

BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT PUNE

INTERIM APPLICATION NO 64 OF 2022

IN

APPEAL NO. 20 OF 2022

Paul Lobo and Ors

)... Appellants

Versus

Goa Coastal Zone Management Authority and Anr

)... Respondents

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The Index is filed on the 10th day of March at Margao, Goa

Through

RONITA BHATTACHARYA

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[Signature]
Appellant

[Signature]



BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT PUNE**APPEAL NO. 20 OF 2022**

Paul Lobo and Ors

).... Appellants

Versus

Goa Coastal Zone Management Authority and Anr

)...Respondents

**ADDITIONAL AFFIDAVIT IN REJOINDER ON BEHALF OF
THE APPELLANTS**

1. I, Jose Fernandes, s/o Procorio Fernandes, R/o House No. 23, Tamborim, Cavelossim, Salcete, Goa, Appellant No. 3 in Appeal No 20 of 2022 herein, do hereby state on solemn affirmation.

2. I say that I have read the present Appeal No 20 of 2022 and am therefore conversant with its contents. I have also read the affidavits on the behalf of the Respondent No. 1 dated 12.01.2023 which was served on my advocate on 04.02.2023 (hereinafter



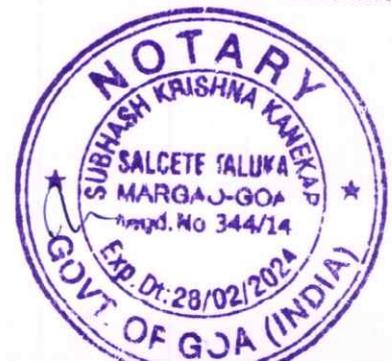
referred to as the "said Affidavit") and am conversant with the contents of the said Affidavits. Thus, I am competent to depose by way of the present affidavit on behalf of the Applicants in the said matter.

3. At the outset, I deny each and every averment, contention, allegation and/or submission made by the Respondent No. 1 in the said Affidavit in Reply. I say nothing should be deemed to have been admitted by me for lack of specific denial unless the same is specifically admitted by me hereinafter.

ISSUE ON MAINTAINABILITY RAISED BY THE GCZMA

4. I say that the Respondent No. 1 has belatedly raised an issue on maintainability in its affidavit in Reply dated 12.01.2023 after failing to raise any such argument in its previous affidavit in Reply dated 22.11.2022. I say that the Respondent No. 1 had previously filed an affidavit in the present matter dated 19.10.2022, but had not raised the contentions pertaining to maintainability in relation to whether the impugned order/directions could be challenged before this Hon'ble Tribunal

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under Section 16 of the NGT Act, 2010. I therefore say the Respondent GCZMA is estopped from raising the said averment at this stage. Notwithstanding the fact that the Respondent GCZMA is barred from raising the said averment on maintainability, I say the following in response to the averments raised in the affidavit of the GCZMA:-

a. The impugned order/direction of the Respondent GCZMA has been correctly challenged under Section 16(g) of the NGT Act, 2010 under the present appeal.

b. The impugned order was not a simpliciter discharge of proceedings against the Respondent No. 2, but was instead an instance where the Respondent No. 1 issued actual directions to the Respondent No. 2 as follows:

“Without prejudice Authority in exercise of the powers conferred under Sections of the Environment (Protection) Act, 1986 (Central Act 29 of 1986) read with sub-rule (3)(a) of Rule 4 of the Environment (Protection) Rules 1986, and read with power vested



with the GCZMA vide Order S.O. 3975 (E) dated 31/10/2019 issued by the Ministry of Environment & Forests, Government of India, hereby direct Respondent to comply the following direction within 30 days from date of communication this order

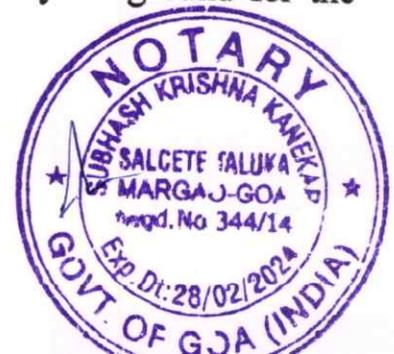
a) The erection of temporary MS sheet fencing on eastern side of the property surveyed under survey no.134/3 and restored land to its original condition.

b) MS channels(without MS sheet) erected on western side of property under survey No. 134 /3 of village Cavellossim embedded in the sand dunes along North and South boundaries shall be removed and dunes restored to its original condition.

The proceedings are disposed off accordingly..”

It is evident that the Respondent GCZMA itself referred the to the aforesaid directions to the Respondent no. 2 as “directions” and not a “decision” or any other term as used in the matter of *Austin Francis D’Souza v Secretary and Ors.* I therefore say there is absolutely no ground for the

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Respondent GCZMA to now attempt to claim that the impugned directions issued by it are somehow not directions issued under Section 5 of the EPA Act.

- c. In a similar matter, OA No. 75/2019 where proceedings initiated under Section 5 of the Environment protection Act read with sub-rule (3)(a) of Rule 4 of the Environment (Protection) Rules, 1986 read with power vested with the GCZMA vide Order S.O 3324(E) dated 26.10.2017 issued by the MoEFCC, were **discharged** by the GCZMA against a private person and their property, this Hon'ble Tribunal noted that the Applicant in question had wrongly sought to challenge the order/direction of the GCZMA discharging proceedings Section 5 of the Environment protection Act read with sub-rule (3)(a) of Rule 4 of the Environment (Protection) Rules, 1986 read with power vested with the GCZMA vide Order S.O 3324(E) dated 26.10.2017 through an Original Application filed under Sections 14 and 15 of the NGT Act, 2010. While dismissing the Original



Application filed by the Applicant in question, the Hon'ble NGT categorically held,

"The impugned proceedings of the Respondent No.2 dated 27.05.2019 came to be passed in exercise of the powers conferred under Section 5 of the Environment (Protection) Act, 1986 read with Sub-Rule (3) (a) of Rule 4 of the Environment (Protection) Rules 1986 and therefore, it is deemed to be a direction issued under Section 16 (g) of the National Green Tribunal Act, 2010."

As such it is evident that as recently as September 2021, this Hon'ble Tribunal passed a reasoned, cogent order holding that directions of the GCZMA discharging proceedings (issued under Section 5 of the EPA Act read with rule 4 of the EPA Rules) previously initiated by it would amount to be a "direction" under Section 16(g) of the National Green Tribunal Act. The Hon'ble Tribunal further held that the said order/direction of the GCZMA should have been challenged under Section 16(g) of the NGT Act. A copy of the order of this Hon'ble Tribunal in OA 75/2019 dated



14.09.2021 has been annexed hereto and marked as **Annexure A-1.**

- d. The Appellants humbly submit that the Respondent GCZMA is bound by the said order of this Hon'ble Tribunal in OA 75/2019 dated 14.09.2021, as it had not suggested in the said OA 75/2019, that directions of the GCZMA discharging proceedings (issued under Section 5 of the EPA Act read with rule 4 of the EPA Rules) previously initiated by it would not amount to "directions" under Section 16(g) of the NGT Act, 2010.
- e. I further say that this Hon'ble Tribunal very recently considered and elaborated this very question of law and held vide its order dated 23.01.2023 in the matter of *Jose Fernandes v GCZMA and Ors* Appeal No. 42/2022 that the withdrawal of proceedings by the GCZMA against a Respondent does amount to a direction under Section 16(g) of the National Green Tribunal Act, 2010. I therefore say the present issue is now settled law. A copy of the said



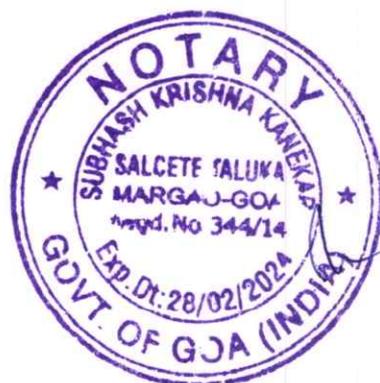
order of the Hon'ble Tribunal in OA 42/2022 has been annexed hereto and marked as **Annexure A - 2**. I say that while the Respondents in Appeal No. 42/2022 have challenged the said order of this Hon'ble Tribunal before the Hon'ble Supreme Court of India vide a Civil Appeal dated 1365/2023, the Hon'ble Supreme Court did not stay the order of this Hon'ble Tribunal and deliberately chose not to stay proceedings before this Hon'ble Tribunal in OA 42/2022. A copy of the order of the Hon'ble Supreme Court of India dated 03.03.2023 has been annexed hereto and marked as **Annexure A-3**.

