

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 400 OF 2019

FOMENTO RESOURCES PVT. LTD., THR.
ITS DIRECTOR, KAUSTUBH SAWKAR AND
ANR.,

... Petitioners

Versus

UNION OF INDIA, THR. ITS SECRETARY
(FINANCE) GOVT. OF INDIA, NEW
DELHI AND 3 ORS.,

... Respondents

Mr. S. S. Kantak, Senior Advocate with Mr. Parag S. Rao,
Advocate for the Petitioners.

Ms. Asha Desai, Senior Standing Counsel for Respondent Nos.1
to 3.

Ms. Priyanka Kamat, Advocate for Respondent No.4.

Coram:- R. D. DHANUKA &
PRITHVIRAJ K. CHAVAN, JJ.

Date:- 22nd April 2019

P.C.

Heard the learned counsel for the parties.

2. In the petition filed under Article 226 of the Constitution of India, the Petitioners have impugned the show cause notice dated 5th July, 2018, issued by Respondent No.2.

3. The learned counsel for the parties invited our attention to the judgment and order dated 5th April, 2019, passed by the Division Bench of this Court in Writ Petition No.65 of 2018 with

Misc. Civil Application Nos.971, 1023 & 1052 of 2018 directing the Petitioners to furnish a bank guarantee of minimum Rs.6 crores which was 50% of the liability after considering the penalty and interest. This Court had directed the Petitioners to keep alive the said bank guarantee upto 29.05.2019.

4. The Petitioners have independently challenged the said show cause notice dated 5th July, 2018 by this petition.

5. Ms. Kamat, learned counsel for Respondent No.4, on instructions, states that the said show cause notice dated 5th July, 2018 itself can be disposed of after giving hearing to the Petitioners in person or through their authorized representative and an appropriate order can be passed on or before 29th May, 2019. The statement is accepted.

6. In view of this statement made by the learned counsel for the Respondent No.4, we are not inclined to interfere with the show cause notice impugned in this petition.

7. The Respondent No.4 shall pass speaking order after hearing the Petitioners or their authorized representative on or before 29th May, 2019. If any adverse order is passed by the Respondent No.4 against the Petitioners, the same shall not be implemented for a period of two weeks from the date of

communication of the order. In that event, the Petitioners shall extend the bank guarantee in question till 30th June, 2019. It is made clear that this Court has not expressed any opinion on merits of this petition. The Petitioners are directed to appear before the Authority on 24th April, 2019 at 11.00 a.m. without fail and shall not seek any unnecessary adjournments.

8. Mr. Kantak, learned Senior Counsel for the Petitioners states that the impugned show cause notice dated 5th July, 2018 itself is totally without jurisdiction. He further states that all contentions raised by the parties in the said show cause notice are already answered by a detailed judgment dated 5th April, 2019 rendered by this Court in Writ Petition No.65 of 2018.

9. The learned counsel for the Respondents do not accept this contention of the learned Senior Counsel for the Petitioners.

10. The writ petition is disposed of on the aforesaid terms. All contentions of all parties are kept open. There shall be no order as to costs.

PRITHVIRAJ K. CHAVAN, J.

R. D. DHANUKA, J.

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