

**BEFORE THE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE AT PUNE**

Misc. Application No.03/2023

In

Original Application No. 478/2018

THE GOA FOUNDATION

...APPLICANT

VERSUS

THE STATE OF GOA & ORS.

...RESPONDENTS

**BRIEF SYNOPSIS OF ARGUMENTS ON
BEHALF OF RESPONDENT NO.4**

MOST RESPECTFULLY SHOWETH:

The Respondent No. 4 states and submits as under:

1. Respondent No. 4 is an Association of Real Estate Developers members of which are carrying on the business of construction and real estate development in the State of Goa. It is a body constituted to espouse the cause of its members as well as the other stakeholders in the industry.

2. By way of the above Application, the Applicant herein has challenged the reports submitted by the Forest Department of Government of Goa before this Hon'ble Tribunal on identification of private forest land in State of Goa with reference to Thomas and Araujo Committee Reports.
3. Briefly stated, the North Goa Forest Division Committee headed by Mr. V. T. Thomas and South Goa Forest Division Committee headed by Mr. Francisco Araujo (*hereinafter referred together referred to as the **Thomas and Araujo Committees***) were constituted vide Notification dated 27th November 2012 for identification of balance areas of private forests in the State of Goawhich were not covered by the Sawant and Karapurkar Committee Reports.
4. The said Thomas and Araujo Committees conducted the survey and submitted their report to the Forest Department, Government of Goa. In terms of the Notification, the committees were required to submit their reports on the identification of the private forests

to the Forest Department in order to demarcate and notify the same.

5. Vide Notification dated 23rd April 2018, the Thomas and Araujo Committees were disbanded with immediate effect. The relevant extract of the said Notification reads as: “*...As the works of the identification of Private Forests is complete, the said committees are hereby disbanded with immediate effect.*”
6. Thereafter, in the months of October, 2018, and December 2018, i.e., after the issuance of the said Notification dated 23rd April 2018, the Thomas and Araujo Committees submitted their respective Reports.
7. It was in this background that the Notification dated 21st January 2020 was issued by way of which Review Committee headed by the Conservator of Forest (Conservation) (*hereinafter referred to as **RC-2***) was constituted to review the private forest areas

provisionally identified by the Thomas and Araujo Committees.

8. On a conjoint reading of the above Notifications viz. 27th November 2012, 23rd April 2018 and 21st January 2020, it is clear that the work, only to the extent of identification of the private forests, was undertaken by the committees. However, the demarcation and formal notification to that effect was not done.

9. **This necessitated the constitution of the Review Committee-2 which was entrusted with the work of reviewing the identification of private forests as done by the Thomas and Araujo Committees. In light of the said constitution of the RC-2, the mere identification of the purported private forests by the Thomas and Araujo Committees cannot be construed to mean that the due process of law vis-à-vis the demarcation and notifying of private forests was completed and/or that the RC-2 could not have**

reviewed the said provisional identification. The contention of the Applicant is inherently flawed.

10. The said reports submitted by the Thomas and Araujo Committees were provisional reports (*even though unilaterally termed as Final Reports by the said committees*), which were submitted after the Committees were disbanded. The reference to the word "*provisional*" in the Notification dated 21st January 2020 is to the entire report of Thomas and Araujo Committees being provisional and not just the nomenclature of provisional given in the report by the committees. The notification cannot be interpreted like a statute. Furthermore, the Government on its affidavit stated that the reports of the Thomas and Araujo Committees were not accepted and that the mandate of the RC-2 was to review all the survey nos. identified by the Thomas and Araujo Committees whether demarcated or not. The intent of the notification is clear from the affidavit itself and there is no question of giving it

any other interpretation. Even otherwise, no other interpretation flows from the said notification.

