

BEFORE THE NATIONAL GREEN TRIBUNAL, WESTERN  
ZONE BENCH, PUNE  
EXECUTION APPLICATION NO. 03/2024 (WZ)  
IN  
APPEAL NO. 75/2016 (WZ)

The Chicalim Villagers Action Committee ...Applicant

IN

M/s. Abhishek Engineers & Ors. ...Appellant

Versus

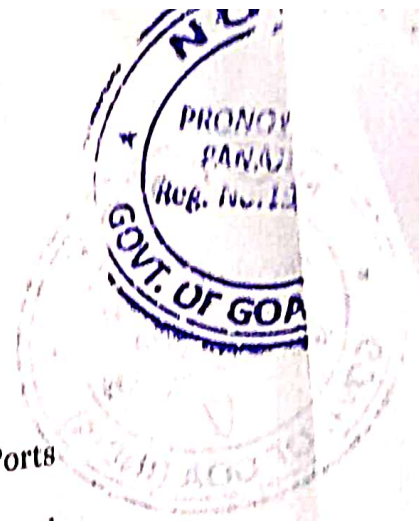
The Directorate of Environment &

Ex-officio Joint Secy. & Ors ...Respondents

**AFFIDAVIT-IN-REPLY ON BEHALF OF CAPTAIN OF  
PORTS**

I, Shri Ram Asare M. Gupta, major of age, holding the post of Hydrographic Surveyor, Captain of Ports Department, having office at Captain of Ports Department, D.B. Road, Panaji, Goa, do hereby make solemn affirmation and state as under:-

*[Handwritten signature]*



1. I say that I am filing this affidavit on behalf of Captain of Ports Department and I am the designated Nodal Officer represent all legal matters of Captain of Ports Department. I say that I am filing the present affidavit based on the records available with my office and that I am competent to depose in this case.

2. I say that I am filing the present Affidavit-in-Reply for the purpose of bringing certain facts on record before this Hon'ble Tribunal. Nothing in the aforementioned Application filed by the Applicant may be deemed to have been admitted for mere want of specific denial. Nothing may be deemed to have been admitted for want of *traverse seriatim*.

2. I say that the Goa Coastal Zone Management Authority ("GCZMA") vide their order bearing No. GCZMA/MORM/DAB/10-11/11/1516 dated 07/10/2016 held as under:

A handwritten signature in black ink, consisting of several overlapping strokes.



*"1. M/s. Abhishek Engineers has carried out unauthorized reclamation of an area of 3900 sq. m as delineated by the DSLR which can be seen in its report alongwith the site plan showing the reclamation which is annexed herewith.*

*A copy of the site plan as annexed as Annexure-III. As such the Encroachment by reclamation in the river to the extent of 3900 sq. m as shown in DSLR report is ordered to be removed and the river bed restored to its original condition as under:*

*2. The Committee decided that in view of the typical nature of violation which is of very serious nature, blatant violation of Environmental laws, the restoration work, particularly in an area of Biodiversity importance cannot be left for restoration at the hands of Violator as it is apprehended that actual restoration may not take place.*



3. *In view of this Committee directs that the Captain of Ports (COP) should estimate the costs of work within 3 months and submit the same to the violator who shall deposit the entire costs of estimate to the CoP within 15 days thereafter.*

4. *The CoP shall after the costs been deposited by M/s. Abhishek Engineers shall follow all the required Codal formalities and undertake the restoration work within 3 months thereafter.*

5. *The CoP shall consult the Goa State Biodiversity Board for preparation or estimates as well as for execution of work...."*

3. I say that this order was challenged by M/s Abhishek Engineers before this Hon'ble Tribunal in Appeal No. 75 of 2016 (PB). This



Hon'ble Tribunal vide order dated 01.08.2022 was pleased to dismiss the appeal and uphold the GCZMA order dated 07.10.2016.

4. I say that M/s Abhishek Engineers challenged the order dated 01.08.2022 of this Hon'ble Tribunal before the Hon'ble Supreme Court in Civil Appeal No. 6786 of 2022. The Hon'ble Supreme Court vide order dated 26.09.2022 was pleased to dismiss the said Civil Appeal holding that the directions which were issued by the GCZMA were in order and will have to be duly implemented.

5. I say that GCZMA directed this Department to estimate the costs of work for the restoration of the reclaimed area in consultation with the Goa State Biodiversity Board. The area so reclaimed by M/s Abhishek Engineers was delineated by the DSLR in its report which was supposed to be annexed to the order of the GCZMA dated 07.10.2016 as Annexure III. However, the GCZMA, while conveying the order dated 07.10.2016 to the Captain of Ports, inadvertently erred



in not annexing the said Annexure III to the order dated 07.10.2016.

