

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

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

**Original Application No.224/2023(WZ)
I.A. No.244/2023(WZ)**

Parvati Sachit Kamat & Anr.

.....Applicant(s)

Versus

APCCF. Chief Wildlife Warden & Ors.

....Respondent(s)

Date of hearing: 02.01.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Mr. Mihir Desai, Senior Advocate along-with
Mr. Udaynath Bicholkar, Advocate & Associates

Respondent : Mr. Pavithran A.V., Advocate for R-2/GSPCB

ORDER

1. This application has been filed with the prayers that this Tribunal should declare that no activities of unloading/ dumping of ore/ cargo shall be permitted in the property bearing Survey Nos.104/1, 104/2 & 106/1 of Village Kalay; a restraint order be passed against the respondent No.2/GSPCB to the effect that it shall not grant any permission/consent to operate in respect of the above-mentioned survey numbers and if already granted, the same be quashed.

2. The learned Senior Counsel for applicants has drawn our attention to page no.35 of the paper book, which is an Official Gazette issued by the Government of Goa, Daman and Diu declaring Calem along-with some other areas to form part of Game Sanctuary under Section 18 of the Wild Animals and Wild Birds Protection Act, 1965. It is pointed out by the learned Senior Counsel for applicants that the Calem is the same as

Kalay, which has been stated by him at page no.4 in para no.4(i) of the main petition.

3. Thereafter, the learned Senior Counsel for applicants has drawn our attention to page no.38 of the paper book, which is an Official Gazette issued by the Government of Goa, Daman and Diu dated 08.12.1982, which named the said Sanctuary as “Bhagwan Mahavir Wild Life Sanctuary”. Thereafter, he drew our attention to page nos.86 to 91 of the paper book, which is the Consent to Operate dated 03.05.2023, issued by the GSPCB/respondent No.2 to M/s. Station Master Kalay Railway Station for goods handling such as mineral ore like iron ore, bauxite, general cargo, which is to remain valid up to 29.03.2035.

4. Thereafter, the learned Senior Counsel for applicants has drawn our attention to the Notification of MoEF&CC dated 23.01.2015, annexed at page nos.125 to 130 of the paper book, where-in prohibited activity is recorded as Commercial Mining, stone quarrying and crushing units in Bhagwan Mahavir Wild Life Sanctuary and National Park. The argument made by the learned Senior Counsel is that the transportation of ore, which is being done by the respondent No.4-M/s. Station Master, Kalay Railway Station, would be covered under the Heads commercial Mining, stone quarrying and crushing units. But we apprehend that the transportation of ore might not cover under those activities.

5. Thereafter, the learned Senior Counsel for applicants has drawn our attention to the Order dated 19.06.2023 passed by the Hon’ble High Court of Bombay at Goa, which is annexed at page nos.109 to 111 of the paper book, where-in prayers were made for a direction to be issued to the Goa State as well as to the Goa State Pollution Control Board (GSPCB) and Village Panchayat, Kalay to stop the unloading and

transporting of mineral ore from Village Kalay, undertaken by the respondent No.7 i.e. M/s. Dessai logistics and more particularly from the properties bearing Survey Nos.104/1, 2 and 106/1 of Village: Kalay; and a direction was issued by the Hon'ble High Court disposing of the petition that within six weeks, GSPCB may grant an opportunity of hearing not only to respondent No.5-M/s. Station Master, Kalay Railway Station but also to the Petitioner i.e. Smt. Parvati Sachit Kamat & Anr. and finally disposed of the said petition with the direction that if any party would feel aggrieved by the decision of GSPCB, they would have liberty to challenge the decision by instituting proceeding before the appropriate forum. Pursuant to this order, the GSPCB passed Suspension Order dated 22.08.2023, which is annexed at page nos.112 to 114 of the paper book and it is stated by the learned Senior Counsel for applicants that despite the Suspension Order, the respondent No.5-M/s. Station Master, Kalay Railway Station continued with the operation of transportation of ore. Hence, the present application has been moved.

6. From the side of respondent No.2/GSPCB, learned counsel Mr. Pavithran A.V. has appeared, who has placed before us a Revocation Order dated 06.12.2023, by which the order of suspension has been revoked, though a copy of the same is not available with the learned Senior Counsel for applicants. Therefore, we direct the learned counsel for respondent No.2 to provide a copy of the same to the learned Senior Counsel for applicants through e-mail. It is also apprised by the learned counsel for respondent No.2 that an appeal is filed by the Village Panchayat of Kalay/respondent No.5 against the Consent to Operate before the Administrative Tribunal, which is pending consideration.

7. We provide one week's time to the learned Senior Counsel for applicants to suggest the measures, which can be directed to be adopted

by the respondent No.4-M/s. Station Master, Kalay Railway Station while transporting the ore.

Put up this matter for further consideration on 12.01.2024

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

January 02, 2024
Original Application No.224/2023(WZ)
I.A. No.244/2023(WZ)
P.Kr