



IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 205 OF 2025

MR. BERNARDO FERNANDES,
45 years of age,
Son of Late Mr. Pascol Fernandes,
R/o H.no: 175, Girkarwada,
Arambol, Pernem – Goa.

... Petitioner.

Versus

1. STATE OF GOA,
Through the Chief Secretary,
Secretariat, Porvorim,
Porvorim – Goa.
2. DIRECTOR OF PANCHAYAT,
Office of the Directorate of Panchayats,
Junta House, Panaji, Goa.

... Respondents.

Mr. Abhijit Gosavi with Mr. Athnain Naik, Ms Krupa Naik and Mr. Gaurang Kerkar, Advocates for the Petitioners.

Mr. Shivdatt P. Munj, Additional Government Advocate for the Respondents.

CORAM : VALMIKI MENEZES, J.

RESERVED ON : 16th December, 2024.

PRONOUNCED ON: 9th May, 2025.

JUDGMENT:

1. The Petitioner has challenged a Judgment dated 03.09.2024 passed by the Principal District Judge, Panaji dismissing Panchayat Revision Application No.32/2024; by the impugned Judgment of 03.09.2024, the District Court has confirmed an order dated 23.04.2024 passed by the Director of Panchayats in Panchayat Case No. DP/COMP./21/2023 by which the Director of Panchayats (**DOP**) has exercised jurisdiction in terms of Section 210-A of the Goa Panchayat Raj Act (**the Act**) and removed the Petitioner as a member of the Village Panchayat of Arambol with immediate effect, and rendered him ineligible to be re-elected as a Panchayat Member for the next three years.

2. The impugned orders are sought to be assailed, invoking this Court's jurisdiction under Article 227 of the Constitution of India on the following, amongst other grounds:

- a) That the Petitioner being a democratically elected public representative, cannot be easily removed from office, more so when, the grounds mentioned in Section 210-A of the Act, for removal of the Petitioner as a member, have not been made out.

- b) The Show Cause Notice issued by the DOP was vague, devoid of material particulars which made out a case for removal under Section 210-A, thus vitiating the entire proceedings, they being contrary to the principles of natural justice.
- c) That Section 210-A does not confer a duty upon a Member of a Panchayat to take action against illegal construction within his ward; there is no individual responsibility or duty cast by the Act on a Member of the Panchayat to take action against illegal constructions. Hence, there being no jurisdiction in the DOP to act under Section 210-A against the Petitioner, the Authorities below have committed a jurisdictional error in passing the impugned orders.
- d) Assuming the members of the family of the Petitioner had indulged in illegal constructions under the Panchayat jurisdiction, the DOP has no jurisdiction to relate such an act to be an act of the Member of the Panchayat qua his role as a Sarpanch. Since the Petitioner has resigned as a Sarpanch, he does not have any duty as a Member

nor is he vested with such powers that a Sarpanch could exercise to arrest illegal constructions.

e) That the conclusions and findings of the DOP and of the Revisional Court are perverse and not borne from any legal evidence on record.

3. The Respondent No.2 has filed an affidavit in reply to the petition bringing on record various documents and orders in PIL (Suo Motu) WP No.3/2023 and WP No.724/2023, to contend that the Petitioner, his brothers, sister and other family members were all Respondents in the aforementioned Writ Petitions and have filed their affidavits therein; the DOP contends in the affidavit that the Show Cause Notice refers to the records of these petitions and the basic allegation against the Petitioner, that, first as a Sarpanch of Village Panchayat Arambol and as a Panchayat Member of Girkar Ward, from which the Petitioner was an elected representative/member in the Panchayat, he was fully aware of all the illegal constructions in this Ward, including his own or of his family members; it is further alleged that in terms of Section 210-A of the Act, and based upon the record of these petitions and the orders passed by this Court therein, a Show Cause Notice was served under Section 210-A, calling upon the Petitioner as to why he should not be removed from office.

4. The affidavit states that the Panchayat, by its affidavit and reports placed on the record of the aforementioned Writ Petitions, details of around 187 illegal constructions, all in the No Development Zone (NDZ) covered by the Coastal Regulation Zone Notification under the Environment Protection Act; the record revealed that none of the structures had a construction licence or occupancy certificate under the Panchayat Raj Act.

5. Apart from reiterating the grounds urged in the petition, Mr. Abhijit Gosavi for the Petitioner advanced the following submissions:

a) That Section 210-A of the Act does not cast any obligation to report or prescribe the consequence of an omission to report an illegal construction within the jurisdiction of the member of a Panchayat, and hence, the order of removal of the Petitioner from the post of Member has been passed without any jurisdiction by the DOP.

b) The Show Cause Notice is vague, containing no foundational facts or allegations, the findings of the DOP are perverse and not based on record, and the imposition of a three-year restriction from

being re-elected is disproportionate and excessive, in relation to the charges levelled against the Petitioner. It is submitted that the impugned orders should be set aside and this case should be sent back to the DOP for issuing a fresh Show Cause Notice containing all the material particulars, complying with the principles of natural justice, and affording the Petitioners to file a proper reply to these allegations.

c) Reliance was placed on the following case law in support of these submissions:

- i. ***Tarlochan Dev Sharma v. State of Punjab*, (2001) 6 SCC 260.**
- ii. ***Ravi Yashwant Bhoir v. District Collector, Raigad & Ors.*, (2012) 4 SCC 407.**
- iii. ***Manish Ravindra Panpatil v. State of Maharashtra & Ors.*, 2024 SCC OnLine SC**
- iv. ***Gorkha Security Services v. Government (NCT of Delhi) & Ors.*, (2014) 9 SCC 105.**
- v. ***Sonam Lakra v. State of Chhattisgarh & Ors.*, Civil Appeal No. 12326 of 2024 (Arising out of SLP (C) No. 7279 of 2024).**
- vi. ***Deepak Ananda Patil v. State of Maharashtra & Ors.*, (2023) 11 SCC 130.**
- vii. ***Institute of Chartered Accountants of India v. L. K. Ratna & Ors.*, (1986) 4 SCC 537.**

6. Opposing these submissions, Mr. Shivdatt Munj for the Respondent No.2 has taken me through the reply filed by the Petitioner before the DOP and records of the two Writ Petitions in which the Petitioner was a Respondent; he submits that there is no inquiry contemplated under Section 210-A of the Act. He further submits that the Petitioner, at no point of time made any demand for the material relied upon by the DOP, with the Show Cause Notice, for obvious reasons that the entire material was the records of the two Writ Petitions in which the Petitioner was a Respondent, and had in fact filed his affidavit. He submits that in these Writ Petitions, the brother of the Petitioner Avelino had also filed his affidavit in reply along with various affidavits and reports on behalf of the Village Panchayat, which has disclosed that of the 187 structures found to be without construction licence or occupancy certificate in Girkar Ward, of which the Petitioner is an elected representative, 33 belong to the Petitioner or his family members (4 brothers namely Caitan, Avelino, Felix and the Petitioner, a sister named Ramita or in the name of his late father Pascol).

7. He further submitted that in PIL (Suo Motu) WP No.3/2023 and WP No.724/2023, all the survey records were produced in which the Petitioner himself was occupant of the

survey record in which he was running a hotel in a construction without any licence or occupancy certificate, within a NDZ, without any permissions under the Coastal Regulation Zone from the Goa Coastal Zone Management Authority (**GCZMA**) or from the Goa State Pollution Control Board (**GSPCB**). These facts were taken note of by the High Court in its order of 07.11.2023 and after the Secretary of the Panchayat filed affidavit dated 20.12.2023, it was confirmed from the records that none of the structures of the Petitioner or the referred family members had the licences or permissions for construction or for operating businesses therein, from the above authorities, and the same were running illegally. He submits that the act of either personally running an illegal business within a structure which is without permission and allowing one's family members and more than a hundred other structures to run illegal businesses, first as a Sarpanch as well as, as a Member of the Panchayat, amounts to a persistent remiss in the discharge of his duty as a Member, and is an act detrimental to the interest of the Panchayat. He submits that such an act also amounts to a misuse or abuse of the powers vested in a Member under Section 210-A of the Act. He relies upon the following Judgments in support of his contentions:

- i. ***Virendrasing v. Additional Commissioner & Ors., 2023 SCC OnLine SC 430.***
 - ii. ***Shri Agnelo Alexinho Lobo v. The Director of Panchayats & Ors., Writ Petition No. 330 of 1999, The High Court of Bombay at Goa.***
- 8.** The points which fall for decision in this petition are:
- a) Whether, by the Show Cause Notice dated 01.02.2024 issued by the DOP, the Petitioner had sufficient notice of the allegations levelled against him to seek his disqualification and removal from the post of Member of the Panchayat, under Section 210-A of the Act?
 - b) If there was sufficient notice of the allegations, was there sufficient proof and evidence of the material against the Petitioner to substantiate that the Petitioner had persistently committed remiss in the discharge of his duties, or had acted detrimental to the interest of the Panchayat or he had misused or abused the power vested in him under the Act to justify his removal from the post of a Member of the Panchayat?
 - c) Is the order removing the Petitioner from the post of Member of the Panchayat and disqualifying

him from re-election for a period of the next three years after the impugned order, disproportionate to the allegations levelled and excessive?

9. To answer the issues raised in this petition, certain facts which are not in issue, are required to be taken note of.

PIL (Suo Motu) WP No.3/2023 and WP No.724/2023 came to be heard by a Division Bench of this Court and certain illegal constructions, erected without requisite licences under the Panchayat Raj Act, from the GCZMA and from the GSPCB were pointed out to the Court, existing in Girkar Ward in the coastal Village of Arambol. At the relevant time, i.e. around November 2023, the Petitioner was the Member of the Panchayat elected from the Girkar Ward on 27.07.2022, and also the elected Sarpanch of the Village Panchayat since January 2023.

