

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
SUO MOTU WRIT PETITION NO.2 OF 2007
WITH
OTHER CONNECTED MATTERS

.. *Petitioner.*

Versus

***State of Goa through Chief
Secretary and others.***

..... ***Respondents.***

Mr. D. Pangam, Advocate General with Mr. Geetesh Shetye, Additional Government Advocate for the State.

Mr. D. Pangam, Advocate General with Mr. A. Talaulikar, Additional Government Advocate for the State in WP No. 935 of 2017.

Mr. D. Pangam, Advocate General with Mr. Pravin Faldessai, Additional Government Advocate for the State in CP 43/2017 in PIL WP 4/2007.

Mr. D. Pangam, Advocate General with Mr. Deep Shirodkar, Additional Government Advocate for the State in PILWP No.39 of 2018.

Mr. D. Pangam, Advocate General with Mr. Sagar Dhargalkar, Additional Government Advocate for the State in PILWP No.20 of 2017.

Mr. A. D. Bhohe, Advocate for Respondent Nos. 11, 15 in SMWP No. 2 of 2007, for Respondent No. 1 in CP No. 43 of 2017, PILWP No. 4 of 2007, for Respondent No.2 in PILWP No.20 of 2017, for the Petitioner in WP No.935 of 2017.

Mr. Amit Palekar, Advocate for Respondent Nos. 29, 30, 31, 34 and 35.

Mr. Byron Rodrigues for Respondent No.2 in CP 31/2010 in SMWP 2007.

Mr. D. Lawande with Mr. P. Dangui, Advocates for the GSPCB.

Mr. Aires Rodrigues in person in C.P. No.43/2017 in PILWP 4/2007.

The Commissioner, CCP in person.

***Coram : M.S. Sonak &
Smt. M.S. Jawalkar, JJ.***

Date : 16th June, 2020.

P.C. :-

Heard Ms. Norma Alvares, the learned Amicus Curiae, and Mr. D. Pangam, the learned Advocate General for the State, as well as the Goa Waste Management Corporation (GWMC). Mr. Bhobe appears for the Corporation of the City of Panaji (CCP). Mr. Lawande appears for the Goa State Pollution Control Board (GSPCB).

2. In furtherance of the orders made on 5th June, 2020, 9th June, 2020 and 12th June, 2020, Mr. Lawande, the learned Counsel for the GSPCB has placed on record directions issued by the GSPCB under Section 5 of the Environment (Protection) Act, 1986, read with the Solid Waste Management Rules, 2016. These directions have been issued to the Commissioner, CCP. The directions list out certain recitals and thereafter direct the Commissioner of the CCP to do the following with regard to the waste dumped at the Parade Ground at Campal, Panaji :

1) Commence the shifting and transportation of the legacy waste dumped at the site at Campal immediately, to an alternate site for remediation and complete the same within 30 days, with due

approval of the Board.

2) Immediately ensure secure covering of the RDF stored at the site at Campal with Tarpaulin and ensure continuous transportation and disposal of the same.

3) Commence the shifting and transportation of the unsegregated Tree waste, Construction and Debris waste and inert waste from desilting of drains dumped at the site at Campal immediately to an alternate site for treatment and disposal, with due approval of the Board.

4) Take immediate steps to ensure that water logging at the site is prevented and that spraying of disinfectants/fogging is carried out at the site on a regular basis.

5) Submit an action taken report along with appropriate Applications for Approval of the Board for shifting and transportation of the Legacy waste and remediation of the same as well as for the shifting and transportation as well as treatment and disposal of the unsegregated Tree waste, Construction and Debris waste and inert waste from desilting of drains dumped at the site.

6) In view of the inadequate waste management facilities of the CCP initiate immediate action to expedite the setting up of the Common Waste Treatment Facility at Bainguinim and submit monthly status reports to the Board with regard to the same.

3. The directions also require the Commissioner, CCP to show cause as to why certain amounts should not be recovered from the CCP under the Polluter Pays Principle in terms of the directions issued by the National Green Tribunal (NGT), Principal Bench at New Delhi in OA/606/2018.

4. As regards the unremediated waste of approximately 700-800 cubic metres at the site, directions have been issued by the GSPCB to shift the same for remediation at some alternate site within a period of 30 days, with due approval from the GSPCB. So also directions have been issued for transportation of the remediated waste dumped at the site.

