

BEFORE THE NATIONAL GREEN TRIBUNAL, WESTERN
ZONE BENCH, PUNE
APPEAL NO. 06/2025 (WZ)

Colva Civic and Consumer Forum ...Applicant

Versus

Goa Coastal Zone

Management Authority & Ors ...Respondent

AFFIDAVIT-IN-REPLY ON BEHALF OF RESPONDENT

NO. 1 (GCZMA)

I, Shri Sachin Desai, major of age, holding the post of Member Secretary, Goa Coastal Zone Management Authority (“GCZMA”) i.e., Respondent No 1 herein, having office at 4th Floor Dempo Towers, Patto, Panaji, Goa, do hereby make solemn affirmation and state as under:

1. I say that I am holding the post of Member Secretary, GCZMA. 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 opposing the relief sought in the present appeal. Nothing in the aforementioned Appeal filed by the Appellant 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*. I crave leave of this Hon'ble Tribunal to file an additional Affidavit, if found necessary.

3. I say that the present appeal challenges the No Objection Certificate dated 18.10.2024 ("**Impugned NOC**") issued by the Answering Respondent. I say that vide the Impugned NOC the Answering Respondent has granted approval to Respondent No. 3 (M/s Hermitage Builders Pvt Ltd) for proposed erection of temporary 10 nos wooden cottages having a total built up area of 798.30 sq mts, 01 Shack/Restaurant having a total built up area of 131.50 sq mts, 01 toilet and 01 kitchen having a total built up area of 91.00 sq mts, 01 watchman shed having total built up area of 45 sq mts, 01 staff toilet having a total built up area of 15 sq



ments made of wood and/or natural/biodegradable material, in property bearing Survey No. 16/4 of Sernabatim Village, Salcette Taluka, Goa, subject to the conditions specified therein.

4. I say that the Respondent No 3 was previously granted approval dated 23.12.2020 by the Answering Respondent to erect 10 Wooden Cottages, One Shack/Restaurant, toilet, kitchen, watchman shed, staff toilet reception and one restaurant in Survey No. 16/4 of village Sernabatim, Salcete Goa but the same was quashed and set aside by this Hon'ble Tribunal by common Judgment and Order dated 28/09/2022 passed in Appeal No. 13 of 2022 (WZ) and Appeal No. 21 of 2022 (WZ), on the limited ground that at the time of giving permission, GCZMA had not considered the "beach carrying capacity".
5. I say that this Hon'ble Tribunal by common Judgment and Order dated 28/09/2022 passed in Appeal No. 13 of 2022



(WZ) and Appeal No. 21 of 2022 (WZ) (page 34 of the appeal) has observed as under:

“20. We are of the view that, in view of the report of NCSCM, Chennai, it is clear that the Survey Number in question does not contain any sand dunes, therefore, it cannot said to be NDZ rather it is stated to fall in CRZ-III according to the Respondent No. 1. We hold that on this count, permission could have been granted to the Respondent No. 4 by the Respondent No. 1, in respect to the said construction. But in view of the policy laid down by the Respondent No. 1 through its Minutes dated 15.11.2016, decision of which is quoted here-in above, it is clear that GCZMA has decided not to allow any further construction of huts etc. in the Survey Number in question and yet has proceeded to allow the said construction which appears to be in violation of the said policy. Keeping in view the precautionary principle, we are also of the view that no such construction should have been allowed by GCZMA in the said area without clearly mentioning as to whether the permission granted of the said construction,



would fall within the Beach Carrying Capacity or not. Therefore, in view of this non-clarity on the part of the Respondent No. 4, both the impugned orders dated 04.03.2022 and 23.12.2020 need to be set aside and are accordingly set aside with a liberty that in case, Respondent No. 4 approaches the Respondent No. 1 again with respect to raising the construction of temporary huts, etc., the same should be considered in the light of the Beach Carrying Capacity' on the date of its consideration."

6. I say that pursuant to the Judgment and Order dated 28/09/2022 passed by this Hon'ble Tribunal in Appeal No. 13 of 2022 (WZ) and Appeal No. 21 of 2022 (WZ), Respondent No 3 herein by way of Application dated 12/06/2023 sought fresh approval for erection of temporary structures i.e., 10 Wooden Cottages, One Shack/Restaurant, toilet, kitchen, watchman shed, staff toilet reception and one restaurant in Survey No. 16/4 of village Sernabatim, Salcete Goa.



