

IN THE HIGH COURT OF BOMBAY AT GOA

***PUBLIC INTEREST LITIGATION WP NOS.1172 OF 2021,
1173 OF 2021 & 1174 OF 2021 (filing)***

PUBLIC INTEREST LITIGATION WP NO.1172 OF 2021

SOUTH GOA ADVOCATES
ASSOCIATION, THR. ITS
PRESIDENT, ANTONIO
CLOVIS DA COSTA AND ANR. Petitioners.

Versus

STATE OF GOA, THR. THE
CHIEF SECRETARY, GOVT.
OF GOA AND 4 ORS., Respondents.

Mr. Nikhil Pai, Advocate for the Petitioners.

Mr. D.J. Pangam, Advocate General with Ms. Ankita Kamat,
Additional Govt. Advocate for Respondents No.1, 4, and 5.

Mr. P. Faldessai, Assistant Solicitor General, and Mr. R. Chodankar,
Central Govt. Standing Counsel for Respondent No.2.

Mr. Ryan Menezes with Ms. Gina Almeida, Advocates for Respondent
No.3.

PUBLIC INTEREST LITIGATION WP NO.1173 OF 2021

ARMANDO GONSALVES
AND ANR. Petitioners.

Versus

STATE OF GOA, THR. ITS
CHIEF SECRETARY AND 2 ORS. Respondents.

Mr. Akash Rebello with Mr. Rui Gomes Pereira, with Mr. Varun Bhandanker, Advocates for the Petitioners.

Mr. D.J. Pangam, Advocate General with Ms. Maria Correia, Additional Govt. Advocate for Respondent No.1.

Mr. P. Faldessai, Assistant Solicitor General, and Mr. R. Chodankar, Central Govt. Standing Counsel for Respondent No.2.

Mr. Ashish Swar, Petitioner in person in Email Letter dated 05.05.2021.

Mr. Durgadas Kamat, Petitioner in person in Email Letter dated 05.05.2021.

PUBLIC INTEREST LITIGATION WP NO.1174 OF 2021

ROSHAN MATHIAS AND ANR. Petitioners.

Versus

THE STATE OF GOA, THR.

ITS CHIEF SECRETARY AND 4 ORS Respondents.

Mr. Nigel Da Costa Frias, with Mr. Vishal Sawant and Mr. G. Malik, Advocates for the Petitioners.

Mr. D.J. Pangam, Advocate General with Mr. Deep Shirodkar, Additional Govt. Advocate for the Respondent/State.

***Coram: M.S. Sonak &
Nitin W. Sambre, JJ.***

Date: 11th May 2021.

P.C. :

Heard learned counsel for the parties.

2. On 06.05.2021, we had issued an interim Order to the State Administration to ensure that no persons are permitted entry into the State unless they possess a negativity certificate obtained within 72 hours from the time they seek entry into the State. We had also granted the State Administration liberty to file a detail affidavit and also urged that this Order be modified or varied. However, it was made clear that until this interim order is modified a negativity certificate will be a must for entry into the State of Goa.

3. Despite the aforesaid, the District Magistrates of North Goa and South Goa have issued orders dated 08.05.2021 covering several aspects, including *inter alia* the aspect of entry of persons into the State of Goa. Clause 2(c) of these orders reads as follows:-

“2. The following activities will be prohibited:

(a)

(b)

(c) Inter-State movement for tourists from 10th May onwards (people who are residents of Goa or are entering Goa for work, or who have with them the full vaccination certificate or Covid negative test report for a test done a maximum of 72 hours prior to entering in Goa will be permitted).

(d)”

4. The aforesaid means that despite our clear and unambiguous Order dated 06.05.2021, the two District Magistrates either on their own or otherwise, have proceeded to carve out exceptions in favor of residents of Goa entering into the State; persons entering Goa for

work; and persons who have vaccination certificate. Thereafter, by yet another order dated 09.05.2021 the District Magistrates have carved out an exception for persons entering in Goa for a medical emergency on production of proof or coming in an ambulance.

5. The District Magistrates were bound by our Order and could not have by themselves or otherwise modified our order or refused to comply with our orders. Fortunately, even the learned Advocate General for State of Goa does not defend the action of the District Magistrates and states that by today evening, necessary amends will be made in the orders issued by District Magistrates so that the orders are entirely consistent with our interim directions. The statement is accepted and the District magistrates are directed to act accordingly.

6. However, according to us an exception can be made in respect of persons entering in Goa for medical emergency on production of proof or those who are coming in an ambulance. Therefore, we grant liberty to make such exception in the orders which will be issued by this evening.

7. We once again reiterate our interim Order dated 06.05.2021 but, retain the liberty to the State Administration to file detailed affidavit and urge variation or modification. We once again make it clear that the two District Magistrates are at liberty if they choose to make amends to their orders. In fact, the learned Advocate General

has stated that such amends shall be made this evening. Irrespective of whether such amends are made or not from the midnight intervening 11th and 12th May 2021, the State Administration shall ensure that no person who does not possess a Covid negativity certificate based on a test done a maximum 72 hours before seeking entry into Goa, will be permitted to enter into Goa. The only exception shall be for persons entering in Goa for medical emergency on production of proof or those who are coming in an ambulance.

8. The State Administration through its Chief Secretary shall ensure compliance.

9. On the issue of supply of oxygen, we propose to hear the learned Counsel for the parties on 12th May, 2021 *i.e.* tomorrow. This is because the pleadings are yet to be completed.

10. Besides, we are of the opinion that the affidavits explaining the actual position at the hospitals will be necessary in order to enable us to appreciate the issue. The learned Advocate General states that the Dean, Goa Medical College and the Director of Health Services will file such affidavits by tomorrow, explaining the position of supply of oxygen at the Goa Medical College Hospital and the South Goa and North Goa District Hospitals, as also at the ESI Hospital. We suggest that the Director of Health Services to obtain inputs from the Nodal Officers at these facilities and file an affidavit before us. The affidavit

to indicate whether lack of oxygen supply continues to be the cause for any casualties. The affidavits to also give particulars about ventilators, HFNO machines, etc. in the context of supply of oxygen. The affidavits to be filed by tomorrow, so that the matter can be considered on this aspect.

11. Further, we also direct the representative of the GARD to file an affidavit before us on the issue of supply of oxygen at the various facilities where their members are called upon to discharge their duties. Even such an affidavit should be filed by tomorrow itself.

12. The Petitioners are also granted liberty to file affidavits on the issue of supply of oxygen.

13. Stand over to 12.05.2021.

NITIN W. SAMBRE, J.

M. S. SONAK, J.