



Andreza

IN THE HIGH COURT OF BOMBAY AT GOA

MISC. CIVIL APPLICATION NO. 593 OF 2023

IN

PUBLIC INTEREST LITIGATION WRIT PETITION NO. 10 OF 2017

Tapasya Infotech Pvt. Ltd. Thr its Director ... Applicant
Vikas Bajaj

V e r s u s

1. Arturo Carlos D'Souza & 20 Ors. ... Respondents

AND

MISC. CIVIL APPLICATION NO. 88 OF 2025

IN

PUBLIC INTEREST LITIGATION WRIT PETITION NO. 10 OF 2017

M/s. Shasvata Arya Constructions, Rep. By
its Director Swapneel Nachinolkar Taleigao, ... Applicant
Goa.

V e r s u s

1. Arturo Carlos D'Souza & 2 Ors. ... Respondents

WITH

PUBLIC INTEREST LITIGATION WP NO. 10 OF 2017

Arturo Carlos D'Souza & 2 Ors. ... Petitioner

V e r s u s

1. The Collector (North Goa) & 6 Ors. ... Respondents

WITH

WRIT PETITION NO. 590 OF 2017

Comunidade of Calapur, Through its ... Petitioner
Special Attorney, Romano M. P. Gonsalves

V e r s u s

State of Goa, Through its Chief Secretary & 7 ... Respondents
Ors.

**WITH
WRIT PETITION NO. 1096 OF 2018**

Hirabai Kavlekar, Thr. POA, Adv. ... Petitioner
Shubhangi Sawant

V e r s u s

1. The State of Goa, Thr. Chief Secretary & 5 ... Respondents
Ors.

Mr. S. S. Kantak, Senior Advocate *with Mr. Abhijit Kamat and Ms. Neha Kholkar, Advocates for the Applicant in MCA No. 593 of 2023.*

Mr. Nigel Da Costa Frias, Advocate *with Mr. Vineet Surlakar, Advocate for the Respondent No. 1 in MCA No. 593 of 2023.*

Ms. Akshata Bhat, Additional Government Advocate *for Respondent no. 5 in MCA No. 593 of 2023.*

Mr. Shivan Desai, Advocate *with Ms. Tahira Menezes and Ms. Riya Amonkar, Advocate for Respondent nos. 9 to 14 in PILWP No. 10 of 2017, Respondent no. 10 in WP No. 590/2017 and Respondent nos. 11 to 16 in MCA No. 593/2023 in PILWP No. 10/2017.*

Mr. Parikshit Sawant, Advocate *for Petitioner in Writ Petition No. 590 of 2017.*

Ms. Asha Desai, Advocate *for the Petitioner in Writ Petition No. 1096 of 2018.*

Ms. Sapna Mordekar, Additional Government Advocate *for Respondent nos. 1 to 6 and 13 in WP No. 590/2017.*

Mr. S. N. Joshi, Advocate with *Mr. A. Mashelkar, Ms. Sharlene Fernandes and Mr. M. Padhya, Advocates for Respondent no. 20 in PILWP No. 10 of 2017 and MCA No. 180 of 2019.*

Mr. Sudin Usgaonkar, Senior Advocate with *Ms. Tanisha Mashelkar, Advocate for Respondent no. 17 in MCA No. 180 of 2019.*

Mr. Deep Shirodkar, Additional Government Advocate for *Respondent nos. 1 to 6 in Writ Petition No. 1096 of 2018.*

Mr. Vinoj Daniel, Advocate for *Respondent no. 7 in PILWP No. 10 of 2017.*

**CORAM: BHARATI DANGRE &
NIVEDITA P. MEHTA, JJ.**

DATE: 18th AUGUST 2025

ORAL ORDER (*Per Bharati Dangre, J.*)

1. In PIL Writ Petition No. 10 of 2017, on 07.11.2017, the Division Bench of this Court, took cognizance, since the proceedings involved conservation of Bondvoll Lake situated in Calapur Village of Tiswadi Taluka, Goa.

