



Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

PIL WRIT PETITION NO.15/2024

AARON VICTOR FERNANDES
AND 2 ORS.

... PETITIONERS

Versus

STATE OF GOA THR ITS
CHIEF SECRETARY AND ORS.

... RESPONDENTS

Ms N. Alvares, Senior Advocate with Mr Om D'Costa and Ms M. Simoes, Advocates for the Petitioners.

Mr D. Pangam, AG with Mr D. Shirodkar, AGA for the State.

Mr P. A. Kamat, Advocate for Respondent No.7.

Mr D. Lawande with Mr C. Angle, Advocates for Respondent No.8.

Mr S. Karpe with Mr Anand Shirodkar, Advocates for Respondent No.9.

**CORAM: BHARATI DANGRE &
ASHISH S. CHAVAN, JJ.**

DATED: 16th OCTOBER 2025

P.C.:

1. On due deliberations between the learned Senior Counsel Ms Norma Alvares appearing for the petitioners and the learned Advocate General along with Mr Deep Shirodkar, learned Additional Government Advocate, a mechanism is agreed to and is placed before us in form of a note by the learned Advocate General. Ms Alvares expressed her satisfaction over the said mechanism but since there is no reference in the note to the heritage trees (of an age of 50 years or more) and which have girth of more than one meter, she submit that this issue be kept open

to be agitated as and when the contingency arises. Further, it is also her submission that the Tree Act under Section 7(h) contemplate a critical study of proposals involving felling of trees by the Tree Officer, he is expected to act with conscious mind and this critical study may not necessarily be restricted area-wise or even taking into consideration the number of trees as the critical study is expected only in area admeasuring more than one hectare or where there is felling of more than one hundred trees. The learned Advocate General agreed to the submission and would submit that it shall not be the only criteria while carrying out the critical study. Learned Advocate General may agree to the suggestion but according to him this may be looked into on case to case basis and the Tree Officer may not be averse to this. We even deem it appropriate to keep this issue open to be agitated at the relevant stage.

2. Further, we are informed that as far as the FIR as regards the felling of heritage trees at Siolim which was also the subject matter of the petition is concerned, it is now converted into Case No.AOA/393/2024 (State of Goa v/s. Rafik Munna Sabji) and is pending before the Court of JMFC at Mapusa. We are assured on behalf of the Government that the case shall be taken to its logical conclusion.

3. On the basis of the note tendered before us, on which Ms Alvares has expressed her satisfaction, we deem it appropriate to pass the following order:

1. The Goa Preservation of Trees Act, 1984 and the Rules made thereunder provide the legislative framework for preservation of trees in the State of Goa. The Act contains provisions and safeguards in relation to the grant of permissions for felling of trees by *inter alia* providing for replantation to compensate for the felling.

2. The State already has a mechanism in place as regards the permissions to be granted, the manner in which the proposals are to be assessed and examined, the conditions to be imposed while granting permission, and ensuring that the conditions are actually complied with and the saplings are maintained for a minimum period of five years.

3. The Tree Authority and the Forest Department is bound to ensure that the provisions of the said Act are strictly complied with and to ensure that the exercise of replantation and maintenance is completed, in terms of the permissions granted.

4. The petition raises issues relating to felling of trees, with particular reference to felling for the purpose of infrastructure projects. The main concern is to ensure that the statutory authorities entrusted with the task of grant of permissions for felling, carefully examine all aspects relating to the need for such felling and to further ensure that the replantation, as required/directed by the Tree Officer, is actually carried out.

5. After the Judgment dated 08.7.2021 of this Court in *Living Heritage Foundation v. State of Goa & Ors.* [PIL Writ Petition No. 8/2021], the Goa Preservation of Trees Act, 1984, was amended in October, 2022. The amendment to the Act, has now made the provisions of the Act applicable

to the Government. Sections 3 and 7, in relation to the constitution of the Tree Authority and the Duties of the Tree Authority, have also been amended.

6. The duties of the Tree Authority include monitoring the progress of plantations carried out in lieu of trees permitted to be felled or disposed of by the Tree Officer, undertaking critical study of the proposals involving felling of trees spread over more than one hectare with regard to protection of existing trees and planting more trees, wherever possible.

