

Maria S.

**IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.321 OF 2021**

Kargwal Constructions Pvt. Ltd., rep. by its
Project Director/Auth. Rep. Milind Vasant
Prabhu

..Petitioner

Versus

Office of the District Collector And Magistrate
North Goa And 5 Ors.

...Respondents

Mr. Ashwin D. Bhobe with Ms. Kalpa D. Govenkar,
Advocates for the Petitioner.

Mr. Devidas J. Pangam, Advocate General with Ms. Maria S.
J. Correia, Additional Government Advocate for the
Respondents no.1, 3 and 4.

Mr. Pavithran A. V., Advocate for the Respondent no.2.

Ms. Laxmi Sawant, Advocate for the Respondent No.5.

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

Date: 5th April, 2022

ORAL ORDER: (Per. M. S. Sonak, J.)

Heard Mr. Bhobe, learned Counsel for the petitioner,
Mr. Devidas J. Pangam, learned Advocate General with Ms.
Maria S. J. Correia, learned Additional Government Advocate for
respondents no.1, 3 and 4. Mr. Pavithran A.V., learned Counsel
appears for respondent no.2 and Ms. Laxmi Sawant, learned

Counsel for respondent no.5.

2. The challenge in this petition is to the order dated 04.03.2021 made by the respondent no.1 informing the petitioners that the public consultation in respect of the proposed marina project will be conducted after the draft Coastal Zone Management Plan 2011 is approved and notified.

3. Mr. Bhobe, learned Counsel for the petitioner, without prejudice, now states that the petitioners have no issues with the impugned order as it stands but submits that directions should be issued at this stage itself that once the draft Coastal Zone Management Plan 2011 is approved and notified, within 7 days, the respondent no.1 should fix a date for public consultation in terms of the Environment Impact Assessment Notification of 2006 and the Regulations thereunder.

4. According to us, the request made on behalf of the petitioners is not only quite premature but also uncalled for.

5. Learned Advocate General has pointed out that unless the draft Coastal Zone Management Plan is approved, there will be no point in holding any public consultations for the marina project which is in the CRZ area. He also pointed out

that there are restraint orders from the National Green Tribunal about grant of any approvals for projects in CRZ area until the approved Coastal Zone Management Plan is finalised.

6. Even according to us, if the public consultation is to be an effective consultation as contemplated by the Notification, as also the decision of the Hon'ble Supreme Court in the case of *Hanuman Laxman Aroskar v/s. Union of India*¹, then, such consultation can only be held after the draft Coastal Zone Management Plan is approved and notified. In such circumstances, there is no case made out to either interfere with the impugned communication dated 04.03.2021 or to even consider the petitioners' request for issuing directions about fixing of date at this stage itself.

7. Learned Advocate General has also placed on record the Minutes of the 291st meeting of the Expert Appraisal Committee held on 10.03.2022 through Video Conferencing for projects related to infrastructure development. Agenda item no.3.5 concerns the petitioners' project. The extract in respect of agenda item no.3.5 reads as follows:

“Agenda development of AHOY Marina in Mormugao Port Trust Waters, Goa by M/s.

¹ (2019) 15 SCC 401

Kargwal Constructions Pvt. Ltd.-Terms of Reference.

[Proposal No.IA/GA/NCP/257252/2022 and File No.10-38/2016-1A.III]

'The EAC noted that the Project Proponent and the consultant have given in the application and enclosures are true to the best of their knowledge and belief and no information has been suppressed in EIA/EMP. If any part of data/information submitted is found to be false/misleading at any stage, the project will be rejected and ToR/Environment Clearance given, if any, will be revoked at the risk and cost of the project proponent.'

It has been observed by the EAC that the CZMP of Goa is still not approved and the matter related to finalisation of CZMP is still pending. In view of this, EAC advised PP to submit the proposal once CZMP is finalised and approved by the Ministry."

8. The aforesaid suggests that the Environment Appraisal Committee (EAC) has already advised the petitioners to submit proposal once the Coastal Zone Management Plan is finalised and approved by the Ministry. This, *prima facie*, indicates that the petitioners' proposal as filed will not even be considered by the EAC unless the Coastal Zone Management Plan is finalised and the petitioners submit a fresh proposal in alignment with such finalised Coastal Zone Management Plan.

9. For the aforesaid reasons, we dismiss this petition.
There shall, however, be no order for costs.

R. N. LADDHA, J

M. S. SONAK, J