

IN THE HIGH COURT OF BOMBAY AT GOA***WRIT PETITION NO.56 OF 2018***

South West Port Ltd., through
its Unit Head and Auth. Signatory.

..... Petitioner.

Versus

(1) The State of Goa through its
Chief Secretary and another.

..... Respondents.

Mr. Subodh Kantak, Senior Advocate with Mr. Abhijit Gosavi, Mr. Kher Simoes, and Ms. Smriti Jha, Advocates for the petitioner.

Mr. Dattaprasad Lawande, Advocate General with Mr. Pradosh Dangui, Government Advocate for the respondents.

***Coram : Shantanu S. Kemkar &
Nutan D. Sardesai, JJ.***

Date : 12 January 2018.

P.C.:

Parties through their Counsel. After arguing at length, the learned Senior Counsel appearing for the petitioner submits that the petitioner may be permitted to withdraw this petition, with liberty to avail of appropriate statutory remedies available to the petitioner, challenging the orders impugned in this petition.

2. The prayer appears to be reasonable and, as such, rightly

not opposed by the learned Advocate General appearing for the respondents.

3. The learned Senior Counsel for the petitioner submits that by orders impugned in this petition, the petitioner has already been permitted to continue with its operations for 15 days on the conditions mentioned therein. He, however, prays that till the petitioner approaches the Appropriate Authority and seeks interim order in the appeal as may be filed, some more interim arrangement be ordered to be made.

4. In the circumstances, additionally by way of interim order on the basis of the broad consensus, we issue the following directions:

(I) That only those vessels, which have already sailed from their respective destinations and which are likely to arrive as per the statement given at page 233 of the petition (Annexure M-I), excluding the last named three vessels, shall be permitted to berth at Berth No.5A and 6A and the petitioner shall be permitted to handle, offload and transport the coal/coke cargo, which shall arrive in those vessels;

(II) The petitioner shall strictly adhere to all other conditions of Consent to Operate dated 21.07.2017;

(III) The petitioner shall inform respondent No.2 at least two days in advance regarding likely arrival of said vessels in order to enable respondent No.2 to depute a personnel to monitor the handling of cargo;

(IV) The Coal/coke handled, offloaded and transported by virtue of this Order shall be taken into account for the purpose of condition No.2 of the Consent to Operate dated 21/07/2017;

(V) Since the petitioner has not exceeded the capacity for handling of steel slabs (export) and limestone cargo (import), the impugned order shall not apply to these two cargos but, however, the petitioner shall not exceed the capacity under Clause 2 of Consent to Operate dated 21.07.2017.

(VI) We also make it clear that this interim arrangement will not affect the merits of the matter in appeals as may be filed by the petitioner and all contentions of both sides are kept open.

(VII) We also make it clear that it will be open for the petitioner to submit appropriate application before the second respondent seeking variation/modification of the Consent to Operate Order dated 21.07.2017 by which consent to operate was granted or to make a fresh application to the respondent No.2 for fresh consent to operate.

5. With the aforesaid liberty and directions, the petition is disposed of.

6. Parties to act on duly authenticated copy of this order.

Nutan D. Sardesai, J.

Shantanu S. Kemkar, J.