

IN THE HIGH COURT OF BOMBAY AT GOA**PUBLIC INTEREST WRIT PETITION NO. 28 OF 2016**

1. Naresh Khulo Gaude,
Age 27 years, Service,
H.No. 20, Madder Wada,
Mangeshi, Ponda – Goa
Phone No. -NIL--
Fax No. ---Nil--
Mobile No.9764751389
PAN Number:---Nil--
National Unique Identity Number:
843835191693
Email: nareshgaude99@gmail.com
Annual Income: Rs.96000/-
2. Krishna Harichandra Gaude,
Age 49 years, Service,
H.No. 55, Near Ganesh Temple,
Mangeshi, Ponda-Goa.
Phone No. -Nil--
Fax No. ---Nil--
Mobile No. 7875224059
PAN Number:---Nil--
National Unique Identity Number:
779212173964
Email:--Nil--
Annual Income: Rs.84000/-
3. Sanjev Vishnu Gaude,
Age 42 years, Service,
H.No. 18, Near Ganesh Temple,
Mangeshi, Ponda-Goa.
Phone No. -Nil--
Fax No. ---Nil--
Mobile No. 9545474070
PAN Number:---Nil--

National Unique Identity Number:
345290751122
Email:--Nil--
Annual Income: Rs. 180000/-

4. Gautam Gurudas Gaude,
Age 29 years, Service,
H.No. 29, Madder Wada,
Mangeshi, Ponda-Goa.
Phone No. -Nil--
Fax No. ---Nil--
Mobile No. 9764600771
PAN Number:---Nil--
National Unique Identity Number:
528253467595
Email:--Nil--
Annual Income: Rs. 240000/-
5. Subhash Keshav Gaude,
Age 42 years, Service,
H.No. 7, Suring bhat,
Mangeshi, Ponda-Goa.
Phone No. -Nil--
Fax No. ---Nil--
Mobile No. 8390820817
PAN Number:---Nil--
National Unique Identity Number:
242131870991
Email:--Nil--
Annual Income: Rs.84000/-
6. Naresh Gajanan Gaude,
Age 48 years, Service,
H.No. 76, Near Ganesh Temple,
Mangeshi, Ponda-Goa.
Phone No. -Nil--
Fax No. ---Nil--
Mobile No. 8390052318
PAN Number:---Nil--
National Unique Identity Number:
200191188861
Email:--Nil--
Annual Income: Rs.840000/-
7. Satyavan Krishna Gaude,
Age 50 years, Farmer,
H.No. 38, Near Ganesh Temple,
Mangeshi, Ponda-Goa.

Phone No. -Nil--
 Fax No. ---Nil--
 Mobile No. -Nil--
 PAN Number:---Nil--
 National Unique Identity Number:
 922239642257
 Email:--Nil--
 Annual Income: Rs.48000/-

8. Shambhunath Vasant Gaude,
 Age 44 years, Service,
 H.No. 83, Near Ganesh Temple,
 Mangeshi, Ponda-Goa.
 Phone No. -Nil--
 Fax No. ---Nil--
 Mobile No. 9923852331
 PAN Number:---Nil--
 National Unique Identity Number:
 764560378945
 Email:--Nil--
 Annual Income: Rs.180000/-

.... Petitioners

Versus

1. The Collector,
 South Goa District,
 Margao, Goa.
2. The Village Panchayat of Veling-Priol-Cuncoliem,
 Through its Secretary,
 Veling-Priol,
 Ponda Goa.
3. Town Planner,
 Town and Country Planning Department,
 Ponda Goa
4. Shri Sachin Sadanand Bhide
 Major, r/o Near Manguesh Temple
 Mangueshi, Ponda, Goa
5. Shri Hitendra Shinkre,
 Major, R/o Panditwada,
 Ponda Goa.

6. Shri Gopal Ramnath Naik,
Major, R/o Gunawanti Hotel,
Namaswada, Cuncollem,
Ponda Goa.
7. The Deputy Collector & SDO,
Ponda Goa
8. The Block Development Officer,
Ponda Goa.
9. The State of Goa,
Through its Chief Secretary,
Secretariat, Porvorim,
Goa.

.... Respondents.

Mr. Nigel Da Costa Frias, Advocate with Ms. Maria Correia, Advocate for the Petitioners.

Mr. Dattaprasad Lawande, Additional Advocate General with Mr. P. Dangui, Additional Government Advocate for Respondents no. 1, 3, 7, 8 and 9.

Mr. Rama Rivankar, Advocate for Respondent no. 4.

Mr. Sahish Mahambrey, Advocate for Respondent no. 5 and 6.

