

ITEM NO.3

COURT NO.5

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

IA NOS. 87, 88 AND 90 IN WRIT PETITION(CIVIL) NO. 435/2012

GOA FOUNDATION

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

Date : 21/01/2016 The Applications were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA  
HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

Mr. Harish N. Salve, Sr. Adv. [A.C.]

Mr. A.D.N. Rao, Adv. [A.C.]

Mr. Siddharth Chowdhury, Adv. [A.C.]

For Petitioner(s)

Mr. Prashant Bhushan, A.O.R.  
Mr. Pranav Sachdeva, Adv.

For Applicant(s)  
IA 87

Mr. Kapil Sibal, Sr. Adv.  
Mr. Huzefa Ahmadi, Sr. Adv.  
Mr. Ninad Laud, Adv.  
Mr. Abhijit Gosavi, Adv.  
Mr. Karan Mathur, Adv.  
Mr. Jayant Mohan, A.O.R.

IA 88, 90

Mr. Yash Raj Singh Deora, A.O.R.  
Mr. Parag Rao, Adv.  
Ms. Linette Rodrigues, Adv.  
Ms. Fatima Noronha, Adv.

For Respondent(s)  
For UOI

Mr. D. S. Mahra, A.O.R.

For MOEF

Ms. Pinky Anand, A.S.G.  
Mr. Rana Mukherjee, Sr. Adv.  
Ms. Kiran Bhardwaj, Adv.  
Mr. Devashish Bharukha, Adv.  
Ms. Saudamini Sharma, Adv.

Ms. Niranjana Singh, Adv.  
Mr. Ajay Sharma, Adv.  
Ms. Disha Vaish, Adv.  
Mr. Shreekant N. Terdal, A.O.R.

For State of Goa      Mr. A.N.S. Nadkarni, Adv. Genl.  
                                 Mr. Siddharth Bhatnagar, Adv.  
                                 Mr. Datta Prasad Lawande, Adv.  
                                 Mr. Anshuman Shrivastava, Adv.  
                                 Mr. Salvador S. Rebello, Adv.  
                                 Ms. Purna Bhandari, Adv.  
                                 Mr. Siddharth Mohan, Adv.  
                                 Ms. Garima Tiwari, Adv.  
                                 Mr. T. Mahipal, A.O.R.

For RR 5                      Mr. A.N.S. Nadkarni, Adv. Genl.  
                                 Mr. Shridhar Y. Chitale, Adv.  
                                 Mr. Abhijat P. Medh, A.O.R.

Fro Mining Assn.        Mr. Pratap Venugopal, Adv.  
                                 Ms. Surekha Raman, Adv.  
                                 Mr. Anuj Sarma, Adv.  
                                 Ms. Niharika, Adv.  
                                 For M/s. KJ John & Co., Adv.

For Dr. Prafulla        Mr. Bhavani Shankar Gadnis, Adv.  
Hede Mines                Mt. A. Venayagam Balan, A.O.R.

UPON hearing counsel the Court made the following  
O R D E R

IA NO. 87

This application at the instance of one of the lessees of mining leases granted for iron ore extraction in the State of Goa, wherein they have prayed for a direction that the mining lessees of iron ore in Goa need not have to contribute towards Goa Iron Ore Permanent Fund which was created and directed to be contributed in the judgment of this Court reported in (2014) 6 SCC 590 after the coming

into force of Mines and Minerals (Development and Regulation) Amendment Act, 2015..

In the course of hearing of this application, Mr. Kapil Sibal and Mr. Huzefa Ahmadi, learned senior counsel appearing on behalf of the applicants drew our attention to paragraphs 77, 78 and 88 of the said judgment, as well as, the recent amendments which were brought into force to the Mines and Minerals Development Regulation Act by Mines and Minerals (Development & Regulation) Amendment Act, 2015. We were also taken through extensively through the amended Sections 9B, 9C, 20A and the consequent Rules framed by the State Government as well as the Pradhan Mantri Khanij Kshetra Kalyan Yojana which was also incorporated into the Rules for the operation of District Mineral Foundation in each district of the mining ores of Goa. We were also taken through rehabilitation Scheme which was noted by this Court in Samaj Parivartan case reported in (2013) 8 SCC 154.

We also heard Mr. A.N.S. Nadkarni, learned Advocate General for the State of Goa, Ms. Pinky Anand, learned Additional Solicitor General, Mr.

Rana Mukherjee, learned senior counsel and Mr. A.D.N. Rao, learned counsel for Central Empowered Committee. After having heard, we are of the view that the purpose for creation of Goa Iron Ore Permanent Fund as was noted in paragraphs 77 and 78 of our judgment in the Goa Foundation Case was mainly intended for maintaining intergenerational equity and sustainability of mining for all times to come. However, much we looked into the various materials brought to our notice we are afraid that there was any comprehensive scheme formulated which would meet the requirement for which the said Fund was directed to be created. At this stage, learned Advocate General for the State of Goa came forward to suggest that if the State Government is directed to prepare a Scheme, the State is too willing to prepare the Scheme and submit before this Court. Since the whole of the mining operations pertaining to this case is with reference to the mines situated in the State of Goa, we feel that it will be better in the interest of the State of Goa as well as mining operations by directing the State of Goa to prepare a comprehensive Scheme.

With that view, while we direct the State of

Goa to prepare a Scheme exclusively concentrating on the aspect of intergenerational equity vis-a-vis sustainable development of mines in the State of Goa, we also permit the petitioner to forward its suggestion to the State Government to enable the State Government to frame the Scheme. Any such suggestions shall be forwarded within a week's time from this date. If any comprehensive Scheme is framed by the State Government, the same shall be forwarded to the Central Empowered Committee and the Central Empowered Committee is directed to examine the same and submit its Report. The Report of the Central Empowered Committee and the Scheme shall be filed before this Court within a period of six weeks from the date of communication of this order.

List all these applications as soon as the Scheme and Report are filed.

[KALYANI GUPTA]  
COURT MASTER

[SHARDA KAPOOR]  
COURT MASTER