

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 1117 OF 2017

CARLOS TAVORA.,

... Petitioner

Versus

POLLUTION CONTROL BOARD.,

... Respondent

Mr. Sudin Usgaonkar, Senior Advocate with Mr. Vijay A. Palekar, Advocate for the petitioner.

Coram:- C. V. BHADANG, J.

Date:- 18th December 2017

P.C.

Heard Shri Usgaonkar, the learned Senior Counsel for the petitioner, for some time.

2. The petitioner is granted renewal of consent to operate the blower under Section 25/26 of the Water (Prevention and Control of Pollution) Act, 1974 (Water Act, for short) read with Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 (Air Act, for short) on 02/07/2017 inter alia on certain conditions. The petitioner felt aggrieved by the condition no.5(xv) which reads thus :

"5(xv). The Unit shall shift the blowers to mezzanine floor and the stack height should be 1.5 mts. above the roof of

the building as recommended by the committee appointed by the Hon'ble High Court of Bombay at Goa, Panaji, Misc. Civil Application no.652/2015 within 60 days of issue of this consent on obtaining necessary approvals as applicable and submit the compliance report to this office."

3. The petitioner challenged the imposition of said condition before the Administrative Tribunal in Pollution Appeal No.8/2017/AIR. The Tribunal vide judgment and order dated 19/10/2017 has allowed the appeal striking off the condition no.5(xv) as above. However, while doing so, the Tribunal has observed in para 18 that before deciding on the renewal of the consent, the respondent no.1 Board shall hear the Builder M/s. Boshan Developers Pvt. Ltd. The petitioner is aggrieved by the said part of the order, by which the respondent no.1 Board has been directed to hear M/s. Boshan Developers Pvt. Ltd.

4. It is submitted by Shri Usgaonkar, the learned Senior Counsel for the petitioner that the Board has to examine the issue of grant or renewal of the consent within the parameters as are available under the provisions of the Water Act and the Air Act and the Tribunal cannot travel beyond the same. It is submitted that the Tribunal cannot dwell upon the civil dispute between the parties and as such, the requirement of M/s. Boshan Developers Pvt. Ltd being heard is beyond the scope of the enquiry

contemplated under the Water Act, the Air Act and the Rules framed thereunder. It is submitted that the Board, in any case, cannot consider the issues as are involved between the parties in the civil proceedings.

5. I have considered the circumstances and the submissions made and I do not find that any case for interference is made out. Admittedly, there is a civil dispute between the parties, pending before the competent Court. Thus, no fault can be found with the order which requires the Board to hear M/s. Boshan Developers Pvt. Ltd; before considering the question of renewal of consent. It is however made clear that the respondent no.1 Board will confine the considerations to the requirement of the Water Act and the Air Act and the Rules framed thereunder. Needless to mention that the respondent no.1 Board cannot dwell upon the civil disputes between the parties. With this, the petition is disposed of.

6. The petitioner to act on the authenticated copy of the order.

C. V. BHADANG, J.

SMA