



IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.266 OF 2025

Mr. Rahul Basu,
S/o Subir Kumar Basu,
aged 57 years, Consultant,
having Aadhar No .: XXXX XXXX XXXX,
Phone No .: +91 9096039878,
E-mail:rahulbasu@yahoo.com,
residing at, 204, Nagalli Hills, Dona
Paula, Goa, 403004.

... Petitioner

Versus

1. The State of Goa,
Through its Chief Secretary,
Secretariat, Porvorim, Goa -
403521.
2. The Town And Country
Planning Department,
Through its Chief Town
Planner,
Dempo Towers, Patto Plaza,
Panaji, Goa- 403001
3. The Deputy Collector (North
Goa), Collectorate Building,
Panaji, Goa- 403001.
4. The Village Panchayat of
Taleigao, Secretary, Taleigao,
Tiswadi Taluka, Goa - 403002.
5. The North Goa Planning And
Development Authority,
Through its Member Secretary,
1st Floor, Archdiocese Bldg.,
Mala Link Road, Panaji, Goa,
403001.

6. The Goa State Pollution Control
Board, Through its Member
Secretary, Saligao, Bardez,
Goa-403511

7. Mayuresh Chandranath
Dhume, 848/1, NH-17, Near
Delfinos, Alto- Porvorim,
Bardez,
Goa, 403521, major in age.

... Respondents.

**Mr Sherwyn Filipe Francis Correia with Mr Om D'Costa and
Ms Malisa Simoes, Advocates** for the Petitioner.

**Mr Devidas J. Pangam, Advocate General with Mr Prashil
Arolkar, Additional Government Advocate** for Respondents
No.1, 2 and 3.

Mr Pranay Kamat, Advocate for Respondent No.4.

Mr Somnath B. Karpe with Mr Anand Shirodkar, Advocate
for Respondent No.5.

Mr Joaquim Godinho, Advocate for Respondent No.6.

**Mr Pankaj Pai Vernekar and Ms Nikita A. Sinai Nadkarni,
Advocate** for Respondent No.7.

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

DATED : 10th SEPTEMBER, 2025.

ORAL JDGMENT: (Per. BHARATI DANGRE, J.)

1. The present Petition revolve around the allegation of
unauthorised hill-cutting activity being carried out on Plot 268 of
Survey No.279/1 in Taleigao Village, Tiswadi Taluka, North Goa.

The Petition is premised upon the assertion that the aforesaid
activity is carried out on a steep-sloped area which comes within the

ambit of "No Development Slope" in terms of the Goa (Land Development and Building Construction Regulations, 2010 (referred to as 'the Regulations of 2010').

Describing the area to be topographically sensitive, characterised by slopes exceeding 25%, which are ecologically protected under the Regulations of 2010, the Petition pleads that the Regional Plan 2021 reflect the area as 'No Development Slope', but in utter contrast, the ODP has not reflected it to be so.

'Rule'. Rule is made returnable forthwith.

2. We have heard the learned Counsel for the Petitioner in the backdrop of the pleadings and the relief sought in the Petition and it is his specific contention that the steepness of the slope at Plot No.268 of Survey No.279/1 (referred to as 'the subject plot'), has been demonstrated through the surveys carried out and the contour maps sourced from the Geological Survey of India and these maps reflect the gradient approximating a drop of 15 metres over a 30 metre stretch translating into a 50% slope exceeding the 25% threshold, that classify the area as No Development Slope under the Regulations of 2010.

The Petitioner is therefore aggrieved by the construction activity carried on the said plot by Respondent No.7, who has secured Development permission, Construction licence in respect of the plot on which the construction activity is ongoing, the development permission being granted on 07.02.2025 and the construction licence on 20.03.2025.

The Petitioner has annexed the relevant documents, which is the development permission granted for carrying out the construction of the proposed house along with swimming pool, compound wall and retaining wall as per the enclosed approved plans on the sub-division

No.279/1 having Plot No.268 of approved Development permissions. It is noted that the Development permission has stipulated several conditions to be complied before the plot is developed.