f. I further say that the order of this Hon'ble Tribunal in Appeal No. 03/2017 in the matter of *Austin Francis D'Souza v Secretary, MoEFCC* dated 21.11.2017 does not apply to the present case, and can be distinguished from the present Appeal on both law and facts, as in the said matter, the Respondent had only been issued *proposed* directions by the State Government.



g. I say that it is noteworthy that the impugned order has been issued by the GCZMA not only under Section 5 of the Environment Protection Act read with sub-rule (3)(a) of Rule 4 of the Environment (Protection) Rules, 1986 , but is also issued in exercise of the power vested in the GCZMA vide MoEFCC order 3975(E) dated 31/10/2019. It is submitted that a plain reading of Section 5 of the Environment Protection Act, 1986 only empowers the Central Government to issue directions under Section 5 of the Environment Protections Act. Even Rule 4 of the Environment (Protection) Rules, 1986, lays out the procedure for the Central Government to issue directions under Section 5 of the Environment Protection Act, 1986.

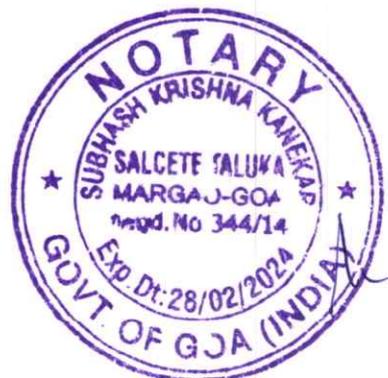
h. However, bodies such as the GCZMA are vested with the power to issue directions under Section 5 of the Environment Protection Act, 1986 because the authority to issue such directions has been vested in them by the MoEFCC under Section 3(3) of the Environment Protection



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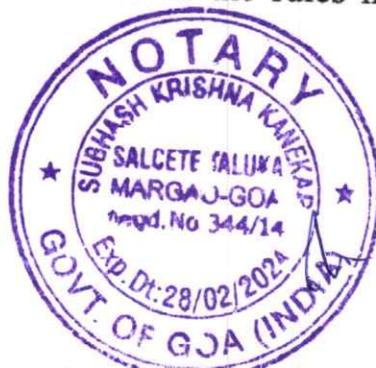
Act, 1986. Section 3(3) of the Environment Protection Act, 1986 reads as follows: -

“(3) The Central Government may, if it considers it necessary or expedient so to do for the purposes of this Act, by order, published in the Official Gazette, constitute an authority or authorities by such name or names as may be specified in the order for the purpose of exercising and performing such of the powers and functions (including the power to issue directions under section 5) of the Central Government under this Act and for taking measures with respect to such of the matters referred to in sub-section (2) as may be mentioned in the order and subject to the supervision and control of the Central Government and the provisions of such order, such authority or authorities may exercise the powers or perform the functions or take the measures so mentioned in the order as if such authority or authorities had been empowered by this Act to exercise those powers or perform those functions or take such measures.”



h. As such it is evident that the Central Government can delegate its powers to issue directions under Section 5 of the Environment Protection Act, 1986 to any authority constituted by it by notifying the vesting of such powers in the Official Gazette. Accordingly, the MoEFCC has from time to time constituted the Respondent GCZMA vide a notification in the official Gazette, and has vested appropriate powers with the GCZMA such that it can issue directions under Section 5 of the EPA Act, 1986 it "*shall be responsible for enforcing and monitoring the provisions*" of the CRZ Notification, 2011 vide S.O 3975(E) dated 31.10.2019. I say that the said order of the MoEFCC which was notified in the Official Gazette further vests in the GCZMA, the following amongst other powers,

1. The power to inquire into cases of alleged violation of the provisions of the Environment Protection Act, 1986 or the rules made thereunder; and review the



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cases involving violations or contraventions of the provisions of the said Act and the rules made thereunder;

2. The power to inquire or review cases of violations or contraventions of the said notification suo-moto, or on the basis of a complaint made by any individual or body or organisation;

3. The authority to file complaints under Section 19 of the Environment Protection Act, 1986

4. The power to take such action as maybe required under Section 10 of the Environment Protection Act, 1986 to verify the facts of the cases before it.

A copy of S.O 3975(E) dated 31.10.2019 has been annexed hereto and marked as **Annexure A -4**. I say that it is evident that the Respondent GCZMA was well within its powers under S.O 3975(E) dated 31.10.2019 to consider the complaint and grievances of the Appellants against the Respondent and issue directions to the Respondents.



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- i. I further say there is no provision under Section 3(3) of the EPA Act, 1986, the EPA rules, 1986, CRZ Notification 2011 or S.O 3975(E) dated 31.10.2019 that the provisions of the EPA Rules 1986 apply mutatis mutandis to directions issued by the Respondent GCZMA or any directions issued under Section 5 of the EPA Act, 1986, by any Coastal Zone Management Authority.
- j. *As arguendo*, I say that any shortfall or defect in the manner in which the GCZMA issued directions under Section 5 of the Environment Protection Act, 1986 cannot be attributed to the Appellants, neither can the Appellants be prejudiced by the said potential defect/shortfall, if any, made by the Respondent GCZMA.

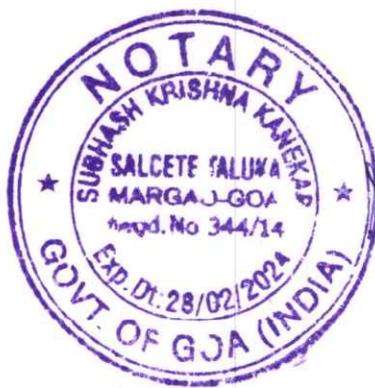
RESPONSE TO THE AVERMENTS ON MERITS RAISED BY THE RESPONDENTS

5. With regards to the contents of para 6, I categorically deny that the present Appeal deserves to be dismissed on merits.



Subhash Karekas

6. I say that the contents of para 7-10 of the Affidavit are a matter of record and do not need to be specially addressed.
7. With regards to the contents of para 11, I say that the observation at item 1 of the table indicates that there was in fact filling of low lying area admitted to by the Respondent GCZMA, but instead of with extracted sand from a sand dune, the said area, as per the GCZMA itself, "*was filled with construction debris*". With regards to the observation in item 2 of the said table, the Respondent GCZMA has once again admitted to wrongful environmental destruction by the Respondents by noting the destruction of 1,100 sq mtrs area of sand dunes, however, the Respondent GCZMA incorrectly and with malafide and perverse intent has attempted to downplay and reduce the extent of destroyed sand dunes by conflating the destroyed sand dunes with an alleged kutchha road and access road.
8. With regards to the contents of the paragraphs 12, I deny that the Respondent GCZMA considered the written note of arguments or



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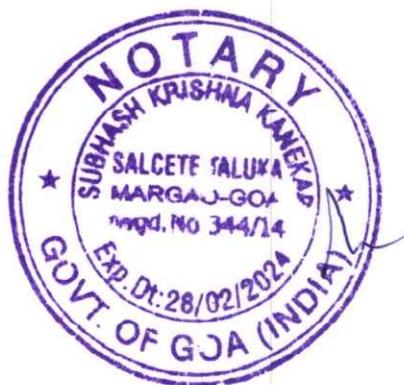
Affidavit in Rejoinder submitted by the Appellants before passing the impugned order. I say the submissions of the Appellants were not considered at all, and for malafide and illogical, arbitrary and unjustified reasons, the Respondent GCZMA did not revoke the CRZ clearance of the Respondent No. 2 despite acknowledging the fact that the Respondent No. 2 was in breach of the conditions in the clearance as well as the CRZ Notification itself. I say vide the impugned order the Respondent No. 1 has directed the Respondent No. 2 to remove the MS sheets only, without considering that the compound walls, structure and access road are admittedly on the sand dunes and that the sand dunes cannot be restored unless they are demolished. I say that the Respondent GCZMA has grossly erred in its conclusion that constructions as per the approved plans are valid even if they violate the CRZ laws, because the Respondent GCZMA has failed to consider special conditions 1, 2, 3, 11, 12, 16 and 20 laid down in the permissions granted. If the sand dunes were restored to their original condition, the present access road, the compound walls and the structure constructed would have to be removed and, by extension of the reasoning, all other constructions proposed on the sand dunes



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would not be possible. I say that it is noteworthy that the Respondent GCZMA has not indicated in its affidavit whether the CRZ Clearance granted to the Respondent No.2 has even been renewed.