5. The learned Advocate General and Mr. Bhohe, in unison, submit that the various stakeholders, including, in particular, the officials of the CCP and the GWMC, held deliberations on this issue and have come up with some solutions in the matter. They submit that the CCP will immediately shift the unremediated waste laying at the site to the alternate site near Heera Petrol Pump within the jurisdictional limits of the CCP. They submit that the alternate site is an authorised site for undertaking remediation and, therefore the remediation can take place at this alternate site and will take place at this alternate site within some reasonable period subject, no doubt, clement whether condition. They further submit that the remediated waste at the site will also to be transported in a phased manner to the

cement factories in Karnataka. They submit that in the meanwhile appropriate measures, including covering of such remediated waste with tarpaulin, etc. will be undertaken. In fact, they submit that such steps have already been undertaken and the waste is suitably covered, so as not to occasion any serious nuisance or health hazard.

6. According to us, there is no difficulty for the present in accepting the proposal which has now come up from the GWMC and the CCP. However, we clarify that the primary responsibility with regard to restoration of the Parade Ground at Campal to its original status, will be that of the CCP. This clarification is necessary because, in future, we will not appreciate a situation where the CCP attempts to pass the bucks to GWMC and vice versa.

7. Therefore, consistent with the proposal put forth by the CCP and the GWMC, we direct that the unremediated waste be forthwith shifted to the alternate authorised site near Heera Petrol Pump and, thereafter, such waste be remediated in accordance with law. If, any further permissions are necessary from the GSPCB or any other authorities, the same will have to be secured and we have no doubt that the GSPCB will expedite the process.

8. Similarly, in so far as the remediated waste at the site is concerned, the CCP and/or the GWMC should commence shifting/transportation of the same again, in accordance with law to

the cement factories or other units in the State of Karnataka, or any other State or any other suitable site. This process, as far as possible, should be completed by end of November, 2020, so that the Parade Ground can be used for the Parade which is normally held on 19th December, which is the Goa Liberation Day. The CCP and the GWMC should take all efforts to ensure that this waste is cleared from the site as expeditiously as possible. In case any permissions are required from any authorities, including the GSPCB, the same will have to be obtained. Mr. Lawande for the GSPCB assures this Court that if such applications are made, the same will be processed on top priority.

9. In the meantime, the CCP and the GWMC will have to take all measures to ensure that the waste existing at the site does not occasion any nuisance or health hazard. Accordingly, as per the directions issued to the CCP in this regard, the covering by tarpaulin, spraying of disinfectants, fogging, etc. will have to be undertaken at the earliest. The learned Counsel appearing for the CCP and the learned Advocate General state that such measures are already being taken and, in any case, will be taken.

10. In addition to the aforesaid, we direct the Director of Health Services to visit the site alongwith any officials which he deems appropriate and to file an affidavit in this Court informing this Court as to whether the existing waste at the site can be a potential

source for ailments like dengue, malaria, etc.. The Director will have to also file an affidavit, indicating whether any additional measures are required with regard to this waste at the Parade Ground. Such affidavit will have to be filed within two weeks from today and advance copy of the same to be furnished to the learned Amicus Curiae.

11. This matter to appear for this limited purpose after three weeks. On the said date, the CCP to file a status report regards the progress made in terms of the assurances given to this Court.

12. Mr. Bhobe states that the Commissioner, CCP will file response to the show cause notice issued by the GSPCB within 15 days from today. We direct the GSPCB to dispose of the show cause notice as expeditiously as possible and, in any case, within a period of two months from the date of receipt of the response from the Commissioner. The GSPCB to file an affidavit indicating the decision taken by it on the show cause notice.

13. The learned Advocate General, as also Mr. Bhobe, have made it clear that since 2016 no garbage, which means dry and wet waste, is being dumped at the Parade Ground. They also state that hereafter there will be no garbage i.e. dry waste or wet waste will be dumped at the Parade Ground at Campal. Mr. Bhobe submits that statements to this effect have already been made by the

Commissioner in the affidavit filed in this Court. We accept such statements as undertakings to this Court.

14. Accordingly, place this matter for further consideration on the aforesaid limited aspect after three weeks.

15. We are informed that the Commissioner of the CCP is present in the Court in terms of our order dated 12th June, 2020. The statements made on his behalf today, have been made in his presence so that there is no communication gap. We are sure that the Commissioner realises the seriousness of this matter and will henceforth take all necessary measures to ensure that the Parade Ground at Campal is not used as a site for dumping of garbage. Further personal presence of the Commissioner is dispensed with until further orders.

Smt. M.S. Jawalkar, J.

M.S. Sonak, J.