

Niti

IN THE HIGH COURT OF BOMBAY AT GOA

SUO MOTU WRIT PETITION NO.2 OF 2007

.... PETITIONER

V/S.

STATE OF GOA,
THROUGH CHIEF SECRETARY
AND 44 ORS.

....RESPONDENTS

WITH

CONTEMPT PETITION NO.6 OF 2024

HIGH COURT ON ITS OWN
MOTION (IN THE MATTER
OF BREACHING
DIRECTIONS IN SMWP
2/2007)

... PETITIONER

V/S

CHANDRAKANT
GAONKAR, SARPANCH
VILLAGE PANCHAYAT OF
BHATI, GOA AND ANR.

....RESPONDENTS

WITH

MISC. CIVIL APPLICATION NO.568 OF 2024 (F)

VILLAGE PANCHAYAT
BHATI, SANGUEM, GOA.
THR. ITS SECRETARY
SANDESH KARMALI

....APPLICANT

V/S

STATE OF GOA.

....RESPONDENTS

WITH

MISC. CIVIL APPLICATION NO.1535 OF 2022 (F)

THE VILLAGE PANCHAYAT
OF SANTA CRUZ , REP.
THR. ADMINISTRATOR
AND SECRETARY

....APPLICANT

V/S.

NO PARTYRESPONDENTS

WITH

MISC. CIVIL APPLICATION NO.2491 OF 2021 (F)
THE SARPANCH, VILLAGE
PANCHAYAT OF ST. CRUZ
AND ANR.APPLICANTS

V/S.

STATE OF GOA, THROUGH
CHIEF SECRETARY AND 46
ORS.RESPONDENTS

WITH

MISC. CIVIL APPLICATION NO.181 OF 2024
RELIANCE BUILDER, REP.
BY ITS MAN. PART., INESIO
ALMEIDA COUTINHOAPPLICANT

V/S

VILLAGE PANCHAYAT OF
BENALIM, THR. ITS
SECRETARY AND ANR.RESPONDENTS

WITH

MISC. CIVIL APPLICATION NO.529 OF 2023
CHINAKONDAIAH M
MUTKUNDUAPPLICANT

V/S

VILLAGE PANCHAYAT OF
SANCOALE THR
SECRETARY/SARPANCH
AND ANR.RESPONDENTS

WITH

MISC. CIVIL APPLICATION NO.594 OF 2021 (F)
RANJIT CIPRIANO PEDRO
DA SILVAAPPLICANT

V/S

VILLAGE PANCHAYAT OF
SERNABATIM COLVA,
THR.ITS SECRETARY/SARPANCH
AND ANR.RESPONDENTS

WITH

MISC. CIVIL APPLICATION NO.393 OF 2021 (F)

MOHAN LAXMAN MESTRYAPPLICANT
V/S
VILLAGE PANCHAYAT OF
SANCOALE, THR. ITS
SECRETRY/SAPRANCH
AND ANR.RESPONDENTS

WITH
STAMP NUMBER (APPLICATION) NO.1642 OF 2020 (F)
SANTANINHO DE MENINO

JESUS BRAGANZAAPPLICANT
V/S
VILLAGE PANCHAYAT OF
SERNABATIM-COLVA, THR.
ITS SECRETAR/SARPANCH
AND ANR.RESPONDENTS

WITH
MISC. CIVIL APPLICATION NO.92 OF 2024 (F)

RUPA DAMODAR
VERNEKARAPPLICANT
V/S
VILLAGE PANCHAYAT OF
BENALIM THR ITS
SECRETARY - SARPANCH
AND ANR.RESPONDENTS

WITH
CONTEMPT PETITION NO.31 OF 2010
JOSE RODRIGUES ... PETITIONER
V/S

CARMELINA FERNANDES,
SARPANCH, VILLAGE
PANCHAYAT OF
BENALIMRESPONDENTS

WITH
MISC. CIVIL APPLICATION NO.2135 OF 2023 (F)
THE VILLAGE
PANCHAYAT OF
BENALIM THR ITS
SARPANCH XAVIER
PEREIRAAPPLICANT

