



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

APPEAL NO. 02 OF 2024 (WZ)

IN THE MATTER OF:

CALANGUTE CONSTITUENCY FORUM

...APPELLANT

VERSUS

THE STATE OF GOA & OTHERS

...RESPONDENTS

**AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 3
GOA COASTAL ZONE MANAGEMENT AUTHORITY**

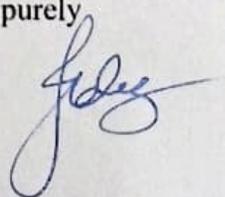
I, Johnson BedyFernandes, Member Secretary of the Respondent No. 3 Goa Coastal Zone Management Authority, having my office at 4th Floor, Dempo Tower, Patto Panaji-Goa, do hereby solemnly affirm and state as under:

1. I am the Member Secretary of the Respondent No. 3 Goa Coastal Zone Management Authority [hereinafter "**GCZMA**"]. I have examined the relevant records available in my office apropos the above-captioned Appeal and I am thus aware of the facts and circumstances from which the above-captioned Appeal arises. I am competent to affirm the present Counter-Affidavit on behalf of the Respondent No. 3 GCZMA. I say that I am filing the present reply for the limited purpose of opposing the reliefs as sought by the Appellant. Nothing in the present Affidavit may be deemed to be an admission of any of the contents of the memorandum of the above-captioned Original Affidavit for want of specific denial, unless the same is categorically admitted herein.

2. I say and submit that this Appeal has been filed challenging the order dated 30/11/2023 passed by the present Respondent Goa Coastal Zone Management Authority (GCZMA), which is annexed at page No. 42 to the Appeal. I say that vide the said order, the GCZMA had discharged show cause cum Stop Work order issued against Respondent No.6, the Water Resources Department (WRD) and further directed to comply with certain conditions which have to be scrupulously followed by the WRD.
3. I deny that the State of Goa has exceeded the terms of the Tender as well as CRZ permissions and destroyed the existing bund covering the Khazan land and in the process, destroyed the mangroves. I say that State of Goa has always endeavored to protect the traditional bunds that have existed in the coastal areas. I say that bunds play vital role in protecting the Khazan lands and surrounding village from ingress of saline water.

PARAWISE REPLY-

4. As far as Paras (a) to (c) are concerned, I deny that the Respondent State Authorities are seeking to widen the width of the bund to 7.5 mtrs from existing 3 mtrs so as to convert it into a public road to serve the requirements of Survey No.12 of Candolim village. I say that as per the joint site inspection report held on 08/03/2024, the carriage width of the bund is 4.00 mtrs and not 7.50 mtrs as stated by the Appellant. I say that the bund has stabilized over a decade and serves the purpose for which it was constructed after the traditional bund was washed away. I say that the bunds are generally constructed for protection of agricultural lands and in no way can serve as access to land locked property. I say that the Joint Committee has also recommended that barricading should be done at entry and exit of the bund so that stretch of the bund is not to be used for vehicular traffic or any commercial activities. I say that at present, barricades are provided to stop vehicular access to the bund. I say that the present Appeal is purely



based on conjectures. I deny that the mangroves were cut during strengthening work of the bund.

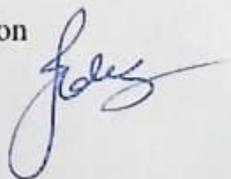
5. As far as Paras (d) to (e) are concerned, it is denied that the Respondent State Authorities have turned blind eyes to damage done to existing/original bunds. It is denied that several mangroves have been cut and or dried up on account of dumping of loose laterite rubble. I say that order dated 30/11/2023 passed by this Respondent and recommendations of Joint Committee can be considered for purpose of Re-plantation of Mangroves. I say that the Authority has considered the extent of work done at site as well as scope and has passed the order dated 30/11/2023.
6. As far as Paras (f) to (g) are concerned, I say that said report of Goa State Biodiversity Board (GSBB) categorically highlights importance of need for bund repairs so as to revive agricultural activities. I say that this Answering Respondent has considered the recommendation of plantation of mangroves which are contained in direction No.2 and 4 contained in order dated 30/11/2023. It is denied that the said bund is being converted into public road to serve private interests. I say that said bund required urgent repairs and proposal of Respondent No.6 was duly considered by this Respondent in accordance with law.
7. As far as Paras (h) is concerned, it is categorically denied that the permission granted by this Respondent are contrary to inspection report of Goa State Biodiversity Board and/ or its own observations in subsequent reports. I say that proposal of Respondent No.6 was duly inspected on 16/05/2019 by Expert Members of GCZMA along with officials of Respondent No.6. I say that the Expert Members of GCZMA had recommended renovation and strengthening of the said bund. It is denied that the directions issued by this Respondent as superficial, illusory and or don't have intended purpose of protecting and preserving the bund. It is



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denied that the order dated 30/11/2023 is contrary to CRZ regulations. It is denied that that there is need for this Hon'ble Tribunal to exercise its Appellate Jurisdiction and quash and set aside order dated 30/11/2023. I say that said allegations made by Appellant therein are itself imaginary, superficial, illusory and unsubstantiated. I say that this Respondent has only granted N.O.C/Permission for mainly strengthening and renovation of existing bund from Nerulbridge to Caculo House at Candolim, Bardez, Goa.

