

**BEFORE THE GOA HUMAN RIGHTS COMMISSION**  
**PANAJI – GOA**

**Proceeding No. 192/2017**

Shri Kedar R. Talaulikar,  
R/o H. No.B-73,  
Opp. Syndicate Bank,  
Betim, Bardez – Goa.

..... Complainant

V/s

1) The Executive Engineer,  
Public Works Department,  
Works Division XVII (PHE-N) PWD,  
Alto Porvorim, Bardez-Goa.

2) Shri Agnelo B. D'Souza,  
H. No.B-247/1,  
Casa De Souza,  
Opposite Syndicate Bank,  
Betim, Bardez – Goa.

..... Respondent

**INQUIRY REPORT/ORDER**

(1<sup>st</sup> February, 2021)

The Commission had received the Complaint on 31/07/2017, in respect of harassment for restoration of water supply to the mundkarial house No.B-73, Opp. Syndicate Bank, Betim, Bardez-Goa.

2. It is the case of the Complainant that the water connection was almost 39 years old and was taken in the name of his late grandfather, Mr. Pandurang Talaulikar on 26/07/1979.

3. It was stated that currently the said water pipeline is damaged by Mr. Agnelo D'Souza and his wife and his Grandmother had given a written complaint on 17/08/2016 about non working of the water meter and non supply of water to their residence.

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4. The Complainant states that the PWD is asking them to obtain fresh NOC when the actual owner had already permitted NOC in the year 1979 for the said connection. As such, the Complainant approached this Commission.

5. The Commission vide its Order dated 07/08/2017 called for the report from the Executive Engineer of PWD, i.e. Respondent No.1.

6. The respondent No.1 filed their report/reply on 23/07/2017 stating that the water connection was released in the name of Shri Pandurang Talaulikar in the year 1979 by laying pipeline through the private property bearing Survey No.62/5 of Village Reis Magos with the written consent of the land owner, Mr. Mingel D'Souza, whose name was appearing in Form I & XIV.

7. The Respondent No.1 stated that, on receiving the complaint dated 17/08/2016 from Smt. Kusumbai Talaulikar, the site was inspected by the Technical Officer of Sub Division IV, WDXVII (PHE-N) PWD, which revealed that the pipeline passing through the private property pertaining to the water connection was damaged. The occupant of the property Mr. Agnelo D'Souza objected for carrying out repairs stating that he is the owner of said property and no work should be carried out without his NOC

8. The Respondent No.1 also stated that the Assistant Engineer, by letter dated 01/09/2016 requested Mr. Agnelo D'Souza to co-operate with the department for the repairs of the existing water pipeline which was laid with the NOC of his father while releasing the water connection and that no new or additional pipeline is being laid in his property.

9. Further, the Respondent No.1 stated that there is no provision of law

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which allows the Government authority to trespass into the private property for any public work without the consent of the owner and as the original owner who had issued NOC has expired and the rights of the property are subsequently transferred, the Respondent No.1 is not in a position to address the grievances of the Complainant unless and until order is issued by the competent authority.

10. The Respondent No.1 stated that the grievances of the Complainant cannot be addressed as the owner of the private property is adamant in not allowing the repairs of the pipeline pertaining to the Consumer.

Both the Complainant and the Respondent No.1 had attached documents to the complaint and reply, respectively.

11. On 27/11/2017, the Complainant filed Rejoinder stating that Mr. Mingel D'Souza was uncle and not father of Mr. Agnelo D'Souza. He also stated that, as per the Official Gazette dated 07/03/1963, the Water Works department has right to give water connection to the house, even when the pipeline has to cross a plot of another owner, provided that no other solution is technically acceptable.

12. There upon the Respondent No.1 filed his further reply on 16/01/2018 stating that the Notification dated 07/03/1963 is repealed by the provisions of the Water Supply Act 2003. It was stated that the Respondent No.1 has tried his level best to restore the water supply to the Complainant but due to the legal issue, it could not be restored.

13. The Complainant filed his further reply on 09/02/2018.

14. Subsequently, Mr. Agnel D'Souza moved an intervention application

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on 02/04/2018. By Order dated 10/10/2018, the Intervenor was joined as the Respondent No.2 in the Proceedings.

15. The Respondent No.2 filed his reply on 10/01/2019 stating that the Complainant is not residing in the suit house and they have separate residences in Salvador-do-Mundo and at Caranzalm. The Respondent No.2 also stated that the Complainant has sought the same relief before the Mamlatdar of Bardez in Mundkardeclaration application filed by the Complainant.

The Respondent No.2 further stated that he has filed a Civil Suit against the Complainant. The Respondent No.2 states that the PWD officials have no right to trespass into his property and prayed that the complaint be dismissed.

16. The Complainant filed his Rejoinder on 06/01/2019 to the above reply of the Respondent No.2.

17. On 19/03/2020, the Respondent No.2 filed his written arguments in the matter, followed by the written arguments of the Complainant on 12/06/2020.

18. Arguments of all the parties were also heard on 15/12/2020. The Complainant argued in person. Shri Deepak Borkar, Assistant Engineer argued in the matter for the Respondent No.1 and Advocate Shri U. Khot argued for the Respondent No.2.

