

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH AT PUNE**



EXECUTION APPLICATION NO. 10 OF 2023 [WZ]

in O.A. No. 86/2023 [WZ]

[Earlier O.A. No. 47 OF 2012 (T) [WZ]]

IN THE MATTER OF:

Sandip Ganpat Desai & Anr.

...Applicants

Vs

State of Goa and Ors.

...Respondents

ADDITIONAL AFFIDAVIT OF THE APPLICANT

I, Dr. Claude Alvares, Indian national, Director of the Goa Foundation, the Applicant No. 2 in this matter, do solemnly state on oath as under:

1. I state that this affidavit is being filed to bring on record the representations made by the Applicant No. 1 to various authorities, with regards to the issues raised in this E.A. and compliance with the judgement of this Hon'ble Tribunal dt. 23.11.2012 in O.A. 47/2012 (T) [now re-numbered as O.A. 86/2023 (WZ)].
2. I say that on 17th May 2022, a legal notice was sent by the Applicant No. 1 [along with the Original Applicant No.s 2 and 3] through an advocate to the Directorate of Mines and Geology, Govt. of Goa [Resp. No. 3 herein], the Indian Bureau of Mines [Resp. No. 5 herein], M/s Minrani Exports and Imports [Resp. No. 7 herein], the Goa State Pollution Control Board, the

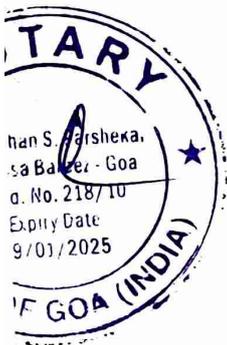
Union Ministry of Mines, and also the Directorate General of Mines Safety, Goa. A similar legal notice dt. 18.05.2022 was also sent to the Forest Dept, Govt. of Goa [*Resp. No. 2 herein*].

3. These notices voiced the concerns of the Applicant regarding the ongoing mining activities at the site in question, in as far as such activities and the permission accorded to that end by the authorities were contrary to and in violation of the judgement of this Hon'ble Tribunal dt. 23.11.2012. Both the notices dt. 17.05.2022 and 18.05.2022 are enclosed herewith as **Annexure 1 Colly**.

4. I verify that the contents of paras 1(p), 2 and 3(p) of this affidavit are in the nature of facts which are true to my own knowledge and official documents/records, and that the contents of paras 1(p) and 3(p) are my submissions, based on legal advice, which I believe to be true and correct. No part of it is false and nothing material has been concealed therefrom, and the annexures enclosed are true copies of their respective originals.

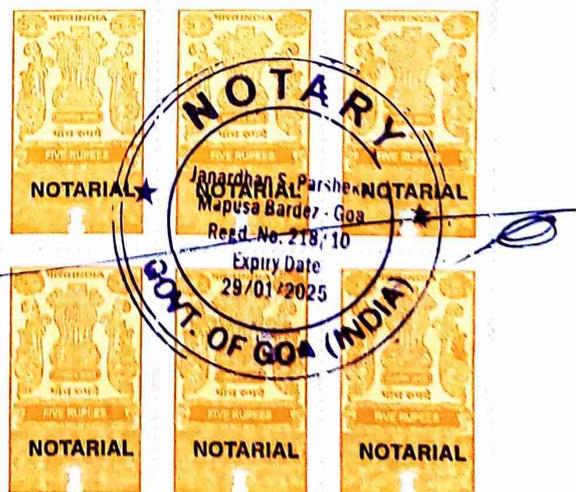
Solemnly affirmed at Mapusa, Goa,
this the 21st day of August 2023.

APPLICANT /DEPONENT



Always
de Claude
3154/2023
2/08/2023

JANARDHAN S. PARSHAKA
NOTARY AT MAPUSA BARDEZ - GOA
STATE OF GOA INDIA



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VERIFICATION

I, Dr. Claude Alvares, Indian national, Director of the Goa Foundation, the Applicant No. 2 in this matter, do hereby verify that the contents of paras 1 - 4 of my above affidavit are true to my knowledge and belief, and that no part of it is false and nothing material has been concealed therefrom.