7. I say that the present Appellant had objected to the Application dated 12/06/2023 of Respondent No. 3.

8. I say that the Appellant had objected to the grant of approval to the Application dated 12/06/2023 of Respondent No.3 in light of the beach carrying capacity of the concerned beach stretch.

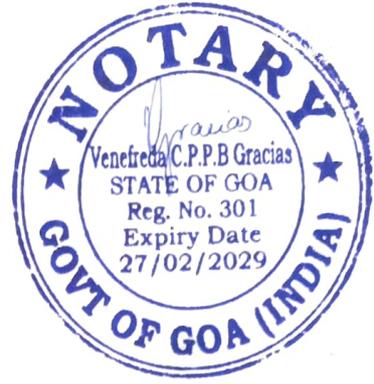
9. I say that Application dated 12/06/2023 of Respondent No.3 as well as the objections of the Appellant herein were considered by the Answering Respondent in its 411 Meeting dated 05/09/2024. I say that after considering the submissions of the Appellant and the Respondent No 3 herein and after giving due consideration to the Beach Carrying Capacity Report, the Answering Respondent decided to grant approval to the Application dated 12/06/2023 of Respondent No.3.



Annexed hereto is the copy of the relevant extract of the Minutes of the Meeting dated 05/09/2024 marked as **“Annexure A”**.

10. I say that the decision on the objections of the Appellant against the grant of approval to Application dated 12/06/2023 of Respondent No.3 was conveyed to the Appellant vide Order dated 16/10/2024. (*at page 25 of the Appeal*).
11. I say that in view of the above, the present appeal is liable to be dismissed.
12. I say that what has been stated in Paras 1 to 11 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.

A handwritten signature in blue ink, appearing to be a stylized name or initials.



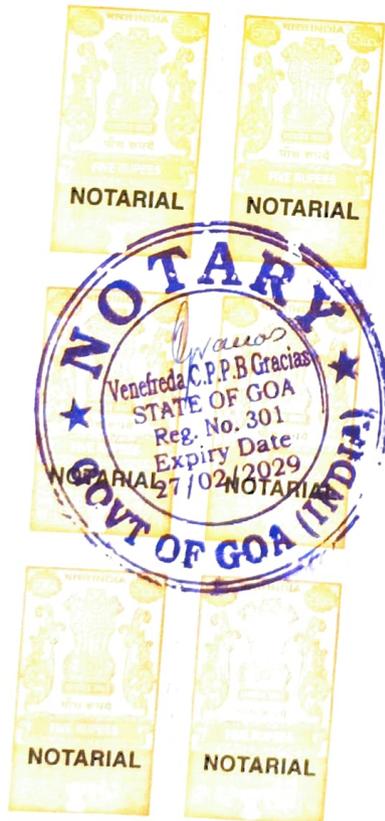
Solemnly Affirm on Oath

Place: Panaji, Goa.

Date: 12.06.2025

DEPONENT

Identified by:



Executed before me
At Panjim Tiswadi - Goa
Reg. No. 72/06/2025/P
Dated: 17/06/2025

Venefreda C.P.P.B Gracias
Advocate & Notary Goa State

MINUTES OF THE 411TH MEETING OF THE GOA COASTAL ZONE MANAGEMENT AUTHORITY (GCZMA) HELD ON 5/09/2024 at 3.30 PM. IN THE CONFERENCE HALL, FOURTH FLOOR, DEMPO TOWER, PATTO-PANAJI-GOA.

The 411th Meeting of the Goa Coastal Zone Management Authority (GCZMA) was held under the Chairmanship of the Secretary (Environment), on 5/09/2024 at 3.30 PM. in the conference hall, fourth floor, Patto-Panaji –Goa.

