

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)**

Original Application No. 77/2018(WZ)
With
Original Application No. 78/2018 (WZ)
With
Original Application No. 79/2018 (WZ)
With
Original Application No. 80/2018 (WZ)
With
Original Application No. 81/2018 (WZ)
With
Original Application No. 82/2018 (WZ)
With
Original Application No. 83/2018 (WZ)
With
Original Application No. 84/2018 (WZ)
With
Original Application No. 85/2018 (WZ)
With
Original Application No. 86/2018 (WZ)

Goa ParyavaranSavprakshanSangharshSamitee

Applicant(s)

Versus

The Dy. Collector/SDM, Pernem&Ors.

Respondent(s)

Date of hearing: 03.04.2019

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s): Mr. P.V Shinde, Advocate

For Respondent (s): Mr. S.M Walwaikar, Advocate General
Mr. Dattaprasad Lawada, Advocate with Ms.
Fawia Mesquita, Advocate

ORDER

1. Action to be taken against illegal mining and failure to close mines after the operation has stopped is the main question for consideration.

2. Case of the applicant society is that private respondents have made several pits with a view to excavate basalt/masonry and rubble stones of huge value in the Taluka of Pernem and other Talukas of the State of Goa. After the extraction, the excavated area is left without scientific closure which is necessary for restoration of environment. This results in disturbance in the eco-system of the area. Apart from being death potential traps for human and wildlife, there are reported instances of actual tragedies. No remedial action is being taken against such illegal operators by the statutory authorities. No environmental clearance has also been obtained and unauthorised mining is taking place on Government and forest land also.

3. All the ten applications raise the same issue. Learned counsel for the applicant states that there are large number of instances elsewhere almost in all Talukas, apart from cases mentioned in these matters, calling for general directions for the State of Goa.

4. Vide order dated 14.12.2018, a joint report was sought from the Dy. Collector/SDM and the Director of Mines. A report was submitted which was considered on the last date i.e. 15.02.2019. The Tribunal noted that the reports furnished by the Director of Mines were not complete. There was no mention of the steps taken to scientifically close the mines or to coercive measures against illegal mining. Accordingly, a revised report was required to be furnished.

5. We have perused the revised report filed by the Director of Mines stating that the mining leases are subject to environmental clearance and consent under the Air (Prevention and Control of Pollution) Act, 1981 (Air Act) and the Water (Prevention and Control of Pollution) Act, 1974 (Water Act) by the Pollution Control Board. Raids were conducted to stop illegal laterite stone Quarries. The Department has

no mandate with reference to scientific closure of quarries under the Minor Mineral Concession Rules, 1985. Such power is with the Collector under the Goa Land Revenue Code. The Dy. Collector has submitted that proceedings have been initiated under the Land Revenue Code and the Land Revenue Rules against the offending parties for restoration of the land to the original use and a compliance report will be furnished in due course of time.

6. Learned counsel for the applicant submitted that in spite of admitted patent illegality in mining of the stone and failure to rehabilitate the area after completing mining and in spite of there being instances of threat to human life and wildlife, the authorities have failed to take remedial measures. The stand of the Mining Department that it has no authority or it is powerless when there is illegality cannot be upheld and shows lack of knowledge and will to check violation of law. He also submitted that mining can only be after obtaining necessary consent under the Air Act and the Water Act and if there is violation of the said case, the Pollution Control Board has ample powers to take prohibitory as well as coercive measures, including prosecution and recovery of compensation for damage to the environment in addition to the power under the relevant land laws with the Collector and the mining law with the Mining Department.

7. Learned Advocate General for the State of Goa fairly accepts the legal position as propounded by the learned counsel for the applicant. He states that there is need to educate the officers dealing with the situation in the whole State. Apart from prohibiting illegal activities, prosecuting the offenders, recovering compensation for damage, confiscating the equipments and vehicles, the miners can be blacklisted on account of illegal action. He undertakes to the Tribunal that appropriate further corrective measures will be taken by the authorities in the State.

8. The subject matter of illegal mining has been dealt with by this Tribunal in recent orders dated 04.09.2018 in *Original Application No. 173 of 2018 (Earlier O.A. No. 89/2017) (EZ), Sudarsan Das Vs. State of West Bengal & Ors.*, order dated 05.09.2018 in *Original Application No. 44 of 2016, Mushtakeem Vs. MoEF & CC & Ors.*, order dated 13.09.2018 in *Original Application No. 186/2016, Satendra Pandey Vs. Ministry of Environment, Forest & Climate Change & Anr.* and order dated 04.01.2019 in *Original Application No.110(THC)/2012, Threat to life arising out of coal mining in south Garo Hills district v. State of Meghalaya& Ors.* We expect the State of Goa to look into the said orders and take further remedial actions including framing of appropriate policy/guidelines and Manual of Standard Operating Procedure. The State of Goa may also undertake training programme for its officers for upholding the Environmental Rule of Law in the State.

9. As regards filling of pits and restoration of the environment, learned Advocate General has suggested a tentative timeline of six months and stated that quarterly reports will be furnished to this Tribunal about the progress in the matter. Progress report may also be furnished about the steps taken by the Pollution Control Board by way of prohibitory and coercive measures, including prosecution and recovery of compensation for damage to the environment. The action of the State of Goa may need not be confined to the area which is the subject matter of these applications but can cover the whole State. We also expect the Chief Secretary, Goa to monitor the progress atleast once in a month as per the directions already issued vide order of this Tribunal dated 16.01.2019 in *O.A No. 606/2018 in Compliance of Municipal Solid Waste Management Rules, 2016.*

10. Learned Advocate General states that now illegal mining is not being undertaken. This may be ensured not only for the area in question but also for the whole State. The State of Goa may also consider constituting of a special task force to deal with the issues having regard to the magnitude of the problem.
11. Further progress report in the matter may now be filed on or before 10.07.2019.
12. A copy of this order be also placed in the file of O.A No. 606/2018 in Compliance of Municipal Solid Waste Management Rules, 2016.

List the matter for further consideration on 31.07.2019.

Adarsh Kumar Goel, CP

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

April 03, 2019
Original Application Nos. 77 to 86/2018 (WZ) and
other connected matters
AK

