

Maria S.

IN THE HIGH COURT OF BOMBAY AT GOA
PUBLIC INTEREST LITIGATION WP NO.25 OF 2022

THE GOA FOUNDATION, THR. SECRETARY
DR. CLAUDE ALVARES ... PETITIONER

Versus

THE STATE OF GOA, THR. CHIEF
SECRETARY AND 11 ORS ... RESPONDENTS

Ms. Norma Alvares with Mr. Om A. D'Costa, Advocates for the
Petitioner.

Mr. Devidas J. Pangam, Advocate General with Mr. Deep D.
Shirodkar, Additional Government Advocate for the
Respondents No.1 to 9.

Mr. Somnath B. Karpe, Advocate for Respondent No.10.

Mr. J. E. Coelho Pereira, Senior Advocate with Mr. Vinod V.
Korgaonkar and Mr. V. Joshi, Advocates for the Respondent
No.11 and 12.

**CORAM:- M. S. SONAK &
BHARAT P. DESHPANDE, JJ.**

DATED :- 3rd October, 2022

P.C.

Heard Ms. Alvares, learned counsel for the petitioner,
learned Advocate General appears alongwith Mr. Deep
Shirodkar, learned Additional Government Advocate for
respondents No.1 to 9, Mr. S. Karpe, learned counsel appears for

respondent no.10 and Mr. J. E. Coelho Pereira, learned Senior Advocate appears alongwith Mr.V. Korgaonkar and Mr. V. Joshi, learned counsel for respondents no.11 and 12.

2. Ms. Alvares, learned counsel for the petitioner submits that the 2 Committees appointed by the State Government have presently issued only interim reports on the issue of identification of certain areas as forests. She submits that based on these interim reports, the Authorities are not justified in issuing conversion sanads enabling the use of such properties for non-agricultural purposes.

3. Ms. Alvares admits that such interim reports have been filed before the National Green Tribunal which is seized of the matter. She, however, expressed an apprehension that the NGT might not be in a position to issue directions to the Authorities like the Collector, in the matter of grant or refusal of conversion sanads. Hence, the present petition.

4. The learned Advocate General, Mr. Pereira, learned Senior Advocate and Mr. Karpe, learned counsel for the respondents submit that since the NGT is seized of the matter, it is only appropriate that this Court does not entertain the present petition but relegate the petitioner to the National Green Tribunal. They submit that there is no basis for the apprehension now expressed

by Ms. Alvares because the main issue is about the demarcation of the properties as forest. They submit that the issue of grant or refusal of conversion is only incidental or consequential. Therefore, the National Green Tribunal will have the necessary jurisdiction to look into the issues now raised by the petitioner.

5. Mr. Pereira, learned Senior Advocate for respondents no.11 and 12 also submits that the sanads which have now been challenged by the petitioner in this petition, can as well be challenged before the NGT because the main issue involved is about the identification of their properties as not being forest.

6. Even in our judgment, since the NGT is seized with the main issue about identification of properties as forest lands, it is only appropriate that the petitioners, if they choose, should approach the NGT with the grievance now raised in this petition. The apprehension expressed by Ms. Alvares has been substantially answered by the submissions made by the learned Advocate General, Mr. Pereira and Mr. Karpe for the respondents. Even in our judgment, since the issue of conversion is merely incidental or ancillary to the main issue of identification of forest land, the NGT, would have sufficient jurisdiction to look into or examine the issues now raised in this petition.

7. Therefore, for the above reasons, we decline to entertain this petition. However, we grant the petitioner liberty to approach the NGT and to raise all the issues that have been raised in this petition together with the objections which the petitioner has already filed before the NGT to the interim reports submitted from time to time.

8. At this stage, the learned Advocate General clarifies that the reports filed before the NGT are "part reports" and not interim reports. Again, this is a matter which will have to be examined by the NGT itself based on the rival contentions.

9. All contentions of all parties on merits are however kept open. In particular, all contentions of the respondents, except on the issue of maintainability of proceedings before the NGT are kept open.

10. The petition is disposed of in above terms without any order for costs.

BHARAT P. DESHPANDE, J.

M. S. SONAK, J.