By the said Order, a task force was constituted, in the backdrop of a Committee appointed by this Court vide its earlier order dated 26.07.2017 comprising of various authorities including the Chief Engineer (WRD), Executive Engineer (Works Division-I), Geologist

along with the Deputy Collector, Tiswadi and some other technical persons.

The report of the Committee was tendered before the Court, with specific reference to the peculiar features of the Bondvoll Lake, an Earthen Dam along with its canal and its side channel spillway. The Committee suggested various measures like maintenance of the bund, demolition of the structures and monitoring seepages through the dam considering the fact that it is a pristine water body and the disturbance should be kept to minimum so that the ground water is not contaminated.

2. Though the report was taken on record, the Court was of the view that it is not only the supply of the water which is the facet of the water body but it should be treated as an entire ecosystem and it took cognizance of the Petition from this angle and deemed it appropriate to constitute a task force consisting of Chief Conservator of Forest as its Chairman and also comprising of the Secretary (Goa Bio-diversity Board), the Chief Engineer of Water Resource Department (WRD) one member from Village Panchayat, one member from NGO i.e. the Goa Foundation and one member from the TCP Department.

The Court expected the task force to consider the measures suggested by the Petitioners and also the report of the Committee constituted by the Court.

The Court expected the task force to prepare a road map to take effective steps for protection and conservation of the Bondvoll Lake from the angle of preserving as an ecosystem.

3. While the modalities were being worked out for conservation of the water body, in paragraph 7 of the order, the Court directed that no construction permission shall be granted from 200 metres from the edge of water clarifying that the edge of the water is where the water body reaches its highest level. It also issued certain directions as regards tree cutting but with a clarification to the following effect :

“... This order however should not be construed as charter to carry out the above prohibited activities in the other areas affecting the ecosystem of the lake.”

The task force was also requested to ensure that the area of 200 metres and the periphery as indicated shall be effectively implemented. The rights and contentions of intervenors were kept open to be considered on next date of hearing.

4. Pursuant to the aforesaid direction, the task force, conducted various meetings and submitted its report, by clearly highlighting the methodology that was adopted, by keeping in view the demarcation of 200 metres line by the DSLR in consultation with the participation of WRD, which was mandated by the Government Departments.

It also relied upon the Google maps as well as the location maps with the WRD Department to understand the highest water level to be able to mark 200 metres line on the ground.

A Digital Elevation Map, reflecting the variations also came to be prepared and it was recorded that the overall impression given by the maps is common, water assimilation potential and natural topographical advantage of the Bondvoll Lake spot is conducive for surface water collection and ground water recharge as well as development.

The site observations, were recorded as follows :

“It was noted by the TB that hardly any developmental activities are seen within the Bondvol lake area and its immediate vicinity. There is overall protection of area with pockets of very dense tree covered patches. There is evidence of existing road, fencing and some temporary structures in as seen by TFB during site visit. The ongoing agricultural activities are visible whereby spring water is being collected in the pits and pumped to nearby upland within the body of lake from bottom most portion of Bondvol Lake. The part of bottom most portion is used for paddy cultivation during Rabi season locally called as Vaingan.

As stated in the report by the Committee consisting of Chief Engineer (Water Resources Department), the water body basically consists of the main dam or bund body, the submergence area (Up to Full Reservoir Level (FRL), the side channel spillway, the sluice valve and downstream area of canal. The Committee has suggested various measures such as

maintenance of the bund, demolition of the structures and monitoring seepages through the dam. The report states that the water body is a pristine water body and the disturbance should be kept to minimum so that the ground water is not contaminated. It should be ensured that the pristine sloppy area which contributes to the water body is kept in its natural form.”

5. The report also make a reference to the Wetlands (Conservation and Management) Rules, 2017 and the issues referred to it, in the background of the ecosystem approach, which was also highlighted by this Court.

