



Suzana

IN THE HIGH COURT OF BOMBAY AT GOA**PUBLIC INTEREST LITIGATION WRIT PETITION
NO.50 OF 2024**

Mr Dean DCruz,
Aged 65 years, married,
Resident of House No.7/54,
Villa Rosa Cruz, Salmona,
Saligao, Bardez Goa 403511
Mobile No.9822124239
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Aadhar Card No.XXXXXXXXXXXXXX
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... Petitioner*Versus*

1. The State of Goa,
Through the Chief Secretary,
Secretariat, Alto Porvorim,
Bardez Goa.
2. Town & Country Planning Department,
Through the Chief Town Planner,
Dempo Tower, 2nd Floor, Patto Plaza,
Panaj Goa 403001.
3. Deputy Town Planner,
Mamlatdar Building,
Mapusa, Bardez, Goa.
4. Goa Forest Department,
Through the Principal Chief Conservator of Forests
Altinho, Panaji, Goa.
5. Village Panchayat of Pomburpa,
Through its Secretary,
Pomburpa, Goa.

6. M/s. Turiya II
1601/2, 6A, Whispering Plams,
Lokhadwala, Khandivali(E),
Mumbai, 40010
 7. Collector-North Goa,
Collectorate Bldg.,
Panaji, Goa.
 8. Mamlatdar-Tiswadi,
Collectorate Bldg,
Panaji, Goa.
 9. Mr. Kartikeya Ladha
Son of Atul Ladha, Age 30 years,
R/o. Flat No:Gf-2, Tower F,
Pearls, Gateway Towers, Sec 44,
Plot D-8a, Noida, Gautam Buddha Nagar,
Uttar Pradesh – 201301.
- ... Respondents**

Mr Rohit Bras De Sa, Advocate for the Petitioner.

Mr Devidas J. Pangam, Advocate General with Mr Shubham Priolkar, Additional Government Advocate for Respondent Nos.1 to 4, 7 and 8.

Mr. Vibhav Amonkar, Advocate with Mr Raj Chodankar, Advocate for Respondent No.6.

Mr Abhijit Gosavi, Advocate with Mr Ivo M. S. D'Costa and Ms Krupa Naik, Advocates for Respondent No.9.

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

DATED : 09th JULY, 2025.

ORAL JUDGMENT: ((*Per. Bharati Dangre, J.*)

1. Mr Dean D'Cruz, a practicing Architect in the State of Goa and claiming to be a part of the State Level Committee preparing the Regional Plan 2021, with the background that he has staunchly advocated protecting Goa's green cover and promoting sustainable development, and also inspired others to join the cause, has filed the present Public Interest Litigation Writ Petition.

Giving the background of the work undertaken by him in the field of environment combining his expertise in architecture, which would make difference in people's life and in improving the professional standard, the Petitioner has made a declaration that he has no personal interest in the matter but the PIL has been filed by him in the larger interest of the residents of State of Goa.

The Petition raise a challenge to the alleged arbitrary and malafide permissions/licences granted by the Authorities in form of Conversion Sanad, Technical Clearance and No Objection Certificate issued by the Conservator of Forest, in respect of the property, which has been notified as a Private Forest in terms of the direction of the Supreme Court.

The Petition specifically involve Survey No.61 of Village Pomburpa and it revolve around the permissions granted in respect of M/s. Turiya II in Survey No.61/1 admeasuring 975 sq.mtrs.

2. We have heard Mr De Sa, learned Counsel for the Petitioner in support of the claim in the Petition which seek multiple reliefs, the gist of which, in short, can be summarised to the effect that the licence granted in favour of Respondent No.9 by the Village Panchayat as well as the permissions granted by Town & Country Planning Department (TCP) as well as the NOC issued by the Deputy Conservator of Forest, North Goa Division is illegal, since Survey No.61, has been declared to be a Private Forest area by the Notification issued by the State Government on 22.09.2022, pursuant to a herculean exercise carried out, with formation of several Committees, identifying the Private Forest and thereafter the matter having been travelled upto the National Green Tribunal which had approved the reports of the said Committees.

