

**BEFORE THE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE) BENCH, PUNE**

APPLICATION NO.23 OF 2015

CORAM:

HON'BLE SHRI JUSTICE V.R. KINGAONKAR

(Judicial Member)

HON'BLE DR. AJAY A.DESHPANDE

(Expert Member)

In the matter of:

1. KASHINATH JAIRAM SHETYE,

Son of Mr. Jairam Shetye,
Major of age, Indian national,
Having permanent residence at
A-102, Raj Excellency,
Patto Ribandar, Goa,
Ph No.2444444, 2443333, 2444499, 2414242
Mobile No.9420689997.
Email: shetyebabu@yahoo.com
Pan Card ATLPS 1247D.

2. DR. KETAN GOVEKAR

Son of Santikar Govekar
Major of age, Indian national,
Having permanent residence at
3rd Floor, Wadji Building,
St. Inez Panjim Goa,
Mobile 0-9420819016
Email: ksgovekar@yahoo.co.in

3. SANJAY SARMALKAR.

Son of Sarmalkar
Major of age, Indian national,
Having permanent residence at
Madhuban 2
Opp St. Inez Church
Panjim Goa.
Occupation: businessman,
Tel (Mobil): 9890806287
Email: sanjaysarmalkar@gmail.com
Pan Card No. Not Available.

4. SURENDRA GOVEKR,

Son of Sazu Govekar
Major of age, Indian national,
Having permanent residence at
House No.678/5, Sortawado,
Anjuna Bardez Goa
Occupation: Business.
Tel (Mobile): 9822127474
Email: surendragovekar@yahoo.com
Pan Card No:

5. DESMOND ALVARES

Son of George Alvares
Major of age, Indian national,
Having permanent residence at
H.No.470 Dossoxier,
Assagao Bardez Goa,
Occupation: Service,
Tel (Mobile): 9623349704
Email; desmondsoasis@yahoo.co.in
Pan Card Not available.

6. MS. SONIA SATERDEKAR,

Daughter of Dynaneshwar Saterdekar

Major of age, Indian national,
Having permanent residence at
Succoro Porvorim, Bardez, Goa
Occupation: service.
Tel (Mobile): 7030971520.
Email; No email.
Pan Card No. No pan card.

.....**APPLICANTS**

VERSUS

1. M/S SHILPI CONSTRUCTONS

Sapna Gardens
Alto Porvorim
Bardez Goa. Pin Code-403521.

2. THE MEMBER SECRETARY,

Goa Pollution Control Board,
Government of Goa,
Dempo Towers, Patto Plaza,
Pin code 403001.

**3. THE MEMBER SECRETARY,
GCZMA,**

Dempo Towers, Patto Plaza,
Patto, Panaji Goa.
Pin code 403001.

4. THE COLLECTOR (NORTH GOA),

Collectorate Building,
Panjim Goa
Pin code 403001.

5. THE DEPUTY COLLECTOR (TISWADI),

Panjim Goa
Pin code 403001.

6. THE DEPUTY COLLECTOR & DRO,

D.O for Flying Squad
Team North Goa District
Collectorate,

Panjim Goa
Pin code 403001.

7. THE POLICE INSPECTOR,

Panjim Police Station
Panjim Goa.
Pin Code 403001.

8. THE SUPERINTENDENT OF POLICE

(North Goa)
Priyanka Ksyhap
Porvorim, Bardez Goa.
Pin Code 403521.

9. THE MEMBER SECRETARY

The North Goa Planning and
Development Authority (NGPDA)
Archidicese Building Mala Link road
Panjim Goa.
Pin code 403001.

10. THE COMMISSIONER,

Corporation of City of Panjim
CCP Building
Panjim Goa.
Pin code-403001.

11. THE MANAGING DIRECTOR,

The Goa State Infrastructure
Development Corporation (GSIDC)
EDC Building
Panjim Goa.
Pin code 403001.

12. THE CHIEF TOWN PLANNER,

EDC Complex,
Dempo Towers, Patto
Panjim Goa.
Pin code-403001.

13. THE SECRETARY,

Santa Cruz Panchayat
Santa Cruz, Tiswadi Goa,
Pin code-403005.