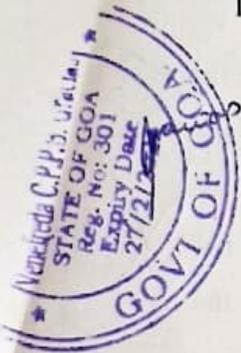
8. As far as Paras (5), (6) and (7) are concerned, it is denied that development activity is directly prohibited. I say this Respondent has clearly indicated in its N.O.C/Permission dated 26/08/2019 that repair and renovation of existing bund is permitted to prevent further erosion of existing bund interms of CRZ Notification 2011. I say that erosion control measures are even permissible in CRZ Regulations as they are necessary to prevent further damage and unrecoverable loss to environment.
9. As far as Para 8, 8 (A) to 8 (K) are concerned, I say the contentions raised by the Appellants in its rejoinder were considered by this Respondent while passing the order dated 30/11/2023. I say that Joint Committee Report further throws light on the actual site conditions
10. As far as Para 9, 9 (I) to 9 (V) and 10, 10 (I) to 10 XI are concerned, I say that the order dated 30/11/2023 has considered the aspect of re-plantation of mangroves at site. All plantations are ordered to be done through the aegis of the Goa State Biodiversity Board (GSBB). I say that Respondent No.6 has to obey the conditions laid in its N.O.C/Permission granted by this Respondent and further also comply with directions contained in order dated 30/11/2023.
11. As far as Para 11 are concerned, I say that the order dated 30/11/2023 has considered the aspect of re-plantation of mangroves at site with consultation



of Goa State Biodiversity Board (GSBB) , sluice gates are to be maintained and no road access is to be provided limited to a staircase. I say that above measures ensures the use of the same by pedestrians who are mainly locals/villagers.

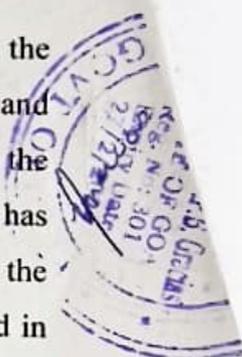
12. As far as Para 12 and 13 are concerned, the contents are denied as stated therein. I say that this Respondent has considered all the contentions raised by contesting parties and fairly arrived at decision which is contained in the order dated 30/11/2023.

13. As far as grounds at Para 14 (I) & (XII) are concerned, it is denied that order dated 30/11/2023 passed by this Respondent is wholly without jurisdiction, in excess of jurisdiction and is patently illegal. It is denied that order dated 30/11/2023 runs contrary to permissions issued by this Respondent and/ or there is construction in excess to permission granted. It is denied that observations/finding of this Respondent are contrary to directions of Goa State Biodiversity Board (GSBB) in its report. It is denied that order dated 30/11/2023 is also contrary to site inspection, minutes of this Respondent. I say that no road access is to be provided same is limited to a 'staircase'. I say that above measures ensures the use of the same by pedestrians who are mainly locals/villagers. I deny that the order dated 30/11/2023 has ignored the site inspection report of GSBB and scope of the permission granted it. I say that permission granted by this Authority is not under challenge before this Hon'ble Tribunal. I say that use of solar street lights are recommended to ensure pedestrians safety. I say that non-operational/damaged sluice gates are harmful for Khazan land. I say that fully functional sluice gates regulates tidal water. I say that the Appellants have to read and construe the all directions contained in order dated 30/11/2023 as a whole and not selectively to suit their case. I say the order dated 30/11/2023 has been passed by this Respondent after following procedural safeguards and fairness



