

# The Goa Foundation

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## **PRESS RELEASE**

### **UNION ENVIRONMENT SECRETARY FINED RS. 10,000 BY COURT**

A division bench of the Bombay High Court comprising of Justices S.D. Deshmukh and U.D. Salvi has imposed a fine of Rs.10,000 on the present Secretary, Ministry of Environment and Forests, Govt. of India for not filing an affidavit the High Court had asked for in a petition on forest protection pending before it.

The order which was issued on 14<sup>th</sup> September, 2009 – and which became available to petitioners today – recounts that the concerned Secretary was directed to file an affidavit on 25<sup>th</sup> March, 2009 clarifying whether mining leases which have environment clearances but which do not have forest clearance can commence or conduct mining operations.

The issue has been raised in two writ petitions filed by The Goa Foundation v/s the State of Goa (722 of 2008 and 136 of 2008). Both petitions are PILs and concern illegal operations of mines on leases on which there is both private and government forest.

The standing counsel for the Central Government on 25<sup>th</sup> March 2009 told the court he should be granted more time to file an affidavit in the matter. He also informed the court that the Environment Secretary himself would file the affidavit before the next date of hearing. The petition was admitted on 26<sup>th</sup> March and the court ordered the petition to be listed for final hearing on 16<sup>th</sup> June 2009. But both on 16<sup>th</sup> June – and on 7<sup>th</sup> July to which hearing of the petition was further adjourned – no affidavit was filed. After Standing Counsel for Union of India requested 4 more weeks' time, the court finally gave the Secretary "a last chance" till 11<sup>th</sup> August, 2009.

On 11<sup>th</sup> August the High Court found that the affidavit had still not been filed and the matter was adjourned at the request of the counsel to 14<sup>th</sup> September, 2009. On 14<sup>th</sup> September, the advocate now sought additional two months' time and presented a letter signed by K.S. Reddy, Chief Conservator of Forests, simply asking that extension of time be granted. No explanation or grounds were set out.

The court recorded: *"It seems to be an intentional move to stall the hearing of the petition wherein interim relief is in favour of one party and against the petitioner."*

The court directed the Secretary to pay a fine of Rs. 10,000, the money coming not from the exchequer but from his own pocket. The court issued a fresh order directing the Secretary to file his affidavit by 6<sup>th</sup> October, 2009. If it was not ready by that date the Secretary would have to be present in court and the court would consider whether he was entitled to travel and dearness allowance and appropriate order would be passed on that day.

Several mining leases continue to work in Goa despite having forest on them on the grounds that they are working in the non-forest area of the mining lease. The Forest Conservation Act 1980 covers all contingencies including working in non-forest areas of mining leases. Officials of the Ministry of Environment & Forests, however, have gone out of their way to entertain every demand of the mining lobby in Goa for obvious considerations. The Foundation has charged that the delay in the filing of the affidavit is squarely to help the mining lobby to extract the ore from the leases as expeditiously as possible and to allow the irreversible destruction of the standing forest before the law catches up with the mine owners.

Copy of the order is enclosed.



Dr Claude Alvares  
Director