14. THE SECRETARY

Merces Panchayat
Merces Tiswadi, Goa
Pin code-403005.

15. THE CHIEF CONSERVATOR OF FOREST

Panjim Goa.
Pin code 403001.

16. HEMANT GOLTKAR

H.No.73, Camri Bhat
Merces, Goa
Pin code403005.

17. POLICE INSPECTOR

Old-Goa Police station
Old- Goa
Pin code403402.

.....**RESPONDENTS**

Counsel for Applicant (s):

Shweta B. Borkar, Adv,

Counsel for Respondent (s):

Mr. Ajit R. Kantak for Respondent No. 1.

Mr. Atmaram N.S. Nadkarni, Advocate General a/w
Dattaprasad Lawande, Mr. Pradosh Dangui for Respondent
Nos.2,4, to 9,11,12,15.

Fawia M. Mesquita for Respondent No.3.

Mr. Ashwin D. Bhoje for Respondent No.10.

Mr. Abhijit Gosavi, Mr. Amay Phadte, Mr. Vishnu D. Naik
a/w Mr. Nitin Sawant, Mr. Amit Palekar for Respondent
No.16.

DATE: DECEMBER 14th, 2015.

J U D G M E N T

1. This Application is filed under Section 14(1) read with Section 18(1) of the National Green Tribunal Act, 2010. By this Application, the Applicants challenge authorization granted to MSW project by Goa State Pollution Control Board (GSPCB) on 21.1.2014. The Applicants also submit that the Collector issued illegal 'Sanad' for infrastructure project to develop Solid Waste Management on land bearing P.T sheet No.26, and 65% of the work is already carried out without any kind of proper legal foundation. Main grievance of the Applicants is that large number of Mangroves and trees are removed/cut down from the area. The Deputy Collector of Tiswadi showed that no land area is marshy land behind Heera Petrol Pump, Bus Stand and along the National Highway, are being washed, but no further vigilance activity is being carried out. The letter dated 7.1.2015 received from North Goa Planning and Development Authority (NGPDA) that Development permission was granted for setting up Recycle Sorting Centre, composting and compound wall is illegal. The Governance activities are causing environmental harm in the area. Therefore, restoration of Mangroves along with other destruction of the plants etc. is essential. They seek remedy,

therefore, under the NGT Act, as per the provisions mentioned above.

2. By filing reply affidavit Shri. Karapurkar (Respondent No.14) submits that the Village Panchayat of Merces approved Resolution bearing No.12(35) in the Meeting held on 16.09/2014 as follows:

“Resolution bearing No. 12(35):- Smt. Hemangi H. Golatkar had proposed to take up the work of construction of new road from Carmibhat up to end near Highway, Ganapati Visarjan at Merces. It is unanimously decided to take up the work on priority basis, as early as possible and forward the same to Water Resources Department”.

So also he invited our attention to Resolution No.11 (34), which reads as follows:

“Resolution 11(37):- Smt. Hemangi H. Golatkar had proposed to take up the work of construction of new road from Carmibhat up to end near Highway, ‘Ganapati Visarjan’ Beautification, steps, platform etc. It is unanimously decided to take up the work on priority basis on public demand through Water Resources Department. Approved and passed unanimously”.

It is contended that answering Respondent has no concern with impugned activities. Therefore, the

answering Respondents sought dismissal of the Application.

3. The reply affidavit of Respondent No.1, reveals that it is only a contractor of Panaji City Corporation. The Respondent No.1 is awarded contract to carry out the work in terms of directions issued by Goa State Infrastructure Development Corporation Limited (GSIDCL) from time to time. It is denied that there is any illegal cutting/mass destruction of Mangroves or sealing of low lying area of Marshy land, done by the Respondent No.1 (Contractor). Furthermore, the Respondent No.1 submits that the project for development of Recycle Sorting Centre, Composting Station, necessarily requires a compound wall and for disposal of MSW in scientific manner. Therefore, the project is mooted by the Corporation of City of Panaji to deal with Mangroves issue. The Contractor (Respondent No.1) denied of any stop-work order issued against M/s Niyaz Fast Food Centre, which is the property situated in Murda Village. It is submitted that the Applicants attempted to create publicity without any reason or rhyme, in order to put spoke in the development project. The Respondent No.1 has placed on record relevant permissions issued by GCZMA and other Authorities.

