

Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION (SUO MOTO) NO.1/2022

... PETITIONER

Versus

1. State of Goa, through its Chief Secretary, Secretariat, Porvorim, Goa
2. The Superintending Archaeologist, Archaeological Survey of India (A.S.I.), Goa Circle, Church Complex, Old Goa – 403402.
3. Director of Archives and Archaeology, Directorate of Archives and Archaeology, Government of Goa, Qurem Road, Near People's High School, Mala, Panaji-Goa.
4. The Director of Mines and Geology, Government of Goa, having office at Institute Menezes Braganza, Near Collectorate Building, Panaji, Goa.
5. The Member Secretary, Goa State Pollution Control Board, Near Pilerne Industrial Estate, Opp. Saligao Seminary, Saligao, Bardez, Goa 403 511.

6. The Conservator of Forests,
Government of Goa, Van Bhawan,
Altinho, Panaji, Goa, 403 001.

... RESPONDENTS

Mr D. Pangam, Advocate General, with Ms Maria Correia,
Additional Government Advocate *for Respondent – State*.

Mr Pravin Faldessai, Deputy Solicitor General of India *for
Respondent No.2*.

Mr Pavithran A. V., Advocate *for Respondent No.5*.

**CORAM: M. S. SONAK &
 VALMIKI SA MENEZES, JJ.**

**Reserved on : 24th APRIL 2023
Pronounced on: 2nd MAY 2023**

JUDGMENT: (Per M. S. Sonak, J.)

1. This Suo Moto Public Interest Litigation was triggered by an article in The Times of India (Goa Edition) dated 25.05.2022 penned by Mr Rajendra Kerkar entitled "Laterite Quarrying 300m from Pansaimol petroglyphs threatens prehistoric rock art".
2. The above report is quoted verbatim for the convenience of reference:

"The haphazard quarrying of laterite stones in Pansaimol, Sanguem, is posing a threat to the prehistoric rock carvings.

The quarrying operations, without permission from either the forest department, state pollution control board, or the directorate of mines and geology, was brought to light on Tuesday during a government inquiry. The rock carvings in Pansaimol, which comes under the Rivon panchayat, was recently recommended by the Union government to be included in the tentative list of world heritage sites, along with the rock carvings in Maharashtra's Konkan region.

Although the State has notified it as a protected archaeological site - and the carvings depicting the faunal diversity and paleo-climatic condition are of immense importance for learning Goa's prehistory of Goa - the quarrying of laterite, that has been on for a while, is being conducted just 300m away.

In the past, when quarrying of laterite stones was conducted, vigilant heritage lovers stopped it. However, after a few months, quarrying resumed on a large-scale, and this is threatening the rock carvings.

We visited the Site where laterite quarrying was going on in Pansaimol, next to the rock carvings site, assistant archaeologist Varad Sabnis of the State directorate of archaeology told T.O.I.

"A report of our findings will be submitted to higher authorities for action."

The inspection team of the archaeology department is of the view that there is threat to the rock carvings due to the stone quarrying.

Although the rock carvings on the bank of the Kushavati have been notified as a protected archaeological site, there are also a few carvings reported in the vicinity that are facing the vagaries of nature and increasing anthropogenic pressure.

The rock carving site was discovered in 1993 and notified, following which laterite quarrying and iron ore mining was stopped by the state government.

These petroglyphs display the heritage of the pre-historic man from the Mesolithic to the medieval period."

3. Article 49 of the Constitution of India, a directive principle (which is fundamental in the governance of the country, and it shall be the duty of the State to apply this principle in making laws), provides that it shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, (declared by or under law made by Parliament) to be of national importance, from spoilation, disfigurement, destruction, removal, disposal or export, as the case may be. Further, Article 51-A(f) of the Constitution provides that every citizen of India shall value and preserve the rich heritage of our composite culture.

4. The petroglyphs or geoglyphs at Pansaimol, Sanguem, Goa consist of several rock engravings on the laterite bed on the banks

of the river Kushavati. The engravings are primarily of animals and other symbols which may have had cultural and/or religious significance in prehistoric times. The petroglyphs at Pansaimol date back to 6000-8000 years. The Site was discovered in the year 1993 by accident. Vide Notification dated 05.05.1999, the Site of rock carvings in Survey Nos.107, 108 and 109 of Sanguem Taluka were declared a 'protected site' under section 3 of the Goa Ancient Monuments and Archaeological Sites and Remains Act, 1978. The Site was recently recommended by the Central Government to be included in the tentative list of world heritage sites, along with the rock carvings in Maharashtra's Konkan region. UNESCO has accepted the same in the tentative list of World Heritage Sites. Further process in this regard is underway.