V/S
STATE OF GOA THR ITS
CHEIF SECRETARY OF GOA
ANR.RESPONDENTS

WITH
MISC. CIVIL APPLICATION NO.530 OF 2023
PRESTIGE HOLIDAY
RESORT LLP, REP. BY
DATTATRAYA KALLAPA
PATILAPPLICANT

V/S
VILLAGE PANCHAYAT OF
BENALIM, THR. ITS
SECRETARY/SARPANCH
AND ANR.RESPONDENTS

WITH
MISC. CIVIL APPLICATION NO.2677 OF 2021 (F)
ELSA FERNANDES AND 3
ORS.APPLICANT

V/S
STATE OF GOA THROUGH
CHIEF SECRETARY AND 44
ORS.RESPONDENTS

WITH
MISC. CIVIL APPLICATION NO.2278 OF 2021 (F)
SANDEEP MARTIN
WARLIKAR AND 4 ORS.APPLICANT

V/S
STATE OF GOA THROUGH
CHIEF SECRETARY AND 44
ORS.RESPONDENTS

WITH
MISC. CIVIL APPLICATION NO.1012 OF 2022 (F)
VARUN D. MALHOTRAAPPLICANT

V/S
STATE OF GOA THROUGH
CHIEF SECRETARY AND
ANR.RESPONDENTS

WITH

MISC. CIVIL APPLICATION NO.653 OF 2023 (F)

TRIDENT REALTOR, THR.

ITS AUT. ATTORNEY,

SYDNEY ALIAS SIDNEY

JOHN ADOLFO DIAS

....APPLICANT

V/S

VILLAGE PANCHAYAT OF

BENALIM, THR. ITS

SECRETAR/SARPANCH

AND ANR.

....RESPONDENTS

WITH

MISC. CIVIL APPLICATION NO.504 OF 2024 (F)

VILLAGE PANCHAYAT OF

ALDONA THR ITS

SECRETARY/SARPANCH

....APPLICANT

V/S

STATE OF GOA THR ITS

CHIEF SECRETARY

....RESPONDENTS

WITH

MISC. CIVIL APPLICATION NO.2788 OF 2023(F)

VILLAGE PANCHAYAT OF

ALDONA THR ITS

SECRETARY/SARPANCH

....APPLICANT

V/S

STATE OF GOA THR ITS

CHIEF SECRETARY

....RESPONDENTS

AND

CONTEMPT PETITION NO.43 OF 2017

AIRES RODRIGUES

... PETITIONER

V/S

PREMDAS KARAPURKAR

AND 4 ORS.

....RESPONDENTS

Ms. Norma Alvares, Amicus Curiae with Mr Om D'Costa and Mr H. Patil, Advocates.

Mr. Devidas J. Pangam, Advocate General with Mr. Pravin Faldessai, Additional Government Advocate for Respondent-State in SMWP No.2/2007.

Mr. Devidas J. Pangam, Advocate General with Mr. Tukaram Gawas, Additional Government Advocate for Respondent-State in MCA No.594/2021(F).

Mr. Devidas J. Pangam, Advocate General with Mr. Shubham Priolkar, Additional Government Advocate for Respondent-State in MCA No.653/2023(F).

Mr. Devidas J. Pangam, Advocate General with Mr. Neehal Vernekar, Additional Government Advocate for Respondent-State in MCA No.2278/2021(F).

Mr. Devidas J. Pangam, Advocate General with Mr Geetesh Shetye, Additional Government Advocate for Respondent-State in MCA No.2491/2021(F).

Mr. Devidas J. Pangam, Advocate General with Ms. Sapna Mordekar, Additional Government Advocate for Respondent-State in MCA No.393/2021(F).

Mr. Devidas J. Pangam, Advocate General with Mr Siddharth Samant, Additional Government Advocate for Respondent-State in STA No.1642/2020(F).

Mr. Devidas J. Pangam, Advocate General with Mr Manish Salkar, Government Advocate for Respondent-State in WP No.621/2022.

Mr. Devidas J. Pangam, Advocate General with Ms. Maria Correia, Additional Government Advocate for Respondent-State in PILWP No.20/2017.

Mr. Devidas J. Pangam, Advocate General with Mr. Siddharth Samant, Additional Government Advocate for Respondent-State in MCA No.653/2023(F).

Mr. Devidas J. Pangam, Advocate General with Mr. Suhas Parab, Additional Government Advocate for Respondent-State in WP No.9/2024.

Mr. Devidas J. Pangam, Advocate General with Ms Susan Linhares, Additional Government Advocate for Respondent-State in MCA No.1012/2022(F).

Mr. Devidas J. Pangam, Advocate General, with Mr Shivdatt Munj, Additional Government Advocate for Respondent-State in WP No.621/2022.