4. Similarly, Shri. Hemant Goltakar, filed affidavit on behalf of the Respondent No.16. He denied all material averments made in the Application. He categorically denied that destruction of Mangroves was being done or had been done while implementing the project. The photographs produced by the Applicants, according to the contesting Respondents are of some other area and have no nexus with the P.T. Sheet No.56, situated behind Heera Petrol Pump. Thus, the Authorities denied all material contentions of the Applicants.

5. The Respondent No.10 also supported case of the Authorities in all respect and sought dismissal of the Application. It is un-essential to reproduce defence of each of the Respondents, because it amounts to reiteration of the same defence.

6. We have heard Applicant Mr. Kashinath Shyete in person and learned Advocates for contesting parties. We have gone through record of the matter. We need to set out following points for determination:

- i) Whether the Applicants have proved that Mangroves were destructed and are being destructed in the disputed area and thereby irreversible damage is being caused to

environment by acts/activities of the Respondents?

ii) Whether any substantial question relating to environment is brought on surface on basis of reliable material by the Applicants on which suitable action is called for?

iii) Whether activities of the Project desires to be stalled as sought by the Applicants?

7. At the threshold, it may be stated that the Respondent No.1 is appointed as an Agency to carry out work of MSW plant. The Corporation of City of Panaji vide communication dated June 17th, 2013, requested the Director of Municipal Administration regarding report of 'NEERI' in respect of selection of site for establishment of MSW facility. The Agenda for MSW facility was on the list of Panaji Municipal Corporation from time to time. By letter dated April 23rd, 2015, the Deputy Commissioner, gave approval to new DPR, consisting of site for project, namely, Municipal Solid Waste (MSW) for Corporation of City of Panaji, under transition of phase of JNNURM. Perusal of record shows that State of Goa prepared DPR after due consideration of required parameters. It does not stand to reason that the Applicants had no knowledge about nature of project in question. The Village Panchayat of Mercedes, by communication

dated 9.10.2014, informed the Water Resource Department, Panaji, Goa with resolution dated 11(37) adopted for construction of new road. Therefore, there was no hindrance in construction of new road for selected site to be used as 'MSW site'.

8. There is no dispute about the fact that a police complaint was lodged on 8.12.2014, alleging that dealing of low line area and marshy land behind Heera Petrol Pump, Bus Station was essential. The Respondents have pointed out that the Applicants have wrongly shown location of the site as site as behind the Petrol Pump opposite Panjim Bus Stand and between National Highway between Santa Cruz Mercedes junction and Panjim Circle. According to contesting Respondents the location is altogether different. It is stated by contesting Respondents that the complaint dated 8.12.2014, filed to the Police by Deputy Town Planner relates to filling along National Highway between Santa Cruz Mercedes Junction and Panjim circle before the Niyaz Hotel. It is further averred that the work order issued to the Respondent No.1 is in respect of infrastructure project, which is beyond Heera Petrol Pump and has nothing to do with the land between National High No.17 and Santa

Cruz Merces Junction and Panjim Circle in the proximity of Niyaz Hotel and Restaurant.

9. The Applicants have placed on record a copy of complaint dated 24.12.2014. This document also does not show location of the land in question. The Inspection Report (Ex.'G' P-48) goes to support case of the contesting Respondent No.1. The photographs produced by the Applicants do not show particular location of destruction of Mangroves and cutting of trees. Vague allegation made by the Applicants cannot be considered. The record shows that the Application is politically motivated and is not filed with intention to protect environment. In our opinion, the Application does not incorporate substantial question relating to environment, which befits within Sub-clause (1) of Section 14 of the National Green Tribunal Act, 2010.

10. In the result, the Application fails and is, therefore, dismissed. No costs.

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(Justice V. R. Kingaonkar)

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(Dr.Ajay A. Deshpande)

PUNE

DATE: DECEMBER 14th, 2015.