5. On 17.02.2022, the permanent delegation of India to UNESCO submitted a proposal to UNESCO to declare the geoglyphs of the Konkan region of India as a UNESCO World Heritage Site. Barely three months after the submission of such a proposal, since haphazard and unauthorized quarrying was reported near this heritage site which is already included in the tentative list of UNESCO World Heritage Sites, we thought it appropriate to take immediate cognizance, stop such unauthorized quarrying operations, and inquire from the

authorities, the steps taken by them to protect and maintain this heritage site.

6. Accordingly, an order was made on 06.06.2022 issuing notices to the State of Goa through its Chief Secretary, Archaeological Survey of India (A.S.I.), Directorate of Archives and Archaeology, State of Goa, The Director of Mines and Geology, Government of Goa, Goa State Pollution Control Board and the Conservator of Forest, State of Goa.

7. The above respondents were requested to file affidavits detailing their steps for the protection, preservation and maintenance of the petroglyphs at Pansaimol-Usgalimol, Sanguem, Goa. In addition, the Director of Archives and Archaeology, State of Goa and A.S.I. were directed to file affidavits, *inter alia*, about similar sites in the State of Goa and the steps taken for protection, preservation and maintenance of such sites.

8. On 14.06.2022, the Director and Ex-Officio Joint Secretary, Government of Goa (Mines and Geology) and Mr Prem Kumar, D.C.F. of Goa Forest Department, filed affidavits. The affidavits admitted that large-scale quarrying operations were unauthorisedly undertaken near the heritage site. Furthermore,

the affidavits indicated that after receipt of notice from this Court, F.I.R. No.35/2022 was lodged by the Director of Mines and Geology.

9. Accordingly, we called for a status report regards the investigations. We also observed that considering the magnitude of the quarrying operations, it would not be difficult for the police authorities to trace the culprits. We also noted that the photographs indicated large-scale quarrying operations organized in a small village. Therefore, if the investigating officers genuinely meant business, there should be no difficulty in tracing the culprits.

10. On 22.06.2022, Mrs Blossom Madeira, Director of Archives and Archaeology, Government of Goa, filed her affidavit. This affidavit acknowledged that the Pansaimol-Usgalaimol site of the petroglyphs dates 6000-8000 years before the present. The affidavit also refers to State Government's notification dated 05.05.1999 declaring this Site a "protected site" under the Goa Ancient Monuments and Archaeological Sites and Remains Act, 1978. The affidavit also acknowledges that recently, the rock carvings at the Site were recommended by the Union Government for inclusion in the list of World Heritage Sites, along with similar rock carvings in Maharashtra's Konkan

region. The affidavit also acknowledges that digging or excavation on the plateau surrounding the Site of Pansaimol may damage the engravings because there was no proper survey of the area surrounding this Site. The affidavit states that engravings are found outside the protected Site at Pansaimol. The affidavit states that the Government of Goa has directed a survey of the surrounding area on an urgent basis to identify similar rock engravings in the vicinity so that emergent steps could be taken for their protection, preservation and maintenance. The affidavit refers to correspondence with certain eminent pre-historians on the subject.

11. However, the affidavit failed to disclose the steps taken to protect, preserve and maintain the petroglyphs or geoglyphs at Pansaimol-Usgalimol, Sanguem, Goa. Therefore, the Director was requested to file a further affidavit listing the steps, if any, taken for the protection, preservation and maintenance of the Site in question. In addition, the Director was requested to provide a further update on the steps taken to survey similar sites in the vicinity, as was proposed in her affidavit.

12. On 11.07.2022, the learned Deputy Solicitor General of India tendered an affidavit on behalf of A.S.I. This affidavit states that the A.S.I. is the single channel for submitting

recommendations of Heritage properties/intangible Heritage of UNESCO for their inclusion in the tentative list and ultimate inclusion in the UNESCO World Heritage list. The affidavit further states that the Director, Directorate of Archives and Archaeology and Museum, Government of Maharashtra, has recommended the Geoglyphs of the Konkan region of India to be included in the UNESCO list. This includes the Site at Pansaimol. Mr Faldessai further stated that if any assistance was required from A.S.I. for the protection, preservation and maintenance of the Pansaimol site, the A.S.I. would provide the same. Learned Advocate General also filed a status report of the police investigations, and upon perusing the same, the Court expressed satisfaction about such investigations.

13. As noted earlier, considering the magnitude and extent of the illegal quarrying operations that had taken place near the heritage site, we wondered how such operations could take place without any officials of the Directorate of Mines and Geology or the police officials in the village knowing about the same. Moreover, such quarrying operations are undertaken in broad daylight. They involve labour and even heavy earth machinery. In addition, the unauthorisedly quarried material is transported by trucks which ply on the village roads.