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

DATE:- 14TH FEBRUARY, 2017

ORAL JUDGMENT: (Per F.M. REIS)

Heard Shri Nigel Da Costa Frias, learned Counsel appearing for the Petitioners, Mr. Dattaprasad Lawande, learned Additional Advocate General appearing for the Respondents no. 1, 3, 7, 8 and 9, Mr. Rama Rivankar, learned Counsel appearing for the Respondent no. 4 and Mr. Sahish Mahambrey, learned Counsel appearing for the Respondents no. 5 and 6.

2. Rule. Heard forthwith with the consent of the learned Counsel. Learned Counsel appearing for the Respondents waive service.

3. The above Public Interest Litigation Writ Petition is essentially on the ground that there is rampant hill-cutting which is being carried out in Cuncolem village at Ponda Taluka which was unabated. There were allegations that no appropriate measures were taken by the concerned authorities despite of complaint lodged by the Petitioners to that effect. Respondents no. 1, 3, 7 and 9 have filed affidavits, inter alia, disclosing that proceedings have already been initiated against any illegality in respect of hill-cutting as well as cutting of trees in the subject property. Copies of the show cause notices have also been filed alongwith the affidavits. The FIR registered by the Town Planner is also placed on record. In such circumstances, it appears that the Respondents have initiated action to ensure that no hill-cutting is carried out in the subject property.

4. Mr. Nigel Da Costa Frias, learned Counsel appearing for the Petitioners further pointed that directions be issued to ensure that when complaints of such nature are brought to the notice of the concerned authorities, speedy measures are taken to ensure that any action initiated is taken expeditiously to its logical conclusion. In the affidavit in rejoinder filed by the Petitioner, at para 4, the Petitioners have suggested the following measures:

- “4. (i) Regular patrolling of the area is to be done by the Range Forest Officer, Ponda or his subordinate officers and forest guards to prevent further illegal felling of trees. Strict action is to be taken against the offenders in accordance with law.
- (ii) The respondent no. 7 to complete the proceedings initiated by him vide the notice dated 19/10/2016 within a period of 3 months, in accordance with law and pass necessary orders.

- (iii) The respondent no. 7 to take appropriate action for restoration of land that was being illegally developed in Survey nos. 34-39 of Village Cuncollem in accordance with the provisions of Section 175A, 51 and 52 of the Goa Town and Country Planning Act, 1974.
- (iv) The respondents 4, 5 and 6 be restrained by an appropriate order from carrying out any development which includes cutting of hilly/sloping land, filling of low land, leveling, cutting of trees etc under Survey nos 34-39 of Village Cuncollem-Ponda, Goa without obtaining the requisite licenses from the concerned authorities.

5. Though the private Respondents no. 4 and 5 have vehemently disputed the propriety of issuing the show cause notice, as, according to them, they have not carried out any illegality as alleged by the Petitioners, we find that this aspect would have to be considered by the concerned authorities after hearing the concerned Respondents in accordance with law. Needless to say, all contentions with that regard raised by the Petitioners are left open as we have not examined the veracity or otherwise of the allegation to that effect raised by the Petitioner.

6. Mr. Lawande, Additional Advocate General submits that the suggestions made by the Petitioners at said para 4 of the rejoinder are acceptable to the concerned authority. The learned Additional Advocate General also pointed out that while issuing such directions, in case any FIR is registered with regard to any infraction found by the concerned authorities, such investigation shall also be expedited and taken to its logical conclusion.

7. In such circumstances, we dispose of the above PIL Writ Petition by issuing the following directions:

- (i) Regular patrolling of the area is to be done by the Range Forest Officer, Ponda or his subordinate officers and forest guards to prevent further illegal felling of trees. Strict action is to be taken against the offenders in accordance with law.
- (ii) The respondent no. 7 to complete the proceedings initiated by him vide the notice dated 19/10/2016 within a period of 3 months, in accordance with law and pass necessary orders.
- (iii) The respondent no. 7 to take appropriate action for restoration of land that was being illegally developed, if any, in Survey nos. 34-39 of Village Cuncolliem in accordance with the provisions of Section 175A, 51 and 52 of the Goa Town and Country Planning Act, 1974.
- (iv) The respondents 4, 5 and 6 be restrained by an appropriate order from carrying out any development which includes cutting of hilly/sloping land, filling of low land, leveling, cutting of trees etc under Survey nos 34-39 of Village Cuncolliem-Ponda, Goa without obtaining the requisite licenses from the concerned authorities, in accordance with law.
- (v) The concerned Respondents are also directed that in case any FIR is registered, the investigations to be carried out as expeditiously as possible.

8. It is, however, clarified that all contentions of the private Respondents are left open.
9. Rule is made absolute in the above terms with no order as to costs.
10. The PIL Writ Petition is disposed of accordingly.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

msr.