

Amrut

**IN THE HIGH COURT OF BOMBAY AT GOA
PIL WRIT PETITION NO.7 OF 2023**

The Goa Foundation
through its Secretary, Dr. Claude Alvares,
Age 74 years, having regd. Office at
Room No.7, above Mapusa Clinic,
Mapusa Goa 403 507
PAN No.AAAAG0249C,
Income Rs.10-15,00,000/- per annum (approx.),
Registration No.-23/Goa/86,
Email id: goafoundation@gmail.com

... Petitioner

Versus

1 The Town and Country Planning Department,
North Goa District Office,
thr. the Senior Town Planner, 302,
Govt. Building Complex,
Mapusa, Bardez Goa – 403 507

2 The State of Goa,
through its Chief Secretary,
Secretariat, Porvorim Goa 403 521

3 The Village Panchayat of Calangute,
thr. its Secretary,
Calangute – Anjuna Rd,
Naika Waddo, Khobra Waddo,
Calangute Goa 403 516

4 Lloyd St. Jude Joaquim Fernandez,
House No.160, Gaura Vaddo,
Calangute, Bardez Goa 403 516

5 M/s Amara by the Sea Calangute,
Sy. No.158/1, behind Tival Vado Chapel,
Calangute, Goa 403 516,

C/o Lloyd St. Jude Joaquim Fernandez,
House no.160, Gaura Vaddo,
Calangute, Bardez Goa 403 516

6 The Additional Collector – III,
North Goa District,
Government Office Complex,
Mapusa, Bardez Goa 403 507

7 The North Goa Planning and
Development Authority,
through its Member Secretary,
1st Floor, Archdiocese Building,
Mala, Panaji Goa 403 001,

8 The Goa State Pollution Control Board,
through its Member Secretary,
Near Pilerne Industrial Estate,
Opposite Saligao Seminary,
Saligao, Bardez Goa 403 511

9 The Directorate of Fire and
Emergency Services,
through the Asst. Divisional Officer
[North Zone], St. Inez, Panaji Goa 403 001.

10 The Goa Coastal Zone Management Authority
through its Member Secretary,
4th Floor, Dempo Towers,
Patto Plaza, Patto, Panjim Goa 403 001.

...Respondents

Ms Norma Alvares and Mr Om D'Costa, Advocates for the Petitioner.
Ms Maria Correia, Additional Government Advocate for Respondent
Nos. 1, 2, 6, 9 and 10.

Mr Pranay Kamat, Advocate for Respondent No.3.

Mr Shivan Desai, Advocate for Respondent Nos. 4 and 5.

Mr H. D.Naik, Advocate for Respondent No.7.

Mr Pavithran A. V., Advocate for Respondent No.8.

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

DATED : 10th JULY 2023

ORAL JUDGMENT (Per M. S. Sonak, J)

1. Heard Ms Norma Alvares with Mr Om D'Costa, learned counsel for the Petitioner, Ms Maria Correia, learned Additional Government Advocate appears for Respondent Nos. 1, 2, 6, 9 and 10, Mr P. A. Kamat, learned counsel for Respondent No.3, Mr Shivan Desai, learned counsel for Respondent Nos. 4 and 5, Mr H. D. Naik, learned counsel for Respondent No.7 and Mr Pavithran A. V., learned counsel for Respondent No.8.

2. Rule. The rule is made returnable immediately at the request and with the consent of the learned counsel for the parties.

3. The Petitioner alleges several illegalities by Respondent Nos. 4 and 5 and complains that the statutory authorities are not initiating action.

4. On 13.03.2023, based on the material placed before us, we made the following order:

*“1. Heard Ms Norma Alvares with Mr Om D'Costa,
learned Counsel for the petitioner, Mr Devidas*

Pangam, learned Advocate General with Mr Nehal Vernekar, learned Additional Government Advocate for respondents No.1, 2 and 6, Mr P.A. Kamat, learned Counsel for respondent No.3, Mr Shivan Desai with Mr A. Sardesai, learned Counsel for respondents No.4 and 5 and Mr H.D. Naik, learned Counsel for respondent No.7.

2. After this matter was argued for sometime, Mr Desai, learned Counsel for respondents No.4 and 5, based on instructions from respondents No.4 and 5 including in particular respondent No.5, states that all operations at the resort will be halted within 24 hours from today. Further, he states that respondents No.4 and 5 will file a detailed reply within a week from today and even furnish an advance copy to the learned Counsel for the petitioner.

3. The above statement is accepted. Consistent with the statement, respondents No.4 and 5 must halt all operations at the resort within 24 hours from now. Respondents No.3 and 6 must ensure that this statement is complied with in letter and spirit.

4. Further at the request of Mr Desai, it is clarified that should the respondents No.4 and 5 obtain all the necessary permissions including permission from the Goa State Pollution Control Board and the Directorate of Fire and Emergency Services, then, respondents No.4 and 5 will have the liberty to seek leave of this Court to recommence the operations. Such liberty is granted.

5. The matter is now posted on 29/03/2023, on which date, we will hear the learned Counsel for the parties in detail on the issue of interim relief. All Contentions of all the parties are explicitly kept open.

6. Mr Desai is granted permission to file a reply in the Registry.

7. If any of the respondents wish to file replies they may do so latest by 24/03/2023.”

5. Now it is pointed out that the GCZMA has already issued a show cause notice cum stop work order dated 13.06.2023 to Respondent No.4 in the context of some of the complaints made by the Petitioner.

6. Ms Correia, on instructions, states that this show cause notice will be disposed of within three months from today after affording an opportunity of hearing to Respondent No.4. In the peculiar facts of the present case, we think that an opportunity of hearing must also be granted to the Petitioner. Accordingly, the GCZMA should dispose of the show cause notice dated 13.06.2023 after giving an opportunity of hearing to both the Petitioner and Respondent No.4.

7. If the GCZMA decides to discharge the show cause notice, the restraint order imposed by the show cause notice, as also by this Court in the order dated 13.03.2023, shall operate for 15 days from the date of communication of this order to the Petitioner.

8. The Petitioner has filed a complaint dated 21.10.2022 to the Town and Country Planning Department. Ms Correia states that the

authorised officer of the Town and Country Planning Department will consider and dispose of this complaint within three months from today. The concerned officer will also afford an opportunity of a hearing to the Petitioner and Respondent No.4. The decision will be communicated to both parties. If the decision is adverse to the Petitioner's version, such a decision will not be implemented for 15 days from the date of its communication to the Petitioner.

9. Mr Kamat, learned counsel for the Village Panchayat of Calangute, states that within 15 days from today, a show cause notice will be issued to Respondent No.4. He states that such a show cause notice will be disposed of within 10 weeks from the date of its issue. He says that the opportunity of hearing will be given to Respondent No.4 and the Petitioner. Suppose the Panchayat takes any decision adverse to the interest of the Petitioner, in that case, the same should not be implemented for 15 days from the date of its communication to the Petitioner.

10. The restraint order imposed by us in our order dated 13.03.2023 will operate until the disposal of the proceedings by the GCZMA, the Town and Country Planning Department, and the Village Panchayat of Calangute. The restraint will further operate for 15 days if any of the authorities' decisions are against the Petitioner.

11. All contentions of all parties are left open to be decided by the above authorities in the first instance. The Rule is disposed of in the above terms. There shall be no order for costs.

12. All concerned are to act on an authenticated copy of this order.

BHARAT P. DESHPANDE, J

M. S. SONAK, J

TARI AMRUT NAGESH