9. With regards to the contents of paragraph 13, I deny the statement that OA 28/2021 was filed as a tactic to overcome any delay. I also deny that the Appellants are aggrieved by the grant of the permission for the proposed construction of hotel/resort in the said plot by Respondent No 1 on 20.10.2015, and I further clarify that the Appellants are aggrieved by the violation of special conditions 1, 2, 3, 11, 12, 16 and 20 laid down in the permissions granted and the resultant gross violation of CRZ Notification 2011. I say that the Hon'ble Principal Bench noted the prima facie merit behind the grievances of the Appellants and therefore directed the Respondent GCZMA to review the complaints of the Appellants and determine whether there are violations of the conditions of the CRZ Clearance warranting the revocation of the clearance.



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10. With regards to contents of paragraph 14, I deny the statement "A perusal of the Expert Committee Report makes it abundantly clear that there are no violations warranting revocation of the permission." I say that the table submitted by Respondent No 1 under paragraph 11 of his counter affidavit listing some of the observations of the expert members clearly states under Sr No 02, "It appears that a portion of the sand dune identified by NCSCM in the Draft CZMP has been cut along the edge for widening of existing road." While the expert members have put forth a blatant falsehood that there was an existing road since there is no road existing even today, the expert members have admitted to the cutting of sand dunes. The expert members further observe, "Likewise, another portion of the sand dunes has been cut to enable construction of public access to the beach. The total area of sand dune affected is 1100 mtr. Sq." It is therefore clear that the Respondent No 1 is contradicting his own admissions that grave violations of the conditions laid down in the permissions granted and of the CRZ Notification 2011 have taken place.



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11. Accordingly, I say that the prayers sought by the Appellants in Appeal 20/2022 deserve to be allowed and made absolute.

Solemnly Affirmed at Margao, Goa)

Dated this 10^m Day of March 2023)

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Identified by me

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Deponent

(Jose Fernandes)

RONITA BHATTACHARYA

Advocate for the Applicant

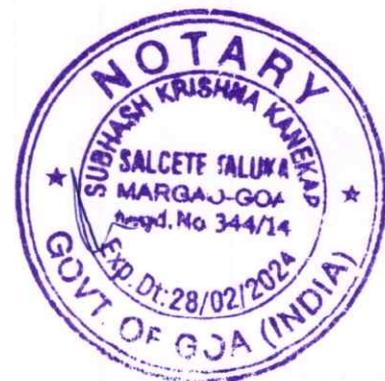
BEFORE ME



Solemnly affirmed before me by
Shri/Smt. Mr. Jose Fernandes
Who is identified to me by Leicle Hadlean, 6240 5567 1352
Shri/Smt. _____
Who is personally known to me
this 10th day of March 2023
Reg. No. W 357/2023
March 10/03/2023

SUBHASH KRISHNA KANEKAR,
NOTARY
SALCETE TALUKA
STATE OF GOA (INDIA).

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**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

(By Video Conferencing)

Original Application No. 75/2019 (WZ)

IN THE MATTER OF:

1. **Mr. Kashinath Jairam Shetye,**
Having Residence at A-102, Raj Excellency,
Ribandar, Goa.
2. **Dr. Ketan Govekar**
Having Residence at 3rd Floor, Wadji Building,
St. Inez, Panjim, Goa-403001
3. **Mukundraj Mudras,**
Having Residence at Building 6 C-9,
Kenkre Estate, Cabesa,
St. Cruz, Tiswadi, Goa.
4. **Desmond Alvares,**
Having Residence at H.No. 470 Doxxier,
Assagao, Bardez, Goa.
5. **Narendra Chodankar,**
Having Residence at H.No.1281, St. Estevam,
Tonca, Tiswadi, Goa.
6. **Arturo D'Souza**
Having Residence at H.No.351, Ruzai Wado,
St. Cruz, Tiswadi, Goa.
7. **Inacio Domnic Pereira**
Having Residence at H.No. 836,
St. Agostniha, Marrod,
St. Cruz, Tiswadi, Goa.
8. **Ramchandra Manjrekar,**
Having Residence at H.No. 452,
Usgao, Tisk, Ponda, Goa.

.....Applicant(s)

Versus

1. **State of Goa**
Through Chief Secretary,
Secretariat Panaji,
Goa-403521.
2. **Goa Coastal Zone Management Authority,**
1st Floor, Pt. Deendayal Upadhyay Bhavan,
Pundalik Nagar, Alto-Porvorim
Goa-403521

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3. **Antonio Fernades,**
r/o H.No. 6-A, Dandi Agassaim,
Tiswadi-Goa-403204

.....Respondent(s)

Counsel for the Applicant(s):

Mr. Kashinath J. Shetye, First Applicant-in-person

Counsel for the Respondent(s):

Mrs. Fawia Mesquita, Advocate for R-1&2
Mr. Gauravardhan A.S. Nadkarni, Advocate for R-3

PRESENT:

Hon'ble Mr. Justice M. Sathyanarayanan (Judicial Member)
Hon'ble Dr. Arun Kumar Verma (Expert Member)

Orders Reserved on: 31.08.2021
Pronounced on: 14.09.2021

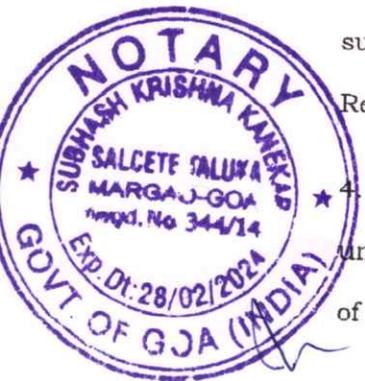
ORDER

1. The first Original Applicant who is a seasoned litigant along with seven others had filed this case/proceedings as an Appeal under Section 14 and 15 of the National Green Tribunal Act, 2010 (in short NGT Act). The Appeal memorandum is dated 09.09.2019 and it was filed on 18.09.2019.

2. The Registry of this Tribunal has numbered this case, as Original Application No. 75/2019(WZ).

3. The Original Applicants make a challenge to the impugned order dated 27.05.2019 passed by the Respondent No.2 in the form of discharge of proceedings in respect of the house in property bearing survey no. 115/1-F of Goa Velha, Village, Tiswadi -Goa, owned by Respondent No.3

4. The Respondent No.2 on an earlier occasion has issued a direction under Section 5 of the Environment (Protection) Act, 1986 read with Rule of the Environment (Protection) Rules, 1986 vide proceedings dated



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25.07.2018, by calling upon the Respondent No.3 to demolish the super structure put up on the said survey number and restore the land to it's original condition within 15 days from the date of receipt of the order and other consequential directions.

5. The Respondent No.3 filed Writ Petition No. 817/2018 on the file of Hon'ble High Court of Bombay at Goa by making a challenge to the above cited proceedings of the Respondent No.2 dated 25.07.2018.

6. The Goa Bench of Hon'ble High Court of Bombay vide final order dated 15.02.2019 passed in Writ Petition No. 817/2018, has partly allowed the Writ Petition and thereby setting aside the above cited impugned order of the Respondent No.2 dated 25.07.2018 with a direction directing the Respondent No.2 therein, who is also the Respondent No.2 herein to grant an opportunity of personal hearing to the Writ Petitioner-Respondent No.3 herein, and thereafter to decide the matter afresh on it's own merits and in accordance with the law, within a stipulated time.