19. On going through the complaint and the replies of the Respondents No.1 & 2 and the documents produced by the parties, as well as the oral and written submissions of the parties, the Commission finds that

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there is no dispute that the water connection was released in the year 1979 in the name of Shri Pandurang Talaulikar for H. No.446 at Betim, on the no objection being given by the land owner, Mr. Mingel D'Souza for laying the pipeline through his property bearing Survey No. 62/5 at Reis Magos. The copy of the said NOC indicates that it was given on 01/06/1979.

20. Along with the said NOC, the Complainant has also produced documents obtained under RTI Act, showing that the 80 mm pipeline was laid from the Verem-Betim road, to the house of Mr. Pandurang Talaulikar.

21. There is also the letter dated 01/09/2016 written by the Assistant Engineer to Mr. Agnelo D'Souza that the PWD is not installing any new or additional pipeline and that the same old pipeline which supplies water to the existing consumer is choked. In the said letter, the PWD has clearly stated that NOC for the water connection from the owner was taken by the Applicant and to co-operate for the repairs of the existing water pipeline.

22. The Ld. Advocate for the Respondent No.2 submitted that the PWD has no right to trespass into the property of Respondent No.2.

23. The Commission finds that the earlier owner Shri Mingel D'Souza has given no objection to lay the water pipeline in his property, to Shri Pandurang Talaulikar, i.e. late grandfather of the Complainant. Based on the NOC, in the year 1979, water connection was released to the house occupied by Shri Pandurang Talaulikar.

24. As per the reply dated 10/10/2018, filed by the Executive Engineer of

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Respondent No.1, the department by notices to both the parties had carried out inspection of the pipeline on the ground level for checking damages/tempering by the owner and after inspection it was found that most of the G.I. pipelines are very old and completely corroded. Hence, it is required to replace full length of pipeline for a length of about 60 to 70 mtrs. from main tapping point to meter point. Here, the Respondent No.1 has stated that land owner's NOC is required for replacing pipeline at the expenses of the Complainant.

25. The question before the Commission is whether once the NOC was given in the year 1979 by the owner and the pipeline was laid, now only for replacing the damaged pipeline, whether fresh NOC of the present owner is required.

The Commission finds that there is no provision of law that the fresh NOC from the present owner would be required for replacing the damaged pipeline.

The present owners have inherited the property from the earlier owner and all the encumbrances imposed by the earlier owner of the property will continue to be valid.

The Commission agrees with the Complainant that the Respondent No.1 themselves have stated in their letter dated 01/09/2016 that no additional or new pipeline will be installed but only repairs/replacement of the existing pipeline are to be done, for which NOC was given by the owner at the time of release of the connection.

In view of the same, the Commission finds that the Respondent No.1 is duty bound to restore water supply to the house of late Shri Pandurang Talaulikar as the NOC was already given by the original owner in 1979. By not restoring the pipeline, the human rights of the Complainant have been violated by the Respondent No.1.

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26. The Complainant has relied on the Government Official Gazette published on 17/03/1963 under Series I, No.10. As rightly pointed out by the Respondent No.1, under the Goa Provision of Water Supply Act 2003, which was published in the Official Gazette on 29/12/2003, under Clause 10, it has been stated that so much of any law in force in the State of Goa relating to the supply of water to the consumers, shall stand repealed, as from coming into force of the Act. The Act came into force w.e.f. 22/07/2003.

In any case the original water supply was provided to the house of Shri Pandurang Talaulikar, not under the said Gazette of 1963 but admittedly on the NOC given by the owner of the property. As such, the repeal is of no consequence.

27. In this proceeding, the Respondent No.2 has also filed an application on 23/07/2020 for issuing contempt notices against the Complainant for averments in his replies.

The Complainant had filed his reply thereafter.

28. The Commission finds no merits in the said application and the same stands disposed of.

29. Under Section 18 of the Protection of Human Rights 1973, are the steps that the Commission can take under the Act, when the inquiry discloses the Commission of violation of human rights or negligence in the prevention of violation of human rights or abatement thereof by a public servant and the powers of the Commission to recommend to the concerned Government authority, the action as deemed fit, in terms of Section 18(a)(III).

30. Under Clause 17 of the Goa Human Rights Commission (Procedure)

Regulation 2011, a copy of the inquiry report along with the copy of recommendation shall be sent to the authority calling upon them to furnish their comments on the report including action taken or proposed to be taken within one month from the date of receipt of the Order or recommendation made by the Commission.

31. The Commission recommends that the Respondent No.1 restore the water connection to the house of the Complainant, by replacing the damaged water pipeline, in the same direction as it exists at present, through the property bearing Survey No.62/5 of Village Reis Magos and leading to the house No.B-73 at Betim, within 30 days from the date of receipt of this Order.

**Date :01/02/2021**

**Place :Panaji-Goa**

Sd/-  
(Justice U.V. Bakre)  
Chairperson  
Goa Human Rights Commission

Sd/-  
(Desmond D'Costa)  
Member  
Goa Human Rights Commission

Sd/-  
(Pramod V. Kamat)  
Member  
Goa Human Rights Commission