

Amrut

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.1052 OF 2017

Sweta Estates Pvt. Ltd. Petitioner.

Versus

The State of Goa & Ors Respondents.

Mr. Shivan Desai, Advocate for the Petitioner.

Mr. P. Faldessai, Additional Government Advocate for Respondent Nos. 1 to 4.

Mr. M. D'Souza, Advocate for Respondent No.5.

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

Date : 29 November 2017.

P.C.:

Since all the parties are represented and considering the limited aspect of the matter, we take up the writ petition for disposal.

2. The Petitioner has challenged the show cause notice/order dated 20 November 2017 passed by the Additional Collector, North Goa, Panaji. It appears that a complaint came to be filed by the Member of the Legislative Assembly on 7 September

2017 addressed to the Revenue Minister regarding illegal construction of a road in land bearing survey no.98/0 of Talaulim Village and other constructions. According to the complainant, the road was constructed in Comunidade land and was likely to cause damage to the forest and environment in that area. A show cause notice came to be issued by the Collector on 20 November 2017 and the conversion sanad granted to the Petitioner was kept in abeyance with immediate effect ex-parte without any notice so as to stop further damage as stated. The Petitioner was directed to maintain status quo in respect of the construction project. The Petitioner was also directed to file a written reply within 15 days of the show cause notice.

3. The learned counsel for the Petitioner initially contended that the order passed is of drastic in nature and final conclusions have been drawn and a project which is in operation has been stayed ex-parte. It is his contention that the road in question is completed almost five years back. The learned Addl. Government Advocate submitted that what is issued is the show cause notice and pending the show cause notice certain directions have been given so as to ensure that the damage is not precipitated.

4. After hearing the matter for some time, the learned

counsel for the Petitioner, on instructions from an authorised representative present in Court, submitted that the Petitioner will not construct a road and carry out any construction activities as specified in clause 1 and 2 of the order dated 20 November 2017 and the Petitioner will appear on 11 December 2017. These statements are accepted. Considering the facts that the order dated 20 November 2017 calling upon the Petitioner to cease the activities specified therein is in the form of an interim order and that since the Petitioner has made a voluntary statement to cease these activities, the clause 1 and 2 of the order dated 20 November 2017 do not survive.

5. We have gone through the order dated 20 November 2017. The authority appears to have drawn certain final conclusion even though word '*prima facie*' has been issued in one place. It is obvious that the authority will consider the matter after hearing the Petitioner and the authority will take an independent decision on the matter considering the observations as *prima facie*.

6. We find force in the submission of the learned counsel for the Petitioner that there is a prejudice to the Petitioner and therefore the proceedings be decided at an early date. Since an *ex-parte* order has been passed directing the Petitioner to cease all activities, it is expected that the Collector would take the matter for

consideration on priority basis.

7. The learned counsel for the Petitioner undertakes that the Petitioner will file reply by 2 December 2017. After the hearing is concluded on 11 December 2017 the Collector will issue a reasoned order thereafter within a period of 15 days from the conclusion of the hearing. The statement made by the learned counsel for the Petitioner will continue till the order is passed by the Collector.

8. The Writ Petition is disposed of on the above terms.

9. All parties to act on an authenticated copy of this order.

Nutan D. Sardesai, J.

N.M. Jamdar, J.