7. The Respondent No.2 in compliance of the said order, has granted an opportunity of personal hearing to the Respondent No.3 as well as to the First Applicant herein and on going through the relevant records, has issued the impugned order dated 27.05.2019, by discharging the proceedings initiated against the above cited property of the Respondent No.3. It is relevant to extract the operative portion of the said impugned order which is as follows:-

"Now therefore, the GCZMA in exercise of the powers conferred under Section 5 of the Environment (Protection) Act, 1986 (Central Act 29 of 1986) read with sub-rule (3) (a) of Rule 4 of the Environment (Protection) Rules 1986, and read with power vested with the GCZMA vide Order S.O. 3324 (E) dated 26/10/2016 issued by the Ministry of Environment & Forests, Government of India, the GCZMA hereby discharges



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the proceeding initiated against Mr. Anthony F. Fernandes, R/o House no.6,Dandi, Ilhas- Goa in respect of in property and structure located in Survey no115/1-F of Goa Velha, Tiswadi-Goa as decided by the authority in its 194th GCZMA meeting held on 15/03/2019 and case is disposed off accordingly”

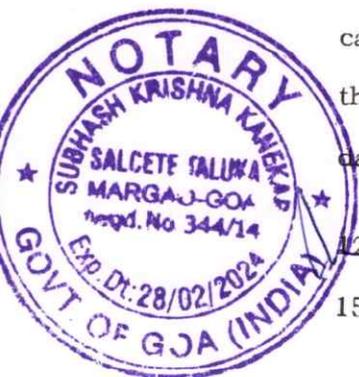
8. The First Applicant who is appearing as party in person, sought to advance arguments on merits of the matter and however, it was strongly opposed by the Learned Standing Counsel appearing for the Respondent No.2 as well as the Learned Counsel appearing for the Respondent No.3, would submit that in terms of Section 16(G) of the National Green Tribunal Act, 2010, this Original Application ought to have been filed only as an Appeal and if it is so, the present Original Application is hopelessly barred by limitation and therefore, prays for dismissal of this Application with cost.

9. The First Applicant who is appearing as party in person would submit that in the light of Section 14(3) and Section 15 (3) of the National Green Tribunal Act, 2010, the present case is within the period of limitation and prays for disposal, on merits.

10. The Tribunal has carefully considered the arguments advanced by the First Applicant appearing as party in person and the Learned Standing Counsel appearing for the Respondent No.2 and Learned Counsel appearing for the Respondent No.3 and also perused the supporting materials.

11. It is very pertinent to point out at this juncture that the present case has been presented by way of an Appeal under Section 14 and 15 of the National Green Tribunal Act, 2010 and the Appeal memorandum is dated 09.09.2019.

12. The Applicants would plead that they have invoked Section 14 and 15 of the National Green Tribunal Act, 2010 by challenging the discharge



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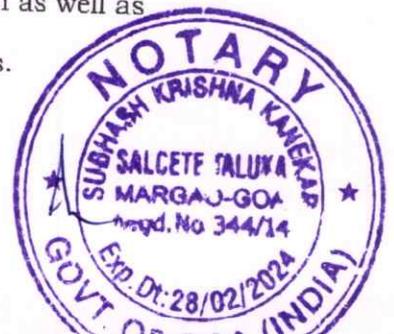
of proceedings passed by the Respondent No.2 vide order dated 27.05.2019 and it is within six months and, therefore, it is within the period of limitation.

13. *Per contra*, the Learned Standing Counsel appearing for Respondent No.2 as well as the Learned Counsel appearing for the Respondent No.3 would submit that the impugned proceedings/order of the Respondent No.2 dated 27.05.2019, is passed under Section 5 of the Environment (Protection) Act, 1986 read with Sub-Rule (3) (a) of Rule 4 of the Environment (Protection) Rules, 1986 and in that event, present Original Application is hopelessly barred by limitation.

14. The sole issue arises for consideration whether this Original Application is barred by limitation?.

15. As already pointed out, the Respondent No.3 challenging the impugned direction dated 25.07.2018 issued by Respondent No.2 under Section 5 of the Environment (Protection) Act, 1986 read with Rule of the Environment (Protection) Rules, 1986 by ordering demolition of the super structure put up upon his property bearing survey no. 115/1-F of Goa Velha Village, Tiswadi, Goa, made a challenge to it by filing Writ Petition No. 817/2018 before the Goa Bench of Hon'ble High Court of Bombay and the Writ Petition was entertained and it was finally disposed of on 15.02.2019.

16. As per the final order, the Writ Petition was partly allowed and the impugned direction of the Respondent No.2 dated 25.07.2018 was set aside and the matter was once again remanded to them for afresh adjudication in accordance with the law after offering an opportunity of personal hearing to the Writ Petitioner-Respondent No.3 herein as well as to the Respondent No.3 namely Lourence Diogo Jose Rodrigues.



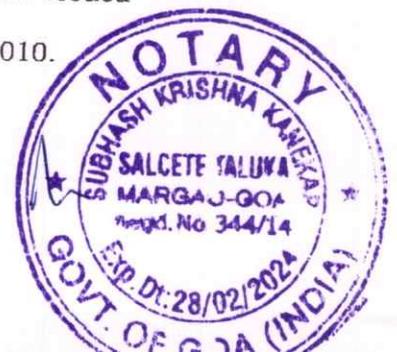
17. The Respondent No.2 herein in compliance of the said order, has provided an opportunity of personal hearing to the Respondent No.3 as well as to the First Applicant and after going through the relevant records, has passed the impugned order/proceeding dated 27.05.2019 in exercise of the powers conferred under Section 5 of the Environment (Protection) Act, 1986 read with Sub-Rule (3) (a) of Rule 4 of the Environment (Protection) Rules 1986, in an by which the said authority has discharged the proceedings initiated against the Respondent No.3.

18. The Learned Counsel appearing for Respondent No.2 would submit that immediately the said order was uploaded on the website and the First Applicant who has been heard personally, is also aware of the said order, and has filed the present proceedings only as an Appeal vide Appeal memorandum dated 09.09.2019 and it was filed before the Registry of this Tribunal on 18.09.2019 and in terms of Section 16 of the National Green Tribunal Act, 2010, the period of limitation of 30 days with a condonable limit of 60 days, the present Original Application is hopelessly barred by limitation.

19. The Tribunal after careful scrutiny and analysis of the materials placed and consideration of the rival arguments, is of the considered view that the present proceedings in the form of Original Application is barred by limitation for the following reasons:-

- (i) The impugned proceedings of the Respondent No.2 dated 27.05.2019 came to be passed in exercise of the powers conferred under Section 5 of the Environment (Protection) Act, 1986 read with Sub-Rule (3) (a) of Rule 4 of the Environment (Protection) Rules 1986 and therefore, it is deemed to be a direction issued under Section 16 (g) of the National Green Tribunal Act, 2010.

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(ii) The said provision prescribes the limitation period of 30 days from the date on which the order or decision or direction is communicated to him to prefer an Appeal to the Tribunal with the proviso that the Tribunal, may, if it is satisfied that the Appellant was prevented by sufficient cause from filing the Appeal within the said period, allowing it to be filed under this Section within a further period of not exceeding 60 days.

20. Hence, the Applicants, had a time limit of 30 days + 60 days to file the present proceedings/case.

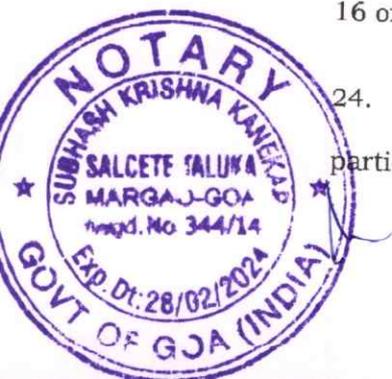
21. The Appeal memorandum was signed on 09.09.2019 and it was filed on 18.09.2019.

22. It is very pertinent to point out at this juncture, the First Applicant appeared along with the Respondent No.3, and as such he is aware of the proceedings. It is relevant to extract the paragraphs pertains to limitation, which is as follows:-

"The Application under section 14 & 15 NGT Act is filed on discharge of proceedings by GCZMA passed 27.05.2019 and within six months and hence in limitation."

