

IN THE HIGH COURT OF BOMBAY AT GOA

PIL WRIT PETITION No.4 OF 2021

A.V.C.B. TRADITIONAL FISHERMEN
ASSOCIATION, THR. ITS
PRESIDENT, AGOSTINHO FURTADO ...Petitioners.
AND 8 ORS.

Versus

STATE OF GOA, THR. ITS CHIEF
SECRETARY AND ANR. Respondents.

Ms. Maria Caroline Collasso, Advocate for the Petitioners.

Mr. Devidas J. Pangam, Advocate General with Ms. Ankita Kamat
for the Respondents.

**WITH
MISCELLANEOUS CIVIL APPLICATION No. 654 OF 2021
(Filing No)
IN
PIL WRIT PETITION NO.4 OF 2021**

GOENCHEA RAPONKARANCHO
EKVOTT, THR.ITS
PRESIDENT, AGNELO
RODRIGUES AND 2 ORS ... Applicants

Versus

STATE OF GOA AND ANR Respondents

Ms. Anamika Gode, Advocate for the Applicants.

Mr. Devidas J. Pangam, Advocate General with Ms. Ankita Kamat, Additional Government Advocate for the State.

**Coram :M. S. SONAK &
BHARATI H. DANGRE , JJ.**

Date : 2nd March, 2021

P.C.

Heard Ms. Colasso, learned Counsel for the petitioners and Ms. Gode, learned Counsel for the Intervenor. Mr. Devidas J. Pangam, learned Advocate General appears for the respondent State alongwith Ms. Ankita Kamat, learned Additional Government Advocate.

2. By instituting this petition, the petitioners, have prayed for the following reliefs:

“(i) That this Hon'ble Court be pleased to issue a writ of mandamus, or a writ in the nature of mandamus, or a prohibitory writ, or writ in the nature of certiorari, or an order or direction to quash and set aside the Public Hearing Notification No.GCZMA/CZMP 2011/20-21/1/1698 dated 28.01.2021 and any other order passed by the Respondent No.2 fixing the Public Hearing for the finalization of the draft CZMPs for State of Goa on 07/03/2021 and further direct Respondents No1 and 2 to cancel the Public Hearing fixed on 07/03/2021;

(ii) That this Hon'ble Court be pleased to issue a writ of mandamus, or a writ in the nature of mandamus, or a prohibitory writ, or writ in the nature of certiorari, or

an order or direction thereby staying the impugned Public Hearing Notification No.GCZMA/2011/20-21/1/1698 dated 28.01.2021, consequently staying the holding of the Public Hearing on 07/03/2021 as notified in the impugned Notification and further directing the Respondents No 1 and 2 not to proceed with the Public Hearings scheduled on 07/03/2021 at Margao and Caranzalem till the time new dates, places and times of Public Hearings are notified afresh;

(iii) That this Hon'ble Court be pleased to issue a writ of mandamus, or a writ in the nature of mandamus, or a prohibitory writ, or writ in the nature of certiorari, or an order or direction directing the Respondent No. 1 to first explain the CZMPs to the people at the Panchayat level, before holding the Public Hearings."

3. The learned Advocate General submits that the issue of preparation of CZMPs is being continuously monitored by the National Green Tribunal, inter alia, in AO/424 of 2016. He submits that it is in pursuance of and in compliance with the orders made by the National Green Tribunal from time-to-time that steps are being taken to finalise the CZMP. One of the steps is the public hearing, for which, the notification dated 28.01.2021 came to be issued. In terms of this notification the public hearing is scheduled in the Districts of North Goa and South Goa on 07.03.2021. He submits that the issue raised in this petition lack merit and in any case the issues cannot be gone into by this Court because the petitioners have alternate and efficacious remedy available before the National Green

Tribunal. He submits that it would be appropriate that the petitioners are relegated to this alternate remedy, as otherwise, there could be possibility of conflicting orders. He submits that though the public hearing notification was issued on 28.01.2021, this petition has been instituted only on 18.02.2021. For all these reasons, he submits that this petition may not be entertained.

4. Ms. Collasso, the learned Counsel for the petitioners submits that the public hearing now scheduled for 07.03.2021 may be postponed to some other date. She submits that time is otherwise too short for the petitioners to institute proceedings before the National Green Tribunal. She submits that even the National Green Tribunal has never said that the public hearing should not be in accordance with law and the provisions of Environment Protection Act and the Rules made thereunder.

5. She submits that there is short notice and consequently, there is a breach of the Environment Protect Act rules. She submits that there is a breach of CRZ notification as well and all these issues may be considered by this Court itself. Ms. Gode, learned Counsel for the Intervenor supports the contention raised by Ms. Collasso.

6. The record indicates that the National Green Tribunal has been constantly monitoring the issue of preparation of CZMP in

the State of Goa. From time-to-time the National Green Tribunal has issued directions about finalization of the CZMP. The affidavit filed on behalf of the respondents indicate that in terms of the latest directions of the National Green Tribunal, the CZMP to be finalised by the end of January, 2021. Since, the National Green Tribunal is entirely seized with this issue of finalization of CZMP, we feel that it will not be appropriate for us to entertain the present petition. Rather, it would be appropriate that the petitioners are relegated to avail the remedy before the National Green Tribunal itself.

7. If the provisions of National Green Tribunal Act, 2010 are perused, then, the issues raised by the petitioners in the present petition, can very well be gone into by the National Green Tribunal itself. Since the petitioners have alternate and efficacious remedy available to them, it would not be appropriate for us to exercise our extraordinary jurisdiction particularly in a case where the National Green Tribunal is virtually seized of this matter.

8. Therefore, without going into the merits of the issues raised and leaving open all contentions of all parties, we dispose of this petition by granting liberty to the petitioners to take out appropriate proceedings before the National Green Tribunal.

9. This petition is disposed of in the aforesaid terms.

10. There shall be no order as to costs.

BHARATI H. DANGRE, J

M. S. SONAK, J.

msr.