10. In Writ Petition No.724/2023, during the course of the hearing thereof, it came to the notice of a Division Bench of this Court, on a complaint, that the third Respondent therein one Ashok Kandhari, had constructed in Girkar Ward (Ward No.4), in land under Survey No.63/92, a four-storeyed structure being run as a hotel, with a height of 16 mts., without any construction licences or approvals from any

department whatsoever, nor from the Panchayat or GCZMA or GSPCB. At the relevant time, the Petitioner was the elected Member of this Ward and elected Sarpanch. After this Court having taken cognizance of the illegal construction, the Panchayat issued a demolition order dated 22.07.2023, but did not act upon the same.

11. By an order dated 25.10.2023 in that petition, this Court issued notice to the Petitioner and to the Secretary of the Panchayat of Arambol to file affidavits justifying how such a large construction had come up without any permissions. The photograph of the construction was incorporated in the order itself at para 6 which is reproduced hereunder.

“6. The photograph placed on record by Mr Naik is transcribed below for the convenience of reference.”



12. Subsequently, the Petitioner appeared before this Court and it was revealed by the Panchayat Secretary, after this Court had ordered sealing of the structure, that a demolition order, which had earlier been issued against this structure, was scheduled on 31.10.2023; the demolition however did not take place, as recorded by the Advocate General in his statement therein, since the Petitioner, had issued a letter dated 30.10.2023, misreading this Court's order of 25.10.2023 and creating an impression in the demolition squad that the demolition ought not to take place until the High Court heard the matter on 01.11.2023.

13. On 01.11.2023, the Petitioner was personally present in Court, during the hearing of the above Writ Petition and an order was passed on that date, after hearing him in person. Relevant parts of that order are quoted below:

“2. In addition to the Counsel, we also heard Mr Ashok Kandhari (Respondent No.3) and his son-in-law Mr Deepak Kapoor. We also heard Mr Bernard Fernandes, the Sarpanch of the Village Panchayat of Arambol and Panch member from Girkarwada, Dando, Arambol, where this unauthorised construction has come up. This Sarpanch is present in the Court along with the Secretary of the Panchayat.

3. *By our order dated 25.10.2023, we ordered the sealing of the unauthorised construction of a ground plus four-storeyed structure with a terrace put up by the third respondent in an eco-sensitive no development zone affected by the CRZ notification without obtaining permissions from any of the Authorities.*

4. *The Panchayat had already issued a demolition notice, and even the demolition was scheduled to take place on 31.10.2023.*

5. *The learned AG submitted that all arrangements were made to carry out the demolition on 31.10.2023. However, the Sarpanch Mr Bernard Fernandes addressed a communication dated 30.10.2023 to the Deputy Collector & SDM, in charge of the demolition squad, informing him that this Court had granted one week's time to the respondent to file a reply. Accordingly, the letter called upon the Deputy Collector to consider this Court's order dated 25.10.2023 before proceeding with the demolition process.*

6. *The learned AG stated that because of the Sarpanch's communication, the demolition squad returned without carrying out the demolitions. Learned AG submitted that there was otherwise nothing in this Court's order dated 25.10.2023 on account of which the demolition could have been postponed. He submitted that even the Sarpanch was not justified in addressing such a letter at the last moment after his Counsel had made a statement before this Court that a demolition order had already been passed and the demolition was scheduled on 31.10.2023.*

7. *We have perused the Sarpanch's letter dated 30.10.2023, and we agree with the learned AG that the Sarpanch has tried to virtually misread or misinterpret our order dated 25.10.2023 and create an impression that the demolition ought not to take place until we hear the matter on 01.11.2023. This is most unfortunate. The Sarpanch trying to help the third respondent for reasons best known is one thing. However, misinterpreting orders of the Court and trying to create an impression completely contrary to the clear wording of our order is quite another. The Learned AG submitted that this Sarpanch must bear the costs for the mobilisation of the demolition squad. The Director of Panchayats is granted liberty to recover such costs from the Sarpanch personally for virtually stalling the scheduled demolition without any authority of the law.*

8. *Be that as it may, the third respondent Mr Ashok Kandhari has today filed an affidavit cum undertaking before us which is taken on record and marked as 'X' for the purpose of identification. This was after Mr Kandhari unreservedly admitted before the Court that the Construction put up by him had no permission from the panchayat, planning department or the GCZMA. He also admitted that there was no occupancy certificate for the structure. Even Mr Gaonkar, for the panchayat, agreed that the illegal construction was within less than 50 metres from the seashore and less than 10 metres from the rivulet or creek. Mr Gaonkar submitted that the demolition order made against this structure was after complying with the principles of natural justice and fair play.*

9. The contents of the affidavit cum undertaking are transcribed below for the convenience of reference:

“UNDERTAKING ON BEHALF OF RESPONDENT NO.3

MOST RESPECTFULLY SHOWETH:

I, ASHOK KANDHARI S/o Late Sewak Ram, 64 years of age, married, businessman, Indian National, R/o 1-6/72, Rohini Sector 16, North West Delhi-110085, Local address at H.No.78B, Girkharwada, Arambol, Pernem Goa Respondent No.3 abovenamed, do hereby solemnly affirm and state as under:

1. I say that I am filing the present undertaking in pursuance of the hearing that took place this morning i.e. on Wednesday 01/11/2023, in the Writ Petition No.724/2023.

2. At the outset, I tender my sincere apology to this Hon'ble Court for any action that may have occurred on account of ignorance of law, even though such ignorance cannot be raised as a ground for any defence.

3. I say that I am the owner in possession of the property bearing Survey No.63/92 of village Arambol, Pernem Goa.

4. I hereby undertake to demolish the illegal structure bearing H.No.78B, which is situated in my property bearing Survey No.63/92 of village Arambol, Pernem Goa.

5. I say that I shall complete the demolition works of the said structure bearing H.No.78B, at my own cost, within a period of 6 weeks from today.

6. *I say that I shall report compliance of this undertaking as and when called upon by this Hon'ble Court.*

7. *I say that the present undertaking is tendered by me at my own volition being fully aware of the consequences.*

*Solemnly affirmed at Porvorim-Goa
On this 01st day of November, 2023*

DEPONENT

10. *The undertaking given by Mr Ashok Kandhari is accepted as an undertaking to this Court. Mr Kandhari agrees that this undertaking is in respect of the ground plus a four-storeyed structure including the terrace which is covered with a red roof as indicated in the photograph in paragraph 6 of our order dated 25.10.2023. Mr Kandhari and Mr Sardessai state that there is no dispute about the identity and this structure will be demolished without giving any kind of excuses.*

12. *The photograph in paragraph 6 of our order dated 25.10.2023 discloses a composite structure, one having a red roof and the other a green roof. Mr Kandhari disclosed that he had put up only the structure with the red roof in the property surveyed under no.63/92. He submitted that he did not put up the structure with the green roof and a swimming pool. This fact was neither disclosed by Mr Sardessai who appeared in the matter on 25.10.2023, nor Mr Deepak Gaonkar, who appeared for the Panchayat of Arambol. At least, the Panchayat of Arambol should have disclosed this. But a little later, it was evident why the Panchayat suppressed this position or why*

the Sarpanch stalled the demolition scheduled on 31.10.2023.

13. Be that as it may, Mr Gaonkar, based on instructions from Mr Bernard Fernandes, the Sarpanch and the Secretary, now says that one Mr Francis Fernandes has put up the structure with the green roof in Survey No.63/69. Mr Gaonkar, again, based on the instructions of the Sarpanch and the Secretary, states that even this structure put up by Mr Francis Fernandes has no permission from the Panchayat, the Planning Department or the GCZMA.

14. Mr Gaonkar, again, on instructions from Mr Bernard Fernandes, the Sarpanch and the Secretary states that yet another illegal construction is put up by one Mr Pascol Fernandes in Survey No.63/90 at Girkarwada, Dando, Aramabol, Pernem-Goa. Again, based on instructions from the Sarpanch and the Secretary, Mr Gaonkar states that even this structure put up by Mr Pascol Fernandes has no permissions from the Panchayat, the Planning Departments or the GCZMA.

15. Mr Gaonkar, based on instructions from the Sarpanch and the Secretary, who are present in the Court states that the structures put up by Mr Francis Fernandes in Survey No.63/69 and Mr Pascol Fernandes in Survey No.63/90 of Girkarwada, Dando, Armabol, Pernem-Goa are being used as guest houses.

16. Since, in our order dated 25.10.2023, we had expressed both shock and surprise as to how such four-storeyed structures could come up in an eco-sensitive no-development zone without obtaining permissions from any Authorities, today, we inquired

from Mr Bernard Fernandes, the Sarpanch of Arambol and the Panch member from this very Ward whether, by any chance, Mr Francis Fernandes and Mr Pascol Fernandes were related to him. We were once again astounded when Mr Bernard Fernandes, the Sarpanch informed us that Mr Francis Fernandes was his uncle and Mr Pascol Fernandes was his father.

17. Initially, the Sarpanch did not even bother to tell us that his father Mr Pascol Fernandes, has already expired. Instead, he informed us that his father is 78 years old. After the order was dictated at 4.30 p.m., Mr Gaonkar mentioned the matter and informed us that Mr Pascol Fernandes had already expired and was survived by the following legal representatives:

- (i) Ms Juliana Pascol Fernandes, wife of late Mr Pascol Fernandes,*
- (ii) Mr Caitan Pascol Fernandes, son of late Mr Pascol Fernandes,*
- (iii) Mr Avelino Pascol Fernandes, son of late Mr Pascol Fernandes,*
- (iv) Mr Felix Pascol Fernandes, son of late Mr Pascol Fernandes,*
- (v) Mr Bernard Pascol Fernandes, son of late Mr Pascol Fernandes, and,*
- (vi) Mrs Ramita Pascol Fernandes, all residents of Girkarwada, Dando, Village Panchayat of Arambol, Pernem Goa.*

18. Mr Bernard Fernandes, the Sarpanch made a statement before us that he will instruct his father Mr Pascol Fernandes and his uncle Francis Fernandes to close/shut down the two establishments by tomorrow. This statement was made with full

knowledge that Mr Pascol Fernandes has expired. Mr Gaonkar, on instructions, however, stated that Mr Bernard Fernandes will now accept notice on behalf of his mother and siblings and further ensure that the two business establishments in the illegal and unauthorised constructions in Survey Nos.63/69 and 63/90 will be closed down by tomorrow. These statements are accepted.