This was noticed by the Captain of Ports Department in November 2022.

6. I say that on 21.03.2024, a joint site inspection was carried out by GCZMA, Goa State Biodiversity Board and the Captain of Ports Department. I say that pursuant to the site inspection the exact area of encroachment was found to be 3939 sq mts.

A copy of the Joint Site Inspection Report dated 21.03.2024 is annexed hereto and marked as "Annexure-A".

7. I say that pursuant to the joint site inspection and in compliance with the order dated 07.10.2016, the Captain of Ports Department, upon consultation with the Goa State Biodiversity Board, has prepared the estimate for restoration of reclaimed area amounting to Rs. 17,96,491/- (Rupees Seventeen Lakhs Ninety-Six Thousand Four Hundred and Ninety One). I say that the same has been



communicated to M/s Abhishek Engineers *vide* letter dated 19.08.2024.

A copy of the letter dated 19.08.2024 addressed to M/s Abhishek Engineers is annexed hereto and marked as "Annexure-B".

8. I say that the work of restoration of the reclaimed area will have to be carried out by a specialized agency. I say that the Captain of Ports Department will issue a tender in that regard within 30 days from the deposit of the abovementioned estimated amount by M/s Abhishek Engineers. I say that the work of restoration of the reclaimed area will be completed within a period of 2 months from the date of the award of the tender to the successful bidder therein:

9: I say that what has been stated in Paras 1 to 8 are true to my own knowledge and/or are based on documents/records available with the Respondent and the contents of the same are true and correct and

nothing material has been concealed herein. That the documents annexed to the Affidavit are true copies of the Original.

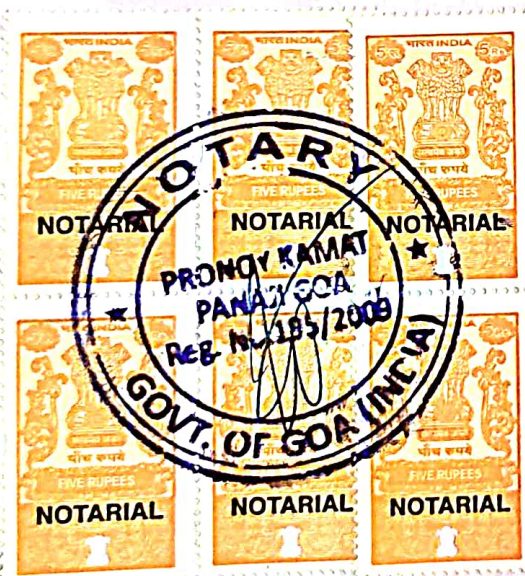
Solemnly Affirm on Oath

Place: Panaji, Goa.

Date: 26.08.2024

*[Signature]*  
DEPONENT

Identified by:



**EXECUTED BEFORE ME**

Reg. No...19152 dt 26/8/24

Identified by...known to me

*[Signature]*  
**PRONOV KAMAT**  
NOTARY TISWADI TALUKA  
STATE OF GOA, INDIA  
Reg. No.195/2009 Dated 10/7/2009  
License Expires on 10/7/2029

Report of joint Site Inspection held on 21/03/2024 at Dabolim Village, Mormugao, Goa as per Notice No. GCZMA/MORM/DAB/10-11/4600 dated 19/03/2024 of the Member Secretary, Goa Coastal Zone Management Authority as per the Order of the Hon'ble Supreme Court of India dated 26/09/2022 in Civil Appeal No. 6786 of 2022.

As per the Notice No. GCZMA/MORM/DAB/10-11/4600 dated 19/03/2024 of the Goa Coastal Zone Management Authority, a site inspection was carried out by Dr. Sushant Naik, Expert member, GCZMA, Shri. Satishkumar Naik, Field Surveyor, GCZMA, Miss. Bhargavi Kelkar, Environmental Assistant, GCZMA, Mrs. Varsha Hoble, Project Assistant, GSBB, Mr. Vinay Shirodkar, Official from the Captain of Ports, in presence of the Complainant Mr. Jose A.M D'Costa and Mrs. Marry D'Costa, Members of The Chicalim Villagers Action Committee, and the Respondent-Mr Uday Naik, on 21/03/2024 at 11.00 a.m. The site is situated in Dabolim Village of Mormugao Taluka and as per the order we had to ascertain the area to be restored by M/s Abhishek Engineers admeasuring 3900 sq.mtrs in respect of the property bearing Survey No. 16/6, 16/7 and 72/1 Village Dabolim, Mormugao.