Mr. Devidas J. Pangam, Advocate General, with Ms M. Correia, Additional Government Advocate for Respondent-State in PILWP No.20/2017.

Mr. Devidas J. Pangam, Advocate General with Ms Akshata Bhat, Additional Government Advocate for Respondent-State in CP No.43/2017.

Mr. Devidas J. Pangam, Advocate General, with Mr Suhas Parab, Additional Government Advocate for Respondent-State in WP No.9/2024.

Mr. Pavithran A.V. with Mr. P. Kholkar, Advocates for Respondent No.2-GSPCB.

Mr Dhaval Zaveri with Mr N. Govekar and Mr S. Kamulkar, Advocates for Applicant in MCA No.504/2024(F).

Mr A.D. Bhohe with Ms. A. Bandekar, Ms A. Fernandes, Ms R. Prazeres and Ms N. Mayekar, Advocates for Respondents No. 11, 15 and 18 in SMWP No.2 of 2007, Respondents No. 1 and 2 in CP No.43 of 2017, PILWP No.4 of 2007, Respondent No.2 in PILWP No.20 of 2017, for the Petitioner in WP No.935 of 2017, V.P. of Mercedes, V.P. of Amona, Corporation City of Panaji, Quepem Municipal Council, Curchorem, Cacora Municipal Council, Village Panchayat of Anjuna and for the SGPD.

Mr. Zeller D'Souza, Advocate for V.P., Assolna and for Respondents Nos. 33, 35, 36 and 38 and for Sarpanch and Secretary of Assolna Village Panchayat.

Mr. Anand Shirodkar and Mr A. Sawant, Advocates for Respondent No.16 - Margao Municipal Council (MMC).

Mr P. Karpe, Advocate for Village Panchayat of Kundaim.

Mr Akshay Naik, Advocate for Village Panchayat of Socorro.

Mr P. Shirodkar, Advocate for Respondent Nos.8,9,12,14,17,19,47.

Mr Dinesh Naik, Advocate for Respondent No.48.

Mr V. Braganza, Advocate for Village Panchayat of Moira.

Mr P.A. Kamat, Advocate for Respondent Nos.42 to 45, 53 – Village Panchayat of Siolem – Sodiem.

Mr D. Lawande with Mr P. Dangui, Advocates for Margao Wholesale Fish Market.

**CORAM: M. S. SONAK &
VALMIKI MENEZES, JJ.**

DATE: 22nd APRIL 2024

ORAL ORDER : (*Per M.S. Sonak, J.*)

1. Heard Ms Norma Alvares, learned Amicus Curiae with Mr Om D'Costa, the learned Advocate General for the State of Goa, Mr Pavithran A.V. for the Goa State Pollution Control Board and the learned Counsel for various Panchayats and Municipalities in the State of Goa.

2. This was a Suo Motu Writ Petition initiated in 2007 in the wake of the non-implementation of Solid Waste Management Rules. This petition was disposed of in 2013. However, once again, laxity was noticed after the disposal of this petition. In particular, there was an issue of Panchayats not complying with directions issued by this Court in establishing/operating Material Recovery Facilities (MRF).

3. Ms Alvares, the learned Amicus Curiae, submitted that practically all the Panchayats have established material recovery facilities by now. Mr Pavithran states that the GSPCB has verified this position and will continue inspecting these facilities periodically, preferably without notice to the Panchayats.

4. The GSPCB should continue to monitor these MRFs periodically. If the GSPCB finds that the MRFs are not operational, directions must be issued to the Panchayats to operationalise them. If, despite directions and action by the GSPCB, the Panchayats are found

to be violating directions, liberty is given to the GSPCB to apply to this Court so that this Court can consider whether any restraint should be imposed on the iterant Panchayats from issuing fresh construction permissions. In this matter, we noticed that while the Panchayats were tardy in implementing the waste management rules or setting up MRFs, they were in overdrive when granting building permissions. As a result, several buildings mushroomed, and there were very few facilities to treat the waste generated in the villages.

5. Ms Alvares pointed out that only the Village Panchayat of Aldona had not set up an MRF. Mr Zaveri states that even Aldona has now set up an MRF facility. This position is confirmed by Mr Pavithran, learned Counsel for the GSPCB. Mr Pavithran states that the MRF facility is set up and fully operational. Accordingly, the restraint imposed on the Village Panchayat of Aldona from issuing construction licences is lifted/vacated.