Mr De Sa has invited our attention to the Notification published by the Government of Goa in form of Notification No.55/DCF(WP)/Court Case/S.C./2021-22/Part file/FD/167 when the State Government in pursuance of the directions issued by the National Green Tribunal notified 41.20sq.km area demarcated by the Forest Department and 4.91sq.km area identified by Review Committee (Sharma Committee) headed by DCF(Working Plan) totalling 46.11 sq.kms as Private Forest.

The Notification specifically declare as under:

"The survey numbers demarcated by Forest Department having an area of 41.20sq.km and identified by Review Committee (Sharma Committee) having an area of

4.91 sq.km totalling 46.11 sq.km confirmed and accepted as private forest are specified in the table below.”

A table in the Notification then enumerate the area admeasuring 46.11 sq.km falling in different Talukas/Villages with reference to the survey numbers identified by the Sawant and Karapurkar Committee as well as the adjoining survey numbers included by earlier demarcation of Forest Department. In this table, Village Pomburpa find place at Serial No.81 by referring its Taluka to be Bardez and in the fourth column one can find survey numbers with the following description:

“9/1(p), 12/1, 13/1, 16/2, 74, 71, 29, 40, 50, 61, 15 and 27”.

The said Notification, also stipulate as under:

"The detail findings of the Review Committee headed by the Deputy Conservator of Forest (Working Plan) submitted before the National Green Tribunal in respect of the above said survey numbers is annexed herewith as Annexure-I.”

The Notification is declared to have come into force on the date of its publication in the Official Gazette, i.e. on 13.09.2022.

3. Relying upon the said Notification, it is the argument of Mr De Sa that as far as Survey No.61 of Pomburpa Village is concerned, the entire Survey number, in terms of the Notification, is declared as Private Forest and this was so accepted by the NGT in its order dated 18.08.2020. He would invite our attention to the report of the Review

Committee and according to him the tabulation in the said report, pertaining to Survey No.61 of Pomburpa Village has referred to the Tentative Private Forest Area identified by the Committee as 4.12 hectares (ha) whereas the actual area of Survey No.61 as per Form No.I & IV, Form D/Sy Plan is 4.19 hectares. The chart according to him has indicated the status of this plan as part forest. It is therefore his submission that Survey No.61 is a Private Forest and the Authorities could not have permitted its development as was permitted by granting necessary permissions/clearances in favour of Respondent No.9.

4. The learned Advocate General, Mr Pangam has placed before us the sequence of dates and events, commencing right from the decision of the Hon'ble Apex Court in case of ***T. N. Godavarman Thirumulkpad v/s. Union of India & Ors¹***, which directed identification of private forest in the State. He would submit that pursuant to the said decision, a Committee was constituted by the Government of Goa known as S. M. Sawant Committee for identification of Private Forest by applying the three criteria laid down; viz., 75% forest species, contiguous forest of 5 hectares and canopy density of 0.4.

By applying the criteria, the Committee submitted its final report dated 10.12.1999 and identified 46.60sq kms of Private

¹ (1997) 2 SCC 267

Forest, but did not draw curtains on the exercise and indicated that more forest area needed to be identified.

This prompted the Government to constitute another Committee on 04.09.2000 under the Chairmanship of Dr. Hemant Karapurkar to undertake the unfinished exercise and when the matter was taken up in the Apex Court a clarification was issued that the said Committee shall only identify the additional forest area, in addition to the areas which were identified by the Sawant Committee, but shall not meddle with the report of the Sawant Committee. This resulted in the Karapurkar Committee submitting its final report on 16.10.2002 when it identified additional area of 20.50sqkm as Private Forest.