The following members were present for the meeting on 05/09/2024

1. Secretary, Environment & Climate Change /Chairman(GCZMA)
2. Representative OF Department of Tourism Panaji Goa
3. Representative of the Principal Chief Engineer PWD
4. Mrs Radha Rao, Expert Member,(GCZMA)
5. Shri Ganesh Velip, Expert Member, (GCZMA)
6. Shri. Dilip Arolkar, Expert Member,(GCZMA)
7. Dr Sushant Naik, Expert Member,(GCZMA)
8. Director, Environment& Climate Change /Member Secretary, (GCZMA)

Item No.1

Case No.1.1

To decide on the Complaint Filed by Mrs. Rosita Fernandes, R/o H.No 296, Ward no 9, PalolemCanacona Goa vide letter dated 23/07/2020 filed a complaint against Mr. James Fernandes R/o PalolemCanacona Goa , for constructing illegal house in Survey No 120/21-A-1 of village Palolem -Canacona Goa

Background: Mrs. Rosita Fernandes, R/o H. No 296, Ward no 9, PalolemCanacona Goa vide letter dated 23/07/2020 filed a complaint against Mr. James Fernandes R/o PalolemCanacona Goa , for constructing illegal house in Survey No 120/21-A-1 of village Palolem -Canacona Goa. Show Cause dated 10/02/2023 was issued to the parties.

In view of the above, the matter is placed before the Authority for grant of personal hearing to the parties.

The said matter was placed on 335th GCZMA meeting held on 16/03/2023.The Complainant Mrs. Rosita Fernandes present in person. Advocate ShivamPhadte appeared for the Respondent and filed reply. Advocate for the Respondent raised objection to the DLC report stating that the Survey No. is wrongly mentioned. Complainant stated that she has filed another letter dated 04/05/2022 wherein it was stated that 2 structures belongs to her mother in law.

The Authority after hearing both the parties decided to conduct site inspection by Expert Member, GCZMA of the structure belonging to the Respondent and matter is further posted to 13/04/2023 at 3.00 pm.

Proceeding: Respondent absent.

Decision: The Authority noted that the Respondent is absent and directs to issue fresh Personal hearing notice and posted the matter on 3/10/2024 at 3.30p.m.

Case 1.11

A proposal has been received from Hermitage Builders with regards to permission to erect temporary structures in Sy No 16/4 of Village Sernabatim Salcete Goa

Background: The Application dated 12/06/2023 is filed by Hermitage Builders Pvt. Ltd. in pursuance of the Judgment and Order dated 28/09/2022 passed in Appeal No.13/2022(WZ) and Appeal No. 21/2022(WZ) by the Hon'ble NGT. By way of the said application, the company has sought approval for erection of temporary structures on the same terms as sought for in the previous approval.

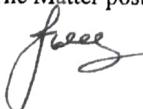
According to the Applicant he stated that by approval dated 23/12/2020 the GCZMA permitted the Company to erect 10 Wooden Cottages, 1 Shack/Restaurant, toilet, kitchen, watchman shed, staff toilet reception and 1 restaurant in Survey No. 16/4 of village Sernabatim, Salcete Goa, which was in keeping with the applicable CRZ Regulations.

According to the Applicant the stated that the said permission was challenged by Colva Civic and Consumer Forum in Appeal No.13/2022(WZ) and Appeal No. 21/2022(WZ) before the Hon'ble NGT, and by common Judgment and Order dated 28/09/2022 the Hon'ble NGT quashed and set aside the permission only on the limited ground that at the time of giving permission, GCZMA had not considered the Beach Carrying Capacity of Colva Beach as indicated in the beach carrying capacity report accepted by GCZMA. The permission was not set aside on any other count. In fact the Hon'ble NGT has specifically observed that there is no sand dune in the subject property, and in terms of the CRZ Notification, permission could be granted by the GCZMA in the said property. In the said Order company was given liberty to approach GCZMA again for raising of temporary huts and it was further observed that in such a case the application shall be considered in light of the Beach Carrying Capacity on the date of its consideration. In terms of the observation made by the Hon'ble NGT and in pursuance to the liberty granted by the Hon'ble NGT, company hereby files the application for approval of 10 Wooden Cottages, 1 Shack/Restaurant, toilet, kitchen, watchman shed, staff toilet reception and 1 restaurant in Survey No. 16/4 of village Sernabatim, Salcete - Goa on the same terms as sought for in the previous approval.

