

IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO.78 OF 2021.

COMMUNIDADE OF SANGOLDA,
REP. THR.THEIR ATTORNEY

....Petitioner.

VS

THE STATE OF GOA, THR.
THEIR CHIEF SECRETARY AND 10 ORS

.... Respondents.

Shri J. Melo, Advocate for the petitioner.

Shri D. Pangam, Advocate General with Shri G. Shetye, Addl. Govt.
Advocate for the respondent nos. 1 to 8, 10, and 11.

Shri G. Teles, Advocate for respondent no. 9.

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

Date:-8th July 2021.

ORAL ORDER:-

Heard Shri J. Melo, learned Counsel for the petitioner, Shri D. Pangam, learned Advocate General with Shri G. Shetye, learned Addl. Govt. Advocate for the respondent nos. 1 to 8, 10, and 11 and Shri G. Teles, learned Counsel for the respondent no. 9.

2. The complaint in this petition is that there are several encroachments/illegal filling on the land belonging to the petitioner i.e Comunidade of Sangolda and despite the complaints to the various authorities, such authorities, are not taking any action to remove such

encroachments/illegal filling. The petitioner has pleaded that encroachments are in form of construction which have no permission from any of the statutory authorities.

3. Shri Melo, the learned counsel for the petitioner submits that respondent no.8 i.e. Administrator of Comunidade is duty-bound to take action against the encroachers on Comunidade land. He submits that complaints have been filed to the panchayat because such encroachers have put up structures without obtaining permission either from the panchayat or any other statutory authorities. Shri Melo points out that complaints have also been made to the Town and Country Planning Department and the Electricity Department because even these authorities are duty-bound to act and even disconnect the power supply to such illegal and unauthorized structures on Comunidade land. Shri Melo submits that despite complaints no action is forthcoming therefore, the Writ of Mandamus is liable to be issued. Shri Melo however, conceded that some actions have been taken by some authorities by issuing Show Cause Notices and Stop Work Orders, etc. He, however, submits that such actions are not taken to their logical conclusion, therefore some time-bound directions must be issued to the authorities to deal with this issue of encroachments/illegal filling on Comunidade land.

4. From the returns filed before us and on hearing the learned Advocate General with Shri G. Shetye, we find that the Administrator of

Comunidade has taken cognizance of most of the complaints filed by the petitioner and also initiated action. Flying Squad of North Goa which comprises *inter alia*, Deputy Collector has also taken cognizance of the complaints, inspections are held and even notices are issued.

5. Shri G. Shetye, on instructions, submitted that shortly, FIRs are likely to be filed against the encroachers. He submitted that action, as is permissible in terms of law, is being taken and will be continued to see that Comunidade property is rid of all such encroachments/illegal filling.

6. Shri Teles, learned counsel for the Village Panchayat of Sangolda has also made a statement that action has been taken in respect of encroachments/illegal filling pointed out by the petitioner in paragraph 4 of the petition. He submits that if there are any further complaints about encroachments/illegal filling, Panchayat, will consider and dispose of them in accord with law as expeditiously as possible.

7. The petitioner along with his rejoinder, has filed a chart. The details set out in the said chart read as under:-

Sr. No.	Name of the transgressor	Survey No.	Nature of complaint	Complaints made to authority	Action taken by authority	Status of Complaint
1.	Krishna Rama Kochrekar	106/3	Land filling with debris in the field.		Stop work order (SWO) on 03/06/2020 by Flying Squad.	Still the land is not restored
2.	Vishnu Shiva Sheth Sangodkar	106/7	Land filling with debris in the field.		Stop work order (SWO) on 03/06/2020 by Flying Squad.	Still the land is not restored

3.	Mrs.Emelin da D'Souza e Fernandes and Dominic Fernandes.	17/2	Land filling with debris in the field	31.01.2020 : Saligao Police & Dy. Town Planner Flying Squad	10/01/2020 Flying Squad to Chief TCP, Police, Dy. Coll. & SDM, Dy. Town Planner, Director of Panchayat.	Still the land is not restored
4.	Akshay Morajkar	3/4	Land Filling and construction in the field.	14.08.2019 : VP Sang, P.I, Dy Collect. 25.08.2019 to P.I. 28.08.2019 to V.P.Sangolda 09.09.2019 to Dir.TCP, BDO, Adm.of Com., F.Squad, VPS Sangolda, Dir.of Panch, Dy Dir.of Panch. 23.10.2020 to BDO, Dy.Coll, Dir.of Panchayat	11/11/2020 Stop work order and Show cause notice from Respondent No. 8 only.	Show cause notice is discharge d. Still the land is not restored
5.	Ulhas Morajkar (Sarpanch of V. P. Sangolda)	59/6 and 59/7.	Land Filling and construction in the fields.	23.9.2020 : V. P. Sangolda.	10.01.2020 Stop work order (SWO) by Flying Squad. Administrator of issues Stop work order and Show cause notice.	Still the land is not restored. Show cause notice is discharge d.
6.	Chanddrakant Bangloskar.	19/14	Land filling with debris in the field.	25.06.2019 : Mamlatdar to Administrator of Comunidades. 11.04.2019: D. Man Gr. to P. I. Saligao	06.02.2019 Stop work order (SWO) by TCP.	Still the land is not restored
7.	Ladu Dattaram Edekar.	14/1	Land filling with debris in the field.	26.06.2019: Mamlatdar to Administrator of Comunidades and Talathi. 23.01.2019 VP Sangolda to Dy. Coll., Sr. Town Planner, Mamlatdar & BDO	Action not yet taken.	Still the land is not restored
8.	Village Panchayat	52/1, 54/1,	Filling & leveling	26.02.2021: To Flying Squad, Dir. of Panch,	Action not yet taken.	Still the land is

