IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO. 201/2010.

Mr. Alfred D'Silva, major of age, Indian National, resident of House No. 62, Curpawaddo, Cortalim – Goa.

... Petitioner

V/s

- 1. Village Panchayat of Cortalim-Quelossim,
 Through its Sarpanch/Secretary,
 Office of the Village Panchayat
 of Cortalim,
 Quelossim, Cortalim, Goa.
- 2. Mr. Antonio Jose D'Silva, resident of House No. 204/A, Golbato, Velsao, Goa.

... Respondents.

Mr. J. Godinho, Advocate for the Petitioner.

Mrs. Susan Linhares, Advocate for Respondent No. 1.

None for Respondent No. 2 though served.

Coram: A. P. Lavande, J.

Judgment Dated : 19.01.2011.

ORAL JUDGMENT

Heard Mr. J. Godinho, learned Counsel for the Petitioner and Mrs. Susan Linhares, Advocate for Respondent No. 1. None appears on behalf of respondent No. 2, though served.

- 2. Rule. By consent of the learned Counsel for the parties heard forthwith.
- 3. By this petition under Article 227 of the Constitution of India, the petitioner challenges the order dated 12.10.2009 passed by the Secretary (Panchayats) in Panchayat Petition No. 46/2004 in exercise of the powers conferred on him under Section 178 (2) of the Goa Panchayat Raj Act. 1994 (hereinafter referred to as 'the Act')
- 4. The petitioner filed Panchayat Petition No. 46/2004 before the Addl. Director of Panchayats under Section 178 of the Act challenging the Resolution dated 25.6.2004 passed by the respondent No. 1 granting N.O.C. for water and electricity connection in favour of respondent No. 2 for newly allotted house No. 62/1, on several grounds. The Addl. Director of Panchayats by order dated 21.7.2004 stayed the Resolution and thereafter made reference under Section

178 of the Act to the Secretary (Panchayats), Government of Goa who by order dated 12.10.2009 disposed of the reference by setting aside the order dated 21.7.2004 passed by the Addl. Director of Panchayats. The Secretary (Panchayats) had accepted the submissions made on behalf of respondent No. 2 that water and electricity are pre-conditions of human existence and further held that everyone is entitled for it unless debarred by a specific order by a superior Court.

- 5. According to Mr. J. Godinho, learned Counsel for the petitioner, several contentions were raised before the Secretary, (Panchayats) in support of the order passed by the Addl. Director of Panchayats. However, the same have not been considered by the Secretary of Panchayats. Mr. Godinho further submitted that the Secretary ought to have dealt with the contentions raised by the petitioner and thereafter disposed of the reference under Section 178 (2) of the Act.
- 6. Mrs. S. Linhares, Advocate appearing for respondent No. 1 has supported the impugned order.

- Having considered the submissions made by the learned 7. Counsel for the parties and having perused the record, I am of the considered opinion that the impugned order deserves to be quashed and set aside solely on the ground that the contentions raised on behalf of the petitioner in support of the challenge to the resolution passed by the Addl. Director of Panchayats have not been considered by the The Secretary while dealing with the Secretary of Panchayats. reference under Section 178 (2) of the Act was bound to consider the contentions raised by the parties and thereafter give findings thereon. This exercise, admittedly, has not been undertaken by the Secretary. It is well settled that not only quasi judicial authority but even administrative body has to give reasons in support of an order if the rights of the party are affected. Hence, the impugned order passed by the Secretary (Panchayats) is liable to be set aside.
- 8. In view of the above, the impugned order dated 12.10.2009 passed by the Secretary (Panchayats) is quashed and set aside and the matter is remanded to Secretary (Panchayats) for fresh decision. The Secretary (Panchayats) shall dispose of the reference after giving opportunity of being heard to all parties in the light of the observations made above in accordance with law.

- 9. The reference shall be disposed of expeditiously and in any case on or before 30.4.2011.
- 10. The petitioner and respondent No. 1 shall appear before the Secretary (Panchayats) on 22.2.2011 at 3.00 p.m.
- 11. Rule is made absolute in the aforesaid terms. No order as to costs.

A. P. LAVANDE, J.

MF/-