23. The First Applicant who is appearing for on his own behalf and also on behalf of other Applicants is very well aware of the impugned proceedings of the Respondent No.2 27.05.2019, and the period of 30 days + 60 days is calculated, the limitation period would have expired by the end of August, 2019. However, the Appeal memorandum dated on 09.09.2019, came to be filed before the Registry of this Tribunal only 18.09.2019 i.e. beyond the period of limitation prescribed under Section 16 of the National Green Tribunal Act, 2010.

24. It is a well settled question of law that when a Statute prescribes a particular period of limitation which is a self contained one, no



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application/petition under Section 5 of the Limitation Act, 1963 is maintainable.

25. It is also a well settled question of law that when a statute prescribes a thing to be done in a particular manner which should be done only in that way and not in any other manner.

26. In the considered opinion of the Tribunal, the Original Application ought to have been filed only as an Appeal and in that event, it is hopelessly barred by limitation.

27. The relevant paragraph in the Appeal memorandum dealing with the limitation aspect, does not give any proper tenable or acceptable reasons.

28. In the result, the Original Application is dismissed, as not maintainable and even it is to be converted as Appeal and it is hopelessly barred by limitation. However, in the circumstances, there shall be no order as to costs.

M. Sathyanarayanan, JM

Dr. Arun Kumar Verma, EM

September 14th, 2021
Original Application No 75/2019(WZ)
JG



Item No. 1

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

(By Video Conferencing)

Appeal No. 42/2022(WZ)

I.A. No. 181/2022(WZ)

Caveat No. 09/2022

Jose Fernandes & Anr.

.....Appellant(s)

Versus

GCZMA & Ors.

...Respondent(s)

Reserved for Order :- 12.01.2023

Pronounced on : 23.01.2023

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Appellant : Ms. Ronita Bhattacharya, Advocate

Respondent(s) : Mr. Abhay Anturkar, Advocate for R-1/GCZMA

Mr. Saket Mone, Advocate for R-2 & 3

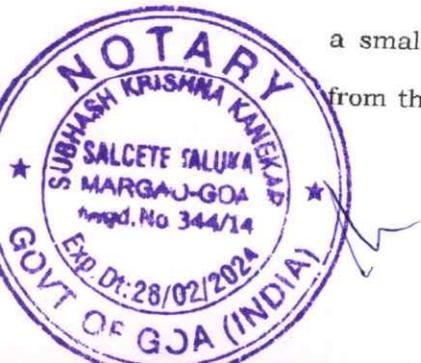
Mr. Rahul Garg, Advocate for R-6/MoEF&CC

ORDER

I.A. No. 181/2022(WZ)

1. This Interim application has been moved by the Respondent Nos. 2 & 3/Private Respondents with the prayer to dismiss the appeal on the ground that the same is not maintainable under Section 16 of the National Green Tribunal Act, 2010.

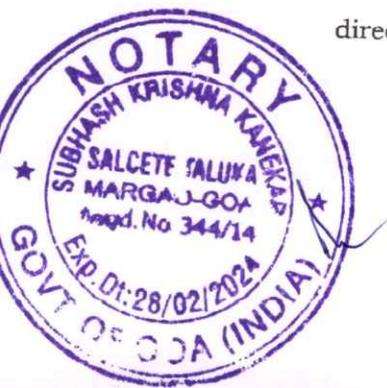
2. In the body of the application, it is submitted that the Respondent Nos. 2 & 3/Private Respondents have purchased all the property in question (Survey Nos. 178/18, 26, 28, 30, 32 & 34 of Village Cavelossim, Salcete, Taluka- Goa), admeasuring 3075 sq. mtrs. vide Sale Deed dated 27.11.2019 and wanted to raise construction of a bungalow for the use of a small portion of the said land after obtaining necessary permissions from the concerned authorities. The Appellants made various complaints



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with respect to the said construction, being carried by Respondent Nos. 2 & 3/ Private Respondents, which led the GCZMA to issue a Show Cause Notice-cum-Stop Work Order under Section 5 of the Environment (Protection) Act, 1986 read with Rule 4 of the Environment (Protection) Rules, 1986. Post the issuance of the show cause notice, the GCZMA scrupulously followed the procedure as provided under law, conducted an independent investigation, heard all the parties (including the Appellants) and after due application of mind, rendered its decision dated 15.06.2022 to the effect that Respondent Nos. 2 & 3 had not committed any kind of environment violations with respect to the said project and thus, GCZMA had withdrawn and discharged the proceedings.

3. It is further submitted that the appeal is not maintainable against the said order under Section 16 (g) of the National Green Tribunal Act, 2010, as it does not qualify "as direction" as contemplated under Section 16 (g) of the National Green Tribunal Act, 2010. When an authority takes a decision to withdraw direction and/or discharge a proceeding initiated under Section 5 of the Environment (Protection) Act, 1986, the law makers have consciously omitted the use of word "order or decision" under Section 16(g) of the National Green Tribunal Act, 2010, as the same appears in Section 16(a), (b), (d), (e), (f), (h), (i) and (j). Therefore as per law, an appeal is maintainable only against direction issued under Section 5 of the Environment (Protection) Act, 1986 and not against any order or decision taken by the authorities while exercising such authority vested in it under Section 5 of the Environment (Protection) Act, 1986. A bare perusal of the order dated 15.06.2020, which is assailed by the Appellants in the captioned Appeal, makes it clear that the same is not a direction issued under Section 5 of the Environment (Protection) Act,

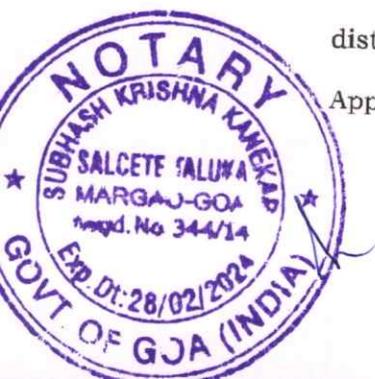


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1986, but is in fact an order and/or decision of the GCZMA, thus is not appealable under Section 16 of the National Green Tribunal Act, 2010.

4. From the side of the Appellant, Rejoinder has been filed, where-in it is submitted that in a similar matter in Original Application No. 75/2019, where-in proceedings were initiated under Section 5 of Environment (Protection) Act, 1986 read with sub-rule (3) (a) of Rule 4 of the Environment (Protection) Rules, 1986 read with power vested with GCZMA vide order S.O. 3324 (E) dated 26.10.2017, issued by the MoEF&CC, were discharged by the GCZMA against the private person and their property. This Tribunal noted that the Applicant in question had wrongly sought to challenge the order/direction of the GCZMA discharging the proceedings under Section 5 of the Environment (Protection) Act, 1986 read with sub-rule (3) (a) of Rule 4 of the Environment (Protection) Rules, 1986 read with power vested with the GCZMA vide Order S.O. 3324(E) dated 26.10.2017 through an Original Application filed under Section 14 & 15 of the National Green Tribunal Act, 2010, while dismissing the Original Application filed by the Applicant in question, the NGT categorically held "*The impugned proceedings of the Respondent No. 2 dated 27.05.2019 came to be passed in exercise of the powers conferred under Section 5 of the Environment (Protection) Act, 1986 read with sub-Rule (3) (a) of Rule 4 of the Environment (Protection) Rules, 1986 and therefore, it is deemed to be a direction issued under Section 16(g) of the National Green Tribunal Act, 2010.*"

5. It is further submitted that the order dated 21.11.2017 passed by this Tribunal in Appeal No. 03/2017 titled as *Austin Francis D'Souza v. Secretary, MoEF&CC* (relied upon by the Respondent Nos. 2 & 3) is distinguishable from the present appeal on both law and facts because in Appeal No. 03/2017, impugned order was issued under Section 5 of the



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Environment (Protection) Act, 1986 read with sub-rule (3) (a) of Rule 4 of Environment (Protection) Rules, 1986 by MoEF&CC while the direction was issued in the present appeal (Appeal No. 42/2022) by the GCZMA in exercise of the powers under Section 5 of Environment (Protection) Act, 1986 read with sub-rule (3) (a) of Rule 4 of Environment (Protection) Rules, 1986 in exercise of the power vested with GCZMA vide MoEF&CC Order No. 3975(E) dated 31.10.2019. Further, it is submitted in Appeal No. 03/2017 that impugned order withdrew proposed directions/show cause notice of the MoEF&CC, issued to the recipient while in the present appeal, the impugned order/directions discharged proceedings and effectively terminated binding directions previously issued to the Respondent Nos. 2 & 3 dated 20.01.2022, which was a show-cause notice combined with a mandatory stop work order, therefore, it did not constitute "proposed direction".

