

Shephali

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 723 OF 2017

Khushalidatta Mamlekar	...Petitioner
<i>Versus</i>	
State of Goa, through its Chief Secretary & Ors	...Respondents

Mr Galileo Francisco Teles, for the petitioner.
Ms Purna Bhandari, AGA, for the State.

CORAM: G.S. Patel &
 Nutan D Sardessai, JJ.
DATED: 18th September 2017

PC:-

1. The petition challenges a communication dated 24th May 2017, Exhibit-A to the petition at page 12. This was issued by the Range Forest Officer (“RFO”), Wild Life, Mollem to the Petitioner. It referenced the Petitioner’s representation for permission to enter the Bhagwan Mahaveer National Park for farming operations at village Caranzol. The Petitioner claimed to have standing sugarcane crops there.

2. The RFO informed the Petitioner that he, the Petitioner, had committed a forest offence by destroying the national forest cover in this national park. However, taking a sympathetic view, the Petitioner was permitted to undertake farming operations subject to compliance of five different conditions. These are as follows:

- “(i) Particulars of the manpower being deputed by the land owner/lease holder to be furnished in writing along with copies of photo ID cards of each of them:
- (ii) Entry to the National park area to Caranzol village shall be open only from Mollem;
- (iii) The movement of personnel shall be permitted with proper recording in the register at Mollem from dawn to dusk.
- (iv) The particulars of vehicles (two wheeler/four wheeler) including their registration nos. Shall also be communicated by the owner/lease holder in writing;
- (v) No activities of any form shall be made in the cleared falling area following under survey nos. 3/15, 5/19, 9/0 and 10/0. If any such attempt is detected the department shall be within its right to ask the owner/lease holder to leave the area.”

3. The Petitioner wants the permission but without the conditions. First, he says condition 5 is unreasonable. This is a misreading of that condition. Condition 5 references four separate survey numbers and prohibits activities of any form in the areas falling under those survey numbers (the word “following” is obvious a typographical error and should be read as “falling”). In the petition, ground after ground says that there are huge agricultural lands that are under cultivation and that crops have been destroyed. These are all disputed questions of fact.

4. Next, the Petitioner states that he should be allowed entry from another area and not only from Mollem as specified in clause 2. The restriction is not unreasonable.

5. We are unable to see anything arbitrary or unreasonable in the impugned order. The permission granted to the Petitioner was clearly an exception and taken on a sympathetic consideration of his peculiar conditions. Having regard to the law relating to forests and the prohibition of the non-forest activity on forest land, it is not possible to grant the petition kind of open-ended permission that he seeks, especially in a National Park. Obviously, the RFO is required to restrict the range of activities. The Wild Life Protection Act 1962 make a clear-cut distinction between sanctuaries and national parks. The provisions pertaining to the latter *inter alia* in Section 35 are most stringent than those contained in Sections 27 to 33 relating to sanctuaries.

6. Having regard to all these factors, we do not believe there is any cause for interference. The petition is rejected. There will be no order as to costs.

(NUTAN D SARDESSAI, J)

(G.S. PATEL, J)