

IN THE HIGH COURT OF BOMBAY AT GOA

LD-VC-CW NO. 123 OF 2020

Shashank V. Dessai

..... Petitioner

V e r s u s

State of Goa & Ors.

..... Respondents

Mr. Jatin Ramaiya and Mr. Swapnil Dessai, Advocates for the Petitioner.

Mr. D. Pangam, Advocate General with Ms. Maria Correia, Additional Government Advocate for the Respondent nos.1 to 3.

Mr. S. D. Padiyar, Advocate for the Respondent no.4.

Coram :- M. S. SONAK &
M. S. JAWALKAR, JJ.

Date : 17th August, 2020

ORAL ORDER

1. Heard Mr. Ramaiya, the learned Counsel for the petitioner, Mr. D. Pangam, the learned Advocate General for the respondent nos.1 to 3 and Mr. Padiyar, the learned Counsel for the respondent no.4-Cuncolim Municipal Council.

2. The petitioner, in this petition, seeks the following substantive reliefs :

“a) Grant a Writ of Mandamus or any other appropriate writ, order or direction to respondents to act on the representations of the petitioner and expeditiously consider the need to declare the Cuncolim Industrial Estate as containment zone and/or pass appropriate orders directing that the respondents take appropriate measures to ensure that Cuncolim Industrial Estate is declared as containment zone.

(b) Grant a Writ of Mandamus or any other appropriate Writ and/or direction to the respondents to consider and act on the complaint dated 11/7/2020 expeditiously.

(c) Grant a Writ of Mandamus or any other appropriate Writ and/or direction to the respondents in the nature of deploying necessary and sufficient staff/police personnel to maintain a strict vigil in respect of functioning aforesaid industries/factories and amongst the others in the Cuncolim Industrial Estate and/or closure of such factories wherein positive cases have been recently detected.

d) Grant a Writ of Mandamus or any other appropriate Writ and/or direction to the respondents to conduct mass testing

in all industries/factories in the Cuncolim Industrial Estate and/or at least in those factories wherein positive cases have been detected in recent past.”

3. According to us, the averments in the petition are little vague in the sense that there is no clarity as to the provisions/guidelines/SOPs regards declaration of a particular area as a containment zone. There are no proper pleadings to back the reliefs that the Cuncolim Industrial Estate area should be declared as a containment zone. Similar is the position with regards to the issue of mass testing.

4. The respondents have filed their returns in the matter and at least, for the present, it cannot be said that the respondents are not conscious of the existing guidelines/SOPs or that they have not acted consistent with such guidelines/SOPs. The learned Advocate General states that insofar as Cuncolim Industrial Estate is concerned, the position as on 12.08.2020 was that there were only five active Covid-19 cases. He states that these five individuals are no doubt being treated.

5. The learned Advocate General refers to annexure to addendum-2 Amd-1 of SOP for VIE dated 30th July, 2020, Precautions for COVID 19 control at Industry, and points out that if there are five or more Covid-19 positive cases reported in a single day of a single premise of a company, then immediate steps are taken to close down the operation of such premises and testing is done of all the first point of contact employees. He states that such protocol is being followed in the Cuncolim Industrial Estate.

6. Clause 8 of the aforesaid annexure to addendum-2 Amd-1 of SOP for VIE dated 30th July, 2020, Precautions for COVID 19 control at Industry, (Page 206 of the paper book), reads as follows :

“8. In case of 5 or more COVID 19 Positive case reported in a single day of a single premises of the company:

Immediately close-down the total operations at that premises, notify the Nodal Officer at South Goa Collectorate (Addl Coll-I Mr Surendra Naik), and also report to concerned Health official (MO at PHC-Cortalim Dr Succoro Quadros), sanitize workplaces, testing to be done of all first point of contact employees (Primary), Employees to be isolation home

quarantined or to be kept in Isolation at any other premises and Covid-19 Testing done. Detailed risk evaluation to be conducted at site. coordinate with Nodal officer of south Goa collector opening on re- of operations on said premises.”

7. The learned Advocate General states that the aforesaid protocol is followed and will be followed not only in respect of the Cuncolim Industrial Estate but, in respect of all Industries and all Industrial Estates in the State of Goa. According to us, the aforesaid protocol is required to be followed in cases of all Industries and all Industrial Estates in the State of Goa.

8. From the material on record, it is difficult to say that the concerned authorities are not conscious of the requirements which arise mainly from out of the various guidelines, SOPs and protocols which have been placed on record. Now that there are only five active cases in the Cuncolim Industrial Estate, we cannot say that the authorities have exercised their discretion in an unreasonable manner in not declaring the Cuncolim Industrial Estate as a containment zone.

9. Insofar as the issue of mass testing is concerned, we find that it will not be appropriate for us to issue any omnibus directions based upon the present pleadings in the petition and the statistics produced on record. This petition, is mainly concerned with the Cuncolim Industrial Estate and, therefore, we have examined the issues in the context of the Cuncolim Industrial Estate.

10. Mr. Ramaiya, the learned Counsel for the petitioner, pointed out that some of the industries in the Cuncolim Industrial Estate, in respect of whom closure orders have been issued, continue to function nevertheless. If there is a closure order in operation, obviously the industry cannot insist upon functioning as such functioning will result into health hazard. Therefore, if at all there are any such cases, the authorities will have to take immediate action to enforce their own orders.

11. The learned Advocate General assures this Court that in case there are any such cases, the authorities will certainly take appropriate action to enforce their own orders of closure.

12. For all the aforesaid reasons, by accepting the statements of the learned Advocate General, we dispose off this petition.

13. There shall be no order as to costs.

14. All concerned to act on the basis of an authenticated copy of this order.

M. S. JAWALKAR

M. S. SONAK, J.

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