5. In a Petition filed by the Goa Foundation in the High Court of Bombay at Goa, a direction was issued to demarcate the Private Forest identified by both the Committees at loco by conducting an exhaustive survey. This was followed by a report being submitted by the Forest Department to the High Court on conducting demarcation of non-forest area to forest area and the report identified an area of 41.20sqkm as Private Forest. This report came to be challenged by filing a Writ Petition 673 of 2008 before the High Court by the Goa Foundation on the basis that there is reduction in the area which was declared as Private Forest and this Petition was transferred to the NGT, Pune and was thereafter prosecuted before the Tribunal. On 07.09.2017, NGT, Pune directed Government of

Goa to constitute a Committee to demarcate the Private Forest on each land identified by the Sawant & Karapurkar Committee. This resulted in constitution of a Committee under the Chairmanship of Deepshikha Sharma (Deputy Conservator of Forests) (Working Plan Division) with specific terms of reference being made over to it.

The Committee submitted its report on 21.06.2019, which identified an area of 46.11sqkm of private land which was identified by the earlier two Committees, viz. Sawant & Karapurkar Committee. Thereafter, the Government of Goa constituted a Committee under the Chairmanship of Joint Secretary (Revenue), to hear the objections and submit a report pertaining to Private Forest and the Principal Conservator of Forest filed a status report before the NGT, Pune on 04.03.2020 and this report was finally accepted by the NGT on 11.08.2020 and the NGT by recording that the matter has been surveyed, identified and demarcated area more than four times by the Committee of the Forest Department, decided to put an end to the proceedings by accepting the report of the Sharma Committee.

Thus, conclusively, the Tribunal confirmed the demarcation of 41.20sqkm area demarcated by Forest Department and 4.91sqkm area identified by Sharma Committee totalling 46.11 sqkm area as 'Private Forest' in the State of Goa.

The Chief Secretary of the State of Goa was directed to notify the same and make suitable entries in the Revenue records in accordance with the rules as expeditiously as possible.

6. In the background of the aforesaid, it is the submission of the learned Advocate General that it is not that whatever area was carved out by Sawant and Karapurkar Committee as Private Forest was accepted by the Government as it is and he would submit that in the wake of the report of the Review Committee which was constituted for review of Private Forest areas identified by the Sawant and Karapurkar Committee, the Committee, after reverification and analysis of the data with respect to forest plan/classified images of the year 2003, had identified an area of 46.11sqkm as Private Forest area and ultimately this is the report accepted by the Government and area was notified accordingly.

7. The learned Counsel representing Respondent No.9 has along with his affidavit has placed before us the judgment passed by the NGT which has confirmed the findings by the Review Committee (Deepshikha Committee) and he would join hands with the learned Advocate General in submitting that the position that emerged after the report of the Review Committee was received, was to the effect that out of Survey No.61 of Pomburpa Village only an area of 0.15 hectare amounted to a Private Forest area.

8. We have considered the rival contentions advanced before us and perused the pleadings in the Petition as well as the affidavit specifically filed by Respondent No.4 as well as Respondent No.9 traversing the case of the Petitioner that the entire Survey No.61 is declared as a forest area. The affidavit on behalf of the Forest Department being filed by Deputy Conservator of Forest, Mr Jiss K. Varkey, categorically depose as under:

“8. I say that in pursuance to the directions of Hon'ble National Green Tribunal vide Order dated 18-08-2020, Government of Goa notified 46.11 sq. km area as Private Forests vide Notification No.55/DCF(WP)/Court Case/S.C/2021-22/Part file/FD/167 dated 13th September, 2022.
(Annexed herewith and marked as Annexure 'A' is the Copy of the Notification.).

9. I say that the said Notification states that Hon'ble National Green Tribunal accepted the report of the Review Committee (Sharma Committee) and directed that 41.20 sq. Km area demarcated by Forest Department and 4.91 sq. km area identified by the Sharma Committee totalling 46.11 sq. km which is confirmed and accepted by Hon'ble National Green Tribunal is only notified as Private Forest. The TABLE given in the said Notification listed out the Survey Numbers originally identified as Private Forest by the earlier committees.