6. The learned Advocate General pointed out that the Village Panchayat of Bhati has arranged with the neighbouring Panchayat, i.e., the Village Panchayat of Curdi. However, this Panchayat has also assured the Court that it would set up its independent and permanent MRF within six months. For this purpose, the Panchayat has deposited an amount of ₹5,00,000/- (Rupees Five Lakhs only) in this Court as a security for compliance. Accordingly, directions are issued to the Village Panchayat of Bhati to take the necessary steps. If no arrangements are made within six months, we grant the GSPCB liberty to point this fact out to the Court even though we propose to dispose of this petition presently.

7. Now that all the Panchayats have an MRF and the GSPCB has assured the Court that it would monitor the functioning of these MRFs, this petition can be disposed of.

8. There are several Misc. Civil Applications filed in this petition which also would not survive disposal of the main petition.

9. This order today makes the interim orders made and modified from time to time in this petition absolute.

10. The GSPCB, the Directorate of Panchayats, the Director of Municipal Administration and all other parties concerned with the implementation of the solid waste management rules are directed to keep the constraint vigil to see that the rules are implemented in letter and spirit. Further, these authorities must also ensure that all concerned parties comply with the directions issued by this court in this matter.

11. Ms Alvares, learned Amicus Curiae, states that in this matter, the Court has made at least 185 orders. Several affidavits have been filed by Panchayats, Sarpanchas, etc. The State has also issued directions from time to time, as the learned Advocate General pointed out.

12. In this matter, Ms Norma Alvares learned Amicus Curiae has rendered commendable service to the Court and the State, considering the importance of solid waste management. She has appeared numerous times, and she would prepare summaries and charts to assist us in monitoring the situation. Accordingly, we compute the costs

payable to Ms Norma Alvares at ₹2,50,000/- (Rupees Two Lakhs Fifty Thousand only).

13. The record shows that the Panchayat of Rachol had deposited ₹50,000/- (Rupees Fifty Thousand), the Panchayat of Colva ₹90,000/- (Rupees Ninety Thousand), the Panchayat of St. Lawrence ₹1,10,000/- (Rupees One Lakh Ten Thousand only) and the Panchayat of Bhati ₹70,000/- (Rupees Seventy Thousand only). Out of these, the amounts deposited by the Panchayats of Colva, St. Lawrence and Bhati totally amounting to ₹2,70,000/- (Rupees Two Lakhs Seventy Thousand only) were ordered to be forfeited. The said amount is in the Court Registry. Accordingly, the Registry is directed to pay an amount of ₹2,50,000/- (Rupees Two Lakhs Fifty Thousand only) out of this amount to Ms Norma Alvares. This amount can be transferred by the Registry into Ms Alvares's bank account at the earliest.

14. In addition to the above Panchayats, we find that the Panchayats of St. Cruz, Chimbél, Aldona, Anjuna, Arambol, Cana Benaulim, Sancolae, Mercedes, Calangute, Morjim and Rachol were quite recalcitrant when it came to compliance with solid waste management rules and the directions issued by this Court from time to time. Accordingly, we direct these Panchayats to deposit an amount of ₹20,000/- (Rupees Twenty Thousand only) each in this Court within six weeks from today.

15. Since the Panchayat of Rachol has already deposited ₹50,000/- (Rupees Fifty Thousand only), this Panchayat is granted liberty to

withdraw the balance amount of ₹30,000/- (Rupees Thirty Thousand only). So also, since the Village Panchayat of Aldona has already deposited ₹1,10,000/- (Rupees One Lakh Ten Thousand only), this Panchayat is granted liberty to withdraw ₹90,000/- (Rupees Ninety Thousand only) from the Registry.

16. The costs recovered from the above Panchayats must now be transferred to the Goa State Legal Services Authority.

17. The Director of Panchayats must circulate an authenticated copy of this order to the above referred Panchayats and ensure that these Panchayats deposit costs of ₹20,000/- (Rupees Twenty Thousand only) each within six weeks from today. The Director of Panchayats must file compliance report in this Court by 30.06.2024.

18. Once again, we thank not only Ms Alvares, the learned Amicus Curiae, but also the learned Advocate General and other Counsel appearing in the matter for their cooperation. We also express our gratitude to Mr Om D'Costa, who assisted Ms Norma Alvares, the learned Amicus Curiae, in this matter.

19. The Contempt Petitions are also disposed of.

20. The misc. applications in this matter are also disposed of.

VALMIKI MENEZES, J.

NITI KISHOR
HALDANKAR

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KISHOR HALDANKAR
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M. S. SONAK, J.