

IN THE HIGH COURT OF BOMBAY AT GOA

***PUBLIC INTEREST LITIGATION
WRIT PETITION NO.15 OF 2011***

THE COLVA CIVIC AND CONSUMER
FORUM, THR. ITS SECRETARY,
JUDITH A. B. ALMEIDA.

.... Petitioner

Versus

STATE OF GOA, THROUGH ITS
CHIEF SECRETARY AND ORS.

.... Respondents

Mr. Nigel Da Costa Frias with Mr. G. Malik, Advocates for the
Petitioner.

Mr. Sagar Dhargalkar, as Additional Govt. Advocate for Respondent
nos.1, 4 to 11 and as Advocate for Respondent no.46.

Coram:- M.S. SONAK &
NUTAN D. SARDESSAI, JJ.

Date:- 16th October, 2019

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

Heard learned counsels for the parties. This petition has been
filed in public interest to seek several reliefs in relation to several
environmental/civic issues in relation to the Colva beach and its
precincts.

2. From time to time, we have made several orders in these petitions and the matter was being continued to ensure compliance. We do not deem it appropriate to transcribe all such orders herein but we make absolute the interim order/directions issued from time to time in this petition.

3. In pursuance to orders made by us from time to time, Mr. Sanjiv Gadkar, Director of Tourism has filed the latest affidavit on 18.09.2019. The affidavit states that a meeting was convened by him of all concerned stake holders on 29.08.2019 at 3.30 p.m. particularly to discuss and deliberate upon the long term measures to be adopted for improvement of infrastructure at Colva Beach. Director of Tourism has stated that in the said meeting the following decisions were taken:

“1. DESILTING OF COLVA CREEK:

The Water Resource Department (WRD) was asked to submit the compliance report/status with regard to desilting of the Colva creek and Maintenance of creek retaining walls. The officials of Water Resource Department (WRD) present for the meeting informed that the tendering work for desilting of the creek is in process as they have received NOC from GCZMA. The Officials of the Water Resource Department (WRD) were also informed to expedite the said matter on priority basis and to comply within the period of Three months.

Further, the officials of Water Resource Department (WRD) inquired about the dumping site with the members present upon which the officials of Public Works Department (PWD) stated that they will identify the dumping sites at Colva for dumping debris and silt. The Director of Tourism therefore directed the officials of PWD to submit the details of the identified site to Water Resource Department for further needful. The same should be complied within Two weeks.

2. INSPECTION OF HOTELS:

The officials of Goa State Pollution Control Board (GSPCB) were asked to inspect the hotels/restaurant at Colva for their STP and discharge in overall and ensure that the cautious approach for effluent reuse/retention and Increase capacity of the on-site treatment where existing facilities are deficient and accordingly initiate the process for cancellation of licenses of the violators. The Secretary (Panchayat), Village Panchayat Colva, was also directed to verify/ensure if the Hoteliers have obtained required/necessary NOC/Licenses from all the concerned departments and if not necessary action shall be initiated against the violators under the law. The same should be complied within three weeks.

3. SETTING UP OF S.T.P. (SEWERAGE TREATMENT PLANT):

The Director Tourism was informed by the officials of Sewerage Infrastructure Development Corporation Goa Limited (SIDCGL) about the status that the proposal for providing fund for Colva Sewerage System has been forwarded to the State Government and the same is pending till date. Upon which the Director Tourism informed the official of SIDCGL to pursue the same with the Government further to examine the possibility to forward/submit their proposal to Managing Director, Goa Tourism Development Corporation Ltd. requesting to provide funds for Colva Sewerage System under The Swadesh Darshan Development Scheme of Government of India.

The official from the SIDCGL were further requested by Director of Tourism to create awareness among the local people about the Sewage Treatment Plant at Colva in consultation with the Village Panchayat Colva and the Petitioner to cooperate in the matter. The same should be complied within one month.”

