

IN THE HIGH COURT OF BOMBAY AT GOA**LD-VC-CW-29 OF 2020**

Mulakh Khajan Tenants Association & Ors. ... Petitioners

Vs

State of Goa & Ors. ... Respondents

Mr. Nigel Costa Frias with Mr. B. Pacheco, Ms. Pratiksha Nagvekar, Advocate for the Petitioner.

Mr. D. Pangam, Advocate General with Mr. Deep Shirodkar, Addl. Government Advocate for Respondents No.1 to 4 & 6.

Mr. Dattaprasad Lawande with Mr. P. Dangui, Advocates for Respondent No.5.

Shri A.D. Bhobe with Ms. A. Fernandes, Advocate for Respondent No.11.

Mr. Parag Rao, Ms. Shambhavi Rao, Ms. Swati Kamat and Ms. S. Kushawaha, Advocates for Respondent No.10,12,13 and 14.

**Coram :- DAMA SESHADRI NAIDU &
M.S. JAWALKAR, JJ.**

Date :- 2nd JUNE 2020

P.C. :

The petitioners, Associations of Tenants, have the following grievances:

(a) That though the Supreme Court has permitted the leaseholders to transport from the mining field only the harvested mineral, the seventh respondent has been indulging in fresh, illegal mining.

(b) That there is no monitoring at the mining site over the transportation of a few lakh metric tonnes of iron ore. This unregulated transportation, according to the petitioners, is causing environmental havoc.

(c) That with the impending monsoon, the lease holders have not put in place any measures to ensure that the harvested iron ore does not melt from the stacks, form as stilt, and submerge the neighbouring fields.

2. According to the petitioners, the members of the Associations, as the farmers cultivating the leased lands, have already been facing hardship. So they want this Court, first, to restrain the seventh respondent from indulging in illegal mining; second, to direct the Government to monitor the transportation activities of respondents no.7 to 13; and, finally, to ensure that the petitioners' lands are not affected in the monsoon given the proximity of the stacks of iron ore.

3. In response, the learned Advocate General, to begin with, submitted that the petitioners have been labouring under a misimpression about the Supreme Court's direction. According to him, though the Hon'ble Supreme Court recently allowed the leaseholders to transport only the harvested iron ore, this particular stack of iron ore is not part of that direction.

4. To explain, the learned Advocate General further states that in WP(C) No.435/2012, the Supreme Court through its judgment, dated 21.04.2014, declared that the iron ore in stack no.R-3 belonged to the Government. It also permitted the Government to auction that iron ore. Thus, after submitting a report to the Supreme Court in 2015, out of total 1,44,204.04 metric tonnes lying at the site, the Government eventually

auctioned about 82,888.04 metric tonnes of iron, much of which the successful bidders have already transported. What remains to be auctioned is 61,316 metric tonnes.

5. The learned Advocate General has also submitted that there is absolutely no illegal mining because the leaseholders have not at all been involved in the transportation of the iron ore, which, in the first place, does not belong to them.

6. About the alleged non-monitoring of the transportation activity, the learned Advocate General submits that the Pollution Control Board (“PCB”) has already been seized of the issue. It has already established, the learned Advocate General points out, monitoring stations.

7. Eventually, about the possible danger posed by the impending monsoon and the stiling of the neighbouring lands, the learned Advocate General assures the Court that the apprehension is misplaced and the Government has been taking every step to ensure that the iron ore stacks are preserved and no damage is caused to the neighbouring lands.

8. The learned counsel for the PCB, in tune with the learned AG’s submissions, affirms that the PCB has already established monitoring stations not only at the places where mining has taken place but also at all other places where transportation has taken place. At any rate, he wants time for the PCB to inspect the site further and submit a detailed report.

9. To a specific query from the Court whether the PCB is willing to address in its reply to the Court the grievances ventilated by the

petitioners, the learned Standing Counsel has assured the Court that the PCB will file a comprehensive reply covering the petitioners' grievances. And if necessary, the authorities concerned will inspect the mining site in consultation with the Department of Mining, Goa.

10. In reply, the learned counsel for the petitioners submits that if the PCB looks into the grievances the petitioners have raised and files a report before this Court, they are willing to wait.

11. We, therefore, hold that pending further adjudication, the PCB will file its reply addressing the petitioners' concern expressed in the Writ Petition. If the Pollution Control Board desires to inspect the site physically, it may put on notice any representative of the petitioners and carry out the inspection—in coordination with the Mining Department.

12. Post the matter on 22.06.2020.

At any rate, the PCB will inspect not only Stack No.R-3 but also other stacks where transportation has been taken place, involving the respondents no.8 to 13.

M.S. JAWALKAR, J.
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DAMA SESHADRI NAIDU, J.