6. Further, it is submitted that a plain reading of Section 5 of the Environment (Protection) Act, 1986 only empowers the Central Government to issue directions under Section 5 of the Environment (Protection) Act, 1986. The Rule 4 of the Environment (Protection) Act, 1986 lays down the procedure for the Central Government to issue directions under Section 5 of the Environment (Protection) Act, 1986. The body such as the GCZMA is vested with the power to issue directions under Section 5 of the Environment (Protection) Act, 1986 because the authority, to issue such directions, has been vested in them by the MoEF&CC under Section 3 sub-clause (3) of Environment (Protection) Act, 1986, which provides as under:-

"The Central Government may, if it consider it necessary or expedient so to do for the purpose of this Act, by order, published in the Official Gazette, constitute an authority or authorities by such name or names as may be specified in the order for the purpose of exercising and performing such of the powers and functions (including the power to issue



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directions under Section 5) of the Central Government under this Act and for taking measures with respect to such of the matters referred to in sub-section (2) as may be mentioned in the order and subject to the supervision and control of the Central Government and the provisions of such order, such authority or authorities may exercise the powers or perform the functions or take the measures so mentioned in the order as if such authority or authorities had been empowered by this Act to exercise those powers or perform those functions or take such measures."

7. It is apparent that the Central Government can delegate its powers to issue directions under Section 5 of the Environment (Protection) Act, 1986 to any authority constituted by it by notifying the vesting of such powers in the official Gazette. Accordingly, the MoEF&CC has from time to time constituted the GCZMA vide a Notification in the official Gazette and vested appropriate powers with the GCZMA so that it can issue directions under Section 5 of the Environment (Protection) Act, 1986. The GCZMA "shall be made responsible for enforcing and monitoring the provisions" of the CRZ Notification, 2011 vide SO 3975(E) dated 31.10.2019, which was notified in the Official Gazette.

8. It is further submitted that the complaints made by the Appellant No. 1 would show that the Appellants were local Villagers of Cavelossim Village, who are concerned with the preservation of low-lying areas in order to avoid flooding in the area. The Appellants had also previously filed Original Application No. 28/2021 regarding the destruction of sand-dunes at Cavelossim. The Respondents had not raised any dispute/averment about the locus of the Appellants during the proceedings before the GCZMA, therefore, by virtue of the principle of estoppel, are barred from raising such an averment before this Tribunal. Lastly, it is submitted that it is settled law that the term "any person aggrieved by" as referenced throughout the National Green Tribunal Act, 2010, means that any person may raise environmental dispute irrespective of his being personally affected due to the Act of



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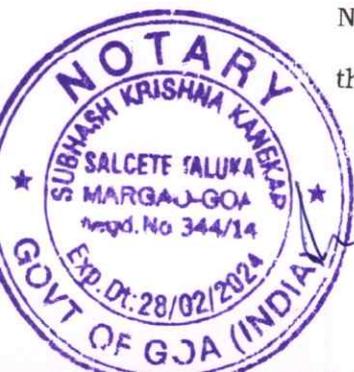
wrongdoer/polluter or violator of environmental law/norms. Rest of the facts which have been narrated in the Rejoinder affidavit appears to be related to the merits, therefore, they need not be reproduced here.

9. Heard the arguments of the learned Counsel for the parties and perused the record.

10. From the side of Appellants, learned Counsel has placed reliance on the Judgment dated 14.09.2021 passed by this Tribunal in Original Application No. 75/2019 in the matter of *Kashinath Jairam Shetye vs. the State of Goa & Ors.*, where-in Original Applicants made a challenge to the impugned order dated 27.05.2019 passed by the Respondent No. 2/GCZMA in the form of discharge of proceedings in respect of the house in property bearing Survey No. 115/1-F of Goa Velha, Village Tiswadi, Goa, owned by the Respondent No. 3/Private Respondent.

11. It is argued from the side of Respondent No. 3 before this Tribunal that in terms of Section 16 (g) of the National Green Tribunal Act, 2010, this Original Application ought to have been filed only as an Appeal and therefore, the Original Application is hopelessly barred by limitation and prayed for dismissal of the application with cost.

12. The sole issue in this which came for consideration was whether the Original Application was time barred by limitation? It was held that Original Application was time barred because the order impugned in the proceedings came to be passed in exercise of the powers conferred under Section 5 of the Environment (Protection) Act, 1986 read with Sub-Rule (3) (a) of Rule 4 of the Environment (Protection) Rules, 1986, therefore, it would be deemed to be a direction "issued under Section 16(g) of the National Green Tribunal Act, 2010" and that the said provision prescribes the limitation period of 30 days from the date on which the Order or



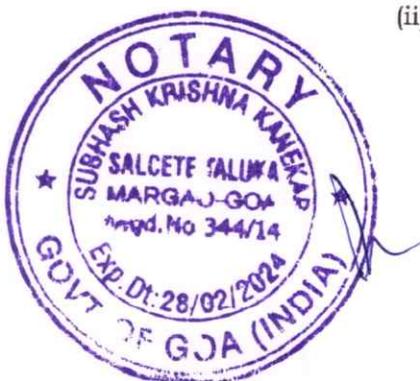
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decision or direction was communicated to the Appellants with further 60 days being at the discretion of the Tribunal to condone the delay in case it finds sufficient ground to condone the said delay.

13. Based on the above Judgment, it is argued by the learned Counsel for the Appellant that in the present case also, there is a discharge order which should be treated nothing but a direction issued under Section 5 of Environment (Protection) Act, 1986 read with Sub-Rule (3) (a) of Rule 4 of the Environment (Protection) Rules, 1986 as was done in the above mentioned ruling.

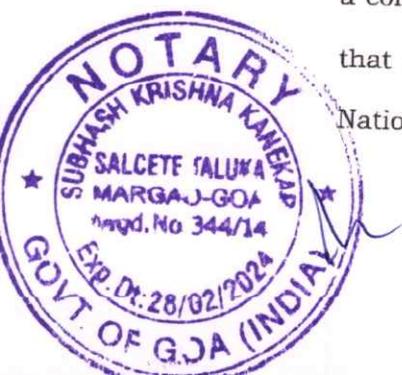
14. *Per contra* from the side of Respondent Nos. 2 & 3/Private Respondents, it is argued by the learned Counsel that the said finding given by this Tribunal should be seen in the context of the matter because in the said case, the sole consideration was with respect to whether the Original Application was time barred? There was no other consideration made in this application and therefore, this Judgment needs to be ignored. As against it, the learned Counsel for the Respondent Nos. 2 & 3 has placed reliance upon the Judgment of this Tribunal passed in Appeal No. 03/2017 dated 21.11.2017, where-in the points for determination were framed by this Tribunal, which are as follows:-

- (i). Whether the impugned letter dated 26.05.2015 communicating the withdrawal of proposed issue under Section 5 of the Environment (Protection) Act, 1986 is appealable under any of the provisions of the Section 16, particularly, Section (g) of the National Green Tribunal Act, 2010?
- (ii). Whether the appeal is barred by limitation prescribed under Section 16 of the National Green Tribunal Act, 2010?