4. The affidavit in paragraph 5 further states as follows:

“ 5. I say that this respondent have already complied with the short term measures and are working very hard to implement the long term measures. I say that this respondent has taken the

work of long term measures on a priority bases and will expedite the same. I say that this respondent will comply the further directions if any issued by this Hon'ble High Court with regards to the long term measures.”

5. We now direct the respondents to comply with the decisions taken at the meeting held on 29.08.2019 within some reasonable period.

6. On behalf of the petitioners, Ms. Judith Almeida has filed an affidavit on 09.08.2019, wherein, she has made the following suggestions:

“a) The Goa State pollution control board (GSPCB) shall conduct periodic surprise inspections on (quarterly basis) of all establishments namely hotels, restaurants, beach shacks and cafe's operating on the Colva beach and within a radius of 200 meters from the Colva beach, to ensure that they have installed sewage treatment plants within their premises or are connected to any functional sewage treatment plants where the sewage and sullage generated in their establishments is treated and disposed off.

b) The Goa State Pollution Control Board shall ascertain and verify that the Sewage Treatment Plants are functional as per the prescribed parameters.

c) The Goa State Pollution Control Board shall issue show cause notices to those establishments which are found functioning without Sewage Treatment Plants to take remedial measures within reasonable time failing which they may be ordered to shut down operations and necessary directions in that regards shall be issued by The Goa State Pollution Control Board in exercise of its powers under Section 33A of The Water Act.

d) No permissions for beach shacks on Colva Beach/Sernabatim Beach shall be granted by the concerned authorities until they are satisfied that the applicants have made suitable arrangements for collection and disposal of garbage and solid/wet waste that will be generated in their establishments and also for treatment and disposal of sewage.

e) The Directorate of Health/Directorate of Food and Drugs administration to ensure that the commercial establishments operating in or around Colva Beach are functioning in compliance with the provisions of the Goa Public Health Act 1985 particularly with regards to health and sanitary conditions, this can be ensured through periodic inspections of such establishments.

f) The Village Panchayat of Colva shall immediately put into place effective measures for collection and disposal of garbage generated in or around the Colva and Sernabatim Beach.

Adequate number of garbage bins/receptacles appropriately labelled shall be provided on the beaches which shall be cleared out at least once a day by the Panchayat and the garbage disposed of in accordance with the applicable rules. The Village Panchayat and Colva police shall ensure that no garbage or other waste is burnt or disposed off on the beach, the Colva police will maintain regular patrolling and take strict action against the violations.

g) The Panchayat shall immediately erect sign boards on the Colva and Sernabatim Beach in English, Konkani and in Hindi to the effect that dumping of or burning of garbage on the beach is strictly prohibited and that the offenders shall be prosecuted.

h) The Tourism department to ensure that the Colva/ Sernabatim beach is regularly cleaned through the beach cleaning contractors appointed for the purpose. Adequate arrangements should be made for collection and disposal of the garbage collected by the contractors.

i) The storm water drains leading to the Colva Creek shall be regularly maintained and cleaned by the Village Panchayat particularly before the onset of monsoons. All peep polls in these drains and on the walls of the Creek from which sewage and other waste water drained into the storm water drain and into the Creek from private establishments, houses, buildings, etc. shall be sealed immediately by the Village Panchayat and the

Water Resources Department and strict action to be taken against any person or persons found to be illegally draining sewage or waste water or any type of effluents into the storm water drains or the creek.

j) The Village Panchayat and the Water Resources Department shall de silt the Colva creek at least once every two years so that same is not congested or obstructed.

k) The Sewage Corporation/Tourism Department shall expedite the construction of the public Sewage Treatment Plant at Colva beach in compliance with the applicable environmental rules and regulations so that the same is commissioned at the earliest.”

7. In so far as the suggestions at clauses (a), (b), (c) and (j) are concerned, the same are sufficiently addressed and redressed by the decisions taken in the meeting held on 29.08.2019. Since, we have directed the respondents to implement those decisions within reasonable periods, the suggestions made by the petitioner, according to us, are substantially redressed at least for the present.