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14. As far as grounds at Para 14 (XIII) is concerned, I say that Appellants are not entitled to urge any other further grounds before this Hon'ble Tribunal.
15. As far as grounds at Para 15 is concerned, the same pertains to plea of limitation, the Appellants be put to strict proof thereof.
16. As far as grounds at Para 15 is concerned, the same pertains to prayers. I say that Appellants are not entitled for prayers as prayed therein. I say that the present appeal is sans merits and deserves to be dismissed with costs.
17. I say and submit that after perusal of documents on record and from the arguments advanced by both the parties i.e. Complainant /Appellant and WRD official, the Authority was of the view that the project is with the permission from all the Authorities including GCZMA and the same has been carried out for the beautification. It was further observed by the GCZMA that there have been breaches to the bund which have resulted in inundation of saline water in Khazan lands. These bunds have to be protected and/restored in such a manner as was otherwise traditionally done by means of use of clay, hay, rubble, stone etc. I say that the GCZMA has also observed that the present work consists of mainly strengthening and renovation of existing bund from Nerulbridge to Caculo House at Candolim, Bardez, Goa. It was also observed that the village panchayat vide it's resolution dated 04/07/2017, had requested Respondent No.6 i.e. WRD to take up work of improvement and beautification of the said bund. It was observed that the scope of the work is to strengthen the bund by heightening the existing embankment providing toe wall to strengthen and prevent the embankment from eroding from the inner side and pitching the sloping side of the embankment with laterite stone. It was further observed by the Authority from the reply filed by the Respondent No. 6 i.e. the renovation part of the work includes providing of walkway with pavers, landscaping



Stales

work, fishing galleries, illumination with light poles and ballusters for protection of the visitors.

18. I say that sluice gates on the bunds regulate tidal water flow. I say that saline water inundation due breach of bunds or non-functional/damaged sluice gates leads to severely affects the Khazan lands which are low lying lands thereby causing environmental damage. I say that the GCZMA is of the view that the project is for the benefit of the people and the same has been carried out with the due permissions from all the Authorities including the GCZMA.

19. I say that the Answering Respondent was in receipt of the application from Respondent No.6 dated 24/01/2019 seeking N.O.C/Permission for strengthening and Renovation of existing bund from Nerul Bridge to Caculo house at Candolim, Bardez-Goa.

20. I say that said proposal was inspected on 16/05/2019 by Expert Members of GCZMA along with officials of Respondent No.6. I say that the Expert Members of GCZMA recommended renovation and strengthening of the said bund in a report which is annexed to Appeal at pages 100 to 101.

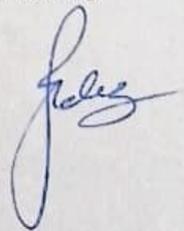
21. I say that Answering Respondent examined the proposal dated 24/01/2019 of Respondent No.6 in its 205th GCZMA meeting held on 25/06/2019 in accordance with provisions of the CRZ Notification 2011 in force in State of Goa. I say that in the 205th GCZMA meeting held on 25/06/2019 it was decided as follows:- *“Authority noted that as per CRZ Regulation, repair and renovation of bund along the river bank is permitted to prevent further erosion of bund and to stop the intrusion of saline riverine water into the adjacent agricultural field area. Accordingly the Authority after deliberation decided to approve the application for strengthening and Renovation of Existing Bund from Nerul Bridge to Caculo House at*

Candolim, Bardez-Goa." I say that extract of the 205th GCZMA meeting held on 25/06/2019 is annexed to Appeal at Page 99.

22. I say that in view of the decision taken in the 205th GCZMA meeting held on 25/06/2019 in accordance with provisions of the CRZ Notification 2011. This Respondent issued an N.O.C/Permission bearing No.GCZMA/N/19-20/09/1339 dated 26/08/2019 to Respondent No.6. I say the said N.O.C/Permission granted by the Answering Respondent is not under challenge before this Hon'ble Tribunal.

23. I say that the present Appellant is the Original complainant who had earlier filed a complaint dated 21/12/2022 before the Answering Respondent interlia alleging destruction of the mangroves in the name of development by strengthening the existing bund from Nerulbridgeto Caculo house at Candolim. I say that the said grievance later was escalated to the Hon'ble High Court of Bombay at Goa by way of Public Interest Litigation (PIL) Writ Petition (WP) bearing No.762/2023 (F) by present Appellant. I say that the pleas raised by the Appellant were also patiently heard by the Hon'ble High Court of Bombay at Goa and various directions were issued to Authorities which were complied.

24. I say that considering the pendency of the complaint filed by the Appellant and directions issued by Hon'ble High Court of Bombay at Goa the same was considered by this Answering Respondent. I say that Answering Respondent was aware that the Respondent No.6 was carrying out work at site in view of the permission granted by it. However considering the sensitivity of the subject matter and issues raised by the Appellant decided to issue stop work order for ongoing work as an interim measure in its 348th GCZMA meeting held on 06/07/2023.



