

# The Goa Foundation

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## **HIGH COURT STALLS FOREST FELLING FOR CRICKET STADIUM**

The Bombay High Court bench at Goa, comprising Justices A S Oka and F.M. Reis, has disposed of a public interest petition filed by the Goa Foundation and three Thivim farmers challenging permissions granted by the Ministry of Environment and Forests to destroy a natural forest comprising 2500 trees, while at the same time directing the Ministry of Environment and Forests, which has already initiated inquiry into the forest clearance, to consider the representation of the petitioners on all the issues raised in the petition.

In the meanwhile, the High Court has directed no trees from the forest will be felled.

By its judgement passed on 12.8.2010, the Court has directed that till the Goa Cricket Association obtains all clearances and permissions, no trees shall be cut on the forest land. The judgement also records the undertaking given by the Goa Cricket Association that no part of the forest land shall be used for constructing any type of commercial project including malls, hotels, etc. (Copy of judgment is annexed.)

The Goa Foundation together with Uday Mavlankar, Gorak Mavlankar and Ashok Kuttu Parab had in April this year challenged the forest clearance granted to the Director of Sports on the grounds that the Forest Conservation Guidelines did not permit such diversion. The petitioners stated that while they were not against an international cricket stadium, they were firmly against the felling of 4.4 hectares of forest for purposes of putting up commercial developments including hotels and malls.

Petitioners also told the Court that the Town Planning Department in 2007 had rejected NOC for change of land use under the Regional Plan 2001 for the proposed stadium as

this was against the policy in force. The petitioners alleged that in order to bypass this order, the Sports Department had filed an application under Section 16/16A of the Town Planning Act for exemption of the project from the Regional Plan. This action was also challenged by the petitioner. As no order passed on this application was placed before the Court by the Government, the Court in its judgement has permitted the issue to be kept open for adjudication in future.

The petitioners alleged that the international cricket stadium project was masterminded in the wings by the Goa Cricket Association which was a private body exercising undue influence over the government as its President was also at the time the Minister of Law & Judiciary, Finance and IT. The petitioners in fact produced documents to show that all decisions relating to the project were invariably taken in the chamber of the then Minister for Law and Judiciary, IT and Parliamentary Affairs and rarely by the Minister for Sports.

The petition also challenged the construction of the stadium without mandatory environment clearance from the Ministry of Environment and Forests as required under the EIA Notification of September 2006. Pursuant to the filing of the Writ Petition, the Goa Cricket Association has commissioned a private agency in Mumbai to process the papers for necessary environment clearance.

The main thrust of the petition, however, was the clearance given to fell the forest. Petitioners informed the Court that the Cabinet had taken a decision way back in March 2007 to hand over the project to the GCA. Yet this information was never conveyed to the Ministry of Environment when the Dept of Sports made the application for grant of clearance six months later. Over the next three years, the Goa Govt continued to give the Ministry the impression that the cricket stadium was a government project.

Subsequently, the government signed a memorandum handing over the land to the GCA in February 2010 without seeking prior approval of the Ministry of Environment and Forests as is required by law. The Lease Agreement in fact permits wholesale commercialization of the forest land and enables the GCA to also sublet and mortgage the land for commercial use and to construct commercial residential facilities for their players, guests, staff, etc. Petitioners pointed out that these lease agreement clauses

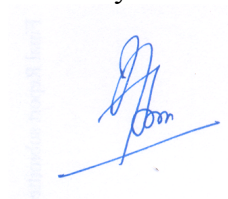
violated the conditions in the forest clearance and that, in any case, the Forest Conservation guidelines do not permit such kind of development on the forest land.

During the hearing of the petition, the GCA filed an undertaking before the High Court that no part of the forest area shall be utilized for constructing malls, hotels or any type of commercial project. It also gave an undertaking that no construction of the stadium would commence without it getting all the necessary permissions.

The Additional Solicitor General on behalf of the Ministry of Environment and Forests informed the Court that after receiving copy of the writ petition, the Ministry of Environment and Forests had by letter dated 20<sup>th</sup> May 2010 sought certain details from the Goa Government and that the objections filed by the petitioners to the forest clearance are being considered by the Ministry of Environment and Forests.

Considering the undertakings given by the GCA and also the enquiry into the forest clearance that has been initiated by the Ministry of Environment, the Court disposed of the writ petition, while directing the Ministry of Environment and Forests to consider the representation made by the petitioners. It also permitted the petitioners to raise contentions regarding challenge to change of land use at appropriate stage if found necessary. In the meanwhile, the order absolutely restrains the GCA from felling any trees on the forest land.

Issued by:



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