**BRIEF FACTS OF THE CASE**

1. That GCZMA after holding inquiry in the matter passed an order dated 07/10/2016 directing M/s Abhishek Engineers to restore a reclaimed area of 3900 sq. mts in the property bearing Survey No. 16/6, 16/7 and 72/1, Village Dabolim, Mormugao.
2. That order dated 07/10/2016 of GCZMA was challenged before the Hon'ble National Green Tribunal, Pune in an Appeal bearing No.75/2016 (WZ) by M/s. Abhishek Engineers and the Hon'ble NGT, Special Bench, Pune vide Order dated 01/08/2022 upheld the Order of the GCZMA and held M/s Abhishek Engineers liable to pay a compensation for the past violations and also restore the area.
3. The Hon'ble National Green Tribunal, Special Bench vide order dated 01/08/2022 in Appeal No. 75/2016(WZ), M.A. 372/2016 and Caveat No. 37/2016 did not find any merit in the Appeal and dismissed it upholding the impugned order and disposed the M.A.372/2016. The appellant i.e M/s Abhishek Engineers was held liable to pay compensation for the past violations and also to restore the area. The GCZMA accordingly to take remedial action

*naik*

*Sw*

*Balcar*

within two months. The GZMA will also be at liberty to assess and recover compensation for the past violations following due process of law.

4. That Order dated 01/08/2022 of Hon'ble NGT was challenged before the Hon'ble Supreme Court of India, New Delhi in a Civil Appeal bearing No.6786/2022 by M/s Abhishek Engineers. The Hon'ble Supreme Court of India, New Delhi vide order dated 26/09/2022 stated that the appellant had carried out reclamation activities of a substantial nature in a mudflat area and upheld the directions issued by the GCZMA and dismissed the said Civil Appeal.

### OBSERVATIONS

1. The Survey No. 72/1 is abutting the river and presently major part of the property is submerged under water and forms part of the River Zuari, and the name of Govt. of India, Ministry of Surface Transport and Uday Kamlakant Naik is recorded in the occupant's column of the online computerized form I &XIV.
2. As per CZMP 2011 the major part of Survey No 72/1 is classified as a Waterbody - CRZ IVB, partly as Jetty/Shipyard/Ramp, and partly as a No Development Zone - CRZ III.
3. The Survey No 16/6 and 16/7 are located on the eastern side of Survey No. 72/1 and abutting the road leading to Vasco da Gama. The name of Govt. of India, Ministry of Surface Transport and Uday Kamlakant Naik is recorded in the occupant's column of online computerized form I &XIV of Survey No. 16/6. The name of Govt. of India, Ministry of Surface Transport and Canuto Rodrigues and 10 others is recorded in the occupant's column of the online computerized form I &XIV of Survey No. 16/7.
4. As per the CZMP 2011 the entire Survey No. 16/6 and 16/7 is classified as a No Development Zone - CRZ III.
5. As per the CZMP 2011 the HTL is depicted in Survey No. 72/1 and the Jetty/Shipyard/Ramp is depicted in the riverine area influenced by tidal waves.
6. The bank of the land-filling area is surrounded with a laterite stone retaining wall constructed with cement, abutting the water body. The land filling is done to a height of 1.50 meters from the water level as visible during low tide (photographs attached).
7. There is a Slip Way on the western side of the land filled area.

*nik*

*SP*

*Belkar*

8. There are two metal structures of G+1 located within Survey Nos. 16/6, 16/7 and 72/1. There is a corrugated metal sheet fencing erected on the eastern side of Survey No. 16/6 and 16/7. There is a metal shed for electric panel board and metal shed for generator in survey No. 16/6. There are metal sheds in Survey No. 72/1.

**CONCLUSIONS AND RECOMMENDATIONS**

1. It is recommended that the area as identified in the map which has been prepared through the DSLR Goa which is part of this report shall be taken into account for the purpose of scooping the soil by manual means for an area of 3939.00sq.mtr.
2. Restoration has to be done by removing the reclaimed portion of the land starting from the black line as identified on the DSLR Goa plan beginning from zero degree and then tapering at a degree of  $\sim 45^\circ$  towards HTL. In doing so, the 1.5 mt laterite wall (as mentioned in point no. 6 of observations) has to be totally removed. The slope of  $\sim 45^\circ$  is necessary to prevent the erosion of the stabilized soil over a period of time due to water ingress. Care should be taken to see that there is no further damage done to the environment while carrying out the restoration work. The debris generated during the restoration cannot be dumped into the water body/river and should be disposed of with proper precautionary measures outside the CRZ area.

