business being operated without registration for GST purposes, so also, without registration under the Goa, Daman and Diu Entertainment Tax Act, 1964 and Rules, 1965, and so also, loss of revenue caused to the Village Panchayat of Calangute for non-payment of License Fees under the provisions of the Goa Panchayat Raj Act, 1994.”*

4. While in the present appeal, the appellant has challenged the order of GSPCB dated 21.12.2023, whereby direction was passed to close down the appellant’s bar because of not having valid Consent to Operate. Therefore, pendency of the said PIL should not be treated to be an obstruction in deciding this appeal.

5. We are of the view that it would not be appropriate for us to proceed with the hearing of this matter till the applicant seeks a clarification from the Hon’ble High Court in this regard, particularly, in view of the fact, the appellant does not have valid license nor Occupancy Certificate to run their bar, which is being heard before the Hon’ble High Court. Therefore, all incidental matters may also be decided at the end of the Hon’ble High Court. If any order is received from the Hon’ble High Court to the effect directing this Tribunal to proceed with the hearing of the present appeal, we can proceed. In this regard, the learned counsel

for appellant prays for two weeks' time to be allowed to seek clarification from the Hon'ble High Court. The said time period is allowed.

Put up this matter for further consideration on 27.02.2024

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

February 05, 2024  
Appeal No.37/2023(WZ)  
I.A. No.245/2023(WZ)  
P.Kr