



Vinita

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.411 of 2024

VISHAL BHAMARE AND 2 ORS. ... Petitioners.

V e r s u s

THE STATE OF GOA, THR. ITS
CHIEF SECRETARY AND 6 ORS. Respondents.

Mr Shivan Desai, Ms Riya Amonkar Advocates for the petitioners.
Mr Shivdutt P, Munj, Addl. Govt. Advocate for the respondent
nos.1 and 2.

Mr Manish Salkar, Advocate for respondent no. 6.

Mr Sarvesh Sawant, Advocate for respondent no. 7.

Mr Rohit Frias, Advocate for respondent no.4.

**CORAM: M. S. SONAK &
NIVEDITA P. MEHTA, JJ.**

Date: 18th July 2025.

ORAL ORDER (*PER M. S. Sonak, J.*).

1. Heard learned Counsel for the parties.
2. The petitioners object to the Materials Recovery Facility (MRF) established by Village Panchayat of Nachinola (Panchayat) on the ground that it is within 35 mts from the petitioners'

property, whereas in fact, a buffer zone of 50 mts should have been maintained as per guidelines.

3. Mr Desai submitted that the Comunidade of Nachinola (Respondent no. 7) has provided the property to the panchayat for setting up this MRF. He submitted that the Comunidade had additional land, and if this MRF is shifted, the petitioners are willing to bear all the expenses for the construction of a new MRF and also to compensate the panchayat for the expenses incurred by them to construct the present MRF. He states that MRF should be at the garbage management site identified in the regional plan in the property bearing survey No.71/O of Nachinola Village.

4. The learned Counsel for the panchayat submitted that the petitioners have put up their structures in what was earlier demarcated as an ECO sensitive zone. They pointed out that approvals for setting up MRF were granted much before the petitioners could obtain the conversions or approvals for putting up their structures. He pointed out that with open eyes and full knowledge that the MRF was in the offing, the petitioners have put up their structures and now object to MRF, which is already in place, citing the guidelines.

5. Learned Counsel for the Comunidade (Respondent no. 7) has pointed out that because MRF was for a public purpose, the Comunidade has identified the present site at the edge of its property and permitted the panchayat to set up MRF. He pointed out that the alternative proposal of the petitioners was considered, but on account of topography and also because the same would affect the other properties of the Comunidades, such a proposal was not found to be feasible.

6. The learned Counsel for the panchayat and Comunidade in unison submitted that establishing the MRF was a statutory duty. This duty was further reinforced due to the Court's directions. They pointed out that the panchayat was even required to face contempt proceedings for non-compliance. Further, they pointed out that MRF has been set up after obtaining permissions from all the authorities, including the Goa State Pollution Control Board. He submitted that this is nothing but a case of NIMBY (not in my backyard), and that too, after full knowledge that the MRF was going to be set up at the present site. Accordingly, learned Counsel for the respondents submitted that this Court should not exercise its equitable and discretionary jurisdiction to assist such petitioners.

7. Having considered the rival contentions and also perusing the material on record, we are satisfied that this petition should not be entertained for the reasons which we shall briefly indicate.
8. Records do bear out that MRF has been established after several directions were issued by this Court, including directions in contempt petitions, because the panchayats all over the State were lethargic regarding statutory compliance.
9. There is also no dispute that MRF has been established after obtaining necessary permissions inter alia from the Goa State Pollution Control Board.
10. Records also *prima facie* indicate that the proposal for this MRF site was approved prior to the petitioners' putting up their constructions earlier in the ecosensitive zone. The circumstance that the petitioners put up its structures first does not entitle the petitioner to insist that the MRF should now be shifted. Records also show that the site where the petitioners have put up their construction was earlier an ecosensitive site.
11. Learned Counsel for the respondents pointed out that even the GMS facilities at Aldona are hardly 25 mts from the petitioners' structures, but the petitioners have chosen not to object to the same.

12. Thus, it appears that the petitioners with full knowledge about pending establishments of MRF, chose to purchase and construct on the present site, and now they cite the guidelines to contend that the MRF is within the buffer zone.

13. In such circumstances, we cannot appreciate the petitioners' contention or grant the petitioners any relief that will seriously affect public interest.

14. The Petitioners' proposal about shifting at the cost of the petitioners at the first blush appeared reasonable. However, the learned Counsel for Comunidade pointed out that the proposal was considered but not found to be feasible. He submitted that apart from topographical reasons, any shifting would again affect the Comunidade's property. Learned Counsel submitted that there was no point in again issuing directions to the Comunidade to reconsider the petitioners' proposal.

15. For all the above reasons, we decline to entertain the present petition and dismiss the same.

16. No costs.

NIVEDITA P. MEHTA, J.

M. S. SONAK, J.