

Writ Petition No. 427/1998

The Goa Foundation

vs.

Diksha Holdings Pvt. Ltd; Ministry of Environment & Forests;

The Goa State Committee on Coastal Environment;

State of Goa; The Cancona Municipal Council

Issue: The Goa Foundation alleged that Diksha Holdings Pvt. Ltd was given permission by the State Authorities to construct a beach resort on Survey Nos. 28/1, 29, 33/1, and 33/2 of Nagorcem Beach, in violation of the Coastal Regulation Zone (CRZ) Notification, 1991. During construction Diksha Holdings Pvt. Ltd. destroyed several sand dunes on the property by constructing a new road, and flattening an area to construct the beach resort. The CRZ Notification strictly forbids the dressing or flattening of sand dunes in CRZ-I Zones because they play a very important role in stabilizing the beach by preventing erosion and acting as wind barriers. The Goa Foundation alleged that Survey Nos. 28/1, 29, 33/1, and 33/2 of Nagorcem Beach fell within the CRZ-I Zone, therefore the destruction of the sand dunes was illegal under the CRZ Notification.

The High Court of Bombay at Goa issued an Interim Order dated 11/2/1999, that prevented Diksha Holdings Pvt. Ltd from proceeding with any development or construction pending the final disposition of the Writ Petition. Diksha Holdings Pvt. Ltd. appealed the Interim Order to the Supreme Court of India in a Special Leave Petition. However, on 6/04/1999 the council for Diksha Holdings Pvt. Ltd. withdrew the Special Leave Petition and the Supreme Court of India directed the High Court of Bombay at Goa to dispose of the Writ Petition expeditiously.

The High Court of Bombay at Goa dismissed the Writ Petition because it held that the authorities that approved Diksha Holdings Pvt. Ltd.'s proposal were aware of the sand dunes and took their preservation into consideration when they approved the project. Additionally the High Court Held that the sand dunes outside the area within 200 meters of the HTL were able to handle the stressors of construction with no damage to the ecology of the beach. Therefore it rejected the Petitioners arguments and dismissed the Writ Petition.

Interim Order: 11/2/1999

Survey Nos. 28/1, 29, 33/1 and 33/2 of Nagorcem Beach fall within the CRZ-I Zone classification because it contains sand dunes. Though Diksha Holdings Pvt. Ltd. was able to obtain permission to build on the plots there can be no justification to permit it to proceed with its development in a CRZ-I Zone. Accordingly, no development on Survey Nos. 28/1, 29, 33/1 and 33/2 of Nagorcem Beach is permissible, and Diksha Holdings Pvt. shall not proceed with any development or construction pending final disposal of the Petition. Furthermore, photographs shall be taken of the construction site from all four sides and submitted to the court.

Order of the Supreme Court of India;

Special Leave Petition No. 2662/1999: 6/4/1999

The Special Leave Petition is dismissed as withdrawn. The High Court is requested to hear and dispose of Writ Petition No. 427/1998 expeditiously.

Final Judgment: 8/10/1999

The authorities were aware of the sand dunes within 200 meters of the HTL when they approved the proposal by Respondent No. 1 and the sand dunes that extend more than 400 meters from the HTL are stable. Therefore, the sand dunes outside of the CRZ-I Zone are able to handle the stress of development without damaging the ecological or environmental integrity of the beach and can be constructed on. Accordingly, the petition is rejected and Interim Reliefs are vacated.

Writ Petition No. 427/1998 is dismissed.