

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 168 OF 2020

MAPUSA GOA ENTERPRISES, THR. ITS
AUT. PARTNER., GAURAV GARG., ... Petitioner

Versus

STATE OF GOA, THR. CHIEF
SECRETARY, GOVT. OF GOA AND 4
ORS., ... Respondents

Mr. Shivan Desai, Advocate for the Petitioner.

Mr. Sagar Dhargalkar, Additional Government Advocate for the
Respondents.

Coram:- M. S. SONAK &
SMT. M. S. JAWALKAR, JJ.

Date:- 2nd March, 2020

P.C.

Heard Mr. Desai, the learned Counsel for the petitioner
and Mr. Dhargalkar, the learned Additional Government
Advocate for the respondents.

2. The challenge in this Petition is to the impugned
communication dated 29.11.2019 made by the Deputy
Conservator of Forests, North Goa Division, Ponda, Goa.

3. The communication only states that the matter of
demarcation of forest is sub judice before the National Green
Tribunal. The communication also states that the property, in

which, the petitioner claims interest is reflected as private forest in Karapurkar Committee report. For these reasons, the impugned communication states that the petitioners's application for NOC for conversion of the property cannot be considered.

4. Mr. Desai, the learned Counsel for the petitioner pointed out that in the past, orders were made in Writ Petition No. 330/2019, in which, statements were recorded that inspection will be carried out and the matter will be placed before the Review Committee. He pointed out that this exercise of demarcation and review of the demarcation have already been carried out and this is going on for last 20 years. He submits that the impugned communication violates the fundamental rights of the petitioner. He submits that the Sawant and Karapurkar Committee reports as well as the reports made on reviews do not classify the petitioner's property as private forest. He, therefore, submits that the impugned communication may be set aside and directions be issued to the Forest Authority to grant necessary NOC, so that the petitioner is in position to convert the property, in which, he claims interest.

5. According to us, the contentions of the petitioner cannot be accepted. The exercise of demarcation cannot be carried out in piecemeal manner. Besides, the National Green Tribunal has been monitoring the situation. The Deputy Conservator of

Forests is right in rejecting the application for NOC on the ground that the matter is pending before the National Green Tribunal. On the basis of multiple reviews, the issue of whether the property is a private forest or not, cannot be decided hurriedly and haphazardly and such exercise has to be taken in a holistic manner.

6. According to us, there is no abrogation of the petitioner's fundamental right under Article 19(1)(g) of the Constitution of India. This is a matter relating to forest. Therefore, even if, for the present, there may be no absolute certainty on account of multiple reviews, the precautionary principles must apply. If the petitioner is permitted to convert the property to any other use, it will be virtually impossible to remedy the irreversible situation. The approach of the Deputy Conservator of Forests in declining the NOC at this stage was quite right and warrants no interference.

7. For the aforesaid reasons, we dismiss this Petition. There shall be no order as to costs.

SMT. M. S. JAWALKAR, J.

M. S. SONAK, J.