

Maria S.

IN THE HIGH COURT OF BOMBAY AT GOA

**PUBLIC INTEREST LITIGATION WRIT PETITION NO.11
OF 2022**

Pushpa Vithal Navelkar thr. POA Sanjeev
Shrikrishna Veling

.Petitioner

Versus

The State of Goa thr. Chief Secretary And 8
Ors.

...Respondents

Mr. Nigel Da Costa Frias with Ms. B. Kunkalekar,
Advocates for the Petitioner.

**Mr. Devidas J. Pangam, Advocate General with Mr. Prashil
Arolkar, Additional Government Advocate for Respondents
No.1 to 4.**

Mr. Akshay Naik, Advocate for the Respondent No.6 to 9.

**CORAM: M. S. SONAK &
R. N. LADDHA, JJ.**

Date: 23rd March, 2022

P.C.

Heard Mr. Nigel Da Costa Frias, learned counsel for
the petitioner, Mr. Devidas J. Pangam, learned Advocate General
with Mr. Prashil Arolkar, learned Additional Government

Advocate for respondents No.1 to 5 and Mr. Akshay Naik, learned counsel for respondents No.6 to 9.

2. Mr. Akshay Naik, learned counsel for respondents No.6 to 9 at the outset raises objection to the maintainability of this petition by pointing out that the petitioners have vested interest and therefore will not be proper relators to institute this petition.

3. For the order that is proposed to be made, we do not think that we should go into too much of details on this issue. Ultimately, if we find that the petitioners have some vested interest but the issue raised by them is otherwise in public interest, then, we would perhaps have to substitute the petitioners with some proper relators or continue with this matter by appointing an amicus curiae.

4. The issue raised in this petition is about certain construction and development activity that is being undertaken in property bearing Survey No.55/2k at Orgao, Ponda-Goa which, the petitioner claims, is a part of the open space as reflected in the plan at page 30 of the paper-book. Copy of the plan placed on record indeed carries markings from the Public Works

Department, Health Officer, etc. In this plan, the property in question is shown as an open space.

5. Learned Advocate General however states that presently, the records concerning this plan are not traceable with the Public Works Department and the process of finding the genesis of this plan is on. He states that inquiries will also be made with the Panchayat since the plan bears endorsement of the concerned Panchayat as well.

6. Learned Advocate General points out that based on the very allegation which is now made in this petition, the Deputy Collector of Ponda has issued show cause notice to respondent No.6 to show cause as to why the conversion sanad dated 06.04.2017 should not be revoked.

7. Considering that the show cause notice has already been issued by the Deputy Collector, we direct the Deputy Collector to dispose of the same one way or the other expeditiously and in any case within 2 months from today. The Deputy Collector will afford opportunity of hearing to respondent No.6 and in the peculiar facts of the present case, the

Deputy Collector will also hear the petitioner or her representative.

8. Learned counsel for the petitioner and learned counsel for the respondents No.6 to 9 agree that they will not insist upon oral hearing but will file written submissions before the Deputy Collector based on which the Deputy Collector can dispose of the show cause notice dated 17.03.2022.

9. Similarly, we feel that respondent No.4, i.e. the Deputy Town Planner should also consider this very petition as a representation made to him and dispose of this deemed representation within 2 months from today after giving similar opportunity to the petitioner and respondents No.6 to 9. Learned counsel for the petitioner and respondents No.6 to 9 state that even here, they will file their written submissions and the Deputy Town Planner can decide the matter based upon such written submissions within 2 months from today.

10. Learned counsel for the petitioner and respondents No.6 to 9 state that they will file their written submissions before the Deputy Collector and the Deputy Town Planner within 2 weeks from today without seeking any extension. If no written

submissions are filed by any of the parties, the Deputy Collector and the Deputy Town Planner can proceed to decide the matters without awaiting the written submissions.

11. Mr. Akshay Naik, learned counsel for respondents No.6 to 9 states that the respondents whom he represents have only undertaken levelling activities and no actual construction as such has commenced. On instructions and in all fairness he states that no further construction or development will be carried out until the aforesaid Authorities decide the matters. This statement is accepted. Precisely for this reason we have directed the Authorities to dispose of the matters expeditiously and in any case within 2 months.

12. We make it clear that we have not gone into the rival contentions and therefore, all rights and contentions of the parties are kept open to be examined in the first instance by the Deputy Collector and the Deputy Town Planner. If any of the parties are aggrieved, then, they will be entitled to their remedies in terms of law. All contentions with regard to such remedies including, inter alia, bonafides of the petitioner, are specifically kept open.

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

There shall be no order for costs.

14. Miscellaneous civil application seeking impleadment no longer survives and the same is also disposed of.

R. N. LADDHA, J

M. S. SONAK, J