

Vinita

IN THE HIGH COURT OF BOMBAY AT GOA.

PIL WRIT PETITION NO. 2 OF 2022

JOSE CAETANO LOBO AND ANR ...Petitioners.

VS

THE COASTAL AQUACULTURE
AUTHORITY THR. MEMBER
SECRETARY AND 5 ORS

...Respondents.

Mr.Om D'costa, Advocate for the petitioners.

Mr. P. Faldessai, Deputy Solicitor General of India for the respondent no.1.

Mr. D. Pangam, Advocate General with Ms. M. Correia, Addl. Govt. Advocate for the respondent nos. 2 to 5.

Mr. G. Panandikar, Advocate for the respondent no.6

**CORAM: G. S. KULKARNI &
BHARAT P. DESHPANDE, JJ.**

DATE: 7 OCTOBER 2022.

P.C.:

1. The petitioner has raised a grievance with regard to the Aquaculture Operations/shrimp farming activities being carried out by respondent no.6 on surveys no. 133, 135, 136, 137 and 138 in the village Tuem, Pernem, North Goa District. The prayers in the petition are required to be noted which read thus:-

A. For an order directing the Respondent Nos 2 - 5 to close down the aquaculture operations on Survey

Nos. 133, 135, 136, 137 and 138 in the village of Tuem, Pernem, North Goa District and to report compliance;

- B. For an order directing the Respondent No.6 to restore the land used for the aquaculture farm to its original state of agricultural land and to report compliance;*

OR

in the alternative, for an order directing the Respondent No. 5 to restore the land used for the aquaculture farm to its original state of agricultural land and recover the costs thereof from the Respondent No. 6, and to report compliance;

- C. For an order directing the Respondent No.1 to take action under the Coastal Aquaculture Authority Act, 2005 against the Respondent No.6, for carrying on aquaculture activities in violation of Section 13;*
- D. For an order imposing stringent penalties on the Respondent No. 6 for carrying on illegal aquaculture activities for more than 2 years since 17.10.2019;*

2. On 15 July 2022, the Coordinate Bench of this Court recorded a statement as made on behalf of the State Government that application dated 26 August 2019 filed by respondent no.6 for renewal of the aquaculture operations which had expired, be decided within four weeks from the date of the said order. It is informed at the bar that such an application came to be rejected. Such rejection is also a subject matter of challenge in the independent proceedings of Writ

Petition bearing no.1111/2019 filed by respondent no.6 which is pending. Such Writ Petition involves issues not only with regard to registration but also in regard to the restoration of the land in question. More pertinently, the petitioner is stated to be the respondent in said petition as it was the petitioner who had made a complaint that an appropriate action was taken by the authority against respondent no.6's operation of the aquaculture farm.

3. We, thus note that the issues being canvassed by the petitioner are already subject matter of the pending Writ Petition No.1111/2019. Today, the only concern as urged on behalf of the petitioner is in regard to prayer clause (d) of this petition, whereby the petitioner has prayed for an order to be passed by this Court imposing stringent penalties on respondent no.6 for carrying out illegal aquaculture activities for more than two years since 17 October 2019 and which according to the petitioner were carried out upto to April 2022. Certainly, such a prayer cannot be granted by us. It is for the concerned authority to consider such order to be passed imposing penalty after hearing the parties and as may be permissible in law, if any application is filed, or received in that regard from the petitioners. We thus do not intend to entertain such prayer at this stage of the

proceedings.

4. We accordingly dispose of this petition with liberty to the petitioners to pursue remedies that may be available to the petitioners in law by approaching the concerned authorities by an appropriate application, in so far as a relief as made in the prayer clause (d) is concerned.

5. At this stage, we are informed that there are certain complaints which are already made in this regard. If they are so made, the authority would certainly look into such complaints and take appropriate decisions in accordance with the law after hearing all the parties. All contentions in that regard are expressly kept open.

6. So far as the other issues are concerned, we also keep the contentions of all the parties open, as such issues are being agitated by the parties in Writ Petition No.1111/2019.

7. Writ Petition is disposed of. No costs.

BHARAT P. DESHPANDE, J

G. S. KULKARNI, J.

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