Solemnly affirmed at Mapusa, Goa,
this the 21st day of August 2023

APPLICANT /DEPONENT



DECLARATION OF AFFIDAVIT AND VERIFICATION
OF PART No. 2 Dr. Claude Alvares
IN MATTER OF GOA FOUNDATION / BEFORE ME AT
MAPUSA, BARDEZ, GOA
ON 21/08/2023

ANARDHAN S. PARSHEKA
NOTARY AT MAPUSA - BARDEZ - GOA
STATE OF GOA INDIA

S. N. Joshi & Associates o/c

ADVOCATES & NOTARY PUBLIC

Tel. No.:(0832) 2230770
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 Email: advsnjoshi@gmail.com

Office : T-14 / T-13, 3rd Floor, Jairam Complex,
 Nevgi Nagar, Rua de Ourem,
 Panaji Goa 403 001

Associate Advocates:

Mrs Archana Pai Bir, Mrs Rinette Menezes Mathew, Mr Balkrishna P. Natekar

Ref.: ~~SNJ/124/2022~~Date: ~~7/05/2022~~**By Hand Delivery**

To,

1. The Director,
 Directorate of Mines & Geology,
 Government of Goa,
 Ground Floor, Institute of Menezes Braganza
 Panaji, Goa, 403 001.
2. The Indian Bureau of Mines,
 Through the Regional Controller of Mines,
 Regional Office,
 Opp. RTO Office,
 P.O. Fatorda, Margao, Goa 403 602.
3. The Directorate General of Mines Safety,
 Through its Director of Mines Safety &
 Regional Inspector – Agali,
 Post Office Fatorda, Margao,
 Goa 403 602
4. Ministry of Mines,
 Through its Secretary,
 Shashtri Bhawan,
 Dr. Rajendra Prasad Road,
 New Delhi, Delhi 110 001.

Received (Sg) 9/17/05/2022
 Directorate of Mines & Geology
 Government of Goa

प्राप्त RECEIVED
9/17/05/2022
 भारतीय खान निदेशालय
 DIRECTORATE OF MINES SAFETY
 पोवा क्षेत्र GOA REGION
 फातोडा-403602 FATORDA-403602

9/17/05/2022
 प्राप्त कर्ता
 Received
 भारतीय खान ब्यूरो
 Indian Bureau of Mines
 फातोडा, मरगाओ, गोवा
 Fatorda, MARGAO-GOA

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5. The Goa State Pollution Control Board
Through its Member Secretary,
Pilerne Industrial Estate,
Opposite Saligao Seminary
Saligao, Bardez Goa, 403 114.

Vandekar
17/5/22
Goa State Pollution Control Board
Opp. Saligao Seminary
Saligao Goa 403 511

6. M/s Minrani Exports & Imports
Through Mr. Vikas Shivaji Singh,
S-1, Indira Apartments,
Dhavali Ponda, Goa, 403 401.

Sub: Illegal Mining Activities and Transportation in Reserved
Forests

Sir,

Under the instructions of our Clients (1) Shri Sandeep Ganpat Desai, Farmer, residing at House No.282, Sacorda, Taluka Dharbandora, Goa, (2) Shri Uday Hari Desai, residing at House No.62, Panshe, Taluka Sattari, Goa and (3) Shri Prakash Hari Desai, residing at House No.62, Panshe, Taluka Sattari, Goa, we hereby address you as under:

1. Subject matter of the present Notice is the illegal Mining being conducted by Elray Minerals & Co. or Minrani Exports in Mining Lease T.C. No.1/37 at Sacorda, Taluka Dharbandora, Goa, under the pretext of Transportation of Ore sold in e-auction by the Directorate of Mines, Government of Goa in the 27th e-

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auction. Even otherwise, the e-auction conducted by the State of Goa is illegal, as the Ore being extracted therein was not the Ore produced during the period from 2007 to 2011 as referred to in the Judgment of the Hon'ble Supreme Court of India.