22. Mr Kandhari, while pleading for some time to himself carry out the demolition of his wholly unauthorised structure put up in the NDZ, submitted that he constructed this structure because he was given to understand that this is the norm in the village panchayat of Arambol. He submitted that he saw the structures in his immediate neighbourhood (put up by the relatives of the sarpanch and Ward member) and thought that this is how one puts up constructions in Goa.

23. From what transpired before us in the Court, we reasonably suspect rampant illegal constructions in Arambol, within the NDZ and without. The three structures now involved in this matter are not some isolated instances. Besides, these are not some small houses but ground plus three or four-storeyed structures used as guest houses, which is another term for hotels in these areas. No consent to operate appears to have been obtained from the Goa State Pollution Control Board (GSPCB). No NOC appears to have been obtained from the Fire Safety Department.

24. No action was taken against Mr Khandari's illegal structure even though the sarpanch hails from the same ward. This was possibly because the Sarpanch's close relatives have also put up illegal

structures in the same area for commercial exploitation. An impression seems to be fast gaining ground that the rule of law does not apply in these coastal pockets, and obtaining permissions from the authorities is only optional. If the close relatives of the Sarpanch have put up such illegal constructions in NDZ, then it is natural that the Panchayat would be reluctant to act against such rampant illegal constructions unless forced. Accordingly, some enquiry is warranted into the rampant illegal constructions in Arambol, if this coastal village is to be salvaged. The learned AG also agreed that this matter must be taken most seriously.

25. Mr Bernard Fernandes, the Sarpanch is directed to file an affidavit in this Court by 07.11.2023 informing the Court about the number and details of illegal constructions in Girkarwada, Dando, Arambol, Pernem-Goa. In his affidavit, Mr Bernard Fernandes must not only state the number of such illegal constructions but must provide names, details and the purposes for which such constructions are used. Mr Bernard Fernandes must also disclose if he is related to the persons who have put up such constructions or are using such constructions. The Girkarwada is a very small Ward and therefore such an affidavit must be filed on 07.11.2023. Being the Sarpanch, Mr Bernard Fernandes has access to the permissions, if any, issued by the Panchayat for constructions in this Ward. After the Sarpanch files such an affidavit, we propose to appoint other Authorities like GCZMA to verify the position and apprise the Court of the details submitted by the Sarpanch.”

14. On 07.11.2023, this Court considered the various illegal constructions that were brought to its notice, including the structures in which the Petitioner and his family members were running businesses, all within the Ward represented by the Petitioner, and decided to treat this issue as a Suo Motu Writ Petition. Accordingly, it passed an order on 07.11.2023, relevant portions of which are quoted below:

“1. In Writ Petition No.724/2023, we were concerned with the construction of a ground plus four-storeyed (including terrace) structure put up within hardly 50 mtrs. from the seashore and 10 mtrs. from a rivulet/creek, in a no-development zone under the CRZ notification. The complaint in the petition was that the owner/builder had not bothered to obtain any permissions from any Authorities like the Panchayat, the Planning Department and the Goa Coastal Zone Management Authority (GCZMA). Still, the owner/builder had, without any Occupancy Certificate, Clearances from the Goa State Pollution Control Board (GSPCB), Fire Safety Department, etc., commenced commercial operations of a hotel through this structure.

3. On 01.11.2023, when Writ Petition No.724/2023 was taken up for consideration, on behalf of the third respondent, who had put up the wholly unauthorised construction, and the Panchayat of Arambol, we were informed that in the immediate vicinity of this unauthorised construction, there were two other similarly illegal and unauthorised constructions used as guest houses. The Panchayat claimed that the demolition notice was restricted only to the third

respondent's unauthorised construction and not to the remaining two constructions, even though they were similarly illegal and unauthorised. This was not disclosed on the earlier dates when an impression was made that these were a single structure or a part of the structure put up by the third respondent.

4. During the course of further hearing, it transpired that one of the unauthorised constructions in Survey No.63/69 of Arambol Village (covered with green roof) was put up by Mr Francis Fernandes, uncle of the Sarpanch and Ward Member Mr Bernard Fernandes. The other structure in Survey No.63/90 was put up by Mr Pascol Fernandes, the father of Mr Bernard Fernandes, that is the Sarpanch and Ward Member.

5. Though initially, an impression was sought to be created that Mr Pascol Fernandes is still operating the guest house through the unauthorised structure in Survey No.63/90, much later, that is, after the order was dictated in the open Court, Mr Gaonkar learned Counsel for the Panchayat, clarified that Mr Pascol Fernandes has already expired. His legal representatives were operating the guest house. Now one of the legal representatives is Mr Bernard Fernandes, the Sarpanch and the Ward Member.

6. Given the above startling disclosures, we enquired with Mr Ashok Kandhari, the third respondent in Writ Petition No.724/2023, as to how he put up such a big construction without obtaining any permission from any Authorities. Mr Kandhari responded by saying that in the entire village of Arambol, there were several such constructions without obtaining permission from any Authorities. In Hindi, Mr

Kandhari explained, “This is what goes on or works in the entire Arambol village”. Arambol is a beautiful coastal village, and much of its area is affected by the CRZ notification.

9. We also directed Mr Bernard Fernandes, the Sarpanch, to file an affidavit by 07.11.2023 disclosing the number and details of illegal constructions in Girkarwada, Dando, Arambol, Pernem-Goa, of which he is the Ward Member. Mr Bernard Fernandes, as noted earlier, is also the Sarpanch of Village Panchayat of Arambol and, therefore, presumed to be in full control of the functioning of the Panchayat. The Panchayats are expected to prevent the rampant mushrooming of unauthorised constructions. In any case, the Panchayats are expected to take action against illegal constructions.

10. However, we got a prima facie impression that the Panchayat and its members are themselves involved in putting up illegal constructions or, in any case, encouraging the mushrooming of such illegal constructions. This is evident from the fact that some NOCs here and there for obtaining electricity and water connection are issued by the Panchayats, despite full knowledge that the construction itself is wholly unauthorised, having obtained no permission from any Authorities whatsoever, including Panchayat, GCZMA, etc.

11. The usual modus operandi is to issue a tax receipt or even a house number without bothering to ascertain or rather with full knowledge that the construction is wholly unauthorised or illegal. Thus, apart from not taking any action against illegal constructions or the commercial activities

undertaken therefrom, the Panchayat, in a way, facilitates the commercial exploitation of such illegal and unauthorised constructions.

12. Accordingly, given the information that was disclosed to us in Writ Petition no.724/2023, we propose to take a Suo Motu cognisance and order the registration of the Suo Motu Public Interest Litigation, inter alia, on the issue of “illegal and unauthorised constructions in Arambol, Pernem, Goa”.

14. Accordingly, we implead and direct notices to the Respondents (indicated in the cause title) after registration of this Suo Motu Public Interest Litigation.

15. The directions issued by us in our order dated 01.11.2023 regards the unauthorised constructions put up by Mr Francis Fernandes and Mr Pascol Fernandes in Survey No.63/69 and 63/90, Girkarwada, Dando, Arambol, Pernem – Goa, are reiterated and reissued in the present Suo Motu Public Interest Litigation. The parties to whom they were directed, including in particular, Mr Barnard Fernandes, the Sarpanch and Ward Member, will have to comply with them in this petition. Similarly, the direction issued in paragraph 25 of our order dated 01.11.2023 in Writ Petition no.724/2023 is also reiterated. Mr Bernard Fernandes will have to comply with the same in this petition.

16. We appoint Mr Y.V. Nadkarni as the Amicus Curiae along with Advocate Ms Simran Khadilkar to assist us in this Suo Motu Public Interest Litigation. They have graciously consented. The Registry must render all assistance to Mr Nadkarni. We also

request the learned AG, who is already appearing in Writ Petition No.724/2023, to appear in this matter.

15. A further order, after PIL 3/2023 came to be registered was passed on the same day, where the Petitioner appeared through his Advocate and the following was recorded in that order:

“1. Mr Gaonkar, the learned Counsel for the Panchayat states that the directions in our order dated 01.11.2023 are complied with. He says that the structure put up by the third respondent was de-sealed for the temporary purpose of allowing the third respondent to remove the furniture and fixtures and to make preparations for the demolition. Mr Gaonkar, on instructions, states that no activities are going on in the third respondent's structure.

2. Mr Gaonkar further states that the structure of Mr Francis Fernandes and the legal representatives of Mr Pascol Fernandes which includes the present Sarpanch Mr Bernard Fernandes has also been sealed and closed down. This position is confirmed by Mr Parag Rao. who appears on behalf of respondent no.7, that is, Mr Bernard Fernandes, Mr Francis Fernandes and legal representatives of Mr Pascol Fernandes.

3. Mr Bernard Fernandes has filed an affidavit. In this affidavit, he stated that on examining the Panchayat records, he found that there was only one construction licence and Occupancy Certificate issued in Girkarwada, Dando, Arambol, Pernem-Goa. He has also stated that there would be approximately 187 establishments, such as bars &

restaurants and guest houses along the coast. Thus, from this affidavit, it appears that there are at least 187 structures in this wado itself, which are prima facie not backed by any permission from the Panchayat.

