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IN THE HIGH COURT OF BOMBAY AT GOA

**CONTEMPT PETITION NO.6 OF 2021
IN
P.I.L. WRIT PETITION NO.14 OF 2018
WITH
MISC. CIVIL APPLICATION NO.405 OF 2023
IN
CONTEMPT PETITION NO.6 OF 2021
WITH
MISC. CIVIL APPLICATION NO.1381 OF 2021 (F)
IN
CONTEMPT PETITION NO.6 OF 2021**

THE GOA RIVERS SAND
PROTECTORS NETWORK,
THR. ITS SECRETARY, DR.
CLAUDE ALVARES

... Petitioner

Versus

PARIMAL RAI AND 4 ORS.

... Respondents

Ms Norma Alvares with Mr Om D'Costa, Advocates *for the Petitioner*.
Mr D. Pangam, Advocate General with Mr Deep Shirodkar, Additional
Government Advocate *for the Respondent-State*.

**WITH
MISC. CIVIL APPLICATION NO.589 OF 2023
IN
CONTEMPT PETITION NO.6 OF 2021**

THE STATE OF GOA THR.
CAPTAIN OF PORTS

... Applicant

Versus

THE GOA RIVERS SAND
PROTECTORS NETWORK,
THR. ITS SECRETARY, DR.
CLAUDE ALVARES

... Respondent

Mr D. Pangam, Advocate General with Mr Deep Shirodkar, Additional
Government Advocate *for the Applicant*.

Ms Norma Alvares with Mr Om D'Costa, Advocates *for the Respondent*.

**CORAM: M.S. SONAK &
VALMIKI MENEZES, JJ.**

DATED: 15th April 2024

P.C.:

1. Heard Ms Alvares and Mr Om D'Costa for the Petitioner. Learned Advocate General appears with Mr Deep Shirodkar, learned Additional Government Advocate, for the Respondents.
2. This is a Contempt Petition alleging non-compliance with the various directions issued by us in our Judgment and Order dated 18.12.2019 in PILWP No.14/2018 on the issue of illegal sand mining in the State of Goa.
3. In this Contempt Petition itself, we have issued directions from time to time to help implement the original directions in the Judgment and Order dated 18.12.2019. This was after noticing some laxity in enforcing our orders and the consequent rise in illegal sand mining.
4. The record of this Contempt Petition would show that the State authorities, though belatedly and after repeated prodding, have been taking

steps to prevent illegal sand mining. Various affidavits have been filed indicating the steps taken from time to time. Despite all this, there were some instances of illegal sand mining. However, we are satisfied that the State is now taking necessary steps, and we go by the assurance made on behalf of the State that it would take necessary steps to ensure that there are no instances of illegal sand mining and transportation of such illegally mined sand in the State of Goa. Now that we propose to dispose of this contempt petition, we hope the momentum is maintained, and there is no laxity in preventing illegal sand mining in the State of Goa.

5. The Petitioners, through Viraj Bakre, a member of the Goa River Sand Protection Network, filed an affidavit dated 18.03.2024 highlighting the issue of fraudulent/unauthorised Transit Passes.

6. Paragraphs Nos.6 to 10 of this affidavit read as follows:-

“6. I say that pursuant to the Network's complaint of illegal sand mining activity and a large sand stack found at Naroa, Bicholim [Oct. 2023], the Police Inspector, Bicholim Police Station had filed a report dated 03/10/2023 in the High Court stating that the sand was brought from Kudal, Maharashtra, and a Transit Pass issued at Patradevi Check post to one Dinesh Pal dated 23-Jun-2023 at 1:02 AM was produced.

7. Having doubts about its authenticity, the deponent sought verification of the same from the Directorate of Mines and Geology. In its letter dt. 12.03.2024, the D.M.G. states that the Transit Pass/Trip sheet in question is “not generated through the ‘Bhumija’ system, as per the records of Goa Electronics Ltd.” The RTI Application and the Reply off the D.MG are enclosed herewith as Annexure C Colly.

8. The ‘Bhumija’ system is an online tracking and management system, operated by Goa Electronics Ltd., which the Government

often refers to as being a foolproof system. The information now received casts serious doubts on the passes being flaunted by a number of trucks carrying sand and it appears that passes are being fabricated. It may also be stated that the fake pass is a facsimile of a genuine pass, right down to every minute detail, layout and text.