11. **The purpose of the Thomas and Araujo Committee Reports was to only to serve as basic information to the government to take necessary steps to complete the exercise of notifying the private forests. There was no legal sanctity conferred upon the said reports. They are neither statutory reports nor are they reports given by the committees appointed by the Court. Therefore, the question of the said reports having any foundational basis and/or legal sanctity, more particularly to set aside the reports of the RC-2 in a challenge before this Hon'ble Tribunal does not arise.**

12. **In this background the Government had all the powers to accept or reject or modify the said reports submitted by Thomas and Araujo Committees. The said reports cannot be the basis**

for this Hon'ble Tribunal to pass orders against the reports of the RC-2 as sought by the Applicant.

13. In so far as the Terms of Reference of the RC-2 is concerned, the same has to be read along with Terms of Reference of the Sub-Committee which is contemplated in Notification dated 18th September 2020. The TOR of the sub-committee contemplates use of FSI data.
14. **Forest Survey of India (FSI)**, is a premier national organization under the union Ministry of Environment and Forests, responsible for assessment and monitoring of the forest resources of the country regularly. In addition, it is also engaged in providing the services of training, research and extension. After a critical review of activities undertaken by FSI, Government of India redefined the mandate of FSI in 1986 in order to make it more relevant to the rapidly changing needs and aspirations of the country.
15. **Furthermore, considering the technological advancement and taking into consideration the**

change in various factors that has taken place over the years, the latest FSI data and maps shall be more relevant to the present status of the lands and for preparation and finalization of private forests.

16. **FSI was entrusted with the task of carrying out a special study for the Forest Cover Mapping of Goa using High Resolution Satellite Data (LISS-IV). The study has been carried out at a scale of 1:12,500 with MIMU of 0.1ha.**
17. **The objective of the study was the identification of patches of Dense Forest having canopy density greater than or equal to 40% having an area not less than 5 hectares. For the purpose of the same, satellite data of Resourcesat-2, LISS-IV with mapping scale of 1:12,500. In addition to the same, collateral data from Survey of India (SOI) Toposheets (OSM) at a scale of 1:50,000 and Google Earth Imageries were used.**
18. **The steps involved were (i) mapping of Forest of Goa on High Resolution LISS-IV data at a scale of**

1:12,500, (ii) delineating the Forest canopy density equal to and above 40% outside the Govt. Forest Lands i.e. private lands having area of more than 5 hectare.

19. In view of the above reports of the RC-2 cannot be construed as vitiated for using the latest data available with the FSI. Contention of the Applicant that the 2 decade old FSI maps ought to be taken and only as a 'guiding indicator' is erroneous and misconceived.
20. **Even though ground truthing was not done by the FSI, the entire study conducted specifically done for the purpose of identification of the private forests for the State of Goa cannot be vitiated, in as much as the accuracy was assessed on sub-meter Google Earth Imageries on high scale temporal data.**
21. **It is pertinent to note that no challenge to the said data and/or methodology contemplated in the said study is raised in the present Application, assuming without admitting that the same can be challenged before this Hon'ble Court. In the absence of specific**

challenge to the said study, the same cannot be indirectly disputed by the Applicant.

22. The issue pertaining to the identification and demarcation of private forests has been pending for over two decades. Numerous committees have carried out their surveys and submitted their reports.
23. The issue of identification of private forest in the state of Goa is pending for the last more than 20 years. It is in the interest of all the stakeholders involved in the real estate industry that the issue attains closure at the earliest.
24. The Real Estate industry is grappling with the issue of identification of private forest for the last more than 20 years and it is in the interest of the state of Goa that the issue attains closure at the earliest.
25. The exercise of undertaking survey and inspection and filing of the interim reports has been undertaken by experts in the field and therefore the exercise has the necessary sanctity. Applicant has been challenging

practically every report/action taken by the forest department on account of which there has been a lot of uncertainty in the investment climate in the state of Goa and the issue of identification of forest has become convoluted leading to inordinate delays in the closure of the said issue. The above application is one such attempt which needs to be nipped in the bud.

26. Even otherwise the Applicant has failed to point of specific instances wherein there has been illegal and mala fide exclusion of private forests from the reports.

27. In view of the above, the Application is liable to be dismissed.

Date: 11/08/2023

Place: Pune – Maharashtra


Adv for Respondent No. 4