

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 478 OF 2019

MADAN NARAYAN SAWANT

.... Petitioner

Versus

GOA COASTAL ZONE MANAGEMENT
AUTHORITY, THR. ITS MEMBER
SECRETARY AND 2 ORS.

.... Respondents

Mr. S.S. Kantak, Senior Advocate with Mr. Jitendra P. Supekar,
Advocate for the Petitioner.

Mr. D. Pangam, Advocate General with Ms. Priyanka Kamat,
Additional Government Advocate for Respondent No. 1.

Mr. Hanumant D. Naik, Advocate for Respondent No. 2.

Mr. Kashinath Shetye, Respondent No. 3, in person.

Coram:- M.S. SONAK &
C.V. BHADANG, JJ.

Date:- 13th November, 2019

ORAL ORDER: (Per M. S. Sonak, J.)

Heard Mr. Kantak, the learned Senior Advocate for the petitioner, Mr. Pangam, the learned Advocate General, who appears for respondent no. 1, Mr. Naik, the learned Counsel for the respondent no. 2 and the respondent no. 3 in person.

2. The main challenge in this petition is to the order dated 31.05.2019 made by the Goa Coastal Zone Management Authority

(GCZMA). On perusal of the order, we find that the GCZMA has invoked Section 5 of the Environment (Protection) Act, 1986(the Act).

3. According to Mr. Kantak, the impugned order is not relatable to Section 5 of the Act. He submits that no such order could have been made in exercise of such provisions of the Act and such an order, at the highest, is relatable to Regulation 8 of the CRZ Notification 2011.

4. Mr. Shetye (respondent no. 3) states that the Appeal filed by the petitioner, concerning the same issue, is already pending before the National Green Tribunal (NGT) i.e. Appeal No. 97/2017. He pointed out that as against the present order as well, the petitioner has an alternate and efficacious remedy before the NGT.

5. According to us, since the impugned order itself makes reference to Section 5 of the Act, it would not be appropriate for us to go into the issue as to whether, the order is relatable to such provisions of Section 5 of the said Act or not. Admittedly, if an order is made under Section 5 of the Act or the direction issued therein, the petitioner has a remedy of Appeal before the NGT. It is always open to the petitioner to raise all such contentions including the contention that under Section 5 of the said Act, such direction could not have been issued before the NGT.

6. Only the ground that the petitioner has an alternate and efficacious remedy, we decline to entertain this petition. However, we record that this Petition was instituted on 12.06.2019 and remained pending till this day. Further, it is clarified that we have only declined to entertain this petition on the ground of availability of alternate and efficacious remedy and we have not adverted to the merits of the matter. All contentions of the parties are left open.

C. V. BHADANG, J.

M. S. SONAK, J.

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