

IN THE HIGH COURT OF BOMBAY AT GOA***WRIT PETITION NO.930 OF 2017***

Suresh N. Pai.

.....

Petitioner.

Versus

State of Goa, through

Chief Secretary and others.

.....

Respondents.

Mr. Gaurish N. Agni, and Mr. Eeshan Usapkar, Advocates for the
Petitioner.

Mr. Amogh Prabhudessai, Additional Govt. Advocate for the
Respondents No.1,2 & 4.

***Coram : N.M. Jamdar &
Nutan D. Sardessai, JJ.***

Date : 21 November 2017.

P.C.:

By this Petition, the Petitioner has challenged the non-action of the Respondents in respect of an alleged illegal construction in Survey No.162/2-A of Village Arambol, Goa. The Petitioner had filed a complaint in respect of the construction undertaken by Respondent No.5, to Respondent No.2-Goa Coastal Zone Management Authority (GCZMA). The GCZMA issued a Show Cause Notice to the Respondent No.5, with copies to the Petitioner, Village Panchayat, Deputy Collector and Collector, North Goa. In this Show Cause Notice, the GCZMA, has observed thus :

“WHEREAS, upon close perusal of the said Complaint letter dated 24/06/2016 received from Mr. Suresh N. Pai the following alleged illegal construction resulting in blatant and serious violation of CRZ Notification 2011 is noticed.”

3. Thereafter, on 11 November 2016, the GCZMA again wrote to the Village Panchayat stating that since the alleged illegalities are within the jurisdiction of the Panchayat, the Panchayat would take action if it is found illegal.

4. Mr. Agni, learned Counsel for the Petitioner made a grievance that the GCZMA cannot abdicate its jurisdiction and power to determine whether the construction is in violation of the CRZ Notification and its adjudication cannot be handed over to the local Panchayat, which is the tenor of the communication dated 11 November 2016.

5. A reply has been filed today by the Member Secretary, GCZMA, wherein it is stated in paragraphs 8 and 9 as under :

“8. I state that in addition to the aforesaid this Respondent through powers vested as mentioned under Section (5) by the Environment (Protection) Act, 1986 also directs the local bodies to take necessary action accordance with law law. I state that Section (5) of the Act, 1986 reads as under :

5. Power to give directions :- notwithstanding, anything contained in any other law but subject to provisions of this Act, the Central Government may come out in exercise of its powers and performance of its functions under this Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

9. I state that Section (4) of the Environment (Protection) Rules, 1986 reads as follows:

(4) Notwithstanding anything contained in sub-rule (3)-

(a) the Central Board or a State Board, depending on the local conditions or nature of discharge of environmental pollutants, may, by order, specify a lesser period than a period specified under sub-rule (3) within which the compliance of standards shall be made by an industry, operation or process.

(b) the Central government in respect of any specific industry, operation or process, by order, may specify any period other than a period specified under sub-rule (3) within which the compliance of standards shall be made by such industry, operation or process.”

6. It is, therefore, the stand of the GCZMA that it has overriding powers and can take necessary steps if violation of coastal regulation zone is noticed. The learned Additional Government Advocate for the GCZMA submitted that the communication dated

11 November 2016 appears to be a mistake. It was not the intention of the Authority to abdicate its power. He submitted that the Authority will take the Show Cause Notice to its logical end, within a period of six weeks from today, after following due procedure.

7. Though we dispose of this Writ Petition in the light of the statement made by the learned Additional Government Advocate for the GCZMA, we observe that such important duties of maintenance of the coastal regulation zones should not be taken lightly by the Authorities and they should not make attempts to abdicate the powers vested in it, in this manner.

8. With these observations, the Petition is disposed of.

Nutan D. Sardesai, J.

N.M. Jamdar, J.