According to the Applicant the stated that the limited issue for consideration is whether the proposed construction is within the Beach Carrying Capacity of Village Sernabatim at the date of the application, and based on the same GCZMA can consider grant of approval.

The matter was taken up in the 402nd GCZMA Meeting held on 11/06/2024 the Proceeding: Complainant absent Respondent absent. The Authority's decision: The Authority posted the matter on 11/07/2024 at 3.30p.m.

The matter was taken up in the 406th GCZMA Meeting held on 11/07/2024 the Proceeding: Adv A Sardesai present on behalf of Hermitage Builders. The Authority's decision: The Matter posted for orders on 01/08/2024 at 3.30p.m




The matter was taken up in the 410th GCZMA Meeting held on 31/08/2024 the proceeding The representative of Hermitage builders were present at the hearing. The Authority's decision The Authority decided to call the parties i.e the Colva Civic and Consumer Forum and the Hermitage Builders for hearing on 5/09/2024 at 3.30p.m.

Proceeding: The Authority has perused the order passed by the Hon'ble NGT whereby approval conveyed to the project proponent to erect temporary huts and shacks in the property bearing Sy No 16/4 of village Sernabatim was quashed and set aside in light of the fact that the beach carrying capacity of village Sernabatim was exhausted. The Authority was directed to re-examine its decision and to take a conscious call whilst granting such approvals. The Authority has thus re-examined the proposal.

The project proponent submitted that the beach carrying capacity report was prepared based on collation of data of the year 2015 onwards and the said report was approved by the Authority in the year 15/11/2016. Ever since the year 2015 till date a number of developments have occurred which include discontinuation of operation of resorts. If that be the case then it means that the beach carrying capacity is not exhausted but it would rather mean that it has increased. Furthermore, he stated that the Authority time and again cannot go into each and every proposal and assess if the carrying capacity is exhausted or not. He thus stated that the project proponent cannot be pushed to the wall by stating that the carrying capacity of the beach has been exhausted.

In contrast the opponent of the project proponent submitted that when the permission was granted in the year 23/12/2020 the beach carrying capacity was already exhausted and what the project proponent is seeking is the extension of the very same approval. She drew our attention to page 91 of the beach carrying capacity report and the report stated that only three shacks are permissible of being erected on the beach stretch of village Sernabatim.

She further stated that the beach carrying capacity report has been holistically prepared so that the equilibrium between the fragile beach and its protection without much human interventions is maintained for posterity. She prayed that no permission and / or any extension be granted to the project proponent.

Decision: The Authority after hearing the parties at length, took on record and gave due consideration to submissions made by the complainant and the learned counsel for the Respondent and derived at a conclusion as under:

The GCZMA had granted permission for erection of Temporary 10 wooden cottages, 1 shack/ restaurant, toilet, kitchen, watchman shed, staff toilet in the property bearing Sy No 16/4 of Sernabatim Salcete Goa vide approval bearing no GCZMA/S/Shack-Hut-Cott-Tent/19-20/81/1418 dated 23/12/2020. The proposal was approved in the 239th GCZMA Meeting held on 10/12/2019. Subsequently, the Project proponent submitted a revised drawings and requested for approval of the revised plan and the proposal was placed in the 257th GCMZA Meeting held on 27/05/2021. And the approval was granted vide letter no GCZMA/S/Shack-Hut-Cott-Tent/19-20/81/2181 dated 07/03/2022

The Authority noted that the project proponent had obtained all the requisite permission and was conducting the business with valid permissions.

The Colva Civic and Consumer Forum filed an Appeal bearing Appeal No. 13/2022 (WZ) against GCZMA as Respondent No.1 and the Project proponent as Respondent No.4. The Hon'ble NGT vide order dated 28/09/2022 stated at para 18 that, ".....Thereafter, he has drawn attention to page no, 70 of the paper book where-in a table is given and in respect to Village Colva where the present properties in question lies, in Column- 'O'; it has been observed that in "Rural intensive infrastructure area", as the area is not fulfilling the criteria at Column 'M' and also closed to the limit in Column 'L', "no additional shacks, huts/Tents/cottages to be considered".