Apart from this, the construction licence issued by the Village Panchayat Taleigao dated 20.03.2025 also clearly stipulate that the applicant shall comply with the conditions imposed in the development permission issued by the NDPDA, Panaji Goa, as well as the other Authorities including the terms and conditions imposed by the Directorate of Health Services, conditions imposed by the Sub-Divisional Engineer, Electricity Department, etc. The development permission in particular contain a clause to the following effect:

“8. In case of any cutting of hilly or sloping land or filling of low-lying land is involved, prior permission of the Chief Town Planner (Land use) has to be obtained as per the provisions of Section 17(A) of the Goa Town and Country Planning Act 1974 before commencement of work.”

3. In compliance of the aforesaid, the private Respondent has already secured the permission for cutting of land under Section 17(A) of the Goa Town and Country Planning Act, 1974 for the upcoming construction of residential building and retaining wall on 20.01.2025, wherein it is clearly provided that the cutting of land shall be carried out on the subject plot as per the drawing annexed bearing reference number/permission and the cutting of hilly land shall be restricted to only excavation of the foundation of the foothills and for services for construction of building as per the guidelines and it shall ensure proper drainage in conformity with the existing drainage network for free flow of land.

With this requisite permission being in place, the Respondent has proceeded with the construction, which is objected to by the Petitioner.

4. The learned Counsel for the Petitioner has obtained necessary information under the Right to Information Act and this includes the noting from the NGPDA when the permission was granted for hill-cutting by relying upon clause 12.3(d) of the Regulations, 2010 and though it is observed that the gradient of the property is more than permissible limit of 25% for development, by invoking clause 12.3(d) of the Regulations of 2010, it is noted that this condition is not applicable to the sub-divided plot already approved prior to the coming into force of the Regulations and since sub-division in this case was approved way back in 1976, the permissible limit of 25% for development is not applicable to the aforesaid construction permission.

5. The learned Advocate General would invite our attention to the final NOC for sub-division of plots covering the subject plot issued by the Town Planning Committee, Government of Goa on 17.02.1976 and also to the sketch map of the said plot being part of the said communication and based on the same, it is urged before us that this sub-division was permitted way back in the year 1976 and it is upon this, the conversion sanad was also obtained under Section 32 of the Goa Land Revenue Code, 1968 as back as on 31.01.1978. The said Sanad also covers Plot No.279/1 along with its sub-division and therefore, we find the State Government specifically relying upon clause 12.3(d) of the Regulations of 2010 which is inserted by way of an Amendment in the year 2011 thereby not permitting development of a plot having inclination of more than 25% slope, by carving out an exception in respect of the sub-divided already approved prior to the coming into force of the Regulations.

From the aforesaid documents, it is evidently clear that the sub-division took place in the year 1976, and even the conversion Sanad was obtained and in the wake of the note in the Regional Plan for saving of the past commitments including the conversion Sanad as well as the sub-division permissions, we find no substance in the submission of the learned Counsel for the Petitioner that despite the gradient being more

than 25%, the Respondent has been able to secure all the requisite permissions.

6. As far as the challenge raised to the Amendment introduced vide Notification dated 09.08.2011, the learned Counsel for the Petitioner has urged before us that the said Amendment is bad in law in wake of non-adherence to the procedure prescribed under Section 5 of The Goa (Regulation of Land Development and Building Construction) Act, 2008, which contemplated that the power to make Regulations under Section 4 is subject to the condition of previous publication and such publication to be made in the Official Gazette and in at least three local newspapers having wide circulation inviting any objections or suggestions from the public for a period of 30 days.

Though we have given a thoughtful consideration to the said challenge, we must refuse to entertain the same on two counts; firstly, the challenge to the Amendment of 2011 is staked in the year 2025 and therefore, according to us, the delay itself must defeat the said challenge. It is now that the Petitioner who woke up from slumber and became conscious of its existence or feel affected/impacted by the said Amendment which is later than two decades, a challenge is raised, contending that while entertaining a challenge under Article 226 of the Constitution, the delay need not come in the way of the Court in exercising its writ jurisdiction.

