

IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO.82 OF 2021.

UNITED MARINE
PRODUCTS, THR. ITS
PARTNER, SEBASTIAO
DSILVA

.... Petitioner.

VS

GOA STATE POLLUTION
CONTROL BOARD, THR. ITS
MEMBER SECRETARY AND
3 ORS

.... Respondents.

Shri N. Takkekar, Advocate for the petitioner.
Shri J. Godinho, Advocate for the respondent no.1.
Shri S. P. Munj, Addl. Govt. Advocate for the respondent nos.2 and 3.

Coram: DAMA SESHADRI NAIDU, J.

Date: 12th February 2021.

P.C.:-

As the primary authority, the first respondent passed an order dated 4.2.2021, requiring the petitioner “to stop the operation of your unit till Board approve the design, methodology and disposal facility of the Effluent Treatment Plant (ETP) with immediate effect ...”

2. Aggrieved, the petitioner, has appealed to the Administrative Tribunal of Goa, invoking section 28 of the Water (Prevention and Control of Pollution) Act 1974 and Section 31 of the Air (Prevention and Control of Pollution Act) 1981. In turn, the learned Tribunal, on 8.2.2021, issued notice to the first respondent, returnable by 8.2.2021.

3. While issuing notice, through an elaborate order the Tribunal suspended the order for two days—for 9th and 10th February 2021. It seems the Tribunal wants to let the petitioner clear the existing stock of fish. I reckon the Tribunal’s order is pragmatic; that said, the Tribunal has

not stayed the first respondent's order in its entirety. So the petitioner has filed this Writ Petition.

4. When the petitioner's counsel has mentioned the matter, I have taken it up out of turn.

5. In response to the submissions advanced by Shri N. Takkekar, the learned counsel for the petitioner, Shri Godinho, the learned standing counsel for the first respondent, has raised a jurisdictional question. According to him, if at all the petitioner has been aggrieved by the Tribunal's order, dated 8.2.2021; he ought to approach National Green Tribunal, under Section 16 of the National Green Tribunal Act. In the alternative, he has also submitted that even if the petitioner wanted to invoke either Articles 226 or 227 of the Constitution of India before this Court, the matter ought to go before a Division Bench, rather than this Bench—a Single Judge.

6. In the light of Shri Godinho's submissions, I reckon I have no jurisdiction to entertain this matter as a Single Judge. Nor can I rule on any collateral aspects, as urged by the petitioner's counsel. In fact, he wants the first respondent to allow the petitioner to have access only to the administrative office. And the petitioner will undertake not to run the unit if it is given access to the office. According to Shri N. Takkekar, the first respondent may depute any officer to inspect whether the petitioner has violated any undertaking not to run the unit if it can access the office. In response, Shri Godinho expresses his inability to accede to this request. At any rate, he assures the Court that he would put the petitioner's plea across to the officials concerned of the first respondent's establishment.

I, therefore, close this Writ Petition.

DAMA SESHADRI NAIDU, J.

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