	Sangolda.	55/1, 56/1, 58/1.	fields.	Adm. of Comm, VP Sangolda, Collector, Panaji.		not restored
9.	Vishnu Shiva Sheth Sangodkar and Vishnu A. Khaskar.	56/17	Land filling with debris in the field.	16.08.2018: to Adm. Of Comunidades. 26.04.2021 : to Coll. Panaji, Flying Squad, Dir. of Panchayat, Dy. Collector, TCP, Village Panchayat, Sangolda.	Action not yet taken.	Still the land is not restored
10.	Meena Naik and Rahul Naik (PSI of Goa Police).	71/1	Land filling with debris in the field and construction of an hotel / shack. Construction of concrete Foundation, septic tank, Compound wall.	07.01.2021: Dir. of Panchayat, Flying Squad, Collector, Panaji, V.P. Sangolda and Police. 06.01.2021: Administrator of Comunidades. 13.01.2021: Administrator of Comunidades to Police. 03.02.2021: Police to Dy. Town Planner. 05.03.2021 : Town Planner to Police. 25.05.2021 : Administrator, Sec V.P.Sangolda, Chief Sec.	V. P. Conducts site inspection after notice.	Still the land is not restored
11.	Sanjay Naik	81/1	Encroachment and illegal construction of structure.	09.01.2019: V. P. Sangolda, Suptd. of Police, Porvorim, Police Saligao, Administrator of Comunidades, Chief Secretary , Dy. Collector, Mapusa, Collector, Panaji 11.01.2019 P.P. to VP Sangolda, Comunidade to Panchayat: 14.01.2019 VP Sangolda to Sanjay Naik. 15.01.2019 : Comunidade of VP Sangolda. 20.01.2019 : Police. 21.01.2019: Revenue Dept. to	No action.	No restoration of land

				Collector Panaji. 05.02.2019 from Collector to Administrator of Comunidades 01.03.2019 Comm. To Dy. Coll. 09.01.2019: Comunidade of Sangolda to VP Sangolda; Dy. Sp of Police Porvorim, Sangolda Police, Administrator of Comunidades, Chief Secretary, Dy. Collector- Mapusa, Collector –North Goa. 10.01.2019: VP Sangolda to Comunidade; 11.01.2019 : P.P. to VP Sangolda; 14.01.2019: VP Sangolda to Sanjay Naik; 15.01.2019: Comunidade to Panchayat; 20.01.2019 : Comunidade of Sangolda To Police 21.01.2019: Revenue Dept. to Collector Panaji. Recd. on 05.02.2019 from Collector to Administrator 01.03.2019: Comm. To Dy. Coll. to Chief Secretary. 18.03.2019: Comm. to Collector (First Reminder). 26.04.2021: Comm. to VPS (RTI), Comm. To Collector Panaji, Comm. to Dy Collector Mapusa 03.05.2019: Dy Coll. to Mamlatdar 07.05.2019 Rev. Dept to Collector. 15.05.2019: Rev. Dept to Comunidade. 27.06.2019: VP Sangolda		
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				to BDO. To Chief Secretary. 18.03.2019 Comm. To Collector First Reminder. 26.04.2021 Comm. To VPS (RTI) Comm. To Collector Panaji Comm. to Dy Collector Mapusa 03.05.2019 Dy Coll. To Mamlatdar. 07.05.2019 Rev.Dept to Collector 15.05.2019 Rev.Dept to Commun. 27.06.2019 VPS to BDO.		
12.	Mrs.Arima Vitual Gardankali.	81/1	Encroachment in community land.	26.07.2019 : Dy. Collector of Bardez, Administrator of Comunidades. 12.03.2021: The Chief Secretary of Goa.		
13.	Sripad G.Paliekar	106/1	Land Filling and construction in the field.			
14.	Sheveta Upaskar.	106/2	Land Filling and construction in the field.	03.03.2021: Administrator of Comunidades.	No action	No restoration of land

8. From the aforesaid chart as well, it is evident that the Administrator of Comunidade, Flying Squad, and even Panchayat, has initiated action at least in some of the cases of encroachments/illegal filling pointed out by the petitioner.

9. No doubt, in some of the cases, the action remains to be taken, but we have no doubt, authorities will look into those cases as well

and if necessary, initiate action so that Comunidade property is rid of encroachment/illegal filling. Accordingly, we direct the Administrator, Deputy Collector, Flying Squad, and the Panchayat to initiate and complete action against encroachers as expeditiously as possible in any case within six months from today.

10. We, however, clarify that all these authorities will have to comply with principles of natural justice and fair play. We also add that if there are any statutory requirements to be complied with by these authorities, then, authorities will naturally have to comply with the same.

11. The process, however, will have to be completed within six months from today. Compliance reports will have to be filed in this Court after the completion of six months after furnishing copies of the same to the petitioner.

12. Though, the petition is disposed of with the aforesaid directions, the matter will be reconsidered if necessary depending upon the compliance report to be filed by the aforesaid authorities. If no compliance reports are filed within six months, the petitioner is granted liberty to take out a Misc. Civil Application in the disposed of the petition only to point out that no compliance reports have been filed.

13. With the aforesaid directions this petition is disposed of.

14. All concerned to act on the duly authenticated copy of this Order.

SMT. M. S. JAWALKAR,J

M. S. SONAK, J.

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VINITA VIKAS NAIK Digitally signed by VINITA VIKAS NAIK
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