

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 123 OF 1999

1. John V. Pereira, Khamamoll,
Curchorem, Goa.
2. Digamber S. Naik, Khamamoll,
Curchorem, Goa.
3. Diago Fernandes, Khamamoll,
Curchorem, Goa.
4. Devidas P. Kudchadkar, Bhag,
Curchorem, Goa.
5. The Goa Foundation, being a registered
Society, through its Director,
Dr. Claude Alvares, Above Mapusa Clinic,
Mapusa 403 507 Goa. ... Petitioners

V e r s u s

1. Curchorem-Cacora Municipal Council,
through its Chief Officer,
Curchorem 403 704, Goa.
2. State of Goa, through its Chief Secretary,
Secretariat, Panjim, Goa.
3. Department of Industries and Mines,
through its Director, Udyog Bhavan,
Opposite Azad Maidan, Panjim, Goa.
4. The Deputy Collector and
Sub-Divisional Magistrate,
Quepem, South Goa.
5. Directorate of Health Services,
through its Director, Campal, Panjim, Goa.
6. Directorate of Transport,
through its Director, Junta House,
Panjim, Goa.
7. Goa State Pollution Control Board,
through its Member Secretary,
Patto, Panjim, Goa.

8. Marmagao Port Trust,
through its Chairman,
Marmagao Port,
Marmagao, Goa.
9. South Central Railway,
through its Divisional Manager,
Hubli Division, Hubli.
10. Sesa Industries Ltd.,
through General Manager,
Sesa Ghor, Patto,
Panjim, Goa.
11. Metals & Minerals Trading Co. Ltd.,
through General Manager,
Colaco Bldg., Vasco-da-Gama.
12. Sandur Minerals Industries Ltd.,
through its Manager,
C/o Agencia Commercial Maritima,
Curchorem, Goa.
13. Tungabadra Minerals Ltd.,
through its Manager,
C/o Salgaokar Mining Ind. Ltd.,
Salgaokar Chambers, Margao, Goa.
14. Ferromet, through its Manager,
C/o Sociedade de Fomento Industrial,
Caetano Silva Bldg., Margao, Goa.
15. Mandovi Pellets Ltd.,
through General Manager,
Borim, Shiroda, Goa.
16. Agencia Commercial,
through General Manager,
Maritima, Parkot House,
Vasco-da-Gama.
17. Machado & Sons P. Ltd.,
through its Manager,
Swarna Bandekar Bldg.,
Vasco-da-Gama.
18. Resources International,
through its Manager,
Damodar Chambers,

Panjim, Goa.

19. Union of India,
through Ministry of Railways,
Rail Bhavan,
New Delhi.
20. Sesa Goa, Sesa Ghor,
20 EBC Complex,
Patto, Panaji – 403 001.
21. Jindal Vijayanagar Steel Ltd.,
The Estate - 3rd Floor,
12 Diuleson Road,
Bangalore 560 092.

... Respondents

1. MSPL Ltd., a Pvt. Company,
under the Indian Companies Act,
with office at Balbota Bhavan,
117 Maharshi Karve Road,
Mumbai 400 020.
2. Ulhas D. Naik, Capxem, Savordem.
3. Gudusab Desai,
Railway Quarters,
Andrem plot.
4. Ali Sab, Shirford, Curchorem.
5. S. John, Potod, Tony Nagar,
Savordem.
6. Dayanand Bhandari, Dhadem,
Savordem.
7. Chandan Naik, Shirford, Curchorem.
8. Shaman Sab, H. No. 313,
Cacodo, Curchorem.
9. Sachin Vasta, Khamamol, Curchorem.
10. Devanand Vasta, Khamamol, Curchorem.
11. Uday Naik, Shiroda.
12. Abdul Jabbar, Khamamol, Curchorem.

13. Mahesh Naik, Khamamol, Curchorem.
 14. Amir Mane, Near Godown, Khamamol.
 15. Mohamed Shaikh, Old ITI, Khamamol.
 16. Bharat Naik, Old ITI, Khamamol.
 17. Jatin Tilogi, Old ITI, Khamamol.
 18. Gajanan Shirodkar, H. No. 113/0, Cacoda, Curchorem.
 19. Andrew, Khamamol, Curchorem.
 20. Anil Naik, Old ITI, Khamamol.
 21. Gurudas Gaonkar, Mapo, Panchwadi.
 22. Sanju Mahadev Chowri, H. No. 181, Shirford, Curchorem.
 23. Basavraj Sangappa, H. No. 182, Shirford, Curchorem.
 24. Fakirappa Bassappa Mogimani, H. No. 67, Shirford, Curchorem.
 25. Rehman Himansab Saudagar, H. No. 34, Shirford, Curchorem.
 26. Sanjay Dina Vasta, H. No. 14, Shirford, Curchorem.
 27. Kushab Bhira Gaonkar, H. No. 233, Panchwadi, Savordem.
- ... Intervenors.

Ms. Norma Alvares, Advocate for the Petitioners.

Mr. D. Lawande, Advocate for the Respondent nos. 2 to 6.

Mr. J. Godinho, Advocate for the Respondent no. 7.

Mr. Rohan Shirodkar, Advocate for the Respondent no. 8.

Mr. J. A. Lobo, Advocate for the Respondent nos. 9 and 19.

Mr. R. G. Ramani, Advocate for the Respondent nos. 10, 13 and 20.

Mr. Nitin Sardessai, Senior Advocate with Mr. Deep Shirodkar, Advocate for the Intervenor no. 1.

Coram :- **F. M. REIS,**
 K. L. WADANE, JJ.

