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IN THE HIGH COURT OF BOMBAY AT GOA

PIL WRIT PETITION NO. 31 OF 2022

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

VS

THE STATE OF GOA, THR. ITS CHIEF
SECRETARY, ALSO PRINCIPAL
SECRETARY (MINES) AND 5 ORS. ... RESPONDENTS

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

Mr. Devidas J. Pangam, Advocate General with Ms. Maria
Correia, Additional Government Advocate for Respondent
Nos. 1 and 2.

Mr. Preetam Talaulikar, Advocate for Respondent No. 4.

Mr. Parag Rao with Ms. Linette Rodrigues and Mr. Akhil
Parrikar, Advocates for Respondent No. 5.

Mr. V.A. Lawande, Advocate for Respondent No. 6.

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

DATED: 23 DECEMBER 2022

P.C.

1. Heard Ms. Alvares, learned Counsel for the petitioner, Mr. Pangam, learned Advocate General for the State, Mr. Talaulikar,

Mr. Rao and Mr. Lawande, learned Counsel appearing for respondents 4, 5 and 6 respectively.

2. In the present Petition, the following prayers are made.

- (i) *Direct that an inquiry into the issue of violation of Rule 37 of the MCR Rules, 1960 in the State of Goa be conducted by an independent committee headed by a former High Court Judge and the report of such inquiry be produced before this Hon'ble Court.*
- (ii) *Pass appropriate orders in all such cases, after the inquiry is completed, and report submitted, as per the provisions of the MMDR Act, 1957, including actions under sub-sections (1) and (5) of Section 21 of the MMDR Act, 1957.*
- (iii) *Pass other or further orders as may be deemed fit and proper.*
- (iv) *For costs of this Petition.*

3. Vide order dated 7 December 2021, the co-ordinate Bench of this Court has passed the following order:

- 1. *Ms. Alvares, learned Counsel for the petitioner seeks leave to amend the cause title. Leave granted. Amendment to be carried out forthwith.*
- 2. *Heard learned Counsel for the petitioner.*

3. *The grievance of the petitioner is that the State of Goa i.e. respondent no. 1 has not carried out the directions issued by the Apex Court i.e. to conduct inquiries into violations of Rule 37 of the Mineral Concession Rules, 1960. She submits that although the said directions were issued by the Apex Court in its judgment dated 21.04.2014, however, despite passage of seven years, no action has been taken by the Government of Goa. She further submits that apart from the reliefs sought in the aforesaid Petition, the Goa Government be directed to produce the list of leases, where there is prima facie evidence of violation of Rule 37 of the Mineral Concession Rules.*

4. *Issue notice to the respondents.*

5. *Mr. Pangam, learned Advocate General appears alongwith Mr. Deep Shirodkar, learned Additional Government Advocate, who waives notice on behalf of respondent nos. 1 and 2. Mr. Chodankar, learned Central Government Standing Counsel waives notice for respondent no. 3. Learned Counsel, Mr. Talaulikar, Mr. Rao and Mr. Lawande, waive notice on behalf of respondent nos. 4, 5 and 6 respectively.*

6. *Affidavit in reply on behalf of the respondents, if any, to be filed on or before 20.12.2021 in the Registry and a copy thereof be served upon the learned Counsel for the petitioner.*

7. *We expect the respondent no. 1 i.e. State of Goa to produce the list of leases, where there is prima facie evidence of violation of Rule 37 of the Mineral Concession Rules on the next date.*

8. *Stand over to 21.12.2021.*

4. On 9 December 2022, the learned Advocate General had requested for time to place on record a statement with respect to the show cause notices, which were issued and which were adjudicated and the show cause notices which have remained to be adjudicated. Such chart along with the status report dated 20 December 2022 is placed on record at page 180.

5. Learned Advocate General would submit that paragraph 2 of the status report shows that 13 cases have been disposed of and paragraph 3 states in 36 cases inquiry is pending, which would be adjudicated as early as possible and within a period of six months from today by the Director of Mines and Geology, Government of Goa.

6. Ms. Alvares pointed out that representation made by the petitioner is annexed to the rejoinder filed to this Petition and if such submissions made in the rejoinder dated 29 July 2022 are considered while deciding the show cause notices, the purpose would be served.

7. Though the Petition is filed praying for an independent inquiry by the committee headed by a former High Court Judge,

Rule 37 of the MCR provides that such inquiry has to be conducted by the Director of Mines and Geology.

8. The Supreme Court in **Goa Foundation Vs. Union of India**¹ at clause no. 88.2 has observed thus:

“88.2 The State Government will initiate action against those mining lessees who violate Rules 37 and 38 of the MC Rules.”

9. In view of the above, the Director of Mines and Geology has already initiated an inquiry/action against the mining lessees, purportedly in violation of Rules 37 and 38 of the MCR.

10. Since assurance is given to the Court that the remaining 36 matters wherein inquiry is going on would be completed within a period of six months from today by considering the submissions of the petitioner, which are annexed to the affidavit in rejoinder dated 28 July 2022 and considering the statement made by the learned Advocate General, we propose to dispose of the present Petition with a direction to the Government to decide all the remaining show cause notices issued to the erstwhile lease holders, within a period of six months from today and by considering the

¹ (2014) 6 SCC 590

submissions filed by the petitioner in the rejoinder as discussed above.

11. The learned Counsel for the petitioner submits that the rejoinder filed in the present Petition itself be considered as her representation while deciding the pending show cause notices. Such a statement is accepted. The Director of Mines and Geology to consider such rejoinder while deciding the pending show cause notices, which shall be decided in accord with law and within a period of six months from today.

12. A copy of the final decision of all the pending as well as decided show cause notices be furnished to the petitioner.

13. The Petition is disposed of accordingly.

14. Parties shall act on an authenticated copy of this Order.

BHARAT P. DESHPANDE, J.

G.S. KULKARNI, J.