2. Our aforesaid Clients have made available to us the following authorities in regard to the aforesaid Mines:
 - a. Permissions for transportation under No.6-13-(244) -2022-23-FD/86 dated 08/04/2022 issued by Dy. Conservator of Forests – Monitoring and Evaluation, Chief Office of the Principal Chief Conservator of Forests, "Goa Van Bhawan", Forest Department, Altinho Panaji, Goa.
 - b. No Objection for screening and crushing under No.03/27/2022/Major/Mines/3142 dated 23/03/2022 issued by the Dy. Director of Mines & Geology, Directorate of Mines and Geology, Institute Menezes Branganza, Ground Floor Panaji, Goa.
 - c. Consent to Operate under Water & Air under No.12/2022-PCB/1237996/R0009559 dated 22/04/2022 issued by the Goa State Pollution Control Board, Saligao, Bardez, Goa.

 Hence, the present Notice on behalf of our aforesaid Clients.

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3. By an Order dated 23rd November, 2012 passed in Application No. 47/2012 (T) (Bombay High Court W.P No.778/2010), the Principal Bench of the Hon'ble National Green Tribunal had directed stoppage of all mining activities, quashed the Environmental Clearance, Forest Clearance and the permission granted by the Chief Wildlife Warden in the Iron / Manganese Ore Mine proposed to be started by M/s Elray Minerals Company on the ground that the proposed mining site, situated in the property surveyed under Survey No.7 and 11 of the Village of Sacorda, wherein the mine was to start is the part of the reserved forests and ecologically sensitive area.

4. In the said Petition filed before the Hon'ble High Court of Bombay at Goa and later transferred to the Hon'ble National Green Tribunal, it was pointed out by our aforesaid Clients that the Mining Lease T.C. No. 1/37 was never broken for mining at all. The entire lease area was full of lush green thick forests. Our Clients had approached the Hon'ble High Court immediately after an attempt was made by M/s Elray Minerals to start mining for the first time in the year 2010 and broken a part of the Surface with the use of heavy Machines.



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5. In view of the Order of the Hon'ble National Green Tribunal referred herein above, no permissions of whatsoever nature could have been granted by the authorities for mining and transportation of Ore from the said Mines, wherein no legal mining had ever taken place.
6. It appears that the Officials of the Directorate of Mines and Geology blindly conducted the 27th e-auction in respect of the aforesaid Mining Lease without confirmation of existence of any Dump therein. No evaluation was also done of the material lying on the Surface extracted illegally in the year 2011. The Fe content of the said material is not known and the Auction was conducted without verification of the Fe content.
7. Such an exercise by the Directorate of Mines and Geology not only speaks of Procedural irregularity by demonstrating the manner in which the largesse of the State is carelessly sold and transferred by the Department of Mines and Geology in favour of a private beneficiary. Goa Government has not listed any Dump in the said Mining Lease, either before the Hon'ble Supreme Court or the Goa Assembly.
8. We are to draw your attention to the fact that the Hon'ble Supreme Court had declared all mining activities in Goa from 2007 till the time of the closure in



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2012 in respect of 88 Leases were illegal as they were continued without a valid Lease under the Mines & Minerals (Development & Regulations) Act. What was permitted to be auctioned by the Hon'ble Supreme Court was this Ore extracted during the period from 2007 to 2012.