14. Despite all this, we are sorry that neither the Directorate of Mines and Geology officials nor the Police officials deemed it appropriate to take any action to prevent these unauthorized quarrying operations so close to this heritage site. Even the officials of the Directorate of Archives and Archaeology did not notice this large-scale unauthorized quarrying or, after noticing, did not consider it necessary to stop it. All this is extremely surprising, to say the least. The Site in question is a potential world heritage Site. Therefore all such authorities must be extra vigilant in preventing such large-scale quarrying operations near the Site so that the integrity of the Site is not threatened or endangered. Allowing such large-scale quarrying so close to the Site was a serious lapse. Unfortunately, none of the authorities are now prepared to accept any responsibility for this lapse. There is resistance to even seriously enquire into the lapse and fix responsibility. Unless this is done, such incidents can repeat.

15. In the case of environmental law violations like the mushrooming of large-scale unauthorized constructions in no development zones (N.D.Z.s in C.R.Z.), unauthorized sand mining, noise pollution, illegal land-filling in agricultural lands, illegal hill cutting, illegal mining and quarrying, and now not even sparing archaeological protected and heritage sites, the authorities who are duty-bound to prevent, fail miserably. Such

failure is invariably seldom investigated seriously. The typical attempt is to go into denial mode. If the violations, as in this case, are too significant to be ignored, then some junior-most official, like a constable etc., is punished with a warning or a minor penalty like Censure.

16. In particular, never are any serious inquiries held against the police officials even though such wholly unauthorized quarrying operations or sand extraction or rampant noise pollution take place virtually in their backyard. No action is ever taken against the police officials even though unauthorisedly extracted laterite stones or the quarried material is transported on roads that pass right in front of the police stations. Similarly, rarely is any action taken, even against the officials of the Directorate of Mines and Geology, who are duty-bound to keep a vigil to ensure that such unauthorized quarrying operations do not occur.

17. Unauthorized extraction and taking away of laterite stones amounts to theft, punishable under the provisions of the Indian Penal Code. Therefore, if the police officials or the Directorate of Mines and Geology officials see such blatantly unauthorized quarrying taking place, it is their duty to act even without any complaints from any parties. Failure to act in such circumstances must be visited with severe consequences for the officials.

Otherwise, the implementation of the laws is bound to be a casualty. The usual bogey that the police or the mining department officials were unaware of such massive unauthorized quarrying operations must no longer be accepted.

18. Invariably, when the police or mining Officials claim not to know or even see the violations that occur in broad daylight, using heavy earth machinery and involving labour and transportation through public roads, there is talk of "Nexus". Of course, we cannot jump to such conclusions as a Court of Law that must rely on evidence. However, we deprecate the resistance of the Government even seriously to enquire into such lapses and fix responsibility. Such resistance encourages lawlessness posing a threat to the environment and heritage sites which the Government is Statutorily and Constitutionally duty-bound to protect.

19. Accordingly, by our order dated 26.09.2022, we requested the learned Advocate General to apprise us about the further status report concerning prosecution, show cause notice issued by the Director of Mines and Geology for recovery of amounts from parties who were involved in the unauthorized quarrying operations and further, action if any that may be proposed against the officials of the Police Department and the Directorate of

Mines and Geology concerning these illegal quarrying operations near the protected Site.

20. On 11.10.2022, the learned Advocate General stated that a charge sheet had already been filed before the competent Court against those involved in unauthorized quarrying close to the Site. He further stated that the Director of Mines and Geology would dispose of the show cause notice issued to the parties involved in the illegal quarrying operations within 3 to 4 weeks. He also stated that internal inquiries concerning officials of the Police Department and Directorate of Mines and Geology are on, and a comprehensive report will be filed before the following date, i.e. 14.11.2022.

21. On 14.11.2022, no compliance report was filed on behalf of the Directorate of Mines and Geology. However, a compliance report dated 10.11.2022 was filed by Abhishek Dhanias, Superintendent of Police, South Margao, Goa.

22. Superintendent's report dated 10.11.2022 refers to filing a charge sheet against Bhupal Prabhu Dessai, Sameer Fal Dessai and Nagraj Mallappa Mochi for the unauthorized quarrying operations and theft of quarried material belonging to the State of Goa. Regards dereliction of duty on the part of the police

personnel, the report states that the quarrying operations were carried out more than a kilometre away from Rivona village in its interior areas. He stated that the Site has a good forest cover, thereby making it difficult for the beat staff and the officers performing patrolling duties to notice the same.

23. The report states that even Ramesh Gaonkar, Archaeological Attendant, C/o Directorate of Archives and Archaeology, performing duty at the archaeological rock carving Site, was unaware of the stone quarry areas. The report states that neither the police personnel were aware of the illegal quarrying operations nor of any complaint by Pritesh Naik, Talathi of Rivona, Sanguem Goa. Pritesh Naik visited the Site of illegal quarrying and found extraction of laterite stones being carried out with the help of machines and trucks. The Talathi prepared a checklist on 30.03.2022 and submitted it to the Mamlatdar Sanguem, Goa.