Date : **5th January, 2015**

ORAL JUDGMENT (Per F. M. Reis, J.)

Heard Ms. Norma Alvares, learned Counsel appearing for the Petitioner, Mr. D. Lawande, learned Counsel appearing for the Respondent nos. 2 to 6, Mr. Godinho, Advocate for the Respondent no. 7, Shri Lobo, learned Counsel appearing for the Respondent nos. 9 and 19, Mr. Nitin Sardessai, learned Senior Counsel appearing for the Intervenor no. 1, Mr. Ramani, learned Counsel appearing for the Respondent nos. 10, 13 and 20 and Shri Shirodkar, learned Counsel appearing for the Respondent no. 8.

2. The above Petition came to be filed in this Court on the ground that there is pollution in the Railway yard at Curchorem Railway Station in view of the transportation of mineral ore from different mining companies which were availing of the facilities of transport by railways.

3. During the course of the hearing of the above Writ Petition, the Respondent no. 7 was called upon to examine the level of pollution at such yards and make some recommendations to erase or eradicate the pollution at loco. Consequently, the Respondent no. 7 passed an order dated 31.12.2012 issuing

some directions to minimize the pollution at the Railway yard. The directions in the said Order dated 31.12.2012, inter alia, includes :

i. The Goa State Pollution Control Board (GSPCB) will continue to monitor the Ambient Air Quality Monitoring twice a week at the said three locations till 25th of January 2013.

ii. The South West Railway Yard shall be directed to submit a feasibility report for construction of closed shed by 15th January, 2013.

iii. The iron ore cargo shall be evacuated with immediate effect but not later than 7th January 2013, so as to enable the Board to have a baseline data and accordingly, Board should be intimated.

iv. The ore should be transported by trucks which are properly covered with tarpaulin and it shall be ensured that they shall not be overloaded. Besides, cleaning the tyres before leaving the yard to get rid of any dust, must be undertaken.

v. The length of the GI barricade shall be extended upto the residence of M/s Seema Sanzgiri.

vi. The South West Railway shall provide tar/concrete road at all locations within the railway yard where handling of ore and movement of trucks takes place and cleaning/sweeping/washing be done regularly.

vii. The PWD shall tar the shoulders of the public road on the Southern side of the Railway Station

running parallel to the platform.

The Board shall issue necessary direction in this regard to the concerned parties.”

4. On perusal of the said directions, inter alia, the Railway Authorities were called upon to construct a shed to avoid dust pollution at the site. There was an objection raised by the Railway Authorities considering the cost effect of putting up such shed raised in the above Writ Petition. Consequently, this Court directed the Respondent no. 7 to make a fresh inspection at the site and considered the objections of the Railway Authorities. As such, an affidavit was filed by the Member Secretary of the Respondent no. 7 dated 11.06.2013, inter alia, stating at para 3, thus

“3. I state that the officials of the Board have inspected the site for the purpose of ascertaining the factual situation vis a vis the statements made in the affidavit of Respondent no. 9. I state that according to the report it is feasible to construct two independent covered sheds with side enclosures, leaving necessary spaces for rail and truck movement, one in between the road over-bridge for the traffic and foot bridge by keeping permissible distance from Foot Bridge and road over bridge. Similarly the 2nd covered shed can be constructed in between the foot bridge and upto the end of the yard towards Margao side by keeping permissible distance from the foot bridge. The respondents have shown the total length of the yard, distance between two bridges and distance from Foot Bridge till end of the yard on west end. A copy of the Report of inspection conducted by Board officials

on 23.04.2013.”

5. It appears that the Respondent nos. 9 and 19 were in the process of implementing the directions by initiating proceedings for the purpose of acquisition of land. But, however, proceedings did not proceed in view of a Petition filed before this Court whereby the Notification for acquisition was quashed. But, however, the Revenue Authorities have challenged the said Order which is stated to be pending before the Hon'ble Apex Court.

6. Be that as it may, considering the nature of the public interest raised in the above Writ Petition, we find that the recommendations of the Pollution Control Board in the said Order dated 31.12.2012 read with the Notifications in the Inspection report of the Member Secretary at para 3 of the said affidavit, would at this stage meet the grievances of the Petitioners to minimise the dust pollution at loco. No doubt, the recommendations were on the basis of the impact of the dust as was existing as on the date of the respective inspection. But, however, considering the peculiar facts and circumstances of the case, we find that the above Petition can be disposed of by accepting all the recommendations of the Respondent no. 7 in the Order dated 31.12.2012 read with the averments in the inspection report as mentioned in the affidavit as modified by the report dated 29.04.2013 attached to the affidavit of the Member Secretary dated 11.06.2013. Needless to say that all the directions therein would have to be complied with in accordance with law.

7. At this stage, Shri Lobo, learned Counsel appearing for the

Respondent nos. 9 and 19, has pointed out that in view of the subsequent events at loco, the pollution itself has naturally minimised. These aspects cannot be looked into in the present Petition at this stage, but, however, Respondent nos. 9 and 19 are at liberty to file a proper application before the Respondent no. 7 on the basis of such subsequent events and seek for any modifications of the said directions. In case any such representation is filed, the Respondent no. 7 shall proceed to examine to modify the directions on its own merits after hearing the Petitioners in accordance with law. Liberty to the parties to apply for any clarification or modification of the directions in the above Petition and even assail the Order passed on such representation.

8. Subject to the above, Rule stands disposed of in the above terms with no Orders as to costs.

K. L. WADANE, J.

F. M. REIS, J.

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