

IN THE HIGH COURT OF BOMBAY AT GOA**LD-VC-CW-198-2020**

Federation of Rainbow Warrior

.... Petitioner.

Versus

Chief Secretary & Ors.

.... Respondents.

Ms. Caroline Collasso, Advocate for the petitioner.

Mr. D.Pangam, Advocate General with Ms. Maria Corriea, Addl.
Government Advocate for the respondent nos.1 and 6.

Mr V. Pangam, Advocate for the respondent no.7.

Coram : M. S. SONAK, &**SMT. M. S. JAWALKAR, JJ.****Date : : 6th October, 2020**

P.C.:

Heard Ms. Caroline Collasso, learned Advocate for the
petitioner, Mr. D. Pangam, learned Advocate General with Ms.

Maria Correia, learned Addl. Government Advocate, appearing on behalf of respondent nos.1 to 6 and Mr. V. Pangam, learned Advocate for the respondent no.7- Village Panchayat.

2. For the order, which we propose to make, the presence of respondent no.8 may not be necessary, as we are sure that the concerned authority, will afford sufficient opportunity of hearing, to the respondent no.8.

3. On 16.09.2020 we made the following order:

“1. Heard Ms. Collasso, the learned Counsel for the petitioner and Mr.D. Pangam, the learned Advocate General for the respondent nos., 1 to 6.

2. Issue notice to respondent nos. 7 and 8 returnable on 06.10.2020. In addition to the usual mode of service, private service is permitted.

3. The concerned respondents to file their response to this petition on or before the next date. Further, we direct the respondent no.3, i.e. the Deputy Collector and in charge of Flying Squad, South Goa, to visit the site in question and find out whether the allegations made in this petition about the land filling, destruction of khazan fields and the construction of a road to transport sand, which is extracted in an illegal manner, are correct. In case the respondent no.3 finds that such activities are being

carried out, it is expected that the respondent no.3 takes action in accordance with law.

4. Stand over to 06.10.2020.”

4. The learned Advocate General has today submitted that the respondent no.3 has complied with the directions contained in para 3 of the aforesaid order dated 16.09.2020. He points out that the Flying Squad at site, have found prima facie, merit in the allegations made in this petition about the land filling, destruction of Khazan fields and the construction of road etc. Accordingly, the Flying Squad had issued a show-cause notice/stop work order to respondent no.8 in this matter.

5. The learned Advocate General, points out that, in pursuance of the stop work order, the activities at the site have been stopped. This position is also confirmed by Ms. Caroline Collasso, learned Advocate for the Petitioner.

6. According to us, in view of the stop work order, respondent no.8, will not undertake any construction activities at the site in question till the show-cause notice is disposed of by the competent authority. The learned Advocate General points out that the competent authority will be the Chief Town Planner i.e. respondent no.2, who is required to make orders in respect of Order 17 (b) of the Goa Daman & Diu, Town & Country Planning Act.

7. The learned Advocate General points out that the Flying Squad has already submitted its report to respondent no.2, alongwith the copy of show-cause notice and stop work order.

8. Accordingly, we direct the respondent no.2 to dispose off the show-cause notice as expeditiously as possible and in any case, within a period of three months, from the date cause is shown, by respondent no.8.

9. The Chief Town Planner, in the peculiar facts and circumstances of this case, to hear the petitioner in the proceedings. The Chief Town Planner to furnish to the petitioner the copies of reports by the Flying Squad as well as the show-cause notice /stop work order issued to respondent no.8.

10. Ms. Caroline Collaso, learned Advocate points out that necessary orders are required to be made in respect of restoration of land to its original condition.

11. At present, it is not for us to go into this issues as the respondent no.2 is directed to dispose off the show-cause notice. In terms of the powers vested in the Town Planner under Section 17(B) of the Town & Country Planning Act as stated by the learned Advocate General, the respondent no.2, has the powers to order such restoration.

12. The Panchayat i.e. respondent no.7 is also directed to treat this petition itself as a complaint/representation and on the basis of the same, inspect the site, and if, the violations are noticed, to take action in accordance with law. No doubt, the panchayat to comply with the principles of natural justice and give suitable opportunities to the respondent no.8 who is alleged to be carrying these activities.

13. Since we have directed the authorities to afford opportunities to respondent no. 8 by disposing off the show-cause notice or otherwise the proceedings, the presence of respondent no. 8 is not necessary for disposal of this petition.

14. We clarify that we have not adjudicated upon the contentions of the parties in this matter. Therefore, all contentions are kept open for adjudication by the Chief Town Planner.

15. With these directions we dispose of this matter.

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

SMT.M.S.JAWALKAR, J.

M. S. SONAK, J.

MF/-