8. In so far as the aspect of setting up of a public sewage treatment plant at Colva beach is concerned, Mr. Dhargalkar points out that the construction of the sewage treatment plant had commenced but on account of some local issues the same could not continue. He points out that even the Panchayat had issued Stop Work Order.

9. In our order dated 30.04.2019, this is what we had observed at paragraph 6, in relation to the Show Cause Notice and Stop Work Orders:

“ 6. So far as issue of show cause notice issued by respondent no.3 is concerned, the learned Counsel for respondent no.3 states that authorised representative of respondent no.46 would be heard by learned Secretary of Panchayat within two weeks from today. If there are any other complaints, respondent no.3 would be at liberty to hear those complaints and appropriate decision in that regard shall be taken within four weeks. It is made clear that no further extension of time will be granted. If no decision is taken within four weeks from today show cause notice issued by respondent no.3 to stand vacated forthwith thereafter.”

10. Till date there is nothing on record to indicate that the Panchayat has disposed of the show cause notices. Accordingly, the restraint order imposed by the Panchayat stands vacated.

11. Mr. Dhargalkar states that the respondents will now take necessary steps to set up the sewage treatment plant so that there are no cases of discharge of untreated sewage in the Colva creek. We grant the respondents one year's time to set up the sewage treatment plant and thereafter report compliance.

12. We are informed that such sewage treatment plant is to be set up by the respondent no.46 i.e. the Sewerage Infrastructure Development Corporation of Goa Limited. Accordingly, we direct this Corporation to expedite the setting up of sewage treatment plant and further direct all other authorities to consider the applications that may be filed by this Corporation for setting up of the sewage treatment plant on priority basis. Such applications should be disposed of by all other authorities within a maximum period of 15 days from the date on which the same are made unless, for really justifiable reasons some additional time is required.

13. The concerned department of the Government to consider the issue of desiltation of the Colva creek periodically so that the same is not congested.

14. The Village Panchayat, it appears, is not discharging its duties in relation to the Colva beach and its precincts. We therefore, direct the Panchayat to refrain from issuing permissions for beach shacks unless they are satisfied that suitable arrangements have been made by the applicants to collect and dispose of the garbage generated by the applicants/their establishments and appropriate arrangements are made for treatment and disposal of sewage. For this purpose the Village Panchayat is directed to provide with adequate number of garbage bins/receptacles which are required to be cleared periodically. The

Panchayat should also take immediate action against instances of disposal of garbage or other solid waste in a non-scientific manner. Particularly, the Panchayat, should pursuant to burning of garbage and other waste on the beach. Police authorities must also cooperate with the Panchayat to ensure that such instances are not repeated.

15. The Panchayat to erect sign boards on the Colva and Sernabatim beaches in English, Konkani and Hindi languages making it clear that there has to be no dumping or burning of garbage on the beach and that strict action will be taken. The Panchayat should also ensure that the storm water drains leading to the Colva Creek are regularly maintained and cleaned before the onset of monsoons.

16. The Tourism Department of the State Government is also directed to ensure that regular clean up drives are undertaken on the Colva and Sernabatim beaches.

17. We also direct the Goa State Pollution Control Board to carry out periodic inspections/testing of the water from Colva creek to monitor pollution levels.

18. We direct the concerned respondents to file a compliance report in this Court latest by 31.03.2020 after service of advance copy upon the learned counsel appearing for the petitioners.

19. Though, we are disposing of this petition, in case the petitioners find that there is no compliance, we grant the petitioners liberty to apply. Though we have issued several directions to the concerned respondents in this petition, we make it clear that the main respondent to ensure compliance will be Director of Tourism. Therefore, it shall be the duty of the Director of Tourism to coordinate with all other agencies to ensure compliance of this order.

20. With the aforesaid directions, the present petition is disposed of.

21. The miscellaneous applications which are pending in this matter do not survive and are accordingly disposed of.

22. All concerned to act on the authenticated copy of this order.

NUTAN D. SARDESSAI, J.

M. S. SONAK, J.

ss