

Santosh

*IN THE HIGH COURT OF BOMBAY AT GOA
PUBLIC INTEREST LITIGATION (SUO MOTU)
NO. 2 OF 2019*

... Petitioner.

Versus.

1) State Govt. Through its Chief
Secretary, Secretariat,
Porvorim, Goa.

2) Kala Academy through its
Member Secretary, Campal, Panaji
Goa.

3) GSIDC, Managing Director,
7th & 8th Floor, EDC Road,
Dr. Atmaram Borkar Road,
Panaji, Goa.

... Respondents.

Mr. V. A. Lawande, Amicus Curiae.

Mr. D. Pangam, Advocate General along with Mr. Deep D. Shirodkar, Addl. Government Advocate for Respondents No.1 & 2 and with Mr. S.P. Munj, Addl. Government Advocate for Respondent No.3.

Mr. Raunaq Rao, Advocate for Charles Correa Foundation.

*Coram: M.S. Sonak &
Smt. M.S. Jawalkar, JJ.*

Date: 8th July 2021.

P.C. :

Heard Mr. V.A. Lawande, the learned Amicus Curiae, and Mr. D. Pangam, the learned Advocate General, who appears along with Mr. Deep Shirodkar, Additional Govt. Advocate for Respondents No.2 and 3.

2. On 24th July 2019, we made the following order :

“The Times of India (Goa Edition) dated July 24, 2019 has reported that Panaji's most iconic building, Kala Academy, the Charles Correa-designed masterpiece i.e. Goa's capital of culture is set to see its popular open air auditorium demolished. The news report makes a reference to a report prepared by the Goa Engineering College (GEC) proposing demolition. The news report also states that yet another report is awaited from the Goa State Infrastructure Development Corporation Limited (GSIDC) on the issue of proposed demolition of the open air auditorium at Kala Academy.

2. According to us, looking to the iconic nature of structure and what the structure means to every Goan, any decision to demolish such a structure is required to be taken with care, caution and sensitivity. We are not too sure whether all stakeholders have been taken into confidence and whether, all efforts have been made towards the restoration of this iconic structure. At least, prima facie, we are of the opinion that unless all measures are explored for restoration of the structure, no hasty steps should be taken to proceed with the demolition or to create some situation of fait

accompli.

3. Accordingly, we treat the news report in the Times of India under title “KA's open-air auditorium to be demolished, says Gaude”, as Suo Motu Public Interest Litigation. The registry to do the needful in this regard and place the matter for directions on 26th July, 2019 at 10.30 a.m. The news report is annexed to this file as Annexure - I.

4. Issue notices to the State Government through its Chief Secretary and Kala Academy through its Member Secretary, returnable on 26th July, 2019. The registry to ensure that such notices are duly served, inter alia by furnishing copies to the office of the learned Advocate General.

5. The learned Advocate General, State of Goa is also requested to appear in this matter.

6. On the returnable date, this Court will consider the appointment of an Amicus Curiae to assist this Court in the matter.

7. Place the matter for directions on 26th July, 2019.”

3. On 27/8/2019, Shri Gurudas P. Pilarnekar, Director, Directorate of Art and Culture, Government of Goa who was holding additional charge as Member Secretary, Kala Academy Goa, filed an affidavit before us. In the said affidavit, he states that the State Government is fully conscious of the fact that Kala Academy Goa and the open-air auditorium is a prestigious institution and structure not only for the persons who are involved with art and culture, but also the public at large. He, therefore, submitted that the

Government is handling the matter in a very careful and sensitive manner and further the same was being monitored at the highest level.

4. In the affidavit, the Director/Member Secretary specifically stated that the State Government has not taken any decision to demolish the open-air auditorium though, the State Government was considering all possible options to deal with the problem regards to upkeep and maintenance. The affidavit proceeds to state that the first option would be to restore the structure and all efforts would be made in that direction. It is only if restoration was not possible that other options will be explored. The affidavit also stated that the Government before taking any final decision in this matter, will involve the stakeholders in the process and also explore all available options.

5. The affidavit also pointed out that the building has become weak on account of the passage of time and corrosion. The affidavit set out that steps are required to be taken about the structure, having regard to structural audit, as well as safety audit.

6. The matter was adjourned from time to time to enable the learned Advocate General to report the final decision on behalf of the Kala Academy and the State Administration. Ultimately, the learned Advocate General reported that the State Administration has decided

not to demolish any structures in the Kala Academy complex, including the open-air auditorium, but structural repairs and even renovation works will have to be carried for preservation and maintenance of the complex and the structures therein. The learned Advocate General has placed on record a work order issued to M/s. Tecton Buildcons Private Limited for undertaking the structural repair and renovation works, including the work of waterproofing, electrical, HVAC, external drainage work allied with civil works of Kala Academy. The work order indicates that the State Administration/ Kala Academy is to spend an amount of ₹ 39.63 crores for such repairs and renovation.

7. The learned Amicus Curiae submitted that the statement of the learned Advocate General on behalf of the State Administration and Kala Academy may be recorded, so that the apprehensions that Kala Academy complex or the structures therein may be demolished, are set at rest. He submitted that if all that is now proposed is repair and renovation works, this Petition which was based on the apprehensions expressed in the newspaper report that Kala Academy or Kala Academy open auditorium may be demolished can be disposed of.

8. Mr. Raunak Rao who appears for Charles Correa Foundation also submitted that the course of action suggested by the

learned Amicus Curiae, can be followed in this matter, now that the apprehensions about the demolition of the Kala Academy Complex or the Kala Academy Open Air Auditorium no longer survive.

9. Accordingly, we record and accept the statement made by the learned Advocate General that the Kala Academy complex including the open-air auditorium therein will not be demolished but only repaired or renovated to preserve and up-keep the same. Based thereon, we dispose of this Suo Motu Public Interest Litigation.

Smt. M.S. Jawalkar, J.

M.S. Sonak, J.