

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA**LD-VC-CW-34/2020**

Margao Wholesale Fish Market
Association Petitioners.

Versus

State of Goa and others. Respondents.

Mr. Dattaprasad Lawande, with Mr. Pradosh Dangui, Advocates for
the Petitioners.

Mr. D. J. Pangam, Advocate General with Mr. Deep Shirodkar, Addl.
Govt. Advocate for Respondent No.1.

Mr. A. D. Bhohe, with Mr. Byron Rodrigues, Advocates for
Respondent No.3.

Mr. Ivan Santimano, Advocate for Respondent No.4.

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

Date : 30th June, 2020.

P.C. :-

On 9th June, 2020, 16th June, 2020 and 26th June, 2020, this
Court made some orders in relation to the issues raised in this
Petition. The Order dated 16th June, 2020 is transcribed below for
convenience of reference :

“ *Heard the learned counsel for the parties.*

2. *The learned Advocate General states that the
concerned stakeholders will meet and come out with some*

solution, in terms of which the wholesale market can be opened. The learned Advocate General points out that in terms of communication dated 9th May, 2020 issued by the Collector of South Goa District, it is already clarified that there can be no objection as such to the opening and operation of the 2 wholesale fish trade activities. However, the learned Advocate General submits that this very communication makes it clear that such activities can be held only within the certain permissible hours and further the guidelines issued by the MHA will be strictly adhered to. He submits that if the various authorities are granted some time, they will certainly be in a position to come out with some solution so that opening of the SGPDA market is not delayed any further.

3. *Mr. Lawande has pointed out that the Petitioners have complied with every single conditions referred to in the notice dated 12th May, 2020 issued by the SGPDA except the condition (B). He submits that there is no concept of registration of vehicles with the Directorate of Fisheries and FDA. He submits that the FDA has set up inspection units at Pollem and Patradevi and at these inspecting units, the FDA inspects the fish particularly to trace the presence of formalin or other impermissible chemicals. Mr. Lawande states that once there is a clearance from the FDA, the condition (B) can said to have been substantially complied with.*

4. *Mr. Bhobe, learned counsel for the SGPDA agrees that all conditions except condition (B) have been fulfilled by the Petitioners. However, he points out to condition (H) which refers to interested parties/association/traders may contact the SGPDA office for further guidelines during the office hours. According to us, condition (H) is 3 blissfully vague and on the basis of such vague condition, the SGPDA cannot resist the opening of the fish market meant*

for wholesale traders.

5. *Mr. Bhobe, learned counsel for the SGPDA states that condition (H) implies restrictions on the number of persons operating and the number of vehicles which will supply the fish to the wholesale market. As of today, no such guidelines have been placed before us. The Petitioners have already made allegations in their petition namely that the opening of the wholesale fish market is being delayed by the SGPDA for reasons which according to them are extraneous. For the present, it is not possible for us to adjudicate upon such allegations. However, we feel that on the basis of vague condition at clause (H) the SGPDA cannot resist the opening of the wholesale fish market.*

6. *Mr. Lawande points out that practically all other fish markets in Goa are opened and even the SGPDA's retail fish market has also opened. The learned counsel for the Respondents dispute this position. The learned Advocate General points out that the Mapusa fish market is yet to open.*

7. *Now that the learned Advocate General states that it is possible that the issue is sorted out, we grant some time for the same. The learned Advocate General states that necessary meetings in order to find a solution to be held in this week itself and some decision will be communicated to the Petitioners latest by 20th June, 2020.*

8. *Accordingly, liberty to apply.”*

2. In furtherance of the Order dated 16th June, 2020, Mr. Bhobe, the learned Counsel appearing on behalf of the South Goa Planning and Development Authority (SGPDA) placed on record the

Minutes of the Special Meeting held on 23rd June, 2020 in relation to the guidelines for opening and operation of the wholesale fish market at Margao.

3. Accordingly, an order was made on 26th June, 2020. In this order, it was recorded that the Petitioners have no grievance regards the guidelines incorporated in the minutes, except in relation to clause (2) which deals with the revision of levy collection rates. Accordingly, liberty was granted to the Petitioners to challenge such revision in accordance with law, in separate proceedings.

4. In our order dated 26th June, 2020, it was made clear that the matter was being adjourned only in order to enable the SGPDA to take a decision on the precise date of opening of the wholesale fish market. Accordingly Mr. Bhohe, the learned Counsel for the SGPDA has placed on record the Minutes of the Meeting of the SGPDA held on 29th June, 2020. Mr. Bhohe points out that in terms of these minutes, a decision has been taken to open the wholesale fish market after one month so as to complete the repairs and maintenance works in the SGPDA wholesale fish market.

5. From the orders made by us from time-to-time, it is apparent that despite the fact that conditional opening of the wholesale fish market was proposed by the SGPDA itself, there was resistance to the actual opening. The Petitioners, without prejudice

to their rights and contentions, submitted that they would comply with the conditions and despite this we note that a fresh set of conditions were sought to be introduced. Even with regard to this fresh set of conditions/guidelines, the Petitioners made it clear that they have no serious grievance, except, perhaps to the extent indicated earlier. In these circumstances, it was expected of the SGPDA to commence the operation at the earliest. However, the Minutes of the Meeting held on 29th June, 2020 indicate that the endeavour is to discover fresh set of conditions, so as to once again delay the opening of the wholesale fish market.

6. In any case, on perusal of the Minutes of the Meeting held on 29th June, 2020, it is clear that the works referred to in the Minutes certainly do not require much time for completion. In fact, according to us, such works should have been completed by now, if the SGPDA in terms of its own earlier order, were indeed serious about reopening of the wholesale fish market within some reasonable period. In any case, these works should and ought to be completed within a week's time, or latest by 10th July, 2020.

7. The learned Advocate General points out that the SGPDA is required to make arrangements to enable the FDA/authorised agency of the FDA to examine the fish coming into this wholesale fish market for traces of formalin, etc. The learned Advocate General is quite right in his submission and the SGPDA will, with utmost

expedition, make arrangements so that the FDA/authorised agency of the FDA can undertake the necessary inspections and tests. Mr. Bhobe for the SGPDA states that once these arrangements are complete, necessary intimation will be given to the FDA. The learned Advocate General states that once such intimation is received by the FDA, necessary personnel/Agency will be immediately deputed, so that there is no delay in opening of the market by 10th July, 2020. We make it clear that the SGPDA should not delay in providing these arrangements and by such delay, indirectly once again delay the opening of the wholesale fish market. The SGPDA should, in fact, take all necessary steps to ensure that this market is opened and made operational latest by 10th July, 2020 without, in any manner, compromising on the conditions which it has itself imposed keeping in mind the safety and health of the consumers.

8. With the aforesaid directions, we dispose of this Petition. There shall be no order as to costs.

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

Smt. M.S. Jawalkar, J.

M.S. Sonak, J.