24. The report states that Varad Sabnis, Assistant Superintendent Archaeologist C/o Directorate of Archives and Archaeology disclosed that, on 24.05.2022 at around 16.30 hrs, when he visited the Rock Carving site at Pansaimol, Sanguem, Goa, along with his Conservation Assistant namely Sumesh Mahale, he observed the existence of the laterite stone quarry and

prepared his inspection Report. Two of the local farmers also gave statements about the illegal quarrying by Bhupal Vithal Prabhu Dessai with the help of machinery.

25. The report then refers to another report of the SDPO, Quepem, about not sharing the information about the quarrying activity with the Police Station to take the necessary action. The report adds that, nonetheless, the responsible staff of the Quepem Police Station cannot shy away from their responsibilities and duties of collecting intelligence and maintaining proper surveillance. Therefore, the SDPO, Quepem concluded that necessary action should be initiated against the beat staff of the Quepem Police station, i.e. A.S.I., Anil R. Mhalnekar, HC 6848, Pradeep K. Gaonkar, and PC 8178, Shanu Raikar.

26. The report finally states that the Superintendent of Police agrees with the opinion and conclusion of the SDPO Quepem and has proposed to take action against the officials referred to in the SDPO's report under Rule 5 of Goa Police Subordinate Service (D & A) Rules, 1975 for awarding the penalty of *Censure*. Accordingly, there is no clarity, but it appears that some censure penalties were issued against some police constables. In addition, there is a statement that the beat staff of Caverem Beat have been replaced.

27. The Site is hardly a kilometre away from the village centre. The activity involved heavy earth machinery and sustained transportation through the village roads. Unfortunately, the report is stoically silent on these aspects. There is no explanation why the role of senior police officials was not even enquired. From the replies filed by some of the noticees to the Director of Mines and Geology, it is evident that a complaint was filed by one of the co-owners, Vaishali P. S. Cuncoiencar, on 27.03.2021 to the police inspector, Quepem police Station about the unauthorized quarrying operations near the protected Site. The complaint even details the names of those involved in removing laterite stones using heavy machinery. The details also included truck registration numbers involved in the illegal operations. Yet no action was taken. The S.P.'s report blacks out this complaint altogether. No explanation was sought from the PI, Quepem police station, why no action was taken immediately.

28. One Pritesh @ Vaikunth Prabhudessai filed an e-mail complaint to the Public Grievance Department in August 2021, which was received by acknowledgement no. GOVGO/E/2021/00522 dated 30.08.2021. On 07.10.2021, a Google image was also sent to the Quepem Police Station to follow up on the complaint. There is a record of follow-up e-mails by the complainants urging action. Yet no action was taken. The S.P.

blacks out these complaints and shelters behind the lame and unacceptable excuse that the clandestine quarrying operations were a kilometre away from the village centre. The enquiries, the report and the final action leave much to be desired. A lack of seriousness is evident to prevent such instances and to fix responsibility for the lapses.

29. The record *prima facie* shows that the Police Authorities, despite receipt of written complaints, took no action against the unauthorized quarrying near the protected Site. Therefore, imposing a penalty of Censure upon some constables of the beat staff is *prima facie* an attempt to protect the P.I.s and others, who, despite receipt of written complaints, failed to act and, in that sense, facilitated the theft of mineral valued at Lakhs of Rupees. This theft was serious because it disregarded the threat to an all-important protected Site. The Director's order dated 21.09.2022 records that the authorities started the investigations only after this Court took *suo moto* cognizance and called for a status report.

30. No action is taken against the Directorate of Mines and Geology officials. With the march of technology, it is difficult to believe that the mining department is handicapped in monitoring and preventing the numerous instances of illegal quarrying.

However, no measures are adopted to fill in and restore the illegal quarrying pits. Consequently, illegal quarrying is resumed when the vigil is slackened (which mostly it is). These pits and illegal quarrying operations interfere with the groundwater tables. In monsoons, such excavations threaten the lives of humans, cattle, and wildlife. These are not some stray instances, but rampant illegal quarrying is the order of the day. Yet, there is never any effective action to fix responsibility on the officials involved. The department, if at all, imposes some paltry fines and compounds the offences. Therefore, despite our request, no report was filed about action against the mining department officials. The only action taken against the beat staff police is that of Censure.

31. The duty of protecting, preserving and maintaining such heritage sites is not only the duty enjoined upon the A.S.I. or the Directorate of Archives and Archaeology. All Government agencies must, in coordination, protect, preserve and maintain such heritage sites. The fact that such large-scale unauthorized quarrying operations were permitted near this heritage site is quite unfortunate. But even more tragic is the half-hearted and minimal action against the officials who allowed this large-scale unauthorized quarrying near a heritage Site. Either the officials of the Police and Mining Departments are genuinely unaware or are not bothered by the fact that our country has lodged a proposal to

UNESCO, for the declaration of this Site, as a World Heritage Site. In either case, this is a serious lapse. By downplaying such a lapse, similar lapses would be encouraged. Instead, the A.S.I. and the Archaeology department must sensitize the Police, Mining and other departments about the importance of protecting this heritage.