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15. After considering the matter, it is recorded in the said Judgment by the Tribunal that it is revealed by Respondent No. 1/Env. Department, Maharashtra that no directions were issued under Section 5 of the Environment (Protection) Act, 1986, but a Show-Cause Notice proposing the direction under Section 5 of the Environment (Protection) Act, 1986 dated 25.03.2015 was issued and after extending personal hearing to the Respondent No. 3/Private Respondent on 18.05.2015, a decision was taken by the Respondent No. 1 to withdraw the proposed directions as per law. Thereafter, Section 5 has been quoted in the said Judgment and in the light of that, it is observed that it is within the domain of the Government to take decision either to confirm, modify or decide not to issue such directions. Obviously, the decision not to issue such direction, is not a direction but a decision taken by the authority. By any standard, such decision can never be regarded as a command or instruction or even guidance to any person, Officer or authority so as to bind him to comply with such command, instruction or guidance as envisaged under Section 5 of the Environment (Protection) Act, 1986. This Tribunal has thereafter taken into consideration the Provisions of 16(g) of the National Green Tribunal Act, 2010 and has held that law makers have curiously omitted the use of words "Order or decision" as is found use in Clause (a), (b), (d), (e), (f), (h), (i) and (j) in Section 16 of the National Green Tribunal Act, 2010. Law thus envisages an appeal only against the direction under Section 5 of the Environment (Protection) Act, 1986 and not against any order or decision taken by the authority while exercising such authority vested in it under Section 5 of the Environment (Protection) Act, 1986. Further it was held that the letter dated 26.05.2015 is not a direction but a communication of decision taken by the authority and thus it was held that no appeal would lie against such letter under Section 16(g) of the National Green Tribunal Act, 2010.



16. Having relied upon this, the learned Counsel for the Respondent Nos. 2 & 3 has drawn our attention to the impugned order dated 15.06.2022, where-in following is held:-

"In the light of the foregoing, the Authority concluded that it is fit case to dismiss the complaint and discharge the show-cause notice dated 20.01.2022 issued to the Respondent.

Now therefore, the Goa Coastal Zone Management Authority (GCZMA), in exercise of the powers conferred under Section 5 of the Environment (Protection) Act, 1986 (Central Act 29 of 1986) read with sub-rule (3) (a) of Rule 4 of the Environment (Protection) Rules, 1986, read with power vested with the GCZMA vide Order S.O. 3975(E) dated 31.10.2019 issued by the Ministry of Environment & Forests, Government of India, hereby discharges proceedings against Respondent Nos. 2 & 3 with regard alleged illegal construction and illegal filling of eco-sensitive, low-lying khazan lands in Survey Nos. 147/18, 26, 28, 30, 32 & 34 of Cavelossim Village in terms of decision taken in the 307th GCZMA Meeting held on 02.06.2022. The proceedings are accordingly disposed of."

17. It is argued by learned Counsel for the Respondent Nos. 2 & 3 that in the present case vide impugned order dated 15.06.2022 of GCZMA, the proceedings have been discharged against Respondent Nos. 2 & 3, therefore, it would not fall in the category of direction rather would fall in the category of order/decision as held in the above cited Judgment passed in Appeal No. 03/2017 and therefore, the present appeal should be held to be not maintainable.

18. *Per contra* learned Counsel for the Appellants has vehemently argued that Section 5 of the Environment (Protection) Act, 1986 provides as follows:-

"Power to give directions- *Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Central Government may, in the exercise of its powers and performance of its functions under this Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.*

Explanation - For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct-



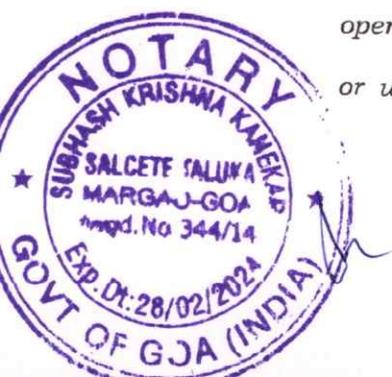
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- (a) *the closure, prohibition or regulation of any industry, operation or process; or*
- (b) *stoppage or regulation of the supply of electricity or water or any other service."*

19. Having drawn our attention to this provision, where the same was read before us word by word by both the learned Counsel, it is argued by the Appellant that the word 'includes' in the explanation clause, would make it illustrative and exhaustive because below the explanation clause (a) and (b) sub-clauses are added containing there-in the areas regarding which directions could be issued under this Section. But they are only illustrative and not exhaustive. It could certainly include a direction of discharge also because the said order has also been passed under Section 5 of the Environment (Protection) Act, 1986.

20. As against this, the learned Counsel for the Respondent Nos. 2 & 3 interpreted this provision to mean that the directions under Section 5 of the Environment (Protection) Act, 1986 can only be issued with respect to the subjects, which are disclosed in sub-clause (a) and (b) below the explanation only and it does not contain withdrawal order. Therefore, the impugned order should not be treated as a direction issued under Section 5 of the Environment (Protection) Act, 1986 rather the same should be treated to be an order/decision against which no appeal would lie rather a Writ has to be preferred by the aggrieved party.

21. In this regard in our opinion is that if we closely read the Provision of Section 5 of the Environment (Protection) Act, 1986, we find that it is very clearly stated in explanation that "*for avoidance of doubts, it is declared that the powers to issue directions under this Section includes the power to direct (a) the enclosure, prohibition or regulation of any industry, operation or process; or (b) stoppage or regulation of the supply of electricity or water or any other service*". But these subjects appear to be only



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illustrative because it cannot be said that other kind of directions cannot be issued under Section 5 of the Environment (Protection) Act, 1986. In our opinion, if any order of withdrawal is issued, that should also be covered as a direction, issued under Section 5 of the Environment (Protection) Act, 1986. As per common sense also, in the case in hand, when show-cause notice-cum-stop work order dated 20.01.2022 was issued under Section 5 of the Environment (Protection) Act, 1986 read with Rule 4 of Environment (Protection) Rules, 1986, directing the Respondent Nos. 2 & 3 to stop work with immediate effect and show cause as to why a direction to demolish the structures and to restore the land to its condition, should not be issued to them, would mean that this order was specific with respect to demolition of the structures owned by the Respondent Nos. 2 & 3 but later on after considering the matter again by impugned order, they have mentioned there-in that *"it transpires that a some portion of under construction residential structure falls within the 'Khazan' area depicted on the draft CZMP. However, the authority was of the considered opinion that in view of the Respondents having obtained all the requisite permissions in accordance with the laws prevailing at the time and commenced there construction, they could not be prejudiced by the draft CZMP for Goa that is yet to be finalized"* and after this observation, they have discharged the proceedings. It shows that there was some violation found to be there in accordance with the draft CZMP which during argument is stated to have been finalized also and therefore, we find that even on fact, there was some violation noticed by the GCZMA and yet the proceedings in this matter have been dropped and this order too, has also been passed under the same provision of Section 5 of the Environment (Protection) Act, 1986 as was the earlier order passed on 20.01.2022. The Appellants here were not aggrieved by the order dated 20.01.2022 because that was in their favour but the moment the said



order was recalled by way of dropping the provisions, the prejudice was caused to the Appellants, hence they have approached us for seeking over-turning of the said order. In our opinion, the said order would fall in the category of 'direction' only, issued under Section 5 of the Environment (Protection) Act, 1986 against which we are very sure that the appeal would lie. All the contentions raised contrary to this by the learned Counsel for the Respondent Nos. 2 & 3 do not stand to reason.

22. In view of above analysis, we reject the I.A. No. 181/2022(WZ).
23. Put up the main appeal for hearing on merit on 23.03.2023

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

January 23, 2023
 Appeal No. 42/2022(WZ)
 I.A. No. 181/2022(WZ)
 Caveat No. 09/2022
 P.Kr



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ITEM NO.30

COURT NO.7

SECTION XVII

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

Civil Appeal No. 1365/2023

BINA BEDI & ANR.

Appellant(s)

VERSUS

JOSE FERNANDES & ORS.