9. The Petitioner submits that this is an extremely serious issue that G.E.L. and D.M.G. needs to examine to ensure that the Government is not being hoodwinked. The Sustainable Sand Mining Management Guidelines 2016 and Enforcement & Monitoring Guidelines for Sand Mining 2020, prescribe the following security features to be included in Transit Permits for sand transportation:

- (a) Transit permit to be printed on Indian Bank Association (IBA) approved Magnetic Ink Character Recognition Code (MICR) paper;*
- (b) Unique Barcode;*
- (c) Unique Quick Response Code (QR);*
- (d) Fugitive Ink Background;*
- (e) Invisible Ink Mark;*
- (g) Void Pantograph;*
- (h) Watermark*

10. Petitioner submits that the D.M.G. ought to incorporate these mandatory features into the system operated by the G.E.L. The transit pass also ought to incorporate the name, address and signature of the lessee and the route of transportation as per the Goa Minor Minerals Concessions Rules.”

7. Since this was a serious matter, we directed the Director of Mines and Geology to respond to the above issue. The Director has filed his affidavit on 12.04.2024. In this affidavit, the Director admits that the disputed transit pass dated 23.06.2023 was not generated through the Bhumija System. In other words, the disputed transit pass was indeed a fraudulent document based on which sand was sought to be unauthorizedly

transported in the State of Goa. The affidavit states that on 04.04.2024, a complaint was addressed to the Police Inspector of Bicholim Police Station regarding the use of a fraudulent transit pass. Learned Advocate General states that an FIR has already been registered regarding this use.

8. Accordingly, we direct the Bicholim Police Station to investigate this matter thoroughly and take it to its logical conclusion. This direction is issued because this is one instance where the use of a fraudulent/unauthenticated transit pass has been detected. Ms Alvares states that the possibility of several such instances cannot be ruled out. Accordingly, we think it is appropriate that this matter be seriously investigated and concluded logically.

9. In his affidavit dated 12.04.2024, the Director has referred to the measures now taken to ensure that sand is not transported based on fraudulent or unauthenticated transit passes. These measures are set out in paragraphs Nos. 5 and 6 of the affidavit, and such contents are transcribed below for the convenience of reference:-

“5. I say that the pass issued by the Department has security features such as Barcode, QR Code and watermark. However, in order to prevent any unauthenticated passes being used, the Department has issued Circular dated 10.4.2024 putting in place a mechanism whereby the authenticity of the passes can be checked at the entry check-post itself.

*Annexed hereto and marked as **ANNEXURE B** is a copy of the Circular dated 10.4.2024.*

6. I say that the Circular addresses the said issue and ensures that the Inspecting Officer at the check post, can easily check the authenticity of any transit pass using the Tripsheet Scanning App.

The Circular provides that the Inspecting Officer shall strictly allow access only to those vehicles for which "Access Allowed" is displayed. Such remark is displayed only for those transit passes which are authentic and which are scanned for the first time. If the same is scanned for the second/multiple time(s) or if the same is unauthenticated as the same is not generated from the Bhumija System, then the message "Access Denied" will be displayed with the applicable remark, as mentioned in the circular."

10. Along with the affidavit, the Director has placed a circular dated 10.04.2024 on record. The contents of this circular are also transcribed below for convenience of reference:-

"No. 05/62/2023/RTI/Mines/Part-I/72

Date: 10/04/2024

CIRCULAR

It has come to the notice of this Directorate that unauthenticated/fabricated Transit Passes are generated and utilized for transportation to bring minor minerals from outside Goa.

Such an act of making false document or electronic record amounts to forgery and is punishable under the provisions of the Indian Penal Code and the rules in force.

Therefore, for the purpose of detecting such cases at the entry check-post and to streamline the transportation of minor minerals from outside Goa, the concerned Inspecting Officer at the check-post shall adopt the following steps to verify the authenticity of Transit Pass/Tripsheet issued by the State of Goa under Rule 47 of the Goa Minor Mineral Concession Rules, 1985.

- 1. Download and install the apk file of "Tripsheet Scanning App" with assistance from GEL Officials at DMG Control Room-08882254254 - ext.-33.*
- 2. Login into the app with credentials provided by this Office.*
- 3. Allow access to camera on the app.*
- 4. The Inspecting Officer to Scan the QR code printed on the Transit Pass/Tripsheet using the said Tripsheet Scanning App.*

5. Upon scanning the QR code, the details of the tripsheet will be fetched with following status;
- i. If the Transit Pass/Tripsheet is scanned for the first time
Trip Status: "Tripsheet generated through BHUMIJA and hence VALID - Access Allowed" shall be displayed.
 - ii. If the Transit Pass/Tripsheet is scanned second time/multiple time
Trip Status: "Tripsheet generated through BHUMIJA and is already scanned at the checkpoint - Access Denied" shall be displayed.
 - iii. If the Transit Pass/Tripsheet is unauthenticated which is not generated through BHUMIJA portal
Trip Status: "Tripsheet is Invalid - Access Denied" shall be displayed.
6. The Inspecting Officer at the check-post shall strictly allow access to only those vehicles within the State boundary for which "Access Allowed" is displayed.
7. For any Technical Assistance the concerned Inspecting Officer at the check-post may contact the DMG control room at 8882254254 - 33 (extension).

sd/-
(Narayan Gad)
Director

To,
The Director, Directorate of Transport, Junta House, Panaji Goa.