32. The record reveals that show cause notices were issued to Mr Krishna Gaonkar and Mr Prakash Gaonkar for breaches of Goa Minor Mineral Concession Rules, 1985, and to require them to show cause why twice the value of the mineral unauthorisedly extracted by them should not be recovered. However, the outcome of these show-cause notices is not yet disclosed.

33. However, the record shows that the Directorate of Mines and Geology, by order dated 20.12.2022, has concluded that the unauthorized extraction was undertaken by Mr Bhupal V. Prabhu Dessai and Mr Sameer Fal Dessai close to the petroglyphs. Accordingly, these two persons were ordered to pay an amount of ₹81,71,729/- representing twice the value of the extracted laterite mineral. The affidavit states that a revision has been filed against this order, and the same is pending.

34. The Forest Department filed an affidavit on 14.06.2022 stating that *presently* no quarrying activities are occurring at the Site in question. Nonetheless, a circular was issued to R.F.O. Curdi, Sanguem and Quepem, directing them to patrol the said area intensively. Further, an F.I.R. is registered by R.F.O. Curdi, bearing No.1/2022-23, against unknown persons. Now that there is *prima facie* material linking the persons against whom the police have filed F.I.R.s and action is initiated by the Directorate of Mines and Geology, there is no explanation why the investigations have not been carried out against the said persons. Therefore, the F.I.R. No.1/2022-23 registered by the R.F.O. must be taken to a logical conclusion.

35. As noted earlier, the Directorate of Archives and Archaeology, in its affidavit dated 17.06.2022, admitted that certain ancient engravings were found even beyond the geographical limits of the protected Site. Therefore, the Government of Goa directed that a survey be conducted of the surrounding area to identify similar rock engravings and even services of pre-historians be engaged to undertake this exercise urgently. The Director of Archives and Archaeology has also stated in the affidavit that information boards have been installed along the entire area of the notified protected Site at Pansaimol. These boards contain basic information about the Site's historical

importance to sensitize the general public and visitors who come to the Site.

36. Furthermore, notice boards have also been placed at the Site cautioning the members of the people that any damage to the protected Site is punishable under The Goa Ancient Monuments and Archaeological Sites and Remains Act 1978. Further, signages are also installed to assist visitors in locating the Site, and security guards are posted across the area of the Protected Site to safeguard the Protected Site from encroachments, anti-social activities and unlawful behaviour of visitors. In addition to the security personnel, Utility Attendants have also been appointed by Respondent No. 3 at the Protected Site to maintain cleanliness. These measures must continue. But the affidavit should have explained why their guard at the Site did not alert the higher officials of the large-scale quarrying operations close to the Site.

37. The Department of Archives and Archaeology also stated in the affidavit that they had engaged the services of Dr Parth Chauhan, Dr Riza Abbas and Dr Tosabanta Padhan to survey the surrounding area. The affidavit stated that two experts had submitted their reports along with an action plan which was forwarded to the State Government for necessary action.

38. In his report, Dr Parth Chauhan, Associate Professor, Directorate of Humanities and Social Sciences, IISER Mohali, has listed urgent and long-term steps needed to protect the heritage site. In particular, this expert has suggested the following urgent measures:-

a) Dating attempts must be undertaken urgently before the thin and fragile sediments are washed away by the annual monsoon or destroyed through erosion. Additional dating methods, such as the cosmogenic method, can be explored with relevant experts, especially at sites like Mauxi and Kazur with open-air boulders and bedrock.

b) Walkway and fence must be provided at the Site. Its design and configuration must be based on the best visibility of the petroglyphs at different times of the day needs to be considered. This should be implemented as soon as possible because this is one of the most famous archaeological sites in this region, which receives abundant visitors. An additional option to cover the entire Site with metal-supported plexiglass sections may also be considered. Similarly, a proper fence can be erected around the engraved boulder at Kazur to avoid visitors touching or vandalizing the engraved boulder in the long run.

c) Involvement of additional experts (Indian and foreign) in different fields, including prehistoric archaeology, geology and geomorphology, laterite petrology, geochrons modern ecology and digital documentation. Other concerned authorities, such as the forest department, may also be roped in for cooperation and guidance since these sites are within their jurisdiction.

δ) Impact assessment is necessary for all known sites regularly affected by ongoing natural processes and anthropogenic activities such as mining, encroachment, agriculture and so forth.

e) Detailed signboards must be installed at such sites.

