

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA***LD-VC-CW-4/2020***

GOENKAR. Petitioner.

Versus

State of Goa and others. Respondents.

Ms. Sreeja Chakraborty, Advocate for the Petitioner.

Mr. D.J. Pangam, Advocate General with Ms. Maria Correia,
Additional Govt. Advocate for Respondents No.1 and 2.Mr. Raviraj Chodankar, Central Government Standing Counsel for
Respondents No.3 and 4.***Coram : M.S. Sonak,
Smt. M.S. Jawalkar, JJ.******Date : 9th June, 2020.*****P.C. :-**

Heard Ms. Sreeja Chakraborty for the Petitioner, Mr. D.J. Pangam, the learned Advocate General for Respondents No.1 and 2 and Mr. R. Chodankar, the learned Standing Counsel who appears for Respondents No.3 and 4.

2. This Petition has been instituted by the Petitioner on the basis of apprehensions that Respondents No.3 and 4 might grant the Respondents No.1 and 2, permissions for felling of trees or diversion

of forest areas to non-forest purposes.

3. Ms. Chakraborty, the learned Counsel for the Petitioner submits that there have been serious errors in the procedure and, therefore, it is anticipated that the ultimate decision which the Respondents No.3 and 4 might take in this matter will be legally infirm. She submits that in such cases, there is lack of transparency and once the permissions are granted, the forest diversion takes place almost immediately. She, therefore, submits that this Petition may be kept pending and the Petitioner will not press for any relief in this Petition should Respondents No.3 and 4 ultimately reject the proposal put forth by Respondents No.1 and 2.

4. Mr. Pangam, the learned Advocate General and Mr. Chodankar, the learned Central Govt. Standing Counsel, in unison, submit that this Petition is quite premature. They submit that Respondents No.3 and 4 are at the stage of processing the proposal put forth by Respondents No.1 and 2 and no final decision has, as yet been taken. The learned Advocate General points out that as against the final decision which the Ministry might take in such a matter, an appeal is provided under Section 16 of the National Green Tribunal Act, 2010. He submits that this is yet another reason for which this Court ought not to entertain this Petition, or to even keep this Petition pending.

5. According to us, this Petition is indeed premature. The learned Advocate General has pointed out that as late as on 6th May, 2020 and 11th May, 2020, Respondents No.1 and 2 have received the communications from Respondents No.3 and 4 seeking certain clarifications and additional documents in regard to the proposal for forest diversion. He submits that such clarifications and additional documents are yet to be furnished and may require some time for furnish. In terms of the procedure prescribed thereafter, the project proponent is required to make a presentation before Respondent No.3 and it is only thereafter that Respondent No.3 will take some decision in the matter, one way or the other.

6. The communications dated 6th May, 2020 and 11th May, 2020 referred to by the learned Advocate General, suggest that Respondent No.3 is in the process of considering the merits and demerits of the forest diversion proposal and, at this stage, it will be too premature for this Court to comment upon any alleged breach of procedure or otherwise. Besides, as against any final decision which Respondent No.3 might take in this matter, an appeal is provided under the provisions of the National Green Tribunal Act, 2010. These are, according to us, the reasons which persuade us not to keep the present petition pending.

7. As regards such apprehensions expressed by Ms. Chakraborty, we note the contentions raised by the learned Advocate

General and the learned Central Govt. Standing Counsel that even if clearance is granted for forest diversion, it is practically not possible for the project proponent to proceed with the diversionary activities at least for a period of 3 to 4 weeks from the date of receipt of such permissions/clearance.

8. Respondent No.3, we are informed, invariably publishes the clearances granted by it on its website. In addition, we direct Respondent No.3 to immediately forward a copy of its final decision to the Petitioner in the present matter. This according to us takes care of the apprehensions expressed by the Petitioner, assuming without admitting that such apprehensions were indeed justified in the facts and circumstances of the present case.

9. Accordingly, we dispose of this Petition as being premature. However, we clarify that all rights and contentions of all parties, including, in particular of the Petitioner to challenge any adverse decision, are specifically kept open.

10. With the liberty as aforesaid, this Petition is disposed of. All concerned to act on the basis of an authenticated copy of this order.

Smt. M.S. Jawalkar, J.

M.S. Sonak, J.