10. I say that the Survey No. 61 of Pomburpa Village was originally identified as Private Forest by Dr. Karapurkar Committee and demarcated an area of 0.15 Ha as Private Forests. The Review Committee headed by DCF(WP) or Sharma Committee reviewed the said Survey Number and, in its report, as accepted by the Hon'ble National Green Tribunal stated (in Page No. 30 & 31) that out of the total

area of 4.19 Hectares area of the Survey. No. 61, a tentative area of 4.12 Ha was identified as Private Forest by Dr. Karapurkar Committee and the area left undemarcated by earlier demarcation team of Forest Department is 4.0411 Hectare. Sharma Committee reviewed this undemarcated 4.0411 Hectare area under Survey. No. 61 of the Pompurpa village and the remarks of the review committee stated that *'the area is partly demarcated by earlier demarcation team. Balance area does not qualify the criteria of Private Forests'*. In view of above, effectively 0.15 Hectare is only the Private Forests as per Sharma Committee, out of total 4.19 Hectare area under Survey. No. 61 of Pombupa village (*Annexed herewith and marked as Annexure 'B' is the Copy of the Report of the Review Committee headed by DCF(WP)-(Sharma Committee)*)

- 11.I say that the Forest Department has already digitized the demarcated Private Forest areas and the Survey Numbers with all subdivisions as per revenue records overlayed. The digitized map clearly shows that part area (0.15 Ha) under Subdivisions 11, 12, 13, 14 & 15 of the Survey No. 61 is part of the Private Forest demarcated by earlier demarcation team (Grid area in digitized map). Remaining area including entire subdivision 1 of Survey No. 61 of Pomburpa village is not part of Private Forests as no more area under this Survey Number qualified the criteria of Private Forests as per the Sharma Committee report as detailed in Page No. 30 & 31 of the report.
(*Annexed herewith and marked as Annexure 'C' is the Copy of the digitized map of the Private Forests under Survey. No. 61 of Pomburpa Village.*)”

9. We have perused the report of the Review Committee which is annexed along with the said affidavit, the report being submitted on 21.06.2019.

In the backdrop that it was necessary to identify the private forest in the State, in pursuance of the landmark judgment of the Hon'ble Apex Court in the case of **T. N. Godavarman Thirumulkpad v/s. Union of India & Ors.**, pronounced on 12.12.1996, the Government of Goa constituted Expert Committee headed by Mr Sadanand Sawant and Mr Karapurkar who identified the Private Forest area in the State of Goa and in terms of the directions issued by the High Court of Bombay at Goa, the Forest Department demarcated an area of 41.20sq.km out of total area of 67.12sq.km, which was identified as private area cumulatively by both the Committees. However, when the demarcation was challenged in a Writ Petition before the High Court by Goa Foundation and the matter was transferred to NGT in terms of the directions issued by the NGT on 07.01.2016, a Review Committee was formed by the Government on 23.04.2018 under the Chairmanship of the Deputy Conservator of Forests (Working Plan Division) to review the areas identified by all the earlier Committees. The terms of the Review Committee specifically stipulated thus:

“2.2. Terms of Reference (TOR) of the Review Committee read thus:

- (i) The Committee shall review digitized maps of private forest areas which have been prepared

using the Revenue Department/Directorate of Settlement and Land Records and overlaid on the Forest Cover Map/ Classified image of the Forest Survey of India for assessment of Forest cover in Goa, conforming to the three criteria.

- (ii) Technical expertise of Forest Survey of India (FSI), Bangalore could be taken in order to ascertain the composition and canopy density of the identified areas, if there is any dispute.
- (iii) The Dy. Conservator of Forests of the concerned territorial divisions will then carry out ground verification in respect of such cases which are in doubt or having ambiguity in order to prepare final report on Private Forest areas in the State.
- (iv) The Committee shall submit its report within period of 3 (three) months.”

10. The Review Committee thereafter carried out the entire exercise by setting out the criteria and methodology to be adopted by it to achieve the stipulated terms of reference in the backdrop of the reports of the Sawant and Karapurkar Committee and this included an exercise of digitisation of private forest data as well as superimposing on forest cover map/classified images and the image interpretation coupled with ground verification, as the Private Forest had to be identified in the backdrop of the three prescribed criteria of the tree composition of the forest species, canopy density as well as the contiguous area of 5kms.