We do not subscribe to the view expressed by the learned Counsel for the Petitioner for the very simple reason that the Petition has been filed not as a Public Interest Litigation, but being aggrieved by the permissions granted to the private Respondent and as we have noted that because the Government has invoked the exception carved out in Clause No.12.3(d) of the Regulation, the Petitioner has deemed it appropriate to raise a challenge to the same.

The second ground raised by the Petitioner also fails to impress us as a conjoint reading of Section 3 read with Section 5 of The Goa

(Regulation of Land Development and Building Construction) Act, 2008, which is an Act provided for regulation and control on building constructions and land development in the State of Goa, has conferred the power upon the Government to frame Regulations for giving effect to the provisions of the Act as Section 4 has carved out the subject on which the State Government is empowered to make the Regulations.

The power of making Regulations in terms of Section 5 has been made subject to the previous publications and the publications being intended to be made in the Official Gazette and three local newspapers, inviting objections and suggestions from the public for a period of 30 days. This was to be followed by constitution of a Steering Committee comprising of Chief Minister as its Chairman as well as several other responsible officials including, Minister of Urban Development, the Chief Secretary of the State of Goa, etc., which is authorised upon the Sub-Committee consisting another group of officials for the purpose of considering objections and suggestions received from the public and to submit a report to the Steering Committee so that the same shall be deliberated upon. Thereafter, the Steering Committee, after considering the report of the Sub-Committee, is authorised to submit its recommendations to the State Government pursuant to which the Regulations under Section 7 are framed and come into effect as per Section 8.

7. The contention of the learned Counsel that every Amendment in the Regulation must follow the same procedure does not appeal to us, as we find that the procedure contemplated from Section 4 to Section 8 is applicable to the Regulations which were framed by the Government, being captioned as ‘The Goa Land Development and Building Construction Regulations, 2010’.

A perusal of the Notification declaring these Regulations would reveal that the entire procedure as contemplated from Section 4 to Section 8 has been strictly followed with the involvement of the Steering

Committee and the Sub-Committee. Therefore, we are not inclined to accept the submission of the learned Counsel for the Petitioner that, for this Amendment also, the procedure was necessarily to be followed.

Apart from this, when we have perused the affidavit filed by the Chief Town Planner (Administration/Planning), Town and Country Planning Department, we have noted that an exercise was carried out wherein a Sub-Committee was appointed with regards to the proposed Amendment to be included in the Regulations of 2010 and the Steering Committee constituted under the Act of 2008 held its meeting on 21.01.2011, once again deliberating upon the suggestions and along with the affidavit we find a report that is annexed in form of annexure A, as regards the meeting of the Steering Committee held on 21.01.2011 and this extend to the Amendment to Clause 12.3(d), not extending the applicability of the main clause to the sub-divided plots already approved prior to coming into force of the Regulations.

From the aforesaid annexure, which also has included Amendment to several other Clauses, including Regulation No.12.1(b), 12.1(g), 12.3(d) and 12.4(b) and which are introduced in the Regulations by the said Amendment, we find the necessary procedure to have been carried out which included constitution of a Sub-Committee, calling of suggestions, and just because the Petitioner did not bother at the relevant time and rather, was not concerned with the issue and did not raise any objection, do not make the Amendment non-compliant with the procedural aspect, as we find that the necessary procedure was carried out while introducing the said Amendment. In any case, it is too late in the day to raise a hoarse cry, that the procedure was not followed.

8. In the wake of the aforesaid, since we find that the Petition has a limited scope as it is not a Public Interest Litigation and what can be looked into is only the aspect of the right of the Petitioner, either fundamental right or legal right being impacted, and since we find that there is no infraction to his right, as the private Respondent, after securing

necessary permissions is undertaking the construction which happens to be in same layout, i.e. Survey No.279/1, we do not feel that the Petitioner is entitled to raise any objection, as he is unable to point out infraction of his legal right.

In the wake of the aforesaid, Rule is discharged as we dismiss the Writ Petition.

ASHISH S. CHAVAN, J

BHARATI DANGRE, J.