

Meena

IN THE HIGH COURT OF BOMBAY AT GOA

PIL WRIT PETITION NO.23 OF 2022

THE MULAKH KHAJAN FARMERS ...Petitioner
ASSOCIATION, THR. ITS SEC.
SAKHARAM ANANT PEDNEKAR
AND ANR

VS

...Respondents

THE DIRECTORATE OF MINES AND
GEOLOGY THR, ITS DIRECTOR AND
15 ORS

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

Mr Devidas Pangam, Advocate General with Mr Deep Shirodkar,
Additional Government Advocate for respondent Nos.1 to 4.

Mr A.V. Pavithran with Mr P. Kholkar, Advocates for respondent No.5.

Mr A Gosavi with Ms K. Naik, Advocates for respondent No.8.

Mr J. Lohar, Advocate for respondent No.10.

Mr A.D. Naik, Advocate for respondent No.11.

Mr A. Parrikar, Advocate for respondent No.15.

Mr S.D. Lotlikar, Senior Advocate with Ms Sailee Kenny, Advocate for
respondent No.16

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

DATE: 25th JULY, 2023

P.C.:

1. Heard Ms Norma Alvares with Mr Om D'Costa, learned Counsel for the petitioners, Mr Devidas Pangam, learned Advocate General with Mr Deep Shirodkar, learned Additional Government Advocate for respondent Nos.1 to 4, Mr A.V. Pavithran with Mr P. Kholkar, learned Counsel for respondent No.5, Mr A Gosavi with Ms K. Naik, learned Counsel for respondent No.8, Mr J. Lohar, learned Counsel for respondent No.10, Mr A.D. Naik, learned Counsel for respondent No.11, Mr A. Parrikar, learned Counsel for respondent No.15 and Mr S.D. Lotlikar, learned Senior Advocate with Ms Sailee Kenny, learned Counsel for respondent No.16
2. This petition was filed to stop what was termed as illegal transport from a mining dump through the village road of Mayem in Bicholim Taluka.
3. Ms Alvares now states that except respondent No.10, the other private respondents did not undertake transportation through the village road. She submits that the other private respondents were impleaded as parties because the petitioner has contended that dump mining was not permissible given the orders of the Hon'ble Supreme Court on the subject.
4. By our order dated 04/05/2022, we had restrained the transportation of dump ore. The restraint applied to respondent No.10 who was alleged to be transporting such ore through village road. However, liberty was given to the respondents to apply for vacation of the restrain after the Pollution Control Board sets up a mechanism to monitor the transportation and prevent any pollution in the village.

5. Respondent No.10, by filing a Misc. Civil Application No.108 of 2023 applied for vacation/modification of our order dated 04/05/2022. However, when the matter was heard on 20/03/2023, respondent No.10 pointed out that he would not transport ore through the village road and an alternate road has been identified which was reflected in the annexure of the application.

6. Accordingly, Misc. Civil Application No.108 of 2023 was allowed and the interim order dated 04/05/2022 was modified subject to respondent No.10 obtaining all the requisite permissions and taking all the adequate steps to transport the order through the alternate route.

7. Ms Alvares states that the issue of dump mining is already raised in Writ Petition No.28 of 2022 and therefore, this petition need not be kept pending. We however seek clarification that the petitioners or any other public interest litigant must have liberty to agitate the issue of dump mining either in Writ Petition No. 28 of 2022 or by filing independent proceedings.

8. Ms Alvares states that there was a grievance about water pipelines being damaged due to the transportation of ore before the restraint order could be made by this Court. Ms Alvares states that even the grievance is now redressed because the PWD has repaired these pipelines by spending an amount of approximately Rs.10 lakhs.

9. At this stage, the learned Advocate General points out that respondent No.10 who was responsible for damaging the water pipelines must reimburse the amount spent by the PWD. The learned Advocate General points out that the amount spent by the PWD is Rs.9,53,541/-. Mr Lohar states that this amount will be paid to the PWD within four

weeks from today. His statement is accepted as an undertaking to this Court and the same must be complied with by respondent No.10.

10. Accordingly, given the above developments this petition is disposed of. However, it is clarified that we have not gone into the issue of dumped mining and therefore, if such an issue is pending in some other petition and the petitioners wish to file independent proceedings concerning this issue, they are at liberty to do so.

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

BHARAT P. DESHPANDE,J.

M. S. SONAK, J.

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