

Amrut

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.19 OF 2022

ANIL CARVALHO

... PETITIONER

Versus

GOA POLLUTION CONTROL BOARD,
THR. ITS CHAIRMAN AND ANR.

...RESPONDENTS

Mr. J. A. Lobo, Advocate for the Petitioner.

Mr. Pavithran A. V., Advocate for the Respondent No.1.

Mr. B. Rodrigues, Advocate for respondent No.2.

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

DATED: 13th April 2022

P.C.:

1. Heard Mr. Lobo, learned counsel for the petitioner, Mr. Pavithran, learned counsel for respondent No.1 – Goa State Pollution Control Board (GSPCB), and Mr. Rodrigues, learned counsel for respondent No.2-Village Panchayat of Guirdolim.

2. There is a statutory duty cast on the panchayat to take appropriate steps for solid waste management. In a Public Interest Litigation, several directions have been issued to the panchayats, *inter alia* to set up the Material Recovery Facilities (MRF).

Respondent No.2 is setting up an MRF in Survey No.129/1 within its jurisdiction.

3. The petitioner, who claims to be a public-spirited citizen opposes the setting up of an MRF at this location.

4. Although we are not satisfied with the bonafide of the petitioner, we have heard Mr. Lobo in support of the petition.

5. Mr. Lobo submits that before setting up an MRF the panchayat has not obtained conversion under the Land Revenue Code. He submits that the plot where the MRF is being set up is only 304 square metres and considering the population of the village, this area will not be sufficient. He submits that the GSPCB has prescribed certain conditions for setting up of operation of an MRF and the panchayat is not observing these conditions.

6. Mr. Lobo also submitted that the petitioner has identified some areas belonging to the Comunidade of Guirdolim where such facilities could be set up but the panchayat is not interested in exploring this possibility.

7. Respondent No.2 has filed an affidavit before us explaining of this site came to be chosen for the setting up of an MRF. The affidavit points out how the villagers were consulted and how this plot was gifted to the panchayat. The affidavit also points out that the MRF was being set up in terms of the directions issued by this Court, in Public Interest Litigation.

8. Mr. Rodrigues, learned counsel for respondent No.2 states that the directions issued by the GSPCB will be complied with and there is no question of deviating from the same.

9. According to us, there is no case made out to interfere in this matter. The directives of the GSPCB will have to be followed, for at least presently we cannot accept that the panchayat is either not following such directives or not interested in following such directives. In any case, if there are breaches of the GSPCB's directives, it is always open to any public-spirited citizen to point out such breaches to the GSPCB so that the GSPCB can inspect the site and if necessary take action as may be warranted.

10. About the alternate site, we think that these are policy decisions that are to be taken by the panchayat. No citizen can insist that his or her choice of the site must be taken into consideration by the panchayat or accepted. In any case, it is for

the petitioner, to follow the democratic process and raise such issues before the Gram Sabha, if permissible. Based upon such contentions, no case is made out to stall the setting up of an MRF which is very essential in the public interest for solid waste management in the village.

11. The petitioner also pointed out that the petitioner had raised such issues before the Gram Sabha but was possibly in the minority. Any lack of success in the democratic process cannot be avenged by filing this type of petition.

12. Mr. Rodrigues states that the petitioner physically prevents the contractor of the panchayat from completing the MRF. Mr. Lobo on instructions disputes this position and states that the petitioner never takes the law into his own hands.

13. At this stage, we go by the statement of Mr. Lobo. However, if the petitioner or any other persons obstruct the construction of the MRF at the site, the panchayat should lodge a police complaint and also point out that there are directions in the Public Interest Litigation for having an MRF in the village. We are sure that the police, will take necessary action in case any person tries to take the law into his or her own hands and obstructs the construction activity.

14. For all the aforesaid reasons, we dismiss this petition but without any orders for costs.

R. N. LADDHA, J.

M. S. SONAK, J.

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