

IN THE HIGH COURT OF BOMBAY AT GOA**PUBLIC INTEREST LITIGATION (SUO MOTU) NO. 2 OF 2017**

.... Petitioner

Versus

1. The State of Goa,
through its Chief Secretary,
Govt. of Goa,
Porvorim Goa.
2. The Director of Transport,
Panaji Goa.
3. Member Secretary,
Goa State Pollution Control Board,
Panaji Goa.
4. Police Inspector,
Valpoi Police Station,
Valpoi,
5. The Superintendent of Police Traffic,
North Goa,
6. The Director of Health Services,
Panaji Goa.

... Respondents

Mr. Shivan Desai, Advocate - Amicus Curiae.

Mr. Dattaprasad Lawande, Advocate General with Mr. Deep D. Shirodkar, Addl. Government Advocate for the respondent nos.1, 2, 4 to 6.

Mr. Dattaprasad Lawande, Advocate General with Mr. P. Dangui, Addl. Government Advocate for the respondent no.3.

Ms. Anamika Gode, Advocate for the applicant in MCA No. 647 of 2017.

Mr. V. Rodrigues, Advocate for the applicant in MCA No.656 of 2017.

Mr. V. A. Lawande, Advocate for the applicant in MCA No.657 of 2017.

**Coram:- F. M. REIS &
NUTAN D. SARDESSAI, JJ.**

Date:- 9th August, 2017

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

Heard Mr. Shivan Desai, learned Amicus Curiae, Mr. Dattaprasad Lawande, learned Advocate General appearing for the respondents, Mr. V. A. Lawande, learned counsel appearing for the applicant in MCA No.657 of 2017, Mr. V. Rodrigues, learned counsel appearing for the applicant in MCA No.656 of 2017 and Ms. A. Gode, learned counsel appearing for the applicant in MCA No.647 of 2017.

2. Rule. Heard forthwith with the consent of the learned counsel. The learned Addl. Government Advocate appearing for

the respective respondents waives service.

3. The Suo Motu cognizance was taken with regard to pollution in the vicinity of Sonshi mine based on the newspaper report of "Herald" dated 16.04.2017. After notice was issued to the concerned respondents, the reply filed by the respondents in fact does accept the position that immediate measures had to be taken in view of the disturbance in the environment and the safety of the people living in the vicinity of Sonshi mine. In this connection, an order was passed on 17.04.2017 inter alia issuing some directions to the respondents. Thereafter, an affidavit was filed and the matter was examined and with the assistance of the learned Amicus Curiae the matter was re-examined and by an order dated 27.04.2017 directions were issued to take effective measures to control the pollution at the site and even examine diverting the mining trucks to ensure that no health hazard would occasion to the inhabitants of the locality. It was also recorded therein that the respondents should provide potable drinking water to the affected villagers of the locality. A liberty was also

reserved to any inhabitant or citizen affected to make a representation to the Pollution Control Board to examine such grievance. In the meanwhile, the respondents sought an opinion from the Indian School of Mines, Dhanbad who are stated to be experts to recommend measures to control mining pollution. Accordingly, a report has been submitted clearly specifying the measures which are required to control the pollution at the site. A clarification was sought on the applicability of the measures to be taken to control the pollution at the site. Some clarifications are mentioned at para 6 of the affidavit namely at paras (i), (ii) and (iii) which read thus :

(i) Since the alternate proposed route is passing through the mines roads of contiguous leases, standards for the emission or discharge of the environmental pollutants as prescribed in Rule 3(1) will apply.

(ii) The Ambient Air Quality w.r.t. settlement zone/residential areas adjoining the lease boundaries will be governed by Rule 3(3B).

(iii) NAMP locations will be governed by Rule 3(3B).”

Besides, the affidavit of the Pollution Control Board further states that at the meeting of the Board, it was resolved to accept the clarification and take measures in such direction.

4. Mr. S. Desai, learned Amicus Curiae points out that the affidavit in fact suggests that only after the Court has taken *Suo Motu* cognizance, the Pollution Control Board learnt about the measures to be taken to control the pollution at the site. But however, the learned Advocate General submits that the measures were known to the Pollution Control Board but in view of objections raised by the concerned mining Companies, the clarifications were sought from the Indian School of Mines, Dhanbad. Mr. S. Desai, learned Amicus Curiae has also pointed out that there should be safeguard to ensure the implementation of the measures referred to in such clarification. The learned Advocate General however points out that while granting renewal, if any, to any mining Companies located in the vicinity of the subject site, conditions will be imposed to prevent the subject pollution.

5. The learned counsel appearing for the intervenor in MCA No. 647 of 2017 however points out that the intervenors are the villagers of the locality and according to her, though there were directions to give potable drinking water such directions have not been complied with. It is also pointed out that such villagers have other grievances in connection with the pollution at the locality. The learned Advocate General however points out that measures to supply potable drinking water have already been initiated and such water would be provided to the concerned villagers of the locality within one month from the date Government approval is obtained to that effect.

6. Accepting the statement of the learned Advocate General and considering at present there is some improvements in the grave pollution hazards at concerned subject site, in view of the measures initiated we find it appropriate to dispose of the above petition by continuing the interim order passed in the order dated 27.04.2017 and directing the State Government to ensure that all measures recommended by the Indian School of Mines,

Dhanbad and reflected at para 6 of the affidavit of the Pollution Control Board are complied with in accordance with law. The remaining aspects as described herein above shall be considered by the State Government in accordance with law. The individual contentions of the other intervenors are left open.

7. We also appreciate the assistance rendered to us by Mr. Shivan Desai, learned Amicus Curiae in considering the above Suo Motu petition and we record our appreciation with that regard. In case any grievances are raised in terms of the said order, the Pollution Control Board shall expeditiously dispose of such grievances preferably within one month from the receipt thereof. Rule is made absolute in the above terms. All intervention applications stand disposed of accordingly.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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