Place: Dabolim, Mormugao

Dated: 21/03/2024.



Dr. Sushant S. Naik  
Expert Member,  
GCZMA



Mr. Satishkumar G. Naik  
Field Surveyor,  
o/o GCZMA



Mrs. Bhargavi Kelkar  
Env. Assistant,  
o/o GCZMA



198 ANNEXURE 'B'  
Captain of Ports Department

Government of Goa

Dayan and Bandodkar Road,  
Panaji - Goa - 403001, India.

Phone Nos: +91(0832) 2225070/2426109

Website: [www.ports.goa.gov.in](http://www.ports.goa.gov.in)

Fax: +91(0832) 2421483

E-mail: [cpt-port.goa@nic.in](mailto:cpt-port.goa@nic.in)

Shipping - Phone Nos: +91(0832) 2420579/2420580 Fax: +91(0832) 2420582 E-mail: [captainofports.ispsgoa@gmail.com](mailto:captainofports.ispsgoa@gmail.com)

144/C

Regd. A.D.

No. I 11020/Abhishek Engineers/ 2066

Dated : 19/08/2024.

To,  
M/s. Abhishek Engineers,  
Shop No. 5 to 15, Karma Empress,  
1<sup>st</sup> Floor, Opp. Laksh Jyot Complex,  
Near KTC Bus Stand, Mundvel,  
Vasco-da-Gama, Goa.

Sub: Restoration of reclaimed land of 3939 Sq. Mtrs in property bearing survey No. 16/6, 16/7 and 72/1 of M/s. Abhishek Engineers, at Dabolim.

Ref: Order No. GCZMA/MORM/DAB/10-11/11/1516 dated 07/10/2016.

Sir,

With reference to the above mentioned subject and the referred order, you are hereby required to deposit an amount of Rs. 1796491/- (Rupees seventeen lakhs ninety six thousand four hundred ninety one only) including GST @ 18% through Demand Draft in favour of Captain of Ports, on receipt of this letter.

It is to inform you that this is an approximate estimate calculated by the Captain of Ports Department based on the experience. However if there is any changes in the actual cost, either less/more will be under the account of you.

Yours faithfully,

(Shri Octavio A. Rodrigues)  
Captain of Ports

Encl: Copy of Estimate.

Copy to:

Adv. Shubham Sinai Priolkar,  
S2, Anandi Building, Adwalpalkar Apartments,  
Bairo Alto Guimaraes,  
Lyceum Road,  
Panaji - Goa 403 001.

No. I 11020/Abhishek Engineers/  
Government of Goa,  
Captain of Ports Department,  
Panaji Goa.  
Dated : 19/08/2024.

143/c

**Approximate estimate for restoration of reclaimed land  
admeasuring 3939 Sq. Mtrs. of M/s. Abhishek Engineers.**

(A) Estimate to remove the reclaimed portion of land admeasuring 3939 Sq. Mtrs. beginning from Zero degree and then tapering at a degree of 45° towards high tide line. Also 1.5 Mtrs laterite wall in the river to be totally remove. And to dump the debris generated during the restoration outside the CRZ area in eco friendly way with all necessary permissions.

i.e 3939 Sq. Mtrs X 1.5 height X 0.45 = 2659.0 Cubic mtrs.

Rate for removal of reclaimed land 2659.0 @ Rs. 550/-

Therefore 2659 Cubic Mtrs X 550/- =

Rs. 1462450/-

Advertisement and departmental processing fees etc.

Rs. 60,000/-

Rs. 1522450/-

GST @ 18%

Rs. 274041/-

**Total amount**

Rs. 1796491/-

**(Rupees seventeen lakhs ninety six thousand four hundred ninety one only)**

**Note:** This is the approximate estimate calculated by the Captain of Ports Department based on the experience which totals to Rs. 1796491/- (Rupees seventeen lakhs ninety six thousand four hundred ninety one only) including GST @ 18%.

The amount of Rs. 1796491/- has to be deposited by M/s. Abhishek Engineers. However if there is any change in the actual cost, either less/more will be under the account of M/s. Abhishek Engineers.



(Shri Octavio A. Rodrigues)  
Captain of Ports.