

**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: 12.01.2024

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

Applicant : Mr. Udaynath Bicholkar, Advocate

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

ORDER

1. From the side of applicants, learned counsel Mr. Udaynath Bicholkar has appeared.

2. From the side of respondent No.2/GSPCB, learned counsel Mr. Pavithran A.V. has appeared, who has filed reply affidavit dated 11.01.2024 without any due notice having been issued to them nor was any direction issued to file the same. In this reply affidavit, it is submitted that a complaint dated 24.02.2023 was received from the Sarpanch, Village Panchayat of Kalay regarding alleged illegal installation of a Weigh Bridge, set up by the Station Master, Kalay Railway Station, Kalay Sanguem- Goa/respondent No.4. Thereafter, the Board officials conducted a site inspection on 27.02.2023, where-in it was found that the unit had installed a weigh bridge, however, no activity of loading and

unloading of ore was being carried out at the said site. Copy of the said site inspection report has been annexed as Annexure- R-1.

3. It is further submitted in this affidavit by the respondent No.2/GSPCB that respondent No.4 had applied for Consent to Operate for Railway Station siding unit for Handling of Minerals Ore being inward from Hubballi. After the receipt of the said application, the Board officials had visited the site on 17.04.2023 and prepared a report, which is annexed as Annexure R-2. After scrutiny of the application for Consent to Operate, the same was granted by the Board on 03.05.2023, which is valid upto 29.03.2035. In order to verify the allegations/issues raised in the complaint and also to verify the compliance of the conditions stipulated in the Consent Order dated 03.05.2023, a joint inspection of the unit of respondent No.4 was conducted by the Board officials on 09.06.2023 and also on 13.06.2023. After perusal of the joint inspection report, the Board had decided to issue Show Cause Notice dated 16.06.2023 to respondent No.4 for operating the unit in violation of the provision of Water (Prevention and Control of Pollution) Act, 1974 and Air (prevention & Control of Pollution) Act, 1981. The details of the violations are mentioned in para no.9 from sub-para nos. a to e of this affidavit.

4. It is further submitted in this affidavit by the respondent No.2/GSPCB that in the meantime, a Public Interest Litigation was filed before the Hon'ble High Court raising various issues of environment. Vide order dated 19.06.2023 passed in the matter of *Parvati Sachit Kamat vs. State of Goa* in *PIL Writ Petition No.1182/2023(F)*, the Hon'ble High Court disposed off the matter with a direction that the Show Cause Notice issued by the GSPCB should be disposed of, after hearing all the parties. Pursuant to which, personal hearing was accorded to the Station Master, Kalay Railway Station; the learned Advocate representing the

Complainant/petitioner; Sarpanch- Village Panchayat, Kalay; M/s. Desai Logistics; the representative of Mines Department; and the representative of the Forest Department, which was held on 06.07.2023, 21.07.2023 and 07.08.2023.

5. It is further submitted in this affidavit by the respondent No.2/GSPCB that the representative of the respondent No.4 submitted that compliance of pollution control works is under process and online monitoring system would also be installed and sought time to comply with the conditions stipulated in the Consent to Operate dated 03.05.2023. Upon considering the submission made by all parties, the Board decided that the activity of the respondent No.4 cannot be allowed to be permitted without complying with the conditions stipulated in the Consent to Operate as it amounts to violation of the provisions of Air (prevention & Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974. In view of the aforesaid facts, the Board decided to suspend the Consent to Operate dated 03.05.2023 granted to the respondent No.4. It was further decided that no further loading and unloading activity could be commenced without informing the Board. Thereafter, time was granted to the respondent No.4 to comply with the conditions of Consent to Operate as mentioned above and submit compliance report to the Board.

6. It is further submitted in this affidavit by the respondent No.2/GSPCB that the Board was in receipt of a reply dated 30.11.2023 from South Western Railway, located near Kalay Railway Station, Sanguem, Goa, where-in several compliances, which were made at their end, were noted, details of which are given in para no.15 from Sub-paras 'a to e'. Thereafter, the answering respondent conducted a site inspection of the unit of respondent No.4 on 01.12.2023 and after noticing

compliances having been made, the Board vide order dated 06.12.2023 revoked the Suspension Order dated 22.08.2023, subject to the terms and conditions stipulated therein.

7. It is further submitted in this affidavit by the respondent No.2/GSPCB that against that order of revocation/suspension, the respondent No.5/The Village Panchayat of Kalay through Secretary/Sanparch had filed an appeal before the Administrative Tribunal, Panaji- Goa, challenging the Consent dated 03.05.2023, which is a subject matter of the present application. It is also mentioned that the Goa Foundation had also filed a Public Interest Litigation No.PILWP/2/2024 before the Hon'ble High Court of Bombay at Goa, seeking an order for quashing the Consent to Operate dated 03.05.2023. But the said PIL was withdrawn and dismissed accordingly vide order dated 10.01.2024 by the Hon'ble High Court.

8. These facts have been brought on record by the respondent No.2/GSPCB, which the learned counsel for applicants was supposed to bring on record. We do not find anything, which has been stated in this affidavit, which is being controverted right away from the side of learned counsel for applicants. But still he wants a week's time to be allowed to consult his client and to bring on record the Judgment of Hon'ble Supreme Court, in order to convince us that the observation made by us in para no.4 of our previous order dated 02.01.2024 to the effect that "we apprehend that the transportation of ore might not cover under those activities (prohibited activities)", to prove that in the light of the law laid down in the said Judgment, this activity would be covered in the prohibited activity.

9. In the interest of Justice, we grant an opportunity of one week to the learned counsel for applicants file the same as mentioned above.

10. We direct the Registry to list this matter for admission on 13.02.2024.

11. We make it clear to the learned counsel for applicants that no further adjournment would be granted in this matter.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

January 12, 2024
Original Application No.224/2023(WZ)
I.A. No.244/2023(WZ)
P.Kr