Respondent(s)

(IA No.40225/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No.40224/2023-STAY APPLICATION)

Date : 03-03-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA

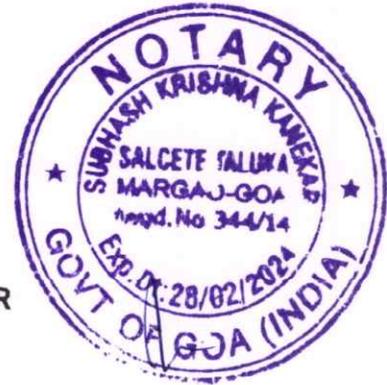
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Appellant(s)

Mr. Ninad Laud, Adv.
Mr. Saket Mone, Adv.
Ms. Anshula Vijay Kumar Grover, AOR
Mr. Ivo D'Costa, Adv.
Ms. Nitika Grover, Adv.
Mr. Abhishek Salian, Adv.

For Respondent(s)

Ms. Ronita Bhattacharya Bector, Adv.
Ms. Nupur Kumar, Adv./AOR



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

The learned counsel for the appellant(s) has relied upon the judgment of this Court in "*Tamil Nadu Pollution Control Board vs. Sterlite Industries (India) Limited & Others.*" (2019) 19 SCC 479, to draw out a distinction between an "order" and a "direction". He has also relied upon the order passed by the coordinate Bench of the Tribunal, which takes a contrary view, in "*Austin Francies D'Souza vs. Secretary, Environment Department Mantralaya & Others.*", 2017 SCC Online NGT 1679.

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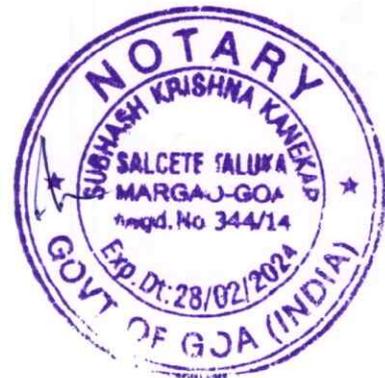
Issue notice, returnable in the month of July 2023.

Ms. Ronita Bhattacharya, learned counsel, who is present, waives service and accepts notice for the respondents.

We clarify that we have not stayed the proceedings before the Tribunal. The parties would be at liberty to approach this Court in case the final order is passed.

(DEEPAK GUGLANI)
AR-cum-PS

(AVGV RAMU)
COURT MASTER (NSH)



Deepak Guglani

Sl. No.	Members	Status
1	2	3
"2.	Principal Chief Conservator of Forest, Department of Forest, Goa or his representative	Member, ex officio;
3.	The Director, Directorate of Panchayats or his representative	Member, ex officio;
4.	The Director, Directorate of Tourism or his representative	Member, ex officio;
5.	The Director, Directorate of Industries, Trade and Commerce or his representative	Member, ex officio;
6.	The Chief Engineer, Water Resources Department or his representative	Member, ex officio;
7.	Principal Chief Engineer, Public Works Department or his representative	Member, ex officio;";

(ii) against serial number 11, in column (2), for the words "Dr. Sujeetkumar Mariapa Dongre", the words "Shri Sujeetkumar Mariapa Dongre" shall be substituted.

(b) In paragraph 5, after Clause (viii), the following Clause shall be inserted, namely:-

"(ix) All Members shall normally remain present for the meetings Scheduled by the Authority for effective enforcement of the said Notification and in the event a Member is unable to be present, he or she may depute an official who is well conversant with the subject matter".

[F. No. 12-6/2005-IA-III (pt.)]
ARVIND KUMAR NAUTIYAL, Jt. Secy.

Note: The Principal order was published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (ii), dated the 1st November, 2019, vide number S.O. 3975 (E), dated the 31st October, 2019.

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

Order

New Delhi, the 31st October, 2019

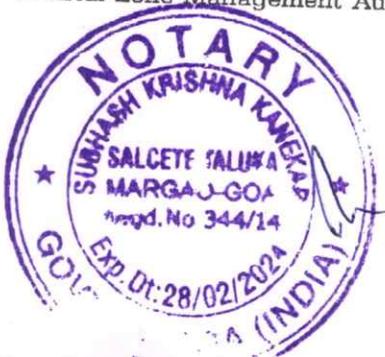
S.O. 3975(E).— In exercise of the powers conferred by sub-sections (1) and (3) of Section 3 of the Environment (Protection) Act, 1986 (29 of 1986), (hereinafter referred to as the said Act), the Central Government hereby constitutes the Goa Coastal Zone Management Authority (hereinafter referred to as the Authority) consisting of the following persons, for a period of three years, with effect from the date of publication of this order in the Official Gazette, namely:-

Sl. No.	Members	Status
1	2	3
1.	Principal Secretary, Environment Department, Government of Goa	Chairman ex officio;
2.	Principal Chief Conservator of Forest, Department of Forest, Goa	Member, ex officio;
3.	The Director, Directorate of Panchayats	Member, ex officio;
4.	The Director, Directorate of Tourism	Member, ex officio;
5.	The Director, Directorate of Industries, Trade and Commerce	Member, ex officio;
6.	The Chief Engineer, Water Resources Department	Member, ex officio;
7.	Principal Chief Engineer, Public Works Department	Member, ex officio;
8.	Shri Savio Joaquim Filipe Correia, Newton Apartments-II Mangor Hill, Vasco-da-Gama	Member (Expert);
9.	Shri Flaviano Jose Miranda, Duncolim Seraulim, Salcete-Goa	Member (Expert);
10.	Shri Mahesh K. Patil, Vision Park CFF3, Tonca, Caranzalem, Panjim-Goa	Member (Expert);



1	2	3
11.	Dr. Sujeetkumar Mariapa Dongre, Programme Co-ordinator, CEE Goa State, Porvorim-Goa	Member, (Expert);
12.	Shrirang V. Jambhale, Gram Vikas Kendra (NGO) Savoi-Verem, Goa	Member, Non-Governmental Organization;
13.	Director and ex officio Joint Secretary, Department of Environment, Goa	Member Secretary, ex officio.

2. The Authority shall have its headquarters at Porvorim, Goa.
3. The quorum for the meeting of the Authority shall be one-third of the total number of its Members.
4. A Member, other than an ex officio Member, shall be paid allowances as per the norms decided by the Central Government.
5. The Authority shall, for the purposes of protecting and improving the quality of the costal environment and preventing, abating and controlling environmental pollution in the Coastal Regulation Zone areas in the State of Goa, take the following measures, namely:-
 - (i) the Authority shall, after receiving the application for approval of project proposal, examine the same if it is in accordance with the approved Coastal Zone Management Plan and within the requirements of the Coastal Regulation Zone notification issued by the Government of India in the erstwhile Ministry of Environment and Forests and published vide number S.O.19(E), dated the 6th January, 2011 (hereinafter referred to as the said notification), and make recommendations for approval of such project to the concerned authority, as specified in the said notification, within a period of sixty days from the date of receipt of such application;
 - (ii) the Authority shall regulate all developmental activities in the Coastal Regulation Zone areas as specified in the said notification;
 - (iii) the Authority shall be responsible for enforcing and monitoring the provisions of the said notification;
 - (iv) the Authority shall examine the proposals received from the State Government for changes or modifications in the classification of Coastal Regulation Zone areas and in the Coastal Zone Management Plan and make specific recommendations thereon, to the National Coastal Zone Management Authority;
 - (v) the Authority shall inquire into cases of alleged violation of the provisions of the said Act or the rules made thereunder; and review the cases involving violations or contraventions of the provisions of the said Act and the rules made thereunder;
 - (vi) the Authority shall inquire or review cases of violations or contraventions of the said notification suo-moto, or on the basis of a complaint made by any individual or body or organisation;
 - (vii) the Authority is authorised to file complaints under Section 19 of the said Act;
 - (viii) the Authority shall take such action as may be required under Section 10 of the said Act, to verify the facts of the cases before it.
6. The Authority shall, for the purpose of maintaining transparency in its functioning, create a dedicated website and post the information relating to its functions, including the agenda in its meetings, minutes of the meetings, decisions taken in each meeting, recommendations for matters on violations and contravention of the said notification and actions taken on such violations and contraventions, court matters including the orders of the courts and the approved Coastal Zone Management Plan of the State Government.
7. The Authority shall furnish reports of its activities at least once in six months to the National Coastal Zone Management Authority.



[F. No. 12-6/2005-IA-III (pt)]
ARVIND KUMAR NAUTIYAL, Jt. Secy.