The recommendations of the task force, included various suggestions with reference to the Wetlands Notification of 2017, by considering the traditionally prevailing activities including maintenance works and utilisation activities as part of the management practices.

As regards the directions of the Court of maintaining the 200 metres peripheral line, the observation is as below :

“7. As per the submissions before the Task Force, and also as emerged during the discussions with TCP member, it appears that there may be more approved conversion sanads under LRC, Building approvals / NOCs, change of zones approved by Govt. other than those submitted by TCP in the delineated 200 meter peripheral line. It is essential that a watershed approach be adopted in this case and hence it is recommended that Hon. High Court may consider directing no development in watershed / catchment area of Bondvol

Lake falling within the 200m line after giving due considerations to the permissions already granted and the same be declared as Conservation Zone. As an interim measure no developmental activities be permitted within the 200 meters peripheral area till the watershed / catchment area is established by WRD based on topo sheets, downstream linkages including channel conduits connecting Bondvol Lake.”

In direction no. 9, in the recommendations column, the report suggests thus :

“9. Protection of slopes leading to the lake, maintaining the existing natural vegetation cover, ensuring no development in the No development zone (NDZ, preventing ground water contamination by way of seepage from septic tanks, putting an end to disposal of solid waste in this area, ensuring compensatory ground water recharge structures within the catchment area of the lake by the owners of the existing structures is essential. In case the owners of the land within the catchment and in the 200m area are permitted to construct buildings above conditionalities should be enforced by the permitting departments.”

6. A perusal of the report, would reveal that there is no specific direction or mandate of the Committee to continue with the direction issued by the Court prohibiting construction activity within 200 metres from the edge of the water and Mr. Costa Frias specifically concede to this position, that the restriction only operated as an interim measure.

7. We have perused the report submitted by the task force in the light of the order passed by this Court on 07.11.2017 with the terms of reference of the Task force, considering the Bondvoll Lake as well as the entire eco-system.

The recommendations of the task force, clearly record that the water body is a Wetland and the Wetlands Notification of 2017 would govern its prevailing activities including the maintenance work and utilization activities, keeping in consonance with the directions issued by the Court, it was suggested that no developmental activities shall be permitted within 200 metres peripheral area till the watershed/catchment area is established by WRD based on topo sheets, downstream linkages including channel conduits connecting Bondvoll Lake.

8. A major development occurred, when the Government of Goa, published a Draft Notification under the Goa State Wetland Authority (GSWA) in exercise of powers conferred under Rule 7 of The Wetlands (Conservation and Management) Rules, 2017, inviting objections within stipulated period, from the persons interested in making any objection or suggestions on the proposal contained in the draft Notification.

This covered various water bodies and in specific, the Bondvoll Lake, existing as a water body admeasuring an area of 75,894 square metres situated at Calapur Village of Tiswadi Taluka, which was identified being significant for its ecosystem services and biodiversity values for the local communities and society at large.

9. With a view to sustain the values, the ecological character of the Wetland ecosystem, which was to be maintained by regulating the developmental activities within the Wetland as well as within the Zone of influence, the Department of Environment and Climate Change, Government of Goa, through GSPB prepared a brief document, for identifying the said lake as Wetland in terms of sub-rule (1) of Rule 7 of the Wetland Rules, 2017.

Based on the brief document, the GSWA recommended the Government to notify Bondvoll Lake as Wetland under the provisions of Wetland Rules, 2017.

The Government subsequently published a draft Notification inviting objections under sub-rule (6) of Rule 5 of the Wetland Rules, 2017 and on considering the objections, grievances and suggestions to seek from the general public as well as the concerned stakeholders as per the Rules and by incorporating the necessary provisions in the Notification, published the final Notification in exercise of the powers

under Rule 7 of the Wetland Rules, 2017 read with Environment (Protection) Act, 1986 on 22.10.2022.