4. The GCZMA and the GSPCB must, based on Mr Bernard Fernandes's affidavit, conduct a survey/inspection at Girkarwada, Dando, Arambol, Pernem, Goa, and find out the status of such structures and also other structures that may have been put up and are operating for commercial purposes without any permissions from the GCZMA, GSPCB or the Panchayat. The GCZMA and GSPCB must take action in accordance with the law against this structure. If there is no consent to operate for establishments which require such consent to operate, the GSPCB, as in other cases, must take immediate action to close down such establishments.

5. In so far as the Panchayat is concerned, since the Sarpanch and his close relatives have themselves put up prima facie illegal constructions and were operating businesses through them, nothing much is to be really expected. Still, we direct the Panchayat to initiate action against the 187 structures or any other illegal and unauthorised construction in the Girkarwada, Arambol, Pernem, Goa and file before us a status of the action taken report.

6. The Director of Panchayats is also directed to hold an inquiry into the affairs of this Panchayat. If the ward represented by the Sarpanch is prima facie having 187 illegal and unauthorised constructions, we are concerned about the extent of the possible illegal and unauthorised constructions in the remaining wards. The Director must examine the

extent of illegal constructions in this Panchayat area and assess whether the Panchayat members are involved in putting up or facilitating the putting up of such illegal constructions. The Director must also assess whether the Panchayat is deliberately not taking any action against such large-scale illegal constructions and if so whether any action is warranted against the Panchayat under the provisions of the Panchayat Raj Act.

7. Considering that the Sarpanch is prima facie involved in putting up or at least facilitating the putting up of illegal constructions through which he and his family members operate guest houses without any permissions from the GCZMA or the GSPCB, it is rather difficult to expect the Panchayat to take any serious action against the prima facie large-scale illegal constructions within the jurisdiction of such a Panchayat. Still, in the fond hope that some members of the Panchayat will have some respect for the law and legal provisions, we direct the Panchayat to take action in accordance with the law and file a compliance report.

8. Mr Parag Rao states that the Sarpanch has not put up any illegal construction. First, this Sarpanch told us that his Father and Uncle had put up the illegal structure. He admitted that these structures have no permission from GCZMA or GSPCB. Later on, it transpired that the petitioner's Father had already expired. Prima facie, this means that it is the petitioner who was operating the hotel in an illegal structure. Besides, the learned AG has already placed on record the survey document showing not the name of the Sarpanch's father but the Sarpanch himself. Therefore, at least the prima facie involvement of the Sarpanch is evident. The sealing

of the structures put up by Mr Bernard Fernandes, Mr Francis Fernandes and legal representatives of Mr Pascol Fernandes to continue until further orders.”

16. The Petitioner tendered his resignation as a Sarpanch only on 20.11.2023 and continued to hold office of a Member in the Panchayat with respect to Ward No.4 (Girkar Ward). He, however, withdrew his resignation on 22.11.2023.

17. On 15.12.2023, the Petitioner was removed from the post of Sarpanch, by order of the DOP passed under Section 50 of the Panchayat Raj Act. This order was challenged by the Petitioner in WP No.928/2023.

18. On 20.12.2023, the Petitioner filed his affidavit in the PIL stating the following:

“1. I say that I am constrained to file this affidavit in view of statements made on behalf of Mr. Ashok Kandhare, the respondent no.3 in WP No. 724/2023 (Ravi Harmalkar and Anr. Vs State of Goa and Ors.), that commercial operations are going on in the structure belonging to Mr. Francis Fernandes and late Mr. Pascol Fernandes, which were referred to in the said Writ Petition and that no sealing of these premises was done by the authorities.

2. I say that in the Order dated 01.11.2023 passed in the said Writ Petition, the structure of Mr. Francis Fernandes was referred to as lying in Survey no. 63/69

and that of Mr. Pascol Fernandes was lying in Survey no. 63/90 in Girkarwado, Dando, Arambol, Pernem, Goa. The Advocate for Panchayat on instructions of the Secretary of the Panchayat had stated that the structures were used as guest house.

3. I say that the structure belonging to Mr. Francis Fernandes is beach facing and situated behind the structure of Mr. Ashok Kandhari and the structure of Late Mr. Pascol Fernandes is situated adjacent to the structure of Mr. Ashok Kandhari and faces the road, beyond which is the creek. I say that in paragraph 18 of the said order my statement was recorded that the two business establishments in Survey no. 63/69 and Survey no. 63/90 will be closed down by tomorrow. This Hon'ble Court further directed that in case the business establishments were not closed by tomorrow i.e. by 02.11.2023, the Dy. Collector and the PSI of Pernem Police Station must seal these premises and ensure that no commercial operations take place through them.

4. I say that in compliance with the statements made by me before this Hon'ble Court, both the business establishments were locked by me on 02.11.2023. The photographs of structure belonging to Mr. Francis Fernandes with a lock on main gate is hereto annexed and marked as EXHIBIT A and the structure belonging to Mr. Pascol Fernandes with a lock on main gate is hereto annexed and marked as EXHIBIT B.

5. I say that since 02.11.2023 the business establishments have been closed and no commercial operations have been conducted in the said business establishments. Since the business establishments were closed and shut down by me on 02.11.2023 in compliance with the Order dated 01.11.2023 there was

no occasion for the Dy. Collector and the PSI of Pernem Police Station to seal the premises.

6. I say that even in the joint inspection held by the authorities on or around 08.12.2023 both these business establishments were found not to be operational.

7. I say that there is a garden in the 2 properties, including lawn, plants and trees. Only for the purpose of watering of the trees, maintenance of the Garden and for cleaning and maintaining the structures, the services of one Mr. Gulal Burma along with one or two helpers, as and when they are needed are employed.

8. I say that I categorically say that no commercial operations have been carried out from the two business establishments since 02.11.2023. I say that the lock which was put up on 02.11.2023 is the same lock which is presently existing on the gates. In order to avoid any further controversy or allegations, I am depositing the keys of both the locks in this Hon'ble Court. I say that I do not have any other key extra/duplicate keys. The keys are placed in the envelope marked as EXHIBIT C.”

19. A further affidavit of the same date was filed in the PIL, by the Petitioner, where he has stated as under:

“2. I say that in the Order dated 01.11.2023 passed in the said Writ Petition, the structure of Mr. Francis Fernandes was referred to as lying in Survey no. 63/69 and that of Mr. Pascol Fernandes was lying in Survey no. 63/90 in Girkarwado, Dando, Arambol, Pernem, Goa. The Advocate for Panchayat on instructions of the Secretary of the Panchayat had stated that the structures were used as guest house.

3. I say that the structure belonging to Mr. Francis Fernandes is beach facing and situated behind the structure of Mr. Ashok Kandhari and the structure of Late Mr. Pascol Fernandes is situated adjacent to the structure of Mr. Ashok Kandhari and faces the road, beyond which is the creek. I say that in paragraph 18 of the said order my statement was recorded that the two business establishments in Survey no. 63/69 and Survey no. 63/90 will be closed down by tomorrow. This Hon'ble Court further directed that in case the business establishments were not closed by tomorrow i.e. by 02.11.2023, the Dy. Collector and the PSI of Pernem Police Station must seal these premises and ensure that no commercial operations take place through them.”

20. On 21.12.2023, when the Petitioner's Writ Petition No.928/2023 came up for hearing, he submitted before this Court that he had tendered his resignation to the DOP as a Sarpanch and stated he would not press for reliefs in this petition if the order of the DOP dated 15.12.2023, removing him from the post of Sarpanch, was withdrawn. A statement came to be made by the learned Advocate General in that petition, to the Court that the order dated 15.12.2023 would stand withdrawn. Consequently, Writ Petition No.928/2023 came to be withdrawn on the same day after recording this statement. The Petitioner continued in the office of Member of the Ward, in the Panchayat.

21. On 17.01.2024, yet another affidavit came to be filed by the Petitioner in the PIL which records as under:

“2. I say that on account of the allegations made in respect of structures existing in survey no 63/90 and 63/69 which structures were in fact constructed by my late father Mr. Pascol Fernandes and my uncle Mr. Francis Fernandes. I was not involved in any manner what so ever in the construction. However, taking moral responsibility at that stage, pending adjudication of the legality /illegality thereof, I had tendered my resignation to the Directorate of Panchayat. I say that in the resignation letter dated 20.11.2023, though the reason cited by me was "my personal problem", the reason in fact was as stated herein above. However, the residents of my ward prevailed upon me to withdraw the said resignation and accordingly vide communication dated 22.11.2023 I withdrew the resignation. Copies of communications dated 20.11.2023 and 22.11.2023 are hereto annexed and marked as EXHIBIT A COLLY.

6. I say that the panchayat has now filed an affidavit before this Hon'ble Court pointing out that about 60 structures do not have construction licence and/or occupancy certificate from the Panchayat. I say that inter alia in such circumstances this Hon'ble Court was pleased to order sealing of the same by the Goa State Pollution Control Board in its order dated 20.12.2023. I say that by the same order even the premises constructed by my late father and uncle were ordered to be sealed. I say that the seal was removed on 04.01.2024 in order to enable me to remove refrigerators and other movables which I

removed and thereafter the premises have been sealed again on 10.01.2024.”

22. In the meanwhile, the Secretary of the Panchayat filed an affidavit dated 20.12.2023 which placed on the record of the PIL, details of the structures recorded, after site inspection, at Girkar Ward. The affidavit gives the details of 61 structures, inspected till that date in a tabular form, stating whether the same were of residential or commercial use and whether the same was raised after obtaining a construction licence from the Panchayat, and whether the structure has been issued an occupancy certificate. The Petitioner had in fact, on the very same day, filed two affidavits in the Court with regard to his own structures. Taking notice of the details stated by the Panchayat in its affidavit, this Court, in the PIL, passed an order dated 29.01.2024, relevant parts of which are reproduced herein:

“1. Mr Rao, based on the instructions from Mr Bernard Fernandes, states that Mr Bernard Fernandes is one of the co-owners of the property and the structures thereon. On specific instructions from Mr Bernard Fernandes, who is present in the Court, Mr Rao states that Mr Bernard Fernandes has no objection to the structures being demolished to the extent his share. However, Mr Rao, on instructions from the remaining three brothers, mother, and sister, states that he has no instructions to make any statement on their behalf. One of the brothers, Mr Avelino Fernandes, is present in the Court.

