

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.51 OF 2017

The State of Goa and Anr

... Petitioners

Versus

The Goa Foundation and ors

... Respondents

Mr Dattaprasad Lawande, Advocate General *with Mr A Gomes*

Pereira, Additional Govt. Advocate for the Petitioners

Ms Norma Alvares, Advocate for Respondent No.1

CORAM: G.S. PATEL &

NUTAN D. SARDESSAI, JJ

DATED: 6th September 2017

PC:-

1. Heard. The writ petition filed by the State Government assails two orders of 7th January 2016 (pages 34-35) and 13th July 2016 (page 17) passed by the National Green Tribunal, Western Zone, Pune Bench in Application No.18(THC) 2013 (WZ).

2. Having heard Mr. Lawande, learned Advocate General, and Ms. Alvares for the contesting Respondent, the Goa Foundation, we are unable to find any cause for interference. The second Order of 13th July 2016 was passed in a review application moved by the writ Petitioner. That review application was, in our view, correctly rejected. This leaves the question of the principal order of 7th January 2016.

3. The order is in the context of the determination of areas that constitute 'private forests' as defined by the Supreme Court in the *Godavarman* cases (*TN Godavardaman v State of Tamil Nadu*). The impugned order records that the Revenue Authorities and others concerned were to conduct an exercise of demarcation of the canopy densities of private forests, as judicially defined, for each land. Alternatively, the forest densities of 1997 should be ascertained. A joint exercise would conveniently enable the demarcation of private forest areas in each land. Ms Alvares submitted before the NGT that the Goa State Government had not yet taken the necessary steps to evolve a scientific method of demarcation of forest lands. It was pointed out that the Karapurkar-Sawant Committee had identified certain lands as falling in the definition of private forest. Some of those lands covered full survey numbers. Other private forests seem to fall on parts of some survey numbers.

4. Having noted some of the background and that for several years attempts at a joint resolution had not come to fruition, the NGT directed the Government in its Forest Department, Revenue Department and the DLSR to constitute a Committee within four months and to evolve an internal mechanism to demarcate private forests in each of the lands recognized as full and private forests by the Karapurkar-Sawant Committee. We have used the exact words of the impugned order.

5. It appears to us abundantly clear that this order did not determine any competing rights in any fashion. It did not involve a final adjudication of the issues before the NGT. It contained an interim direction to set up a Committee and gave that Committee

sufficient latitude to evolve its own internal mechanism in order to more accurately assess and report private forests data. That is, in fact, the whole of it. This is possibly because while the Karapurkar-Sawant Committee had various survey numbers and their areas, it was obviously the submission of the State Government that not all these survey numbers were “full private forests”, meaning thereby that portion of some of those survey numbers fell within the definition of private forest, while other portions did not fall within that definition.

6. If it is the case of the State Government that this exercise has been completely done already, a submission from Mr. Lawande that Ms Alvares disputes, then possibly nothing further was necessary except to report to the NGT that the necessary demarcation required by the impugned order had already been effected. We find no evidence of the Government having told the NGT that this exercise ordered on 7th January 2016 had already been completed. Indeed, this is why the NGT called for this exercise in the first place. In doing so, all that the NGT sought was more accurate information and data on the basis of an internal mechanism that was, to put it mildly, meant to be intelligible.

7. There can be nothing exceptionable about any of this and we are quite unable to see how this order of 7th January 2016 can possibly lend itself to a challenge or an invocation of our jurisdiction under Article 226 of the Constitution of India. It is for the State Government to form the Committee required, to evolve the necessary internal mechanism and to then place the information and

data before the NGT for final orders. We are informed that the matter is in fact before the NGT for final disposal.

8. We dispose of the petition in these terms. There will be no order as to costs. All contentions are left open before the NGT.

NUTAN D. SARDESSAI J.

G. S. PATEL J.