By applying the said methodology, the Committee declared its conclusion, by specifically concluding that out of total 67.12sq.km area identified by Sawant and Karapurkar Committee, the in loco exercise for identification of these areas was carried out with the help of the forest cover map and by superimposition of this map over the ground area on the ground and it was revealed that an area of 9.72sq.km out of total area of 34.28sq.km was found to be qualifying the canopy density criteria, however on the ground verification was 75% species composition criteria and out of 9.72sqkm area, an area of 4.91sqkm was found to be qualifying all the three criteria of Private Forest. The Review Committee, therefore, declared 4.91sq.km (491.09hectares) area in 12 Talukas, including Taluka Bardez, as the Private Forest.

It concluded its findings in the following manner:

“5.3. After field verification and analysis of field data with respect to Forest Cover Map/Classified image of year 2003, out of total 92 villages of 12 talukas under review, in 52 villages, an additional area of 4.01 sq km has been found to be qualifying all three private forest criteria by the Review committee. Therefore out of total 67.12 a km referred area by Sawant and Karapurkar committee, the review committee has identified an area of 46.11 sq km as Private Forest of Goa.”

11. The said report is also accompanied with the sub-division number-wise details of Private Forest as identified by the Review Committee and, on its perusal, when we turn our attention to Village Pomburpa, which include Survey No.14, it is evidently clear to us

that the tentative Private Forest area identified by the Committee is set out to be 4.11 hectare whereas the actual area of the Survey number is set out to be 4.19 hectare. However, upon applying the threefold test for identifying the Private Forest area to be so, out of the said area of 4.12sqkm, the area left un-demarcated by earlier demarcation team of the Forest Department was described to be 4.0411ha.

This left only an area of 0.15 hectare to be the forest land and the Review Committee affixed the following remark upon the said calculation being set out in respect of Survey No.61; “The area is partly demarcated by earlier demarcation team. Balance area does not qualify for criteria of private forest”.

According to the Committee, therefore, the area of 4.0411 hectare out of 4.19 hectare, which was the total area of Survey No.61, was un-demarcated area leaving only 0.15 hectare area to be the forest area.

12. The learned Advocate General has also placed reliance upon the map indicating the demarcated area from Survey No.61, which, according to him, is a digital map and from this map it is evident to us that from Survey No.61, only 0.15 hectare area has been demarcated as Private Forest and it is also indicated that the total area of Survey No.61 is 4.19 hectare.

13. We find that the finding in this report being accepted by the NGT which directed the State Government to notify the Private Forest areas and therefore, when the Notification dated 22.09.2022 is perused, we find the table indicating the survey numbers identified as private area, covering an area of 46.11sqkm and Survey No.61 of Village Pomburpa is one of such survey, which has been identified to have some area which was declared as Private Forest area.

In the wake of the aforesaid clarification that has emerged before us and on the submission advanced by the learned Advocate General as well as the submission advanced on behalf of Respondent No.9, we are not ready to accept the submission advanced by the Petitioner that the entire area from Survey No.61 is a “private forest area.” It is no doubt true that in Survey No.61, an area of 0.15 hectares has been declared as forest area and as far as the land in respect of which permission has been granted by the respective Authorities in favour of Respondent No.9 do not fall within the Private Forest area, we do not see any legal embargo in refusing the permission for development as well as grant of technical clearances for undertaking the construction.

14. Mr De Sa, at this stage, would specifically make an argument that in terms of the directions of the NGT, it was necessary for the State Government to notify the Private Forest areas and we find substance in the submission as we have noted that the NGT in its judgment had clearly directed the Chief Secretary of the State of Goa

to notify the area of 46.11sqkm as Private Forest Area and make suitable entries in the Revenue records in accordance with the rules. If this exercise is not carried out, we expect the State Government to comply with the directions forthwith.

In the wake of the above, finding no merit in the contention of the Petitioners, it is dismissed.

No order as to costs.

NIVEDITA P. MEHTA, J.

BHARATI DANGRE, J.