

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

APPLICATION NO.139 OF 2015

CORAM:

**HON'BLE DR. JUSTICE JAWAD RAHIM
(JUDICIAL MEMBER)**

**HON'BLE DR. AJAY A. DESHPANDE,
(EXPERT MEMBER)**

In the Matter of:

PILERNE CITIZENS FORUM,

A Society registered under the
Provisions of the Societies Act,1860
Bearing Registration No.518/Goa/2007
C/o Mr. Paul Fernandes, Volvaddo,
Pilerne, Bardez Goa
Through its Secretary,
Mr. Aaron Paul Fernandes
Residing at Maina Pilerne,
Bardez Goa.

....APPLICANT

VERSUS

1. CHIEF SECRETARY,

Government of Goa,
Secretarial Porvorim, Bardez, Goa

2. THE ADMINISTRATOR OF COMUNIDADE

North Goa
Mapusa, Bardez Goa.

3. THE REGISTRAR OF COMUNIDADE OF PILERNE

Having office at C/o Comunidade of Pilerne
Pilerne, Bardez Goa.

4. THE COMUNIDADE OF PILERNE

Through its Attorney
Shri. Estifano C.D'Mello,
Having office at Pilerne, Bardez Goa.

5. THE DEPUTY CONSERVATOR OF FOREST,

Department of Forests,
Panajai Goa.

6. THE DEPUTY TOWN PLANNER,

Office of the Town and Country Planning
Department, Mapusa-Goa.

7. THE CHIEF TOWN PLANNER,

Town and Country Planning
Department, Panaji Goa.

8. THE VILLAGE PANCHAYAT OF PILERNE MARRA,

Through its Secretary,
Pilerne, Bardez Goa.

9. THE MAMLATDAR OF BARDEZ,

Mapusa, Bardez Goa.

10. THE COLLECTOR

North Goa District
Panaji Goa
Mapusa, Bardez Goa.

11. SIR BIOTECH INDIA PRIVATE LIMITED,

Through its Managing Directors,
Having their Registered office at 6926,
Jaipura, Mills Compound,
Sabji Mandi, Clock Tower,
Delhi and Local Office at
A/2, Solitaire Villas, Kirbhat,
Nuvem, Salcete Goa.

12. DEPUTY CONSERVATOR OF FOREST,

Department of Forests
Ponda Goa.

13. SHRI. PREMANAND RAMCHANDRA MALIK

S/o late Ramchandra Damodar Malik
Major of age, Agriculturist,
R/o Maina Pilerne, Bardez Goa.

14. SMT. SITABAI RAMCHANDRA MALIK,

Major of age, Widow of late Ramchandra
Damodar Malik, R/o Maina, Pilerne,
Bardez Goa.

15. MR. ANAND RAMCHANDRA MALIK,

Son of late Ramchandra Malik,
Major of age, married and his wife,

16. SMT. APARNA MALIK,

Wife of Anand Malik,

Both resident of H.No.886/8,
Vijaynagar, Alto Torda,
Salvador Do Mundo, Porvorim,
Bardez Goa.

17. SMT. PRIYANKA PREMANAND MALIK

Wife of Premanand Malik
R/o Maina, Pilerne,
Bardez Goa.

18. SHRI. CHANDRAKANT NAIK

S/o Fotu Naik सत्यमेव जयते
Major of age, married
R/o 34-5, Shanti Nagar,
Ponda Goa.

19. SMT. RAJESHRI CHANDRAKANT NAIK,

w/o Shri Chandrakant Naik,
R/o 34-5, Shanti nagar,
Ponda Goa.

20. Shri. Gokuldas Naik Dangui,

S/o Pandurang Dangui
Major of age, married
R/o Shanti Nagar,
Ponda Goa.

21. SMT. MANDAKINI NAIK DANGUI,

R/o Shanti Nagar,
Ponda Goa,

22. SHRI. VIJAY GHANSHYAM NAIK

Son of Ghanshyam Naik
Major of age, R/o 1203, 'A' Wing,

Pratap Heritage, N.R.Complex,
Opp Veer Sawarkar Udyan,
L.T.Road, Borivalli (W),
Mumbai-92.

.....**RESPONDENTS**

Counsel for Applicant(s):

Mr. Mark Lobo

Counsel for Respondent(s):

Fawia M. Mesquita, for Respondent Nos.1,5,12 a/w Mr. Kharkhanis DCF

Mr. Vledson Lucio Braganza for Respondent Nos.11,22

Mr. Prony Kamat for Respondent No.4.

Date : August 5th, 2016

Per Dr. Justice Jawad Rahim

ORAL JUDGMENT

1. The Applicant Pilerne Citizens Forum, a society incorporated under the Societies Act, 1960, has initiated these proceedings under the provisions of Ss. 14,15,17 and 18 of the National Green Tribunal Act, 2010, against in all twenty two (22) individuals, for alleged act of cutting trees and thereby destruction of forest in the areas detailed in the Application.