2. *Mr Avelino Fernandes was given an opportunity to say whether his construction in the NDZ has any permission. Initially, he stated that there is Panchayat permission. In the affidavit filed by Mr Bernard Fernandes before this Court by which liberty was granted to place all permissions on record, there is no reference to this Panchayat permission.*

3. *Mr Gaonkar, learned counsel for the Panchayat, states that the Panchayat has never issued any construction permission for these structures. Upon this, Mr Avelino Fernandes also admits that there is no construction permission issued by the Panchayat to these structures but only house numbers issued by the Panchayat.*

4. *In any case, now that the above statements are made by Mr Rao, who represents Mr Bernard Fernandes and his other family members, we grant other family members, including Mr Avelino Fernandes, an opportunity to file an affidavit within a week from today stating their defence to the structures that are put up in the NDZ. If there are any permissions, the same must also be produced on record along with the affidavit. Copy of the affidavit must be supplied in advance to Mr Nadkarni, learned Amicus Curiae.*

5. *As noted earlier, Mr Bernard Fernandes was the Sarpanch of Village Panchayat Arambol and the Pancha Member from Ward No.4 (Girkarwada), where about 187 unauthorised constructions were noticed in the NDZ.*

6. *The learned Amicus Curiae now refers to affidavit cum compliance report on behalf of the Village Panchayat of Arambol and points out that the structures referred at Serial Nos. 1 to 9, 14, 20, 21, 22, 23, 24, 25, 26, 30, 31, 32, 33, 34, 36, 37, 40, 44, 46, 47, 54, 55, 56, 57 and 60 are the structures put up by Respondent Nos.*

11, 12 and 13, i.e. Mr Bernard Fernandes and his family members like his brothers, brothers' wives, uncle, etc.

7. We transcribe the details of these structures as reflected in the Panchayat affidavit/ report for the convenience of reference.

DETAILS OF SITE INSPECTION CONDUCTED TILL DATE AND STATUS OF 61 STRUCTURES SITUATED AT GIRKARWADA, ARAMBOL, PERNEM-GOIA IS AS UNDER:

Sr. No.	Survey No.	Nature of Structure.	To whom the Structure belongs.	Whether structure is used for Residential or Commercial Purpose.	Whether structure is raised after obtaining construction license from VP Arambol and whether structure has got occupancy certificate.
1	64/0	Temporary Structure	Mr Caitan Fernandes	Commercial purpose. Selling of clothes	No Construction License or permission issued. Further no occupancy certificate is issued.
2	64/0	Temporary Shack	Mr Felix Fernandes	Commercial Purpose	No Construction License or permission issued. Further no occupancy certificate is issued.
3	64/0	2 Temporary Shack	Valentina Fernandes	Commercial Purpose	No Construction License or permission issued. Further no occupancy certificate is issued.

4	64/0	Temporary Shack with Kitchen, Toilet Block, staff room and store room.	Mr Avelino Fernandes	Commercial Purpose.	No Construction License or permission issued. Further no occupancy certificate is issued.
5	64/0	Temporary Structure	Mrs. Magdalina Fernandes	Not in operation	No Construction License or permission issued. Further no occupancy certificate is issued.
6	64/0	4 Huts/Structures. (Wooden Structures with Mangalore Tiles)	Mr Avelino Fernandes	Commercial Purpose	No Construction License or permission issued. Further no occupancy certificate is issued.
7	64/0	Temporary Shack	Mr Avelino Fernandes	Commercial Purpose	No Construction License or permission issued. Further no occupancy certificate is issued.
8	64/0	8 Rooms	Mr Avelino Fernandes	Commercial Purpose.	No Construction License or permission issued. Further no occupancy certificate is issued.
9	64/0	9 rooms/structures	Mr Bernardo Fernandes	Commercial Purpose.	No Construction License or permission issued. Further no occupancy certificate is issued.

					<i>issued.</i>
10	63 & 63/81	Compound wall, Temporary Shed with Kitchen, 10 structures and store room.	Sabira Karol	Commercial Purpose	No Construction License or permission issued. Further no occupancy certificate is issued.
11	63/8	Construction of Guest House (Ground plus two floors) with compound wall.	Mr Rosario Fernandes	Commercial Purpose	No Construction License or permission issued. Further no occupancy certificate is issued.
12	63/80	Construction of Guest House, 2 temporary huts.	Mr Luis M. Fernandes	Commercial Purpose.	No Construction License or permission issued. Further no occupancy certificate is issued.
13	63/83	1 Permanent Structure with mangalore tiles, 3 Structure of Ground plus one with fabrication, 5 Structures.	Mr Shubham Kantharia.	Commercial Purpose	No Construction License or permission issued. Further no occupancy certificate is issued.
14	63/82	Permanent Rooms and Temporary Structures.	Mr Avelino Fernandes	Commercial Purpose.	No Construction License or permission issued. Further no occupancy certificate is issued.
15	63/87	Extension to Old House. Construction of ground	Mr Marcelino Fernandes	Commercial Purpose	No Construction License or permission

		<i>plus 3 floors including MS shed.</i>			<i>issued. Further no occupancy certificate is issued.</i>
16	63/85	<i>Late rite stone compound and masonry wall.</i>	<i>Unknown</i>	<i>N. A.</i>	<i>Yet to ascertain from the VP Records.</i>
17	63/84	<i>2 Permanent structures. One consisting of ground plus first floor and other of only ground floor.</i>	<i>Unknown</i>	<i>Not in use.</i>	<i>Yet to ascertain from the VP Records.</i>
18	63/86	<i>Construction of guest house consisting of ground plus 2 floors and compound wall and permanent structure with metal sheets.</i>	<i>Mr Russel Rodrigues</i>	<i>Commercial use.</i>	<i>No Construction License or permission issued. Further no occupancy certificate is issued.</i>
19	63/88	<i>Compound wall, 3 huts with permanent floor/plinth and one permanent structure.</i>	<i>Conceisao Rodrigues</i>	<i>Residential and Commercial purpose.</i>	<i>No Construction License or permission issued. Further no occupancy certificate is issued.</i>
20	63/90	<i>Construction of guest house by doing extension to existing structure.</i>	<i>Juliana Fernandes</i>	<i>Commercial purpose.</i>	<i>No Construction License or permission issued. Further no occupancy certificate issued.</i>

21	63/90	Construction of guest house consisting of ground plus 3 floors.	Mr Pascol Fernandes	Commercial purpose. Commercial Activities are stopped pursuant to Order dated 01/11/2023 passed in Writ Petition No.724/2023	No Construction License or permission issued. Further no occupancy certificate is issued.
22	63/89 and 63/91	3 Guest house consisting of ground plus first floor with mangalore tiles and 1 temporary store room.	Mr Avelino Fernandes	Commercial purpose	No Construction License or permission issued. Further no occupancy certificate is issued.
23	63/69	Construction of guest house consisting of ground plus 3 floors, swimming pool and pump house.	Mr Francis Fernandes	Commercial purpose. Commercial Activities are stopped pursuant to Order dated 01/11/2023 passed in Writ Petition No.724/2023	No Construction License or permission issued. Further no occupancy certificate is issued.
24	63/89	Construction of 3 guest house out of which 2 consists of ground plus first floor and compound wall.	Mr Felix Fernandes	Commercial purpose.	No Construction License or permission issued. Further no occupancy certificate is issued.
25	64/0	Construction of 9 huts/structures, 1 permanent	Mr Felix Fernandes	Commercial purpose.	No Construction License or permission issued. Further

		structure with mangalore tiles, 1 temporary shed, 1 permanent shop and compound wall.			no occupancy certificate is issued.
26	64/0	Erection of new temporary structure.	Mr Caitan Fernandes	Commercial purpose.	No Construction License or permission issued. Further no occupancy certificate is issued.
27	63/77 and 63/79	Construction of new compound wall.	Unknown .	N.A.	Yet to ascertain from the VP Records.
28	63/80	Construction of new compound wall.	Unknown	N.A.	Yet to ascertain from the Records.
29	63/76	Reconstruction of existing House.	Mr Glen Luis Fernandes	Residential	No Construction License or permission issued. Further no occupancy certificate is issued.
30	63/76, 63/77, and 63/74	Reconstruction of existing house.	Mr Caitan Fernandes	Residential	No Construction License or permission issued. Further no occupancy certificate is issued.
31	63/74	Construction of house consisting of ground plus 2 floors.	Mr Avelino Fernandes	Residential	No Construction License or permission issued. Further

					no occupancy certificate is issued.
32	63/75 and 63/76	Construction of house and temporary shed with compound wall.	Mr Caitan Fernandes	Residential	No Construction License or permission issued. Further no occupancy certificate is issued.
33	63/75	Construction of shop	Mr Avelino Fernandes	Commercial	No Construction License or permission issued. Further no occupancy certificate is issued.
34	63/75	Erection of Temporary shed with metal sheets.	Mr Caitan Fernandes	NA	No Construction License or permission issued. Further no occupancy certificate is issued.
35	63/60 & 63/58	Construction of Residential House consisting of ground plus 2 floors.	Mr Rosario Fernandes	Partly residential and partly commercial	No Construction License or permission issued. Further no occupancy certificate is issued.
36	63/56 & 63/57	Construction of guest house consisting of ground plus 2 floors.	Mr Felix Fernandes	Commercial	No Construction License or permission issued. Further no occupancy certificate is issued.
37	63/60, 63/59 & 63/58	Construction of shops and guest house	Mr Felix Fernandes	Commercial	No Construction License or permission

		consisting of ground plus 2 floors.			issued. Further no occupancy certificate is issued.
38	63/74, 63/56 & 63/55	Construction of house consisting of ground plus first floor with attached shed.	Mr Luis Fernandes	Residential	No Construction License or permission issued. Further no occupancy certificate is issued.
39	63/56	Construction of chapel	Unknown	NA	Yet to ascertain from the Records.
40	63/55	Construction of house consisting of ground plus 2 floors.	Mrs. Juliana Fernandes	Residential	No Construction License or permission issued. Further no occupancy certificate is issued.
41	63/55	Construction of guest house consisting of ground plus 3 floors.	Mrs. Filomena Fernandes	Commercial	No Construction License or permission issued. Further no occupancy certificate is issued.
42	63	Old Construction of Holy Cross Chapel.	Unknown	NA	Yet to ascertain from the VP Records.
43	63/44-A	Construction of house consisting of ground plus 2 floors, compound wall, well and septic tank.	Mr Vishal Sharma.	Residential	No Construction License or permission issued. Further no occupancy certificate is issued.
44	63/56	Construction	Mr Felix	Commercial	No