39. Dr Parth Chauhan has also suggested the following long-term steps concerned with the protection, preservation and maintenance of the sites:

a) Digital Documentation using methods such as 3D scanning, photogrammetry and extensive digital photography and videography. This should be done at all the sites.

b) Exploration for more sites in the vicinity must be undertaken. This expert discusses systematic surveys for locating and documenting additional prehistoric sites across Goa, including petroglyphs, stone tool sites and other cave sites. The expert recommends that this be done through multiple teams working together in different areas of Goa. This is highly needed as Goa's prehistory is poorly known compared to other parts of India. An important method for the most comprehensive documentation at known and new sites should be transect surveys where possible. This needs to be done urgently near areas directly or indirectly affected by modern natural and anthropogenic processes such as laterite mining, agriculture, construction, road development etc.

c) Public outreach programs must be undertaken with local communities, schools, colleges and the general public. Such programs can include site visits, participation in surveys and documentation with qualified experts, and reporting of new sites. It would be integral to involve local residents as stakeholders and possible custodians of the sites within or near their respective villages. Local villagers can act as informal guides/security at specific sites and become gradually involved in sustained heritage tourism by offering

meals and homestays at the most prominent sites of both cultural and natural heritage.

40. Dr Riza Abbas, Director, INHCRF, Nashik, has also submitted a report in which he records that the Site of Pansaimol was discovered by Dr Nandkumar Kamat in 1993 (Kamat 2010). After referring to the importance of this Site and the geoglyphs of Konkan, Dr Abbas offers the following explanation about the geoglyphs of Pansaimol:-

"Geoglyphs of Pansimol: The artistic composition of the Site of Pansimol constitute human and animal forms, especially zebu bull and in a few cases antelopes. Another imagery that is being portrayed at the Site is the un-iconic depictions such as Labyrinth, cupules, oval grooves as well as gospadam. All this indicate that this Site was an important location or a sacred space for ritual performance as many of these symbols contain religious/ritualistic value. The most enigmatic depictions are the uniconic forms such as the one resembling an emblem containing two cupules."

41. Dr Abbas flags the following threats to the Pansaimol site:

- a) River;
- b) Slope;

- c) Direct exposure to sunlight;
- d) Dissolved chemicals;
- e) Water and rains; and
- f) Anthropogenic factors and other biological agents.

42. Dr Abbas, in his report, states that to protect the Site and the petroglyphs in their original form and to create a detailed scientific documentation report as there is much scope for conducting scientific research in these areas as they preserve geological deposits and archaeological remains that are capable of contributing contribute to the understanding of the cultural context and characteristics, artistic merits, behaviour as well as symbolism. Therefore, attempts can be made towards a scientific and systematic collection of archaeological data for posterity and scientific knowledge and for a better understanding of the different facets of life and culture of the primitive societies of the Konkan area.

43. Dr Abbas makes the following recommendations for the protection of the Site, risk assessment and preventive methods to minimize damage:-

- a) **Protection of Site:** Although the Site of Pansaimol is a State protected site (Notification No. 8/136/98/A.A.M./1729 dated 12-1-99) and the Government has

taken all necessary steps to protect the Site, however, the Site needs a few more strategies for better protection and preservation of the rock art manifestations as well as for site management. In the Konkan belt, this Site is most susceptible to destruction as the Site is constantly facing threats imposed by natural agencies such as flowing water, rains and thunderstorms, biological agents, and anthropogenic factors. To protect the petroglyphs and the ecological balance, about 500m _ radius area requires barbed fencing and declared as a protected zone. The protected area should be extended up to the left bank of the river. Further, a few check dams are required in the upper course of the Kushawati River to check the water flow. An inflow of abrasive material might accelerate surface erosion due to water and channel lag. For overland water flow, the Archeology department has already taken s by making an embankment and a trench on the right bank of the river.

b) **Risk assessment and preventive methods to minimize damage:** Identifying and analyzing possible future events that could adversely affect the rock art site and its surrounding environment and ecological setup. It is also important to design the risk management strategy, plan the responses, and determine controls for the risk.

44. Dr Abbas also recommends a boardwalk construction, steps to prevent fires that accelerate historical site deterioration, awareness programmes and proper signage. He also suggests documentation and mapping of Site and artistic manifestations, digitized database, and dating of fluvial sediments to understand palaeoenvironment and relative dating better. This expert also suggests exploring additional sites located on meanders, river banks and nearby valleys.

45. Dr Nilesh Fal Dessai, Director, Department of Archaeology, Government of Goa, has filed an affidavit dated 03.04.2023. In paragraph 6 of his affidavit, he stated that the Department of Archaeology, based upon the two expert reports above, has prepared an action plan which includes the measures to be put into place to safeguard the petroglyphs and submit the same for the approval of the State of Goa. Furthermore, the affidavit states that the necessary action at the ground level shall be taken once the approval is received.

46. The affidavit further states that in the interim, the Department of Archaeology has Posted four security Guards and One Utility Attendant at the Pansaimol Petroglyphs site so as to avoid any unwanted incidents/damages and to keep the premises in a presentable condition.

47. Thus, at least the Department of Archaeology, Government of Goa has initiated steps towards protecting, preserving and maintaining this pre-historic Site. This is quite welcome. The Department of Archaeology must forward its action plan based upon the experts' recommendations to the State Government at the earliest and, in any case, within two months from today. Further, the State Government must consider approving this action plan at the earliest and within two months of receiving the action plan from the Department of Archaeology. As noted earlier, the State must take all steps necessary to protect, preserve and maintain these pre-historic sites.