9. The aforesaid Mining Lease T.C. No. 1/37 was never opened for mining except for illegal operations for a short while in the year 2010. Hence, the Department of Mines and Geology could not put the Ore even if lying in the said Mine for e-auction. Thus, the e-auction conducted by the Directorate of Mines & Geology was totally illegal. This auction is a fraud on the State exchequer. There are absolutely no old dumps in the said Mining Lease. However, under the pretext of removing ore from the old dumps, M/s Elray Minerals and M/s Minrani Exports & Imports have started a fresh mining activity with the use of heavy machinery.
10. M/s Elray Minerals as well as M/s Minrani Exports & Imports have not obtained any Environmental Clearance from the Ministry of Mines & Geology. No mining activities can ever be allowed in eco sensitive zone. The area referred herein above are the reserved forests in the vicinity of Madei Wildlife Sanctuary, Bhagwan Mahavir Wildlife Sanctuary and Mollem National Park.



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11. In the aforesaid circumstances, we hereby call upon you to call off all the mining activities at the aforesaid site in Survey Nos. 7 and 11 within 48 hours from the receipt of the present Notice under an intimation to our Clients. You are also called upon to remove all the Machinery brought in by you at the Site for illegal Mining activities. Please note that in case of failure on your part to comply with the present Notice, our Clients will be compelled to approach the Vacation Bench of the Hon'ble High Court of Bombay at Goa or the Hon'ble National Green Tribunal.

Kindly take note and do the needful.



(Swapna Joshi)

Advocate

S. N. Joshi & Associates

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Tel. No.:(0832) 2230770
Mobile: 9423885061 / 9822102604
Email: advsnjoshi@gmail.com

Office : T-14 / T-13, 3rd Floor, Jairam Complex,
Nevgi Nagar, Rua de Ourem,
Panaji Goa 403 001

Associate Advocates:

Mrs Archana Pai Bir, Mrs Rinette Menezes Mathew, Mr Balkrishna P. Natekar

Ref.: SNJ/132/2022

Date: 18/05/2022

By Hand Delivery

To,

The Dy. Conservator of Forests -

Monitoring and Evaluation,

Government of Goa,

Office of the Principal Chief Conservator of Forests,

'Goa Van Bhawan', Forest Department,

Altinho - Panaji, Goa

Sub: Illegal Mining Activities and Transportation in Reserved
Forests

Sir,

Under the instructions of our Clients (1)Shri Sandeep Ganpat Desai, Farmer, residing at House No.282, Sacorda, Taluka Dharbandora, Goa, (2) Shri Uday Hari Desai, residing at House No.62, Panshe, Taluka Sattari, Goa and (3) Shri Prakash Hari Desai, residing at House No.62, Panshe, Taluka Sattari, Goa, we hereby address you as under:

1. Subject matter of the present Notice is the illegal Mining being conducted by Elray Minerals & Co. or Minrani

Amol Kelkar

Chaya
18/5/22
Office of the
Pr. Chief Conservator of Forests
Altinho, Panaji, Goa 403 001

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Exports in Mining Lease T.C. No.1/37 at Sacorda, Taluka Dharbandora, Goa, under the pretext of Transportation of Ore sold in e-auction by the Directorate of Mines, Government of Goa in the 27th e-auction. Even otherwise, the e-auction conducted by the State of Goa is illegal, as the Ore being extracted therein was not the Ore produced during the period from 2007 to 2011 as referred to in the Judgment of the Hon'ble Supreme Court of India.

2. Our aforesaid Clients have made available to us the following authorities in regard to the aforesaid Mines:
 - a. Permissions for transportation under No.6-13-(244) - 2022-23-FD/86 dated 08/04/2022 issued by Dy. Conservator of Forests – Monitoring and Evaluation, Chief Office of the Principal Chief Conservator of Forests, "Goa Van Bhawan", Forest Department, Altinho Panaji, Goa.
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 - c. Consent to Operate under Water & Air under No.12/2022-PCB/1237996/R0009559dated

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22/04/2022 issued by the Goa State Pollution Control Board, Saligao, Bardez, Goa.

Hence, the present Notice on behalf of our aforesaid Clients.

