

Amrut

**IN THE HIGH COURT OF BOMBAY AT GOA**

**WRIT PETITION NO.68 OF 2021**

SOCIEDADE DE FOMENTO INDUSTRIAL  
PVT. LTD., REP. BY ITS DIRECTOR,  
FRANCISCO LUME PEREIRA AND ANR. ...Petitioners.

*Versus*

GOA STATE POLLUTION CONTROL  
BOARD AND 2 ORS. ...Respondents.

Mr. S. S. Kantak, Senior Advocate with Mr. P. Talaulikar,  
*Advocate for the Petitioners.*

Mr. Pavithran A. V., *Advocate for respondent. No.1.*

Mr. D. Pangam, Advocate General with Mr. S. P. Munj,  
Additional Government Advocate *for respondent. No.3.*

**CORAM: SUNIL P. DESHMUKH &  
M. S. SONAK, JJ.**

**DATED: 4<sup>th</sup> August, 2021.**

**P.C.:**

1. Heard learned counsel for appearing parties.
2. The petitioner had been issued a notice on 17.10.2019 to show cause as to why renewed consent order dated 29.08.2017, for operating the facility of organic compost/MSW treatment plant at Sonsodo, issued by the Goa State Pollution Control Board – Respondent No.1 herein, should not be revoked for violation of conditions contained therein and also to show cause as to why stringent legal action under the provisions of the Water Act and the Air Act including initiation of criminal prosecution

for operating the facility in violation of said conditions should not be initiated against it.

3. The petitioner was also called upon to show cause as to why “Polluter Pays Penalty” of ₹1,82,50,000/- in terms of the directions of the National Green Tribunal, New Delhi should not be imposed and recovered from it.

4. To the notice, according to the petitioner, a detailed response had been submitted yet without taking the same into account and without hearing the petitioner, straight away impugned demand notice/order dated 10.02.2020 has been issued reading thus :-

*“No.1/20/19-PCB/ Tech/18599    Date: 10/02/2020*

*To,  
M/s. Sociedade de Fomento Industrial Pvt. Ltd.,  
P.T. Sheet No.1 Chalta No.84,  
Sonsodo, Margao Goa.*

*Sub: Your reply dated 30th October 2019 with regards to reply to Bears SCN No. 10/1/18-PCB/SCN-90 dated 17/10/19.*

*Sir,*

*The Board had issued Show Cause Notice to M/s. Sociedade de Fomento Industrial Pvt. Ltd., bearing No.10/1/18-PCB/SCN-90 dated 17/10/19, to show cause within a period of 7 days from the date of receipt of the notice as to why ‘Polluter Pays Penalty for an amount of Rs.1,82,50,000/- in terms of directions of the National Green Tribunal, Principal Bench at New*

*Delhi as contained in OA/606/2018 should not be imposed and recovered from the unit under the Polluter Pays Principal for non compliance to the consent condition for proper installation of pollution control devices.*

*On perusal of the reply dated 30th October, 2019, submitted by the unit, it is found to be non-satisfactory.*

*In view of the above, I am directed to inform you that you are hereby given final opportunity to deposit the fine, failing which the Board will proceed with further action.*

*Yours faithfully,*

*sd/-*

*(Sanjeev Joglekar)*

*Environmental Engineer*

*For Goa State Pollution Control Board”*

5. Perusal of above communication reveals that it does not reflect an application of mind to the response to the show cause notice and is deficient of showing meaningful adherence to principles of natural justice and is non-speaking. In the circumstances, it would be expedient that the matter is remitted to the concerned authority for hearing the petitioner and consideration of its response.

6. As such, impugned order dated 10.02.2020 is set aside. The appropriate authority to proceed with the show cause notice dated 17.10.2019, granting hearing to the petitioner and for passing appropriate order, within a period of three months from

the date of receipt of writ of this order. Needless to refer to that all contentions are open to the parties to be taken up by them.

**7.** With aforesaid, writ petition is disposed of.

**M. S. SONAK, J.**

**SUNIL P. DESHMUKH, J.**

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