	& 63/57	n of Guest House consisting of ground plus 2 floors.	Fernandes		Construction License or permission issued. Further no occupancy certificate is issued.
45	63/57	Construction of House with ground plus 2 floors, toilet, septic tank and compound wall.	Mr Luis Fernandes	Partly Residential and partly commercial.	No Construction License or permission issued. Further no occupancy certificate is issued.
46	63/54, 63/71 & 63/73	Construction of guest house consisting of ground plus 2 floors with swimming pool, compound wall and toilet.	Mr Felix Fernandes	Commercial purpose.	No Construction License or permission issued. Further no occupancy certificate is issued.
47	63/72	Construction of guest house consisting of ground plus three floors.	Silvia Fernandes	Commercial purpose.	No Construction License or permission issued. Further no occupancy certificate is issued.
48	63/74	Construction of Residential House and Compound wall.	Unknown	Residential	Yet to ascertain from the VP Records.
49	64/0	Erection of Temporary Structures with masonry walls.	Mr Luis Minguel Fernandes	For Commercial Purpose.	No Construction License or permission issued. Further no occupancy

					certificate is issued.
50	64/0	Erection of shacks/huts/structures with permanent floor of RCC, 1 yoga shed, kitchen and sitting area.	Mr Luis Minguel Fernandes	Commercial purpose.	No Construction License or permission issued. Further no occupancy certificate is issued.
51	64/0	Erection of shacks/huts/structures, sitting room, permanent concrete steps and toilet block.	Mr George D'Souza	Commercial purpose.	No Construction License or permission issued. Further no occupancy certificate is issued.
52	63/52	Erection of 6 huts/shacks with store room and overhead tank	Conceisao Rodrigues	Commercial purpose.	No Construction License or permission issued. Further no occupancy certificate is issued.
53	63/48 & 63/44	Construction of house and erection of 2 huts/shacks.	Mr Lawrence Rodrigues	Partly Residential and Partly commercial	No Construction License or permission issued. Further no occupancy certificate is issued.
54	63/39	Structure with mangalore tiles and permanent concrete flooring.	Natalina Fernandes	For commercial use but not put to commercial use.	No Construction License or permission issued. Further no occupancy certificate is issued.
55	63/40 & 63/34	Construction of guest house	Juliana Fernandes	Commercial purpose.	No Construction License or

		consisting of ground plus first floor and 3 cottages			permission issued. Further no occupancy certificate is issued.
56	63/33	Construction of guest house consisting of ground plus first floor and compound wall.	Valentina Fernandes	Commercial purpose.	No Construction License or permission issued. Further no occupancy certificate is issued.
57	63/24, 63/35 & 63/36	Construction of house consisting of ground plus two floors.	Valentina Fernandes	Partly Residential and partly commercial.	No Construction License or permission issued. Further no occupancy certificate is issued.
58	63/36 & 63/37	Construction of house consisting of ground plus first floor and temporary shed.	Caridad Benadit Fernandes	Residential	No Construction License or permission issued. Further no occupancy certificate is issued.
59	63/24	Construction of house consisting of ground plus three floors.	Jose Erik Fernandes	Residential	No Construction License or permission issued. Further no occupancy certificate is issued.
60		Construction of house, permanent cottages and temporary shed and compound wall.	Mr Francis William Fernandes	Residential and commercial purpose.	No Construction License or permission issued. Further no occupancy certificate is issued.
61	63/8	Construction	Loyld	Commercial	No

		n of guest house consisting of ground plus two floors.	Fernandes	purpose.	Construction License or permission issued. Further no occupancy certificate is issued.
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8. *Mr Bernard Fernandes and Mr Avelino Fernandes, who are present in the Court, confirm that these are the structures of their brothers, sisters-in-law, mother, uncle, etc. Most of these persons, except their wives, are parties to this petition. If all this is correct, then this discloses an extremely shocking state of affairs in this Ward of which Mr Bernard Fernandes is a Pancha Member and was formerly Sarpanch of this Village Panchayat of Arambol.*

9. *Out of 61 structures referred to in the Panchayat report/affidavit, this Ex-Sarpanch and (present Pancha Member from this Ward) and his family members have put up no less than 33 illegal constructions in the NDZ which were being operated for commercial purposes.*

10. *Still, we grant Mr Bernard Fernandes, his brothers, brothers' wives, mother, uncle, etc., an opportunity to file an affidavit within one week from today by explaining their position regarding these structures. If they have permission, they must annex them along with the affidavit.*

11. *The record shows that Mr Bernard Fernandes initially resigned as Sarpanch but then withdrew his resignation. The Director of Panchayat, exercising powers under Section 50 of the Panchayat Raj Act, ordered Mr Bernard Fernandes' removal. Mr Bernard Fernandes challenged this in this Court, but the petition (WP No. 928 of 2023) was disposed of as infructuous after Mr Bernard Fernandes tendered his resignation as a Sarpanch.*

12. *Mr Bernard Fernandes, however, continues as a Pancha Member of Girkarwada, in which no less than 187 illegal constructions are noticed. As noted earlier, Girkarwada is a small Ward with having population of 800 persons. Several of these constructions appear to have been put up by Mr Bernard Fernandes and his family members.*

13. *Section 210-A of the Panchayat Raj Act provides that a member of a Panchayat shall, after an opportunity is afforded for hearing him, be removable from his office as a member by an order passed by the Director, for persistent remiss in the discharge of his duties, or if such member acts detrimental to the interest of the Panchayat or misuses or abuses the powers or exercises powers which are not expressly vested in him by or under this Act or rules or bye-laws framed thereunder. The member so removed shall not be eligible for re-election for a period not exceeding five years, as the Director may specify in his order.*

14. *From the material that has been placed on record by the Panchayat itself in its affidavit and reports, we think that a prima facie case has been made out to direct the Director of Panchayats to consider action under Section 210-A of the Panchayat Raj Act. The Director of Panchayat is a party to these proceedings. The Director of Panchayat must, therefore, consider issuing a show cause notice to Mr Bernard Fernandes and grant Mr Bernard Fernandes full opportunity of hearing in the context of the provisions of Section 210-A of the Panchayat Raj Act. This exercise must be undertaken and completed expeditiously by giving full opportunity to Mr Bernard Fernandes for his defence.*

15. *As directed above, affidavits must be filed by 09.02.2024, and copies must be furnished to the learned Amicus Curiae and the learned AG's office. The*

Director of Panchayat must also file an affidavit on or before 14.02.2024.

16. The GSPCB must also file an affidavit before us giving details of specific premises which have been sealed. Before filing this affidavit, the GSPCB's officials must also visit the site and ensure that no commercial operations are going on through these premises. The Police authorities must extend all cooperation to the GSPCB.

17. The survey and action in accordance with the law concerning the illegal structures must continue, and the authorities must file status reports after furnishing copies to the learned Amicus Curiae.

18. We now place this matter for further consideration on 14.02.2024.”

23. Thereafter, the Show Cause Notice dated 01.02.2024 which is the subject matter of this petition, was issued to the Petitioner, calling upon him to show cause why he should not be removed from the post of Member of the Panchayat in terms of Section 210-A of the Act.

24. In reply to the Show Cause Notice dated 01.02.2024, the Petitioner, filed Reply dated 19.02.2024; the substance of his reply is the following:

a) The Petitioner admitted that he and his family members were all parties to the PIL Writ Petition before this Court, in which his brother, Avelino, had

filed an affidavit in reply (Respondent 13(iii) in the PIL). The copy of the affidavit of Avelino with several of Avelino's documents was relied upon by the Petitioner in his reply.

- b) The Petitioner claims that the report filed by the Panchayat in the PIL was incorrect and misleading and further states that of the 33 structures, which according to the Panchayat, are alleged to have been constructed by the Petitioner and his family members, only 28 actually belong to the Petitioner and his family. That these structures were not constructed by the Petitioner but by his late father (Pascol) and the same exist prior to CRZ Notification of 1991. Of these 28 structures jointly belonging to the Petitioner and his family, 18 are permanent structures and the Petitioner has no role to play in their construction.
- c) The Petitioner stated that personally he has not granted any permission or licence to himself or his family members and the constructions, in which he holds a share, were put up prior to his election.