48. In the submissions made by the permanent delegation of India to UNESCO seeking the inclusion of the Pansaimol site, along with other sites in the Konkan region of India, in the UNESCO World Heritage Sites List, it is stated that the concentration of geoglyphs on the laterite plateaus (Sada) of the Konkan region is "*the most remarkable open-air ensemble of prehistoric human expression of rock art in the Konkan region from Mesolithic (10Kya) to Early Historic (1.7Kya.)*".

49. The report states that while remains of continued habitation since early historic life is evident in the form of several affluent port towns, trading towns and routes, rock-cut caves,

forts, and colonies of foreign powers in the form of factories, castles and towns, there is little evidence besides these Geoglyphs, to demonstrate prehistoric life of this region, which enabled the indigenous population to leverage from their landscape. These clusters of Geoglyphs covering about 900 km from north to south along the coastline of the Arabian Sea show the expanse of culture initiation in Konkan and provide a visual representation of prehistoric life here. Of the Konkan region, the area between (The modern-day Thane district in Maharashtra to Goa) has always been the most critical cultural zone in the development of the culture in Konkan, concentrated primarily in the southern parts of this region. These Geoglyphs are the only material cultural remains that point to the prehistoric human activities in the Konkan.

50. The report also states that the imagery and contents of these geoglyph clusters may also be understood as a documentation of how people adapted to ephemeral wetlands in a dry-arid plateau having shallow rock pools, streams, and watercourses support a rich diversity of endemic and threatened aquatic fauna such as fish, amphibians, insects etc. This fills some knowledge-gap for the Konkan and the Deccan region and adds to ongoing research on human resilience and adaptation to extreme climate fluctuations. More than 600 figures arranged in

the clusters are depicted in Kasheli, Rundhye Tali, Devache Gothane, Barsu, Devi Hasol, Jambharun, Ukshi and Kudopi in southern Maharashtra and *Pansaymol in Goa, which is the most comprehensive, well-preserved and artistically distinct Geoglyphs evidencing a cultural legacy of 12000 years*. The content, composition, scale, quality of imagery and artistic techniques provide an insight on the range of mainly faunal life and the increasing tendencies of depicting abstract and anthropogenic forms onto the stone. Further, the Geoglyphs show increasing finesse of artistic skill and the evolution of etching and scooping techniques, which are fundamental to mastering rock art.

51. The report, in the specific context of the Pansaimol Site, states the following:-

"Phansaymal (Goa): The Site is located on the banks of the river of Kushavati in the State of Goa. It is a one large cluster with depictions of humped cattle, peacock, deer, wild boar/carnivore, human figures, grinding grooves, rings, cattle hoof marks etc. It is the only Site with the depiction of concentric circles or rings and cup marks. These geoglyphs are etched."

52. The report justifies the outstanding universal value of the petroglyphs and geoglyphs, which are unique typologies in human creative art in terms of size and scale. While most common rock art in India is in the form of rock paintings, rock etchings, cup marks and ring marks, the large concentration of geoglyphs on the laterite plateaus (Sada) in the Konkan is unique and most remarkable open-air ensembles of prehistoric human expression since 30,000 years ago. These are distinct concentrations of pictorial representations that include marine and riverine, mammals, reptiles, amphibian and avian life, which vanished from the region several centuries ago. The discovery of these geoglyphs as individual properties and as a collective whole, dispersed along 900 km of the Konkan coast, filled a critical knowledge gap that had puzzled antiquarians for a long. These add a new chapter in prehistoric rock art and shed light on the Konkan region's transitory phase from Stone Age to Early Historical period.

53. We have extracted from the above submissions made to UNESCO to emphasize the importance of the Pansaimol site to humanity and the prehistoric heritage that our Constitution exhorts us to protect and preserve. These unique Sites are our link to our ancestors.

54. In *Rajeev Mankotia v/s. Secretary to the President of India & Ors. - (1997) 10 SCC 441* in the context of protection, preservation and maintenance of the Viceregal Lodge in Shimla constructed by Earl of Dufferin in 1888 and the provisions of the Ancient Monuments and Archaeological Sites and Remains Act, 1958, the Hon'ble Supreme Court observed that It would, therefore, be manifest that all ancient and historical monuments and all archaeological sites and remains or any structure, erection or monument or any tumulus or place of interment shall be deemed to be ancient and historical monument or archaeological sites and remains of national importance and shall be so declared for Ancient Monuments Act if they have existed for a century; and in the case of a State monument, of State importance covered by the appropriate State Act.