10. As per the Notification, the extent of the Wetland and its Zone of influence was specifically set out in Schedule-I by clearly, setting out the activities prohibited in the Wetland and its Zone of influence.

The Goa State Wetland Authority and the Ministry of Environment, Forest and Climate Change by the said Notification were authorized to monitor the enforcement of the Notification.

Schedule-I to the said Notification clearly refer to two survey numbers/sub-division nos. 143/1 and 144/1 with an approximate area of 75,894, being declared as Wetland. In addition, the Zone of influence along with the survey numbers falling therein was also a part of the said Notification. The map of the Wetland Mean High Flood Level (depicted as blue line) of the said Bondvoll Lake in the Zone of influence was also annexed along with the Notification.

Schedule – II, specifically enlisted the activities prohibited within the Wetland, which included any construction of permanent nature except for road jetties demarcated within 50 metres (demarcated as Buffer Zone on Annexure-1) from the Mean High Flood Level observed in the past ten years calculated from the date of commencement of these Rules.

11. With this Notification coming into force, wherein specifically the embargo on construction of permanent nature is restricted to 50 metres from the Mean High Flood Level, which have been observed for last ten years, a Misc. Civil Application is filed by the Applicant, seeking modification of the Order passed by this Court on 07.11.2017, permitting issuance of construction licences in the area(s) falling within 50 metres from the boundary of survey no.143/1 and 144/1 (declared as Wetland area) by limiting the restrictions to the extent and limits laid down in the Gazette Notification dated 28.10.2022.

This application being filed on 04.05.2023, is pending for adjudication before us and on the last date of hearing we indicated that we will be taking the Petition for final hearing as it pertained to the year 2017 and by consensus of the parties, we have taken up the Writ Petition for hearing.

12. The learned Counsel Mr. Frias appearing for the PIL Petitioner and Mr. Parikshit Sawant, learned Counsel appearing for the Petitioner in Writ Petition no. 590 of 2017, would invite our attention to the Order dated 07.11.2017 as well as the recommendations of the Task Force, to submit that in larger interest and considering the Bondvoll Lake as an eco-system 'in its entirety', the interim order directed that no construction shall be permitted within 200 metres from the edge of the water.

13. We have perused the said order and we find that the Division Bench was of the view that till the time the Task Force submit its report to the Court, which was constituted for specifically highlighting various measures to conserve the water body as an entire ecosystem and not restricting as a source of water supply, awaiting the report from the Task Force, a direction was issued to ensure that an area of 200 metres and the periphery shall be demarcated so that the water level can be effectively implemented.

There is no doubt in our mind that when this direction was issued, it was not based on actual suggestions as we find that the Committee which was appointed by the Court, had merely given suggestions about maintenance of the bund as well as demolition of structures and monitoring seepages through the dam but it did not focus its attention upon the distance within which the construction activity shall be permitted.

We are of the view that the said order is merely an interim order and to this observation from us, Mr. Costa Frias do not dispute our view.

It is his specific contention that the Task Force also directed this distance to be maintained but we must observe that it was also by way of an interim measure.

14. Then came an occasion for the Government to specifically invoke its powers under the Wetland Rules, 2017 and as a result of the same, by applying all the necessary parameters, under the Wetlands (Conservation and Management) Rules, 2017, framed in exercise of powers conferred by Section 25 and Section 23 of the Environment (Protection) Act, 1986, to determine as to what and how the Wetlands which specifically received a definition under Section 29(g) shall be maintained.

Under the said Rules of 2017, the Wetlands Authorities, were specifically constituted with the modalities to be operated for declaring certain areas to be Wetlands, being specifically set out.