3. By an Order dated 23rd November, 2012 passed in Application No. 47/2012 (T) (Bombay High Court W.P No.778/2010), the Principal Bench of the Hon'ble National Green Tribunal had directed stoppage of all mining activities, quashed the Environmental Clearance, Forest Clearance and the permission granted by the Chief Wildlife Warden in the Iron / Manganese Ore Mine proposed to be started by M/s Elray Minerals Company on the ground that the proposed mining site, situated in the property surveyed under Survey No.7 and 11 of the Village of Sacorda, wherein the mine was to start is the part of the reserved forests and ecologically sensitive area.
4. In the said Petition filed before the Hon'ble High Court of Bombay at Goa and later transferred to the Hon'ble National Green Tribunal, it was pointed out by our aforesaid Clients that the Mining Lease T.C. No. 1/37 was never broken for mining at all. The entire lease area was full of lush green thick forests. Our Clients had approached the Hon'ble High Court immediately after an attempt was made by M/s Elray Minerals to

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- start mining for the first time in the year 2010 and broken a part of the Surface with the use of heavy Machines.
5. In view of the Order of the Hon'ble National Green Tribunal referred herein above, no permissions of whatsoever nature could have been granted by the authorities for mining and transportation of Ore from the said Mines, wherein no legal mining had ever taken place.
 6. It appears that the Officials of the Directorate of Mines and Geology blindly conducted the 27th e-auction in respect of the aforesaid Mining Lease without confirmation of existence of any Dump therein. No evaluation was also done of the material lying on the Surface extracted illegally in the year 2011. The Fe content of the said material is not known and the Auction was conducted without verification of the Fe content.
 7. Such an exercise by the Directorate of Mines and Geology not only speaks of Procedural irregularity by demonstrating the manner in which the largesse of the State is carelessly sold and transferred by the Department of Mines and Geology in favour of a private beneficiary. Goa Government has not listed any Dump

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- in the said Mining Lease, either before the Hon'ble Supreme Court or the Goa Assembly.
8. We are to draw your attention to the fact that the Hon'ble Supreme Court had declared all mining activities in Goa from 2007 till the time of the closure in 2012 in respect of 88 Leases were illegal as they were continued without a valid Lease under the Mines & Minerals (Development & Regulations) Act. What was permitted to be auctioned by the Hon'ble Supreme Court was this Ore extracted during the period from 2007 to 2012.
 9. The aforesaid Mining Lease T.C. No. 1/37 was never opened for mining except for illegal operations for a short while in the year 2010. Hence, the Department of Mines and Geology could not put the Ore even if lying in the said Mine for e-auction. Thus, the e-auction conducted by the Directorate of Mines & Geology was totally illegal. This auction is a fraud on the State exchequer. There are absolutely no old dumps in the said Mining Lease. However, under the pretext of removing ore from the old dumps, M/s Elray Minerals and M/s Minrani Exports & Imports have started a fresh mining activity with the use of heavy machinery.
 10. M/s Elray Minerals as well as M/s Minrani Exports & Imports have not obtained any Environmental

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Clearance from the Ministry of Mines & Geology. No mining activities can ever be allowed in eco sensitive zone. The area referred herein above are the reserved forests in the vicinity of Madei Wildlife Sanctuary, Bhagwan Mahavir Wildlife Sanctuary and Mollem National Park.

11. In the aforesaid circumstances, we hereby call upon you to call off all the mining activities at the aforesaid site in Survey Nos. 7 and 11 within 48 hours from the receipt of the present Notice under an intimation to our Clients. You are also called upon to remove all the Machinery brought in by you at the Site for illegal Mining activities. Please note that in case of failure on your part to comply with the present Notice, our Clients will be compelled to approach the Vacation Bench of the Hon'ble High Court of Bombay at Goa or the Hon'ble National Green Tribunal.

Kindly take note and do the needful.

Akshay Marshellkar
(Akshay Marshellkar)

Advocate