

Niti

**IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.44 OF 2021**

M/S. SIDDHARTH CONSTRUCTIONS,
THROUGH ITS PROPRIETOR
MR. MILIND SUBHEDAR,
S/O. LATE SHARAD SUBHEDAR,
AGED 44 YEARS, HAVING ITS OFFICE
AT SY. NO.178-1-A-L, PLOT A, NEAR
MSE JUNCTION, VASCO DA GAMA,
MORMUGAO GOA.

...PETITIONER

Versus

1. STATE OF GOA,
THROUGH ITS CHIEF SECRETARY,
HAVING ITS OFFICE AT OFFICE OF
CHIEF SECRETARY,
SECRETARIAT, PORVORIM, NORTH
GOA, GOA 403521.

...RESPONDENTS

2. GOA STATE POLLUTION CONTROL
BOARD, THROUGH ITS CHAIRMAN,
HAVING ITS OFFICE AT NEAR
PILERNE INDUSTRIAL ESTATE, OPP.
SALIGAO SEMINARY, SALIEGAO,
BARDEZ, GOA 403511.

3. VILLAGE PANCHAYAT OF
SANCOALE, THROUGH ITS
SECRETARY, HAVING ITS OFFICE AT
SANCOALE VILLAGE PANCHAYAT,
MORMUGAO-GOA 403726.

4. DIRECTORATE OF PANCHAYAT

THROUGH ITS DIRECTOR, HAVING
OFFICE AT 3rd LIFT, 3rd FLOOR,
JUNTA HOUSE, PANAJI GOA 403001.

Mr. S. Karpe, *Advocate for the Petitioner.*

Mr. Geetesh Shetye, *Additional Government Advocate for
Respondent No.1,3 & 4.*

Mr. Pavithran A.V., *Advocate for the Respondent No.2.*

**CORAM: M. S. SONAK &
M. S. JAWALKAR, JJ.**
DATED: 6th October 2021

ORAL JUDGMENT :

1. Heard learned Counsel for the parties.
2. Rule. Rule made returnable forthwith with the consent and at the request of the learned Counsel appearing for the parties.
3. The petitioner in this case, vide its application dated 16.03.2020 had applied to the respondent no.2, that is Goa State Pollution Control Board (GSPCB) for consent to establish a construction project. This application was rejected by the GSPCB vide order dated 14.01.2021 by relying on the decision of this Court dated 13.08.2013 passed in *Suo Motu Writ Petition No.2 of 2007*.
4. The relevant extract of the order dated 13.08.2013 was transcribed in GSPCB's order dated 14.01.2021 and the same reads as follows:

“(6)(a) The Village Panchayats of Mandrem, Morjim, Taleigao, Benaulim, Varca, Colva, Majorda, Chicalim, Sancoale and Fatorpa are directed not to issue construction licence/s to multi-dwelling projects of 5 residential units and above, until the Goa State Pollution Control Board is satisfied that the plastic waste is collected weekly from all wards of the Village and baled properly for onwards disposal through the plastic waste collector. The Secretary of the Village Panchayats shall inform, in writing, the Board that the plastic waste is being collected weekly from all the wards of the village and is baled and if the Board is satisfied with the arrangement of the plastic waste disposal, it shall issue a certificate to the concerned Village Panchayat/s to that effect and it is only thereafter that the concerned Panchayat/s shall be entitled to issue construction licence/s to the multidwelling projects of 5 residential units and above.”

5. After the institution of this petition, Shri Krishna Mogu Gawde, the Secretary of Village Panchayat of Sancoale, has filed an affidavit before us in which it is stated that the Panchayat has completed its construction of material Recovery Facility (MRF) and that this facility is now fully operational.

6. The Member Secretary of GSPCB has also filed an affidavit dated 05.10.2021 before us and along with the affidavit an Inspection Report is also annexed. The affidavit and the Inspection Report indicates that the MRF facility is complete and can be put in operation on priority. The Inspection Report has also recommended that the Village Panchayat may expedite the

work of installation and commissioning of bio digester for treatment of collected wet waste after taking necessary permissions from the concerned authorities on priority.

7. Based on the aforesaid material, Mr. Pavithran, the learned Counsel for the GSPCB states that now the petitioner's application for consent to establish can be considered on its own merits and disposed of within three weeks from today.

8. Accordingly, by accepting the aforesaid statement and requiring the GSPCB to act accordingly we dispose of this petition. We make it clear that we have not examined the matter on merits and, therefore, it is for the GSPCB to consider the petitioner's application in accordance with law and on its own merits. The decision of the GSPCB should be communicated to the petitioner no sooner the same is taken.

9. With the aforesaid observations and directions, we dispose of this petition.

M. S. JAWALKAR, J.

M. S. SONAK, J.