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IN THE HIGH COURT OF BOMBAY AT GOA

P.I.L. WRIT PETITION NO.5 OF 2024

THE GOA FOUNDATION
THR ITS SECRETARY, DR.
CLAUDE ALVARES

... Petitioner

Versus

THE STATION MASTER,
KALAY RAILWAY STATION
AND 6 ORS.

... Respondents

Ms Norma Alvares with Mr Hrushikesh Patil, Advocates *for the Petitioner.*

Mr Pravin Faldessai, Deputy Solicitor General of India *for Respondent Nos.1 and 2.*

Mr D. Pangam, Advocate General with Mr Deep Shirodkar, Additional Government Advocate *for Respondent Nos.3 and 4.*

Mr J. Godinho, Advocate *for Respondent No.5.*

Mr A.D. Bhobe with Ms Annelise Fernandes, Advocates *for Respondent No.6.*

Mr S.S. Kantak, Senior Advocate with Mr Kher Simoes, Advocate *for Respondent No.7.*

Mr Shivan Desai with Ms T. Menezes, Advocates *for Respondent No.8.*

CORAM: M.S. SONAK &

VALMIKI SA MENEZES, JJ.

DATED: 5th February 2024

P.C.:

1. Heard Ms Alvares who appears along with Mr Hrushikesh Patil for the Petitioner, learned Advocate General appears with Mr Shirodkar,

Additional Government Advocate, for Respondent Nos.3 and 4, Mr Faldessai, learned Deputy Solicitor General of India appears for Respondent Nos.1 and 2, Mr Godinho appears for Respondent No.5, Mr Bhobe appears along with Ms A. Fernandes for Respondent No.6, Mr Kantak, learned Senior Advocate appears with Mr Kher Simoes for Respondent No.7 and Mr Shivan Desai appears with Ms T. Menezes for Respondent No.8.

2. Learned Counsel for the parties submit that the following agreed order can dispose of this petition.

- a) Respondent Nos. 1 and 2, without prejudice to their rights and contentions, will apply within one week from today to the Chief Wildlife Warden, Goa (R-3) for permission to handle ore at Kalay Railway Station under the provisions of the Wildlife (Protection) Act, 1972.
- b) Similarly, Mr Shivan Desai states that Respondent No.8 will, without prejudice to its rights and contentions, also apply within one week from today to the Chief Wildlife Warden, Goa (R-3) under the provisions of the Wildlife (Protection) Act, 1972, for transportation of ore from Kalay Railway Station to the Adrem Jetty.
- c) Mr Kantak states that the 7th Respondent has, without prejudice, also applied to the Chief Wildlife Warden, Goa (R-3), for permission to transport the ore from Kalay Railway Station to the Adrem Jetty.
- d) The Chief Wildlife Warden, Goa (R-3), to consider and dispose

of the above applications in accordance with law and on their own merits after granting an opportunity of hearing to the Applicants and the Petitioner therein. Such applications should be disposed of within four weeks from the date of their filing.

- e) The Chief Wildlife Warden must communicate his decision on such applications to all the parties, including the Petitioner. If the Chief Wildlife Warden decides to grant permissions, the same should be made effective after a period of two weeks from the date of their service upon the Petitioner. This means that for a period of two weeks from the date of grant of such permissions, the permission holders will not act on the same.
- f) Respondent Nos.1 and 2 had unloaded 11,500 metric tons of ore at Kalay Railway Station, out of which the 7th and 8th Respondents had already transported 9,526 metric tons of ore to the Adrem Jetty.
- g) The 7th and 8th Respondents are now allowed to transport the balance of 2,025 metric tons of ore from the Kalay Railway Station to the Adrem Jetty. They say that this exercise will be completed within a week from today. Accordingly, this exercise must be completed within a week from today.
- h) The transporters of ore, as above, shall abide by the transit permit issued by the Directorate of Mines and Geology and the consent granted by the Goa State Pollution Control Board. In particular, Respondent Nos.7 and 8 will have to apply with the Goa (Prevention of Illegal Mining, Storage and Transportation of

Minerals) Rules, 2013 and order dated 08.08.2023 issued by the Directorate of Mines and Geology, Government of Goa.

3. All contentions of all parties, including the contention that Respondent Nos.1 and 2 and Respondent Nos.7 and 8 not requiring any permission from the Chief Wildlife Warden (R-3), are kept open. Nothing in this order is intended to even remotely affect the rights of the Village Panchayat of Kalay to prosecute the Pollution Appeal Nos.1/23 and 2/2023 instituted before the Administrative Tribunal. Such appeals will have to be decided on their own merits and in accordance with the law.
4. Respondents agree that until the Chief Wildlife Warden, Goa (R-3), decides on the above applications (and if granted, for two weeks of its communication to the Petitioners), there will be no further handling of ore at the Kalay Railway Station other than the transportation of the balance of 2,025 metric tons of ore from the station to the Adrem jetty.
5. Respondent No.7 is permitted to apply to the Railways for waiver of demurrage. Mr Kantak states that such an application will be made within a week from today. If such an application is made, Respondent Nos.1 and 2 to dispose of this application in accordance with law and on its own merits within two weeks from its receipt.
6. The petition is disposed of in the above terms based upon the above-agreed order. No costs. All concerned to act on an authenticated copy of this order.

VALMIKI SA MENEZES, J.

M.S. SONAK, J.