25. In the affidavit of Avelino Fernandes (Petitioner's brother) with its annexures, relied upon by the Petitioner in

his reply, the following statements have been made by his brother and documents relied upon:

- a) That of the 28 structures which belong to Avelino and his family, some are residential and some are commercial structures; Avelino claims to be one of the heirs of his deceased father Pascol, and it is Pascol who had put up all these structures along with his brother Francis (Respondent No.12 in the PIL).
- b) Of the 28 structures, 10 are temporary in nature used for storing fishing equipment and 18 are permanent structures of which only 8 are reflected on the survey plan. Of the 10 permanent structures not reflected on the survey plan, the same have not come into existence during the tenure of Bernardo Fernandes (the Petitioner) as Panch or Sarpanch.
- c) Avelino admits that the structures do not have any construction licence or occupancy certificate and claims they were in existence prior to the CRZ Notification. He claims that the structures were used for commercial purpose but after order dated 29.01.2024 was passed in the PIL, the authorities have stopped all business operations therein. A table was attached by Avelino to his affidavit giving details

of 18 permanent structures belonging to him, the Petitioner and other siblings as co-owners. Amongst these, House No. 192 in Survey No.63/82, House No.40/2 in Survey No.63/90, House No.45 in Survey No.63/69, House No.42(1) in Survey No.63/40 are admittedly commercial establishments in permanent structures which are not shown on the survey plan, do not have licences; admittedly all these structures are in the NDZ and have no permissions from GCZMA.

26. From the facts recorded above, from the record of the PIL and the various affidavits, the following facts were certainly to the knowledge of the Petitioner Bernardo, prior to the issuance of the Show Cause Notice on 01.02.2024:

a) That the four-storeyed hotel structure belonging to Ashok Kandhari, in Survey No.63/92, which is contiguous to the lands in which the Petitioner claims to be co-owner and have his structures, was constructed or at least run as a hotel during the tenure of the Petitioner as an elected Member of that Ward from 27.07.2022 and thereafter, as a Sarpanch since January 2023, until, due to the directions issued by this Court to the Panchayat, it was ordered to be

demolished on 25.10.2023 (while the Petitioner was the Sarpanch). Even after the demolition order, the Petitioner, wrote a letter to the Deputy Collector/demolition squad who was to carry out the demolition on 31.10.2023 (an act beyond the powers vested in a Sarpanch), not to proceed with the demolition, since the matter was pending before this Court.

- b) Ultimately, the four-storeyed structure of Kandhari was demolished under orders of this Court, since it had no construction licence from the Panchayat, no CRZ approval, no approval from the Town Planning Department or from the GSPCB. It was fully within the knowledge of the Petitioner, during this entire period, both as a Panch and as a Sarpanch, that the structure had absolutely no licences to operate or for its construction, and was standing next to the lands, claimed by the Petitioner to be in his co-ownership, and the very Ward in which the Petitioner was a resident and had been elected from.
- c) When, in the PIL, Kandhari brought to the notice of this Court that there were large number of illegal constructions or commercial operations in several of

these structures, including that of the Petitioner and his family, next to the demolished structure, this Court directed affidavits to be filed and site inspections to be conducted by the Panchayat, GSPCB and the GCZMA. In the report produced of inspection carried out on or around 24.11.2023, what was brought on record of the PIL and to the full knowledge of the Petitioner who continued to be a Sarpanch on that date, was that he (Bernardo) and his siblings Avelino, Caitan, Felix and Ramita, were in possession of at least 28 structures in various survey numbers contiguous to each other shown in the chart at paragraph 22 above. Of these structures, almost all had commercial establishments being run in them without any construction licence, occupancy certificate or any approval from the GCZMA and the GSPCB, which were required under the Air Act, Water Act or the Environment Protection Act/CRZ Notification, as all these structures fell within the NDZ. Assuming these structures were existing prior to the CRZ Notification of 1991, which is obviously not the case, as most do not appear on the Survey Plan which was promulgated around the year 1984, even then, commercial ventures such as a hotel/guest

house, run by the Petitioner and his siblings in these structures required permissions to operate such ventures.

- d) From the affidavit of Avelino, relied upon by the Petitioner, a No Objection Certificate dated 31.10.2023 has been relied upon by Avelino for running 13 rooms in a guest house, purportedly in House No.192, which was issued personally by the Petitioner under his own signature, as a Sarpanch. This document shows direct involvement of the Petitioner, issued to his own brother for a structure in a land under Survey No.63/82, which the Petitioner, as also Avelino, claim to be co-owners through their father Pascol.
- e) Avelino has also been issued a liquor licence for these structures in Survey No.63/82 and licences under Food Safety Standards Act for running a restaurant. The business run in these structures is clearly of commercial nature, without any permissions from the Panchayat or the GCZMA or the GSPCB; the Petitioner claiming to be co-owner of all these survey holdings, and an elected Member of the Panchayat at this time, could certainly not

claim to be ignorant of all these facts, more so when he himself has issued one of these NOCs to his own brother.

- f) The Petitioner himself runs a hotel/guest house, which is a commercial venture in a structure in Survey No.64/0. No construction licence or any permissions including occupancy certificate have been issued by the Panchayat, Town Planning Department or GCZMA and GSPCB for this structure. The structure was sealed by orders of this Court in the PIL, while the Petitioner was a Sarpanch. The Petitioner has remained silent in his reply about this structure, though his brother Avelino has at least four other commercial ventures, including a guest house with eight rooms and two shacks with kitchen and a toilet block in them in the very same survey number. Perusal of the Petitioner's affidavits in the PIL would also reveal (as noted by the Court in its various orders), that there is no explanation coming forth from the Petitioner about the legality of his own structures (9 rooms) in Survey No.64/0.

27. What is clear, therefore, is that the Petitioner was fully alive to all the above facts, when he received the Show Cause

Notice and being a Respondent in the PIL, being the Sarpanch and an elected Member of the concerned Ward, there was no fact, which is referred to in the Show Cause Notice or relied upon in the Show Cause Notice, that the Petitioner could be said to have been taken by surprise. The Show Cause Notice itself refers to the PIL and various orders of this Court, passed in the PIL involving the Petitioner and his family members. It specifically alleges that this Court had, prima facie, found that the Petitioner was involved in putting up or facilitating the erection of illegal structures, in a CRZ/NDZ area through which he and his family members operate guest houses, without permission from these authorities. The Petitioner was also made aware in the Show Cause Notice of the inspections carried out, the reports filed at the behest of Court orders, in the PIL and the direction of the High Court on 29.01.2024 to the DOP, that a prima facie case had been made out from the record of the PIL to proceed against the Petitioner under Section 210-A.

28. Immediately before this order was passed, the Petitioner first resigned on 20.11.2023, then withdrew his resignation on 22.11.2023, and when he was removed as Sarpanch by order dated 15.12.2023, he challenged that order before this Court in a Writ Petition and ultimately resigned as Sarpanch for the

second time on 21.12.2023 after withdrawing his petition, and continuing in office as a Member of the Panchayat. The order removing him as Sarpanch, was surprisingly withdrawn by the DOP on 21.12.2023. Considering all these facts, the Show Cause Notice cannot be termed as vague or bereft of material particulars, more so when the references in the Show Cause Notice are to the specific record of the PIL, in which the Petitioner was a Respondent, had participated, filed affidavits and was fully aware of the record thereof, being the Sarpanch and a Member of that very Ward during the relevant time.

For all these reasons, I am of the opinion that in answer to the first point for determination, the Petitioner had sufficient notice of the allegations levelled against him to seek his disqualification and removal from the post of Member of the Panchayat, under Section 210-A of the Act, in the Show Cause Notice dated 01.02.2024 issued by the DOP.

29. Before considering the other two points for determination, it would be necessary for me to make reference to certain provisions of the Panchayat Raj Act:

“SECTION 46

“46. Procedure for Election of Sarpanch and Deputy Sarpanch.-

(1) At the first meeting of the Panchayat to be called on

a day fixed by the Government the members of the Panchayat shall elect, from amongst themselves a Sarpanch and a Deputy Sarpanch.

(2) Such officer as may be specified in this behalf by the Government shall preside at such meeting but shall not have the right to vote.

(3) No business other than the election of the Sarpanch and Deputy Sarpanch shall be transacted at such meeting.

(4) In case of equality of votes, the result of the election shall be decided by lots drawn in the presence of the Officer aforesaid in such manner as he may determine.

(5) In the event of a dispute arising as to the validity of the election of the Sarpanch or the Deputy Sarpanch, the dispute shall be referred to such authority as may be specified by notification by the Government and the decision of such authority thereon shall be final.

(6) The procedure for the election of Sarpanch and Deputy Sarpanch shall be such as may be prescribed.”

SECTION 50

“50. Resignation or Removal of Sarpanch or Deputy Sarpanch

(1) The Sarpanch of the Panchayat may resign his office by writing under his hand addressed to the Director and the Deputy Sarpanch of the Panchayat may resign his office by writing under his hand addressed to the Sarpanch and in the absence of the Sarpanch to the Director.

(2) Every Sarpanch or Deputy Sarpanch of the Panchayat shall be deemed to have vacated his office forthwith if he ceases to be a member of the Panchayat.

(3) Every resignation under sub-section (1) shall take effect on the expiry of ten days from the date of its receipt by the Director or the Sarpanch as the case may be, unless within the period of ten days he withdraws such resignation by writing under his hand.

(4) Every Sarpanch or Deputy Sarpanch of a Panchayat shall, after an opportunity is afforded for hearing him, be removable from his office as Sarpanch or Deputy Sarpanch by the Director for being persistently remiss in the discharge of his duties or misconducting himself or misuses or abuses the powers or exercising the powers not expressly vested in him by or under the Act or the rules framed thereunder and the Sarpanch or Deputy Sarpanch so removed who does not cease to be a member under sub-section (2) shall not be eligible for re-election as Sarpanch or Deputy Sarpanch for such period not exceeding five years as the Director may specify in his order.

(5) A Sarpanch or Deputy Sarpanch removed from his office under sub-section (4) may also be removed by the Director from the membership of the Panchayat for such period not exceeding five years as the Director may specify in his order.”