55. The Court held that the point of reference to these provisions is that an ancient monument is of historical, cultural or archaeological or sculptural or monolithic or artistic interest existing for a century and is of national or State importance. In other words, either of them is required and shall be protected, preserved and maintained as national monuments or State monuments for the basis which not only gives pride to the people but also gives us insight into the past glory of our structure, culture, sculptural, artistic or archaeological significance, artistic

skills and the vision and wisdom of our ancestors, which should be preserved and perpetuated so that our succeeding generations learn the skills of our ancestors and our traditions, culture and civilization. Moreover, they would have the advantage of learning our art, architecture, and aesthetic tastes imbibed by past authors and continuing the same tradition for posterity.

56. The Court emphasized that the preservation and protection of ancient monuments is thus the duty of the Union of India and the State Governments concerned in respect of ancient monuments of national importance or those of State importance, respectively, to protect, preserve and maintain them by preserving or restoring them to their original conditions. The same principles should apply to the heritage Site concerned in this Petition.

57. Accordingly, we dispose of this Petition by issuing the following directions:

- (a)** The D.G.P. or the I.G.P. must enquire into the apparent lapses on the part of the police machinery in acting on the complaints or otherwise preventing massive illegal quarrying near the Pansaimol protected heritage site and file the report in this

Court within three months. The enquiries must focus on the role of the P.I.s or other senior officials and not merely on the constables of the beat staff, who are usually the easy scapegoats in such matters.

- (b) The Secretary (Mines and Geology), Government of Goa, must enquire into the apparent lapses on the part of the Mines and Geology Department in acting on the complaints or otherwise preventing massive illegal quarrying near the Pansaimol protected heritage site and file the report in this Court within three months. The enquiries must focus on the role of the senior officials and not merely on the ground staff, who are usually the easy scapegoats in such matters. Furthermore, the Secretary must, in consultation with the Director, Police and Forest officials, Transport officials etc., establish a written protocol to deal with the menace of unlawful quarrying so the same is prevented or at least prompt action is taken. A compliance report must be filed within three months.
- (c) The A.S.I. and the Department of Archives and Archaeology must, within two months from today,

forward in writing the details of the archaeological sites and monuments to the respective police Stations so that the police authorities are clear about their duties of protecting these sites and monuments vigilantly. The A.S.I. and the Archives department must also consider holding some workshops to sensitize the Police, Forest, Panchayat, Mining and other authorities on the importance of protecting, preserving and maintaining such Sites and monuments.

- (d) The A.S.I. and the Department of Archives and Archaeology must consider holding workshops for teachers and students, particularly in schools and colleges where the protected sites and monuments are located, to disseminate knowledge and sensitize them to the importance of protecting, preserving and maintaining such Sites and monuments.
- (e) Consistent with the statements in the affidavit of Mr Nilesh Fal Dessai dated 03.04.2023, the Director of Archives and Archaeology must forward its action plan based upon the experts' recommendations to the State Government at the earliest and, in any case,

within two months from today. Further, the State Government must consider approving this action plan at the earliest and within two months of receiving the action plan from the Department of Archaeology. Finally, as noted earlier, the State must take all steps necessary to protect, preserve and maintain these pre-historic sites. The Director must file a compliance/status report within three months. The report must, *inter alia*, address the short-term measures recommended by the two experts and indicate a timeline for completing the long-term measures as may be approved.

- (f) The Department of Archives and Archaeology, Government of Goa, must take all necessary measures to protect, preserve and maintain the Pansaimol petroglyphs or Geoglyphs already declared as a protected monument/site under the Goa Ancient Monuments and Archaeological Sites and Remains Act, 1978. This department and its Director shall be primarily responsible for the protection, preservation and maintenance and shall coordinate with other Government departments. The A.S.I. is also expected to offer guidance and extend assistance now that it

has submitted a proposal for including this Site in the list of UNESCO World Heritage Sites.

- (g) The Department of Archives and Archaeology, Government of Goa, must continue its survey of the surrounding areas, given the statements in the affidavits and reports that the possibilities of discovering similar sites are distinct. Therefore, the Director's status report must advert this aspect of the survey and findings.
- (h) The Director of Mines and Geology, in consultation with the A.S.I. and the Department of Archives and Archaeology, Government of Goa, must take effective steps to fill in the unauthorizedly excavated site near the protected site. Necessary care and caution should be exercised in undertaking this work so that there is no threat to the protected heritage site. As far as possible this work should be completed at the earliest and the status report should be filed.

58. The proactive and positive role of the learned Advocate General concerning the protection, preservation and maintenance

of this potential UNESCO world heritage Site in Goa is appreciated.

59. This Petition is disposed of. However, the same should be placed for directions on 21st August 2023 to consider the compliances.

60. Authenticated copies of this judgement and order must be immediately forwarded to the A.S.I., D.G.P. and the Secretary (Archives and Archaeology), Government of Goa, for necessary action.

VALMIKI SA MENEZES, J.

M. S. SONAK, J.

SUCHITRA
NANDAN
SINGBAL
Digitally signed by
SUCHITRA NANDAN
SINGBAL
Date: 2023.05.02
16:13:03 +05'30'