7. Though Section 7 (h) requires a critical study of the proposals involving felling of trees spread over an area admeasuring more than one hectare, the State Government, in exercise of powers under Section 35 of the said Act, has issued Order dated 15.6.2023 directing that proposals involving felling of 100 trees and above should be referred to the Tree Authority. The said Order reads thus:

“ORDER

In exercise of the powers conferred under Section 35 of Goa Prevention of Trees Act, 1984 and as amended from time to time, Government hereby directs that all proposals involving felling of 100 trees or above, irrespective of the area for the purpose of Construction of buildings, roads, factories, irrigation works, laying of electric, telephone, telegraphic and other transmission lines, shall invariably be referred to the Tree Authority, with immediate effect.

*By Order and in the name of
the Governor of Goa
Sd/-
(Nathine S. Araujo)
Under Secretary (Forest)”*

8. To ensure proper and efficient working of the mechanism provided under the Act, the Tree Authority and the Forest Department shall abide by the procedure set out herein, in relation to grant of permissions for felling/translocation and monitoring of the compliance with the conditions imposed under the permission.

9. All proposals/applications for felling of 100 trees or above as per Sec. 7(h) and the Government Order dated 15.6.2023, shall be referred to, and examined by the Tree Authority before any permission for felling is granted.

10. The Tree Authority, in order to scrutinize the proposals involving tree felling, shall require the Applicant/ Department/ User Agency to submit –

- (i) A detailed report of assessment of trees that are likely to be affected by the project, with details such as number of trees, species, enumeration data, details of trees having local/religious significance or other trees which can be translocated, etc.
- (ii) Replantation plan containing the details of the property/properties to be used for replantation, including the survey number and the village, species proposed and timelines.
- (iii) The area proposed for replantation, marked on the Survey Plan.
- (iv) If any trees are proposed for translocation, the agency which will carry out the translocation exercise, with the methodology to be used for translocation and the property where the tree(s) will be translocated.
- (v) An undertaking for taking up replantation of saplings in terms of the permission.

- (vi) An undertaking for maintenance of the saplings for a minimum period of five years.
- (vii) Security deposit amount to be deposited towards the Tree Protection Fund constituted in terms of Sec. 35-A of the Act.

11. After the proposal is received, the same shall be scrutinized by the Tree Authority. The critical study shall include scrutiny of the report submitted by the applicant, the need for cutting the trees proposed, whether it is possible to save any trees from felling, whether translocation can be permitted of any of the trees having local/religious significance, and only if the felling is found necessary and recommended, the permission for felling can be granted.

12. The permission shall state the number of trees to be replanted/translocated, the property/properties where the replantation/translocation will be done, the type of species to be used for replantation, the timeline for the replantation, etc. The permission shall contain all the necessary conditions, including conditions as regards maintenance of the saplings for a minimum period of five years.

13. Annual verification shall be carried out by the Forest Department to verify the exercise of replantation and maintenance.

14. Requests for refund of the security deposit shall not be entertained until the replantation exercise as well as the maintenance is done for the minimum period of five years.

15. If the replantation and maintenance exercise is not completed in terms of the permission, the Security Deposit shall be forfeited and the amounts should be utilized for replantation and maintenance, to be carried out by the Forest Department, as per the directions of the Tree Authority, on the land to be provided by the applicant/user agency/department concerned.

16. Further, if there is default by any private party/concerned sub-division of the Department which is granted permission, in carrying out the replantation and maintenance, the Forest Department should not grant any new permission to such private party/sub-division of the concerned Department, unless there is compliance in respect of the earlier permissions, to the satisfaction of the Forest Department. However, in exceptional cases, where overwhelming public interest requires the permission to be granted despite the earlier replantation not being completed by that sub-division, the permission may be granted to that sub-division/ Department provided a proper plan of action and undertaking, with additional security deposit, is furnished to complete the replantation work required to be done in terms of the earlier permission.

17. The Forest Department should maintain a proper record qua each permission granted for felling of trees with the application submitted, along with the requirements submitted as per para 10 above, the minutes/report of the Tree Authority, the permission granted, reports of monitoring/inspections to verify compliance with the conditions of the permissions, certificate/report upon

completion of the work of replantation/ translocation and record of the release/forfeiture of the security deposit.

4. Writ Petition is disposed of in the aforesaid terms.

ASHISH S. CHAVAN, J.

BHARATI DANGRE, J.