

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.368 OF 2018.

Drishiti Cruise and Ferries Pvt. Ltd.,
A Company incorporated under the
Companies Act, 2013,
having its registered office at
First Floor, 'Dourado House'
Near Dona Paula Circle,
Dona Paula 403 004, Goa
Through its Authorised Signatory
Antonio Oises Menezes.

..... Petitioner.

V/s.

1. State of Goa, through its
Chief Secretary, having his
Office at Secretariat, Porvorim, Goa.

2. Goa Coastal Zone Management Authority,
C/o. Department of Science, Technology &
Environment (Govt. of Goa) having
its Office at First Floor,
“Pandit Deendayal Upadhya Bhavan”,
Pundalik Nagar, Porvorim, Goa.

..... Respondents.

Mr. Shashikant Joshi & Ms. Sameera Bhat, Advocates for the
Petitioner.

Mr. Pravin Faldessai, Additional Govt. Advocate for Respondents
No.1 & 2.

Mr. Mahesh Amonkar, Central Government Standing Counsel for
Respondent No.3.

***Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.***

Date : 26 March 2018.

P.C.:

By this Petition, the Petitioner has prayed for issuance of a mandamus, directing the Goa Coastal Zone Management Authority to decide the applications of the Petitioners for installation of the floating Jetties at various locations.

2. On 19 August 2016, Mormugao Port Trust-Respondent No.4 had invited tenders from eligible bidders for operation of ferry services from Baina to Panjim and other approved locations. It appears that a licence was granted in favour of the Petitioner. Thereafter, the Petitioner applied for certain permissions from various Authorities and they were granted and accordingly, the Petitioner commenced operation of the jetties at Baina and Sinquerim in Bardez Taluka.

3. The present Petition pertains to the Petitioner's projects at Candolim, Baga, Anjuna, Arambol, Querim in North Goa, and Arrosim, Benaulim, Mobor and Palolem in South Goa. The Petitioner apprehends that the State Government may not decide the

Petitioner's applications for permission to operate the floating jetties in view of the Order passed by the National Green Tribunal and therefore prays that this Court should issue suitable directions. According to the Petitioner, the order passed by the Tribunal does not preclude the Respondent-State from processing the applications of the Petitioner as its projects are not covered within the ambit of this order. The learned Additional Govt. Advocate has relied upon the orders passed by the National Green Tribunal in Original Applications No.11/2014 and 424 of 2016 dated 22 November 2017.

4. We have perused the order passed by the National Green Tribunal dated 22 November 2017. In the order, the Tribunal has noted that the Secretary of Ministry of Environment, Forest & Climate Change had directed all the States to file their Draft Coastal Zone Management Plan by 31 March 2018 and some States had asked for extension. The Tribunal, after considering the position, opined that no further undue delay should be caused in determining and finalisation of the Coastal Zone Management Plans (CZMP) for the respective States. The Tribunal directed all the State Governments without default and delay to submit CZMP to Ministry of Environment, Forest & Climate Change by 30 April 2018. In the event any State Government and UT did not submit the said plan,

they were made liable for exemplary costs of Rs.5 lacs which should be recovered from the salary of the defaulting Officer. The Tribunal also directed that within three months thereafter that is by 31st July, 2018 the Ministry of Environment, Forest & Climate Change shall issue approval in regard to the fixation of hazard line and CZMP for the respective State covering the entire coastal area. The Officers and Ministry of Environment, Forest & Climate Change were also made liable to be proceeded against in accordance with law in case of default. The Tribunal granted liberty to Ministry of Environment, Forest & Climate Change to move the Tribunal well in time if there is default on the part of any of the States, but not on the ground of non-cooperation from States as the reason for delay, if any, in compliance of this deadline in this order. The Ministry of Environment, Forest & Climate Change was accordingly put at notice.

5. The stand of Ministry of Environment, Forest & Climate Change, was recorded in the order dated 22 November 2017, that the States should not grant environment clearance for development activity which falls within the permissible area/regulated area as that may result in defeating the entire exercise. Even otherwise, without there being any guidelines in the form of a Management Plan, it will not be possible for the State to process the applications. For grant or

rejection of the application there should be some guideline, and the Coastal Management Plan, which has been directed to be prepared, will provide this basis. Therefore, unless and until the order of the Tribunal is complied by furnishing the Plan or the order is modified or set aside, the Authority will not be in a position to even consider the applications of the Petitioner. Therefore, we are not inclined to grant the relief as prayed for by the Petitioner, even though it may seemingly appear to be only an innocuous direction of early disposal of the applications.

6. It is, however, open to the Petitioner to approach the National Green Tribunal, if the Petitioner is desirous of seeking any modification of the order if it is the case of the Petitioner that the directions of the National Green Tribunal do not apply to the projects of the Petitioner.

7. The Writ Petition is, accordingly, disposed of.

Prithviraj K. Chavan, J.

N.M. Jamdar, J.