SECTION 64

“64. Powers and duties of the Sarpanch and Deputy Sarpanch. (1) The Sarpanch of the Panchayat shall, in addition to the power exercisable under any other provision of this Act or rules made thereunder,-

- (a) convene meeting of the Panchayat;*
- (b) have access to the records of the Panchayat; 49[...]*
- (c) exercise supervision and control over the acts of the officers and employees of the Panchayat;*
- (d) incur expenditure not exceeding [rupees five thousand] per month on any matter in an emergency and in public interest;*
- (e) recommend or not, the sanction of any kind of leave to all the officers and employees of the Panchayat including the Gram Sevak;*
- (f) place all the correspondence received from the Government, Director, Chief Executive Officer, before the meeting of the Panchayat;*

- (g) hold regular Gram Sabha and other meetings of the Panchayat;*
- (h) recover the tax, fees and other dues from the defaulters of the Panchayat,*
- (i) place the audit report before the meeting of the Panchayat and ensure its due compliance;*
- (j) stop any unauthorized construction erected in the Panchayat area notwithstanding anything contained in sub-section (3) of section 66 of this Act and place the matter immediately before the ensuing meeting of the Panchayat for taking suitable decision;*
- (k) remove encroachment and obstruction upon public property, street, drains and open sites not being private property:*
 - (1) ensure due compliance of the provisions of the Act;*
- and*
- (m) comply with the directions/instructions issued by the Director, Chief Executive Officer, Deputy Director or Block Development Officer.*

(2) The Sarpanch may, if in his opinion the immediate execution of any work or doing of any act which requires the sanction of a committee or of the Panchayat, is necessary in public interest convene a meeting for the purpose with a notice of twenty four hours.

(3) The Deputy Sarpanch of the Panchayat shall exercise all the powers and perform all the duties and functions of the Sarpanch of the Panchayat, whenever the Sarpanch is absent or is on leave or resigns from office or expires or is disqualified or is incapacitated from functioning or if a motion of no confidence is passed against him under section 51 of this Act, until the Sarpanch resumes his office or the post of Sarpanch is filled by election, as the case may be.”

SECTION 66(5)

“66. Regulation of the erection of buildings –

...
(5) *Where the Panchayat fails to demolish the building which is erected, added to or reconstructed without the permission of the Panchayat, or in any manner contrary to the rules made under the Act or any conditions imposed in the permission, within a month from the date of the knowledge, the Deputy Director shall assume the powers of the Panchayat under sub-sections (3), (4) and (5) and take such steps as may be necessary for the demolition of such building.*”

SECTION 210-A

“210-A. Liability of members for removal. - A member of a Panchayat shall, after an opportunity is afforded for hearing him, be removable from his office as a member by an order passed by the Director, for persistent remiss in the discharge of his duties, or if such member acts detrimental to the interest of the Panchayat or misuses or abuses the powers or exercises powers which are not expressly vested in him by or under this Act or rules or bye-laws framed thereunder and the member so removed shall not be eligible for re-election for a period not exceeding five years as the Director may specify in his order.”

30. In terms of Section 46 of the Act, every Sarpanch is required to, primarily have been elected as a Member of the Panchayat. The duties of a Sarpanch and Deputy Sarpanch have been set out in Section 64 of the Act. Removal of a Sarpanch and Deputy Sarpanch under Section 50 can be ordered by the DOP on the following grounds:

a) If they remiss in discharge of the duties,

- b) or misconduct themselves,
- c) misuse or abuse their powers,
- d) or exercise powers not vested in them by the Act.

31. The Act does not prescribe any specific duties to be performed by an elected Member of a Ward in a Panchayat. However, Section 210-A, which was enacted by an amendment to the Act in 1997 stipulates that the DOP may remove a Member from his office for the following reasons:

- a) Persistent remiss in the discharge of his duties,
- b) If such Member acts detrimental to the interest of the Panchayat,
- c) misuse or abuse their powers,
- d) or exercise powers not vested in them by the Act.

32. Comparing the grounds of removal of a Sarpanch/Deputy Sarpanch with those prescribed for a Member, there is hardly any noticeable difference in the same. The only substantial difference in the grounds is that a Member can be removed for acting in a manner detrimental to the interest of the Panchayat. In my opinion, this last ground would equally apply to a Sarpanch or Deputy

Sarpanch, as it stands to reason and common sense, that a Sarpanch or Deputy Sarpanch, who are otherwise Members of the Panchayat, could also not act detrimental to the interest of the Panchayat or commit acts which would constitute persistent remiss in the discharge of their duties.

33. The question then is what would be the acts by a Member which would be detrimental to the interest of the Panchayat, or acts that would constitute remiss of the duties of a Member, to attract an order of removal as a Member. The Act does not prescribe any duties to be performed by a Member. Thus, we need to fall back on understanding the scheme of the Act, for regulating development and other activities within the jurisdiction of the Panchayat, which was the primary reason why, Part XI of the Constitution of India, which contains Section 243-B, was inserted therein by the Constitution (Seventy Third Amendment) Act, 1992; the purpose of the Constitutional amendment was to empower a grassroot democratic institution, the Panchayat, who would elect its own Members and regulate development and other activities within its jurisdiction. Primarily, therefore, the elected representatives, in this case the Member of the Panchayat, would be responsible for carrying forward the objects of the Act within the limits of his Panchayat, by

passing resolutions or taking decisions in all matters concerning this Body.

34. Chapter III of the Act provides for Functions, Duties and Powers of the Panchayats, Sarpanch and Deputy Sarpanch, under which Section 66 provides for regulation of erection of buildings, “building” being given the widest possible meaning, which includes any structure whether masonry, wood or temporary; Section 66 prohibits the erection of any building or its alteration or its reconstruction without permission of the Panchayat. Under Sub-Section 3 of Section 66, if such building is constructed without permission, the Panchayat is required to direct the construction to be stopped or such building to be demolished.

35. Primarily, therefore, it is the Panchayat, which consists of the elected Members who is responsible for taking action against construction of a building without permissions. Remiss by the Member of the Panchayat to take such action, or the act of omitting to take action when it is to the knowledge of the Member of the Panchayat, would obviously attract grounds of removal of a Member contained in Section 210-A of the Act.

36. In the present case, the Petitioner was a member of Girkar Ward where the structure of Ashok Kandhari in Survey No.63/92, erected next to the land where the Petitioner himself had his own structures, was constructed without any permissions of the Panchayat. No doubt the Petitioner was also Sarpanch at the relevant time and had additional duties and powers prescribed under the Act, but nevertheless, by omission in carrying out his duties of seeing that the illegal construction should be stopped or demolished in terms of Sub-Section 3 of Section 66, he has acted in a manner which is detrimental to the interest of the Panchayat. Apart from this one example, the Petitioner has even gone to the extent of issuing to his own brother an NOC for running a guest house in 13 rooms under “House No.192” in Survey No.63/82, of which he claims to be co-owner and successor through his deceased father Pascol. He has also, by his acts of omission to take action to stop commercial activities of his own and all his siblings in whose names several commercial establishments were running, without requisite permissions from the GCZMA or the GSPCB, acted in a manner detrimental to the interest of the Panchayat. It was known to the Petitioner that the structures were in the NDZ and required necessary permissions to run the same within that zone. Being a member of that Ward, and a co-owner of the lands within

which those structures were existing, the Petitioner cannot claim that he had no knowledge of the same, more so when he was a Respondent in the PIL where reports have been filed, stating the details of all these structures.

For all these reasons, I answer Point for Determination No. (b) in the affirmative and hold that there is sufficient material against the Petitioner to substantiate that he had persistently committed remiss in the discharge of his duties as a Member of the Panchayat and by his acts of omission to take action, had acted detrimental to the interest of the Panchayat. He has also misused the powers vested in him as a Member and at the relevant time as a Sarpanch to issue NOCs to his own brother to run a guest house of 13 rooms in land under Survey No.63/82.

37. Section 210-A empowers the DOP to remove a Member for a period upto five years, which shall render him ineligible for re-election during that period. Considering the acts of omission on the part of the Petitioner and the persistent manner in which he has either protected an illegal structure in the case of Ashok Kandhari or other structures belonging to himself and his siblings where commercial ventures were run, the DOP would, perhaps be justified, considering the abuse by the Petitioner of his position as a Member of a Panchayat,

to impose removal for a period of five years. The DOP has removed the Petitioner for a period of three years during which period he is ineligible to stand for re-election. The removal for three years, in my opinion, is justified and would not call for any further interference or reduction, considering all the facts stated above.

38. The impugned order of the DOP has considered the facts on record, and the findings given therein cannot be termed as perverse or in any manner contrary to the record. A detailed inquiry, under Section 210-A or recording of evidence of witnesses is not contemplated. It is sufficient if the Petitioner is given sufficient notice of the facts against him and the principles of natural justice and fair play are followed in a hearing conducted on the Show Cause Notice. In the present case, there does not appear to be any procedure followed by the DOP which could be termed as contrary to these principles. The Petitioner has been given ample opportunity to place his version of the case on record, which he has done by the reply. He has placed documents on record, and does not claim in the petition any particular instance where a proper opportunity to defend himself was not given. All the material referred to in the Show Cause Notice was well within

his knowledge considering the pendency of the PIL and the fact that he was a party to that PIL.

39. The order of the DOP was challenged in a Revision Application before the District Court. Though the revisional jurisdiction of the District Court is narrow, the District Court considered the material afresh and has confirmed the findings on the basis thereof. Two authorities have come to concurrent findings of fact on the acts of the Petitioner that constitute grounds for his disqualification/removal as a Member. No case has been made out for exercise of supervisory jurisdiction of this Court under Article 227 of the Constitution of India or the limited jurisdiction under Article 226 to interfere with these findings.

40. For the aforementioned reasons, the Writ Petition is dismissed with no order as to costs. Rule stands discharged.

VALMIKI MENEZES, J.