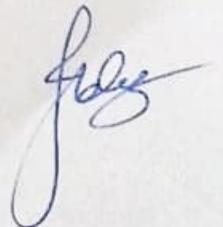
STAFF
RECORDS
27/07/2023
OF

25.I say that complaint/grievance/objections of the present Appellant was discussed, deliberated and considered by this Respondent in various meetings viz 347th GCZMA meeting held on 22/06/2023, 348th GCZMA meeting held on 06/07/2023, 350th GCZMA meeting held on 20/07/2023, 351st GCZMA meeting held on 31/07/2023, 354th GCZMA meeting held on 16/08/2023 and 357th GCZMA meeting held on 29/08/2023 wherein the final decision was taken which ultimately culminated into order dated 30/11/2023.

26.I say that this Respondent has conducted inquiry in the matter, fairly, scrupulously and in detailed manner. The Authority has also holistically applied its mind to all the documents/ replies and others materials placed on record produced by the Appellant (original complainant), Respondent No.6 and other authorities. I say that the Authority has passed the order dated 30/11/2023 after granting patient hearing to contesting parties in accordance with law and considering relevant provisions of law.

27.I say that vide order dated 30/11/2023, the GCZMA has directed the Respondent WRD to comply with the following conditions which need to be scrupulously followed-

- I. There will be no road access provided to the bund and access will be limited from the staircase.
- II. Replantation of mangroves along the bund in consultation with GSBB/ Mangroves Society.
- III. Sluice gate to be maintained.
- IV. All plantation to be in consultation with GSBB.
- V. Use of pavers/ paver block with at least 50% opening for construction of approach road to control the surface run off.
- VI. Street lights should be installed of Solar only.

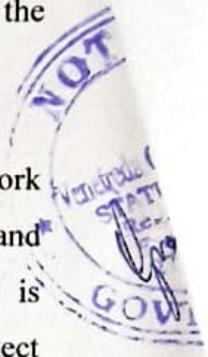


28. I say that thus the permission dated 26/08/2019 granted by the Answering Respondent to Executive Engineer-I, Respondent No.6 herein along with aforementioned directions contained in the order dated 30/11/2023 passed by the Authority holistically takes care of the all the concerns raised by the Appellant/Original Complainant in the present Appeal. I say that use of pavers as mentioned at direction No.5 contained in the order dated 30/11/2023 was infact not intended to be used in the nature of a road but as a pedestrian walk way for the locals which can be discerned from the fact that there is steep drop at the beginning and at the end of the bund in the nature of stairs.

29. I say and submit that since the Respondent No.6 is carrying out the work based on the tender conditions and as per the specifications and modifications for protecting the bund. I say that Respondent No.6 is entrusted task for improvement of bunds by State of Goa in order to protect the Khazan lands which damaged due to breach of bunds and consequential growth of vegetation and mangroves in agricultural fields.

30. The Appellant has failed to make out case to quash and set aside the order dated 30/11/2023 passed by this Respondent. I say that the order dated 30/11/2023 passed by the GCZMA thus deserves to be upheld.

31. I say that the aforementioned contents are interms of records maintained in the office of the answering Respondent.



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15/11/24

DEPONENT

VERIFICATION

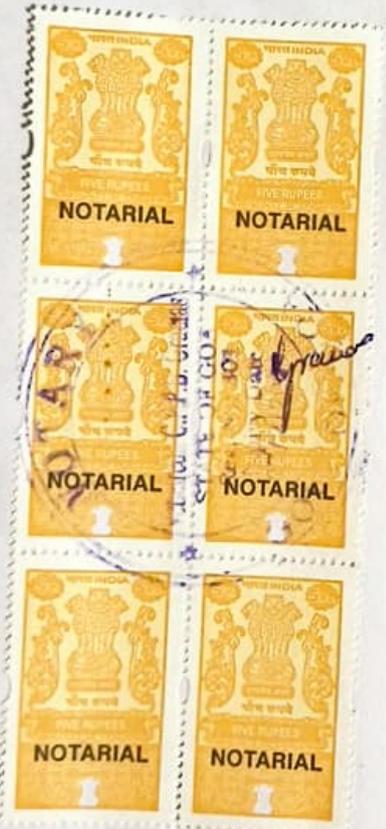
I, the deponent above-named, do hereby solemnly affirm and state on oath that the facts stated hereinabove are true to the best of my knowledge and belief, based on the on records available in the office of the answering Respondent.

Verified at Panaji Goa this 15th day of July, 2024.

DEPONENT

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15/7/24

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Executed Before Me
At Calangute - Goa

Reg. No. 384/07/2024

Date 15/07/2024

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Venerable *[Handwritten]* P.S. Gracias
Advocate & Notary
Bardez-Goa