

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 10 OF 2017

ARTURO CARLOS D'SOUZA AND 2 ORS., ... Petitioners

Versus

THE COLLECTOR (NORTH GOA) AND 6 ORS., ... Respondents

Mr. S.N.Joshi, with Ms. Snehal Rawool, Advocates for the applicants.

Mr. Nigel Da Costa Frias with Ms. J. Fernandes, Advocates for Respondent No. 1.

Mr. Dattaprasad Lawande, Advocate General with Mr. Pradosh Dangui, Government Advocate for original Respondent No. 2. Advocate General with Mr. Deep Shirodkar, Addl. Government Advocate for original Respondent Nos. 1, 4, 5 & 6.

Mr. D.J. Pangam with Mr. Parikshit Sawant, Advocate for original Respondent No.8.

Mr. Samman Keny, Advocate for original Respondent No.14.

Mr. Abhijeet Kamat, Advocate for original Respondent No. 15.

Mr. A. D. Bhobe, Advocate for original Respondent No. 16.

Mr. Sudin Usgaonkar, Sr. Advocate with Ms. Vinita Palyekar , Advocate for original Respondent No.17.

Ms. Asha Dessai, Advocate for intervenor.

Mr. C. Padgaonkar, Advocate for intervenor.

Mr. Shivan Desai, Advocate for the Applicant.

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

Date:- 16th April 2019

P.C:

The respondents have not filed affidavit in reply inspite of directions issued by order dated 19.03.2019. Reply shall be filed by respondent Nos. 1 to 6 within two weeks from today with

copy to be served upon the learned counsel for the petitioner simultaneously. It is made clear that no further extension of time will be granted to file reply. If no reply is filed within the prescribed time, the matter will be proceeded on the basis of the documents and pleadings available on record.

2. If reply is filed within the prescribed period, the petitioner to file rejoinder within two weeks thereafter with copy to be served on the learned counsel for the respondent simultaneously.

3. Place this writ petition on board for admission on 10.06.2019.

MCA 56/2019 with MCA 15/2019

4 Both these applications are filed by the parties who are not parties to the petition. In Writ Petition No. 10/2017, order was passed to the extent that this Court has issued directions not to grant construction permission within 200 metres from the edge of the Bondvol lake water and further directed the authorities and village panchayat of Calapur to consider the applications of the applicant for construction permission and for grant of completion and occupancy certificate.

5. It is not in dispute that the applicants in these two Misc.

Civil Applications had applied for various permission prior to 07.11.2017 when this Court passed an order more particularly in para 7 thereof that no construction permission would be granted within 200 metres from the edge of water.

6. In so far as the applicant Mrs. Sheeja Jacob and Prajakta Engineering & Construction Pvt.Ltd. are concerned, the Deputy Town Planner has submitted a report before this Court which indicate that the construction in so far as their construction is concerned, is complete.

7. In so far as the construction of Kishor Parab is concerned, the on site construction is almost completed. The said applicant has not made any application for completion certificate and thus no completion certificate is issued by the Town & Country Planning Department. It is the grievance of the original petitioner that though these three parties were granted permission prior to the order and interim order passed, the construction is complete or almost complete but the authorities shall not issue any occupancy certificate.

8. The authorities to file affidavit whether appropriate safe guards towards treatment of sewage and disposable garbage are taken or not and whether the construction in question affects the lake and its environment (eco-system). The learned Advocate

General states that before issuing any completion certificate, in favour of these applicants, the Government will consider these aspects raised in PIL Writ Petitions and only thereafter, completion certificate will be issued.

9. It is made clear that since various permissions were granted in favour of these applicants prior to the date of order dated 17.11.2017, directing the authority not to grant any construction permission within the 200 metres from the edge of water, the said order would not apply to these applicants.

10. Learned Counsel for respondent No.22 in PIL writ Petition No. 10/2017 states that pursuant to order passed by this Court, the Expert Committee of the Goa State Wetland Authority has already made recommendation and has placed before the Goa wetland Authority for appropriate decision thereof. He further states that the Goa Wetland Authority would take appropriate decision on the recommendation of the expert committee. Such decision would be communicated to respondent No. 22 and to learned Counsel for the petitioner in Writ Petition No. 102/2017. Such decision shall be also placed on record by filing affidavit.

11. It is made clear that while considering the applications of the applicants in aforesaid two Misc. Civil Applications, for completion certificate, the State Government is at liberty to take

assistance of any concerned authority before taking decision on the issue of completion certificate. Such decision shall be taken within three weeks from today and shall be informed to the learned counsel for the applicants within one week thereafter. Both the Misc. Civil Applications are disposed of on the aforesaid terms

12. If any adverse order is passed by the State Government, the applicants would be at liberty to file appropriate proceedings against the said order.

13. Parties to act on the authenticated copy of this order.

14. Place the PIL Writ Petition No 10/2017 on board on 10.06.2019 for fixing an early date of hearing.

PRITHVIRAJ K. CHAVAN, J.

R. D. DHANUKA, J.

MF/-