

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

L.A. NO. 83 OF 2024
IN
APPEAL NO. 31 OF 2024 (WZ)

IN THE MATTER OF:

ROBERT FERNANDES
PROP OF DOLPHIN BEACH RESORT ... APPELLANT

VERSUS

GOA COASTAL ZONE
MANAGEMENT AUTHORITY
& OTHERS ...RESPONDENTS

AFFIDAVIT ON BEHALF OF
RESPONDENT NO. 1
GOA COASTAL ZONE MANAGEMENT AUTHORITY

I, Johnson Bedy Fernandes, adult, being the Member Secretary, Goa Coastal Zone Management Authority, having my office at: 4th Floor, Dempo Towers, Patto, Panaji, Goa, do hereby solemnly affirm and state as under:

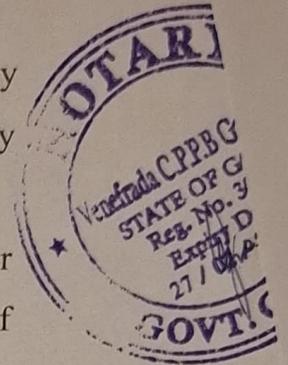
1. I am the Member Secretary of the Respondent No. 1 Goa Coastal Zone Management Authority (hereinafter referred to as *GCZMA*) in the above-captioned Appeal. I am well-conversant with the facts and circumstances from which the present Appeal arises and am, as such, capable of affirming the present Affidavit.

2. I say that nothing in the present Affidavit may be deemed to be any admission of any content of the above-captioned Appeal filed by the Appellant, unless the same is categorically admitted herein. I further submit that nothing in the above-captioned Appeal may be deemed to have been admitted for want of specific denials.
3. The answering Respondent is filing this Affidavit-in-Reply to oppose the captioned I.A. seeking condonation of delay in filing the present Appeal.
4. That this Applicant chose to file an appeal on the Order dated 18/01/2024 issued by the GCZMA for demolition of the structures in the property bearing Sy. No. 267/36 of Mandrem Village Pernem Goa.
5. That assuming the notice was received by the Applicant on 29/01/2024 (*No proof of receipt provided*) there is a delay of 60 days which has passed before the Appeal is filed.
6. That the provisions as per Appeal the National Green Tribunal Act 2010 under Section 16 (g) interalia read as:

{ "16 Tribunal to have appellate jurisdiction. -Any person aggrieved by,-

....(g) any direction issued, on or after the commencement of the National Green Tribunal Act, 2010 under Section 5 of the Environment (Protection) Act 1986);.....

may, within a period of thirty days from the date on which the order or decision or direction or determination is communicated to him, prefer an appeal to the Tribunal:



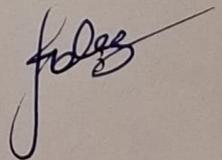
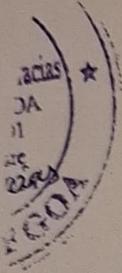
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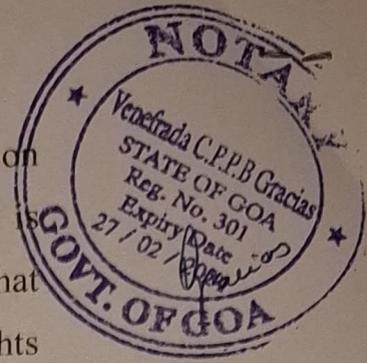
Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days.}

7. That the Applicant in this matter has been served with the order on 29/01/2024 (as stated by the Applicant) 30 days period of Appeal as prescribed by the Act expires on 27/02/2024. Hence this appeal is barred by Limitation. The Applicant cannot seek to rely on the provisions of the proviso provided as the proviso clearly states that sufficient cause of delay from filing the appeal has to be stated in order to satisfy the Hon'ble Tribunal. The Appellants have failed to state the sufficient cause which caused the delay in filing the Appeal.

8. The Respondent No.1 states that the period of limitation is 30 days from the date on which the order or decision or direction or determination is communicated with a further period of 60 days or an application for condonation of delay before this Tribunal. By virtue of the proviso to Section 16, this Court is empowered to condone delay upto a period of 60 days and the said 60 days period also expired on 28.03.2024. As per the proviso this Court is empowered to condone a delay of another 60 days provided the appellant can establish sufficient cause for the same.

9. The above proviso is also intended only to benefit those vigilant litigants who were prevented by sufficient cause from initiating the appeal within the period of limitation prescribed by



the National Green Tribunal Act, 2010. The law of limitation finds its root into the two Latin maxims one of which is vigilantibus non dormientibus jura subveniunt which means that the law will assist only those who are vigilant about their rights and not those who sleep over them.

16. The Respondent No.1 therefore prays that since the appeal has been filed beyond the extended period of 60 days and there being no sufficient cause shown for not filing the appeal within 30 days the proviso cannot be entertained. The Respondent No.1 prays that the appeal be dismissed as barred by limitation.

[Signature]
DEPONENT
MEMBER SECRETARY
GOA COASTAL ZONE MANAGEMENT AUTHORITY
PANAJI - GOA

VERIFICATION

I, the above named Deponent, do hereby state on solemn oath and affirmation that the facts stated herein above in this Affidavit are true and correct to the best of knowledge, information and belief, and nothing has been concealed.

Verified at Panaji on this 01st day of July, 2024.



[Signature]
DEPONENT
MEMBER SECRETARY
GOA COASTAL ZONE MANAGEMENT AUTHORITY
PANAJI - GOA

Executed before me
At Calangute Bardez - Goa
Reg. No. 100/07/2024/P
Dated: 01/07/2024

[Signature]
Venefrada C.P.P.B Gracias
Advocate & Notary Goa State