Copy to (for information):

1. The Pr. Secretary (Mines), Secretariat, Porvorim, Goa.
2. The Director General of Police, Goa Police Department, Police Headquarters, Panaji Goa.
3. The Dy. Director of Mines, Directorate of Mines & Geology, Panaji Goa.
4. All the Assistant Geologists & Technical Assistant, Directorate of Mines & Geology, Panaji Goa."

11. We must record our appreciation for the prompt response from the Director and the measures proposed. At the same time, we must add that all these measures must be strictly enforced. The circular dated 10.04.2024 is addressed to various authorities, and we again direct that the measures set out in this circular must be strictly enforced by all concerned.

12. In addition to the above, we direct the Director of Mines and Geology to publish on the DMG website a list of permits that have already been issued for the purpose of transportation of sand in the State of Goa and are presently valid. Ms Alvares pointed out that the DMG maintains a list of such permits and if this list is uploaded on the website, then the Petitioners would be in a position to find out whether the transportation is being undertaken by these trucks/transporters with permits or some other trucks or transporters who are in fact not authorized to undertake such transportation. We think the publication of such a list on the website would further the detection of illegal and unauthorised sand mining and its transportation in the State of Goa.

13. Similarly, we also direct the Director of DMG to upload the transit passes to the website once they are issued to the trucks/transporters. Such transit passes are issued online, and there should be no difficulty uploading them to the website maintained by the DMG. This will again assist in detecting unauthorised sand mining and its transportation in the State of Goa.

14. The Petitioners pointed out that sand is brought into the State of Goa from neighbouring States based on transit passes/royalty payment challan(s) issued by the neighbouring States. They submitted that such

transit passes/royalty payment challan(s) must be checked at the check-post/borders. Further, they suggested that a record should be made at the check-post about the fact of having checked such transit passes/royalty payment challan(s) or some register should be maintained to enter the details of the transit passes/royalty payment challan(s) issued by the neighbouring States based on which sand is transported into the State of Goa.

15. Since sand is brought into the State of Goa based on transit passes/royalty payment challan(s) issued by the neighbouring States, it is only appropriate that the concerned authorities check whether such transit passes/royalty payment challan(s) are indeed issued. Further, it would be appropriate to maintain a register where the details of such transit passes/royalty payment challan(s) are entered. At the check-post, the concerned authorities are required to check not only the transit passes/royalty payment challan(s) issued by the neighbouring States but also the transit passes issued by the DMG for the transportation of sand in the State of Goa. If some register is maintained, either physically or digitally, this will also go a long way in ensuring that there is no illegal sand mining and transportation of sand in the State of Goa. We direct accordingly.

16. The Captain of Ports filed an affidavit on 08.04.2024 regarding the status of the canoes and crafts involved in the illegal extraction of sand in the State of Goa. On perusal of the affidavit, we are satisfied that necessary steps have been taken or are being taken with regard to the disposal of such canoes and crafts.

17. The Captain of Ports has stated in the affidavit that an expenditure of around ₹2,000/- has to be incurred for the destruction of the canoes and crafts. Accordingly, we clarify that it would be open to the authorities to recover such costs from the parties from whom such canoes/crafts were seized. In any case, the fact that such costs are yet to be recovered should not be a consideration for not destroying such canoes/crafts lest they are again used for illegal sand extraction.

18. Once again, after considering the affidavits filed in this matter from time to time, we are satisfied that action is being initiated to prevent illegal sand mining in the State of Goa. Accordingly, at least for the present, we cannot say that there is any deliberate violation of the directions issued by this Court in PILWP No.14/2018 or, for that matter, the orders issued in this Contempt Petition from time to time. By directing that such measures, including the Police helpline which has been established, must continue, we close this contempt proceedings.

19. The pending Misc. Civil Applications in this Contempt Petition are also disposed of.

20. We express our gratitude to Ms Norma Alvares and Mr D. Pangam, learned AG, for the assistance rendered.

VALMIKI MENEZES, J.

M.S. SONAK, J.

JOSE
FRANCISCO
DSOUZA

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