The Authority noted that the Hon'ble NGT made observations with regards to the area falling within the Village of Colva in specific. However; the area where the project proponent proposes to erect the structures falls in Sernabatim village however; for the purpose of administration alone the same is clubbed as Village Panchayat of Colva, Gaundaulim, Sernabatim, Vanelim. That for the purpose of administration and overall maintenance the Village Panchayat of Colva has taken over the other villages.

To this, the Authority noted that the property of the project proponent comes within the area of Sernabatim and bearing Sy. No. 16/4. If one peruses the Beach Carrying Capacity, this proposition would not be applicable on private lands specifically, because on page 55 of the beach carrying capacity report. It provides that sufficient area is available for commercial usage. Table 19 on page 55 reads as

"Carrying Capacity of Beaches of Goa for Providing Shacks & Other Temporary Seasonal Structures in Private Areas

Table 19: Carrying capacity of beach areas under commercial and non-commercial concessions with respect to tourist footfalls.

S. No	Name of Beach (south to North)	Beach Area Available for tourism	Area occupied by beach shacks	Carrying capacity = (Area under commercial concession (beach shacks)/ 7.5sq.m +balance area/15sq.m) in No.	Footfall	Available carrying capacity	Remarks
11	Betul HL to Cansaulim HL	749567.06	27248	51787	7472	44315	Additional Carrying Capacity available

Further, at page 58 of the said report speaks about 33% of potential area which can be used which aspect is also finding a mention therein.

SI No	Major Beach Name (South to North)	Beach length available for shacks	No. of shacks that can be accommodated	Potential area to be occupied by shacks (area of 1 shack	33% of the potential area	Final number of shacks that	Number of shacks allotted by	Available Carrying Capacity

			dated = Length of the beach available / 13	and deck beds (364 sqm) x no. of shack)	(sqm)	can be erected in the potenti al area	Gover nment of Goa	ity (Nos of shacks
11	Betul to Cansaulim (Sancoale Railway Station)	19707.5 6	1516	551824	1821 02	500	101	339

The Authority noted that the project proponent has a total plot area of 11,965 sq. mts which has a beach frontage of 47.20m is touching the HTL and is a beach front property and having 33% of the potential area. The Authority has considered in granting approval to erect beach shacks. The CRZ notification provides 33% usage of the property for development purpose.

The Authority also noted that when the Expert Members had earlier visited the site they found that the area was feasible for erecting the huts/ granting permission as it is a sea touching property.

The Authority observed that the Hon'ble NGT vide its order dated 28/09/2022 had granted liberty to the Project proponent to approach the GCZMA again with respect to raising the construction of temporary huts, etc., and that the same should be considered by the GCZMA in the light of the 'Beach Carrying Capacity' on the date of its consideration. Thus Project Proponent Ms Hermitage Builders have vide application dated 05/09/2024 approached the GCZMA seeking permission.

The Authority noted that the Hon'ble NGT set aside the above approval dated 04.03.2022 and 23.12.2020 only on the grounds that the beach carrying capacity was not taken into consideration. The Authority perused and brought out clarity on the area available in Sernabatim Village area at page 55 and 58 of the beach carrying capacity and observed that the property of the Project proponent is beach touching. The GCZMA therefore decided to consider and to approve the project granting permission for 10 wooden cottages, 1 shack/ restaurant, toilet, kitchen, watchman shed, staff toilet in the property bearing Sy. No. 16/4 of SernabatimSalcete Goa as it is well within beach carrying capacity.

Case 1.12

To decide on report submitted by Dy Collector South Goa regarding violations carried out by Rajashri Zuvatkar, Avinash Zuvatkar, Vinayak Zuvatkar and Dharti Zuvatkarin Sy No. 344/1 VelimSalcete Goa

Background: The office of the GCZMA was in receipt of a Complaint form Smt. Prachi Porvindra Lone, Wife of Shri Porvindra V. Lone, R/o H.No. 1279, Bapsora, VelimSalcete Goa, with respect to illegal construction of G+1 structure carried out by Rajashri Zuvatkar, Avinash Zuvatkar, Vinayak Zuvatkar and Dharti Zuvatka.