

Meena

IN THE HIGH COURT OF BOMBAY AT GOA

**WRIT PETITION NO.416 OF 2022
WITH
CIVIL APPLICATION NO.2056 OF 2022 (F)
IN
WRIT PETITION NO.416 OF 2022**

SOCIEDADE TIMBLO IRMAOS ... Petitioner
LIMITADA THR. AUTHORISED
SIGNATORY AMEYA LAXIMIKANT
CHIMULKAR
VS
REGIONAL CONTROLLER OF MINES
AND ANR ...Respondents

Mr. S.S. Kantak, Senior Advocate with Mr. P. Talaulikar, Advocate
for the Petitioner.

Mr. S. Priolkar, Additional Government Advocate *for Respondent-
State.*

Mr. Raviraj Chodankar, Central Government Standing Counsel *for
Respondent No.1.*

Ms. S. Joshi h/f. Mr. Guruprasad Rege, Advocate *for Respondent
No.2.*

**WITH
WRIT PETITION NO. 545 OF 2023 (F)**

SOCIEDADE TIMBLO IRMAOS ... Petitioners
LIMITADA, REP. BY AUT. SIGN., AMEYA
L. CHIMULKAR
VS ...Respondents
STATE OF GOA, THR. ITS
CHIEF SECRETARY AND 4 ORS.

Mr. S.S. Kantak, Senior Advocate with Mr. P. Talaulikar, Advocate
for the Petitioner.

Ms. Maria Correia, Additional Government Advocate *for Respondent- State.*

Mr. Raviraj Chodankar, Central Government Standing Counsel *for Respondents No.2,4 and 5.*

Ms. S. Joshi h/f. Mr. Guruprasad Rege, Advocate *for Respondent No.3.*

**CORAM: M. S. SONAK AND
VALMIKI SA MENEZES,JJ.**

DATED : 14th MARCH, 2023

P.C.:

1. Heard Mr Kantak, learned Senior Counsel who appears along with Mr P. Talaulikar for the petitioners, Mr Chodankar, learned Standing Counsel for the Central Government, appears for respondent No.1 in W.P. No.416 of 2022 and respondents No.2, 4 and 5 in W.P. No.545 of 2023(F) and Ms Joshi, learned Counsel for Canara Bank in both the petitions. She clarifies that she is holding for Advocate Rege.

2. In both these petitions, the petitioners question the action of the Indian Bureau of Mines/Ministry of mines requiring them to furnish/extend/renew the bank guarantees in the context of financial assurance towards the closure of the mines leased out to them.

3. The petitioners contend that the mining leases were prematurely terminated and, therefore, they should not be required to furnish, renew or extend the bank guarantees.

4. Mr Kantak, without prejudice to the above contention, has now referred to the communication dated 24/05/2022 issued by the

Ministry of Mines / IBM to the Regional Controller of Mines, including the Regional Controller, Goa. The contents of this communication are transcribed below for the convenience of reference:

No.N-11013/3/MP/-SOM/FA(BG)2012-CCOM vol-I

Nagpur, dated: 24/05/2022

*To
The Regional Controller of Mines,
Indian Bureau of Mines,
Ajmer/Dehradun/Gandhinagar/Bangalore
/Chennai/Goa/Hyderabad/Bhubaneswar/
Guwahati/Ranchi/Jabalpur/Nagpur/Raipur,*

Sub:- Modalities of return of Bank Guarantees in those cases where the State Governments have terminated the mining leases and taken back the possession of lease area before completion of lease period-reg.

Sir,

This office has received communications from various regional offices of Indian Bureau of Mines seeking guidance about returning of bank guarantees in those cases where the State Governments have prematurely terminated the mining leases and taken back the possession of such mining leases before completion of the lease period as originally granted. Such situation may lead the lease holder under constraints to submit the Final Mine Closure Plan as per statute.

The above matter has been examined by this office under the context of extant rules and has also been referred to Ministry of Mines for issuing detailed guidelines/direction. Till the receipt of detailed instructions, the competent authority has advised to take action by the Regional Controller of Mines, IBM as below.

1. To instruct the erstwhile lessees to extend their bank guarantees for another 6 months from the date of its expiry

(where submitted bank guarantee is going to expire within a period of 6 months). For the purpose, a time of 15 days may be granted to the erstwhile lessees failing which, the existing bank guarantees may be encashed.

2. To instruct the erstwhile lessees to renew/extend their bank guarantees (where submitted bank guarantee has already expired). For the purpose, a time of 15 days may be granted to the erstwhile lessees failing which, the existing bank guarantees may be encashed.

Final decision on return of bank guarantee may be taken after receipt of suitable direction from the Ministry of Mines. Further, in case of any court order/ongoing court proceedings, concern regional office shall intimate the same to the Chief Controller of Mines through concerned COM office immediately.

*This is issued with the approval of Controller General
I/C, IBM.*

Sd/-

(Ashish Mishra)

Senior Assistant Controller of Mines"

5. Mr Kantak, based on instructions, now states that the petitioners in both these petitions will furnish/extend/renew the bank guarantees in terms of the above communication dated 24/05/2022. But he submits that some directions may be issued to the respondents to take a final decision as contemplated by the communication dated 24/05/2022 at an early date.

6. Mr Chodanker learned Standing Counsel for the Central Government states that once the bank guarantees are furnished/renewed/extended by the petitioners, the concerned authorities will

take a final decision on the return of bank guarantees in terms of the above communication dated 24/05/2022.

7. Accordingly, we dispose of these petitions by recording and accepting Mr Kantak's statement that the petitioners will furnish/renew/extend the bank guarantees in question within two weeks from today. Further, we direct the concerned respondent to decide on the return of bank guarantees as expeditiously as possible, preferably within four months from today. All parties' contentions in this regard are specifically kept open because we think the concerned authorities must first decide, given the communication dated 24.05.2022.

8. Further, we clarify that the bank guarantees are not to be encashed until the final decision is taken on the matter. Suppose the final decision is adverse to the interest of the Petitioners. In that case, there should be no encashment of the bank guarantees for a further period of 4 weeks from the date of communication of such decision to the Petitioners, provided the Petitioners keep such bank guarantees alive for at least six months beyond this date.

9. Both petitions are disposed of in the above terms. No order as to costs.

10. The civil application does not survive and is disposed of.

VALMIKI SA MENEZES,J.

M. S. SONAK, J.