2. In response to the Notice issued by us, Respondent Nos. 1, 2, 5, 6, 7, 8, 9, 10, 12, 15, 16, 18 and 22 have

entered appearance, but contesting Respondent is Respondent No.4.

3. Heard learned Counsel for the Applicant and Respondents appeared. Perused records.

4. We had admitted this Application and directed the Forest Department, which is Respondent No.12, to respond core contention in the Application, that there is total negligence on part of the Forest Department in implementing provisions of the Forest Act, thereby allowing destruction of forest by Respondent No.4.

5. Respondents have filed their counter.

6. Respondent No.12 -Forest Department, has filed today affidavit and appended with it a plan demarcating all private forest in Survey Nos. 30and 31, of Pilerne village, Bardez Taluka, Goa, which is subject matter of consideration.

7. As per averments in the affidavit and the plan annexed, it is in compliance to our order dated 13.7.2016. The Forest Department has gone on record to state that an area of private forest admeasuring $18000+10,500 = 28,500$ sq.m. is identified and demarcated as 'private forest' in Survey No.31/1 of Pilerne village, Bardez Taluka, North Goa. Respondent No.4 admits statement of the Forest Department. Respondent No.4 Mr. Estifano C.D'Mello, has also filed affidavit on 28.4.2016 in which at paragraph-2,

he has categorically averred that as per Architect of the Comunidade, the area marked as private forest under Survey No.31/1 of village Pilerne is 26,666sq.m. out of total area 83,092sq.m.

8. He has further averred he has maintained the area of private forest and proceeded with development in the remaining area, which is settlement zone and Conversion Sanad has also been obtained.

9. He relies on the letters dated 12.02/2010 and 17/02/2010 issued by the Chief Town Planner and Assistant Conservator of Forests by Annexure-2 to substantiate that they have carried out development activity in the land which is beyond 26,666sq.m.

10. In view of affidavit filed today by the Forest Department in which there is statement that private forest is 28,550sq.m. and categoric admission by learned Counsel for Respondent No.4, that Respondent No.4 accepts the findings of the Forest Department and will ensure prevention of private forest to the extent of 28,550sq.m.the issue is verbally settled. However, at this juncture, learned Counsel for the Applicant submits that the Applicant had approached this Tribunal with a clear material propositions that the Respondent No.4, has indulged in cutting of the trees thereby destroying forest and has taken no steps for re-forestation by planting trees etc. and thus,

is guilty of contravention of provisions of the Forest Act. He submits the Tribunal may take appropriate action against the Respondent No.4 for such violation of provisions of the Forest Act.

11. We had questioned Respondent No.12- Forest Department and learned Counsel F.M.Mesquita, submits on instructions of his client, that the Forest Department has found there was cutting of trees but in non-forest area there was no cutting or falling of trees in the forest area.

12. It is clear from submission of the Forest Department that there is no falling or cutting of trees by the Respondent No.4 in the forest area and in the circumstances, we find no reason to disbelieve statement of the Forest Department that there is cutting of trees in the non-forest area, and not in the forest area.

13. Be that as it may, learned Counsel for the Applicant submits that they had definite information as averred by the Applicant and on page No.139, about destruction of forest and in this regard they had lodged the Report about felling of trees in the forest area as well as non-forest area and relies on the FIR dated 19.3.2015.

14. We have perused statements so made and we find from the records the report of the Forest Department is subsequent to FIR and is dated 15.12.2015. It is in nature of final report on the basis of FIR submitted by the

Applicants. Thus, by virtue of power conferred under provisions of the Forest Act, the Forest Department has carried out investigation/verification and has come to logical end that there is felling of trees in non-forest area, and not in the forest area, as alleged by the Applicant. Besides, it is submitted on behalf of the Forest Department that punitive action has been taken against the Respondent No.4 for felling of trees, without permission in non-forest area and they have also stated that penalty imposed on 4th Respondent has been discharged.

15. In view of such submission of Forest Department, and undisputed position, we are satisfied that no further action from this Tribunal is required as it may amount to double jeopardy.

16. As regard extent of forest is concerned, in view of categorical statement of Respondent No.4 that it will maintain the forest area as demarcated by the Forest Department, no further action may be required in this Application.

17. However, we accept the request on behalf of Applicant that the plan submitted by the Forest Department today, needs to be taken on record by Revenue Department and updated by the local bodies- Respondent No.7. Hence, we direct Forest Department to forward the map and affidavit to the local body for appropriate action.

18. Learned Counsel for Respondent Nos. 11 and 22 submit that in the present Application their interest is only in respect of Survey No.31/A/1. We do not wish to make any observation for the reason, we have considered grievance of the Applicant only with regard to conduct of the Respondent No.4, and have not taken into consideration any other issue, or allegations against any of the Respondents.

19. With this observation, the Application is disposed making no order as to costs.

....., **JM**
(Dr. Justice Jawad Rahim)

....., **EM**
(Dr.Ajay A. Deshpande)

PUNE.

DATE: August 5th, 2016.

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