

Item No. 05 (Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(Through Video Conferencing)

Original Application No. 3/2015 (WZ)

Cavelossim Villagers Forum

Applicant(s)

Versus

Village Panchayat of Cavelossim & Ors.

Respondent(s)

Date of hearing: 19.10.2020

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

For Applicant(s) : Ms. Bavina Kukalekar h/f Mr. Nigel Da Costa
Frias, Advocate

For Respondent(s) : Mrs. Fawia Mesquita, Advocate for R- 2 & 3
Mrs. Ruchira Gupta, Advocate for R- 3 (GCZMA)
Mr. Shivshankar Swaminathan, Advocate for R-4
Mr. Karam Komi Reddy, Advocate for R-5

ORDER

1. By filing the present application, it is prayed to issue direction to stop the activities of illegal dumping of red mud and to stop the construction activities, business activities in the property survey no. 109/2 of village Cavelossim Salsate, Goa and to direct the authorities concerned to take action to remove the mud deposited and demolish all illegal constructions, stop illegal business activities and restore the said land to its original number. It has further been prayed to direct to compensate the village or environmental damage due to destruction of sand dunes and for undertaking illegal construction and illegal business activities in violation of CRZ Regulation, 2011. It is further stated that the levelling of sand dunes and dumping of red mud in NDZ area in the aforesaid property was without permission from the competent authority and there is illegal construction of boundary wall along sea shore,

construction of toilet and several other structures in No Development Zone in violation of the CRZ notification.

2. Notices were issued and in compliance thereof, the Member Secretary, Goa Coastal Zone Management Authority (GCZMA) had submitted an affidavit that the Secretary with the other expert members visited and inspected the site and observed violation of CRZ Notification, and decided to issue demolition order of all the illegal constructions. However, a petition was filed before Hon'ble the High Court *Writ Petition No. 163/2015* which was disposed of with the direction to dismantle the said structure latest by 10.06.2015. In compliance of the order of Hon'ble the Court, the structures impugned were demolished. With regard to the restoration of the aforesaid survey no. concerned, it is stated that the team of experts has been constituted to ascertain the method and cost involved.
3. Latest status and action taken report have been submitted by the Member Secretary, GCZMA on 17.10.2020 with the facts that GCZMA called and discussed the Goa State Bio-Diversity Board (GSBB) to tender the present status and restoration process and according to the Joint inspection conducted on 14.10.2020, the joint inspection report and action taken and the measures which are required to be taken have been submitted as follows:

“Observations: *During the site inspection the following observations have been made:*

- *The area was seen to have considerable vegetation including bushes, shrubs and local sand dune specific vegetation and ecosystem features were seen to emerge including butterflies.*
- *Members of inspection team visited both riverside as well as coastal side areas under restoration.*

- Complainant Shri Irish Passanha, pointed out about need to remove concrete floors, trash, restoration of broad storm drain resembling nalla like structure, shifting out of caravans and parked vehicles on beachward side in property, removal of parking area floor and scooping out of mud from the area.
- PWD officials said that Goa schedule of Rates are revised after the last estimates and process of actual work had been held up due to reasons such as technical sanction, tendering process for selection of contractor and also Covid 19 pandemic. They said that the team will revisit on 16th October 2020, to take exact measurements again and submit the exact estimates as per the new scope of work along with the timelines required for completion under the supervision of Goa State Biodiversity Board. The planned visit was held on 16/10/2020.
- The expert of GCZMA opined that, it would not be appropriate to scoop or remove the top soil at the site of restoration which has integrated with nature as is seen to have growth of local vegetation.
- GSBB experts observed the growth of Ipomoea species of creeper not only on sand dune part but also on soil compacted area which is prominent of sand dune vegetation along with other indicator sand dune species were also observed.
- Soon after the inspection, GSBB sought opinion from former expert member GCZMA and GSBB Dr. Antonio Mascarenhas on the situation who advised that “Natural growth of floral assemblages is welcome; let it remain as it is. Disturbing the frontal dune at this time will prove more detrimental to the welfare of the dune; new sand will come over it. In fact, it may even fix the dune to some extent. Ipomoea that is thriving at the moment is a good sign; this carpet alone can ensure the stability of any sandy coast.” This opinion strengthened the scientific basis to retain the existing soil which has compacted over period of more than three years and removal of such soil with vegetation will disturb the stability of sand dune and also enhance further erosion due to wind and rainwater.
- Based on above, GSBB ascertained to PWD about the proposed scope for restoration work as a. Removal of concrete floors and parking floor on beachward side with asphalted like compacted platform and restoration of area to normal.

b. Removal of boulders and red and prominent coarse rocks protruding from soil which may not mingle with sand dune ecology.

c. Carting away and disposal of debris arising out of restoration of concrete platforms or broad storm waterway existing on the site.

d. Making Bamboo fence from coastal side to prevent access to sand dune.

And associated work related to the main task as mentioned above.

e. Avoid use of heavy earth moving equipment (HEME) which may result in further instability for sand dune ecosystem. The job has to be mainly executed manually except for concrete platform removal which may be taken up by breaker machines but not HEME.

Since, Goa State Biodiversity Board (GSBB) has been monitoring the situation at the site of restoration. It was observed that the monsoon in the year 2019, there were heavy incessant and cyclonic rains, also this year in 2020, there were maximum rainfall recorded by IMD. These incidents have enhanced the process of restoration of the sand dunes at the restoration site has been gradually taken over by nature due to non-interference of human activities and also as a result of Pandemic in the year 2020.

The best way of restoration would be to facilitate the natural restoration with least interference except as mentioned above.

Suggestions & recommendations:

The work of restoration would be mainly to facilitate the natural process of regeneration of sand dune ecosystem and riverside areas which is already being initiated by nature. The removal of top soil shall be detrimental to the objective hence should be avoided. The work of PWD will ensure removal of unwanted platforms and trash/debris at the earliest after receiving revised estimates within one week with time bound plan of execution. Till the natural regeneration takes place, this area would be naturally fenced to prevent interference.”

4. We except the recommendations and direct the authorities concerned to take immediate remedial measures and to complete within 3 months as suggested in the report.
5. The Original Application No. 3/2015 is finally disposed of.

Sheo Kumar Singh, JM

Dr. Satyawan Singh Garbyal, EM

October 19, 2020
Original Application No. 3/2015 (WZ)
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