By invoking the very said power, Bondvoll Lake having an area of 75,894 square metres, was declared as a Wetland. Upon its declaration, the extent of the area as well as the Zone of influence was also specifically set out and the Notification also set out the activities which are prohibited within the Wetland and its Zone of influence in Schedule-II, specifically highlighting the activities which are specifically prohibited. A perusal of the said Notification would evidently make it clear that in the list of activities that are prohibited, construction of a permanent nature within 50 metres from the Mean high flood level, which is observed in the past ten years, is considered to be an activity prohibited. The focus therefore is upon the

constructions within 50 metres and there is an embargo imposed on construction. This Notification has come into effect from the date of its publication and has been followed.

15. As we consider the submission of learned Senior Counsel Shri Kantak, who has taken out an application vis a vis the submissions advanced by Mr. Costa Frias, and his emphasis of maintaining the restrictions of 200 metres as indicated in the Order dated 07.11.2017, we must clarify that the order passed on 07.11.2017 was an interim order and once the steps are taken by the Government, by declaring Bondvoll Lake as fragile area, by following the necessary procedure under the Rules of 2017, in our considered opinion, our interim order must give way to the statutory scheme that has been formulated and declared by a Notification in exercise of powers invoked under Wetlands Rules, 2017.

We are therefore of the considered view that what shall be now made applicable, to the Bondvoll Lake is the Notification published by the Government of Goa on 20.10.2022 upon which it being declared as 'Wetland' with the area set out in Schedule-I and the restrictions set out in Schedule-II, accompanying thereof.

Though Mr. Costa Frias has made an attempt to point out to certain flaws, in the said Notification by submitting that the guidelines for implementing Wetlands (Conservation and Management) Rules, 2017, issued by the Ministry of Forest and Climate Change,

Government of India, have not been followed, since we do not have this challenge before us, we refuse to entertain him.

Mr. Costa Frias would fairly submit that the Petitioner has already presented a detailed representation to the Member Secretary, State of Goa. on 14.08.2025 raising several objections and in particular about the declaration of the Bondvoll Lake as Wetland and also raising various issues about the identification of the high water mark identified by the WRD as well as the GSWA and also the Buffer area and with a special emphasis on the directions of this Court in terms of its order dated 07.11.2017 referring to the 200 metre Buffer Zone and which was identified by the task force on 11.02.2018, with a request being made to re-examine the issue by conducting a detailed site inspection and the GI analysis following the guidelines of 2020 and by directing that 200 metres Buffer Zone be maintained as directed by the Hon'ble Court.

Since we have already expressed our view that once a statutory regime has come into force, in the wake of the power conferred under the statute, which must permit to have its operation, until and unless there is a compelling reason not to give effect to, and since we are of the view that the order passed by us on 07.11.2017 was an interim order, which must give way to the Notification issued by the Government of Goa, under Rule 7 of the Wetlands Rules 2017, we permit the Petitioner to pursue the representation with the concerned authority. Ms.

Mordekar, learned Additional Government Advocate representing the Goa State Wetland Authority state that the representation, if any, be received shall considered in accordance with law.

13. In the wake of the aforesaid, we allow the Misc. Civil Application No. 593/2023, in the wake of the declaration of the Bondvoll Lake, as a Wetland area in terms of the Government Gazette Notification dated 20.10.2022 and it shall carry the restrictions are imposed in the said Notification.

We must clarify that the restrictions which are contemplated under Rule 4 of the Rules of 2017 are already a part of the Notification which is issued.

The Notification issued clearly referred to the objections invited and the response received which was also taken into consideration before the final notification was issued and according to Mr. Kantak, on two occasions.

16. In the wake of the aforesaid, since nothing survives in the Petition for determination, we dispose off the same with liberty to the Petition as prayed for.

17. As far as Petitioner in Writ Petition no. 590 of 2017 is concerned, the Petitioner is also at liberty to make a representation, within a period of two weeks, which shall also be taken into consideration by the Wetland State Authority.

18. Misc. Civil Applications, if any, and the memo Petitions are also disposed of.

NIVEDITA P. MEHTA, J.

BHARATI DANGRE, J.