

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH PUNE

Appeal No. ¹⁴²/2024



Mr Lloyd St Jude Joachim Fernandes .. Appellant

v/s

Goa Coastal Zone Management

Authority and Ors Respondent

AFFIDAVIT IN REPLY ON BEHALF OF THE
RESPONDENT NO. 1.

I, Shri Johnson Fernandes, Indian National, major of age, having office at 4th Floor, Dempo Towers, Patto, Panaji, Goa, the Member Secretary of the Respondent No. 1 above named, do on solemn affirmation state and submit as under;

1. I say and submit that I have gone through the records of the present matter and after going through the relevant office records I am filing the present Affidavit. However, I should not be deemed to admit anything which is contrary to or inconsistent with what is stated hereinafter in the absence of specific denial.

2. I say and submit that the contents in para 1 and 2 of the Appeal Memo are a matter of record and do not require any comment by the present Respondent.
3. I say and submit that the Appellant is challenging the order with respect to Survey Nos. 158/1 in Calangute, Bardez Goa.
4. I say and submit that the present Respondent denies all contentions against it with respect to the impugned order passed by the present Respondent being arbitrary and contrary to law.
5. I say and submit that after perusing the records produced before the present Respondent and following due process of law the impugned Order has been passed.
6. I say and submit that the contents of para 3 and para 4 are matter of record and the same do not need further comment of the present Respondent.

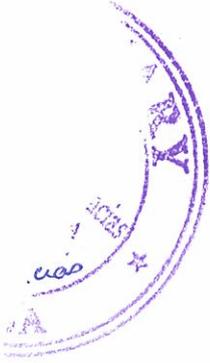


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7. I say and submit that the contents of para 5 are admitted as they are matter of record as mentioned in the order of the GCZMA. However it is denied that the Appellant carried out the work of erection of hut/cottages in terms of the permission / NOC granted by the GCZMA. The Respondent No.1 states that after directions were issued of demolition and removal the Appellants had complied with the directions.

8. I say and submit that the contents of para 6 are matter of record and the same do not need comments of the present Respondent.

9. I say and submit that the contents of para 7 are matter of record and the same do not need comments of the present Respondent. However, with regards to the Notice to be issued by the Hon'ble High Court of Bombay at Goa is concerned, the Appellants should have sought appropriate relief before the appropriate Court at that point of time and cannot seek relief now before this Tribunal.



10. I say and submit that the contents of para 8 are matter of record and the same do not need comment of the present Respondent. The Respondent No.1 states that the contents are reiterated from the Order issued by the Respondent Authority.

11. I say and submit that the contents of para 9 are denied. It is denied that the appellants had carried out the erection of Temporary structure and huts in terms of the permission dated 24/12/2019. It is denied that the material used for erection of temporary structure which is permissible in terms of CRZ Notification.

12. I say and submit that the contents of para 10 are matter of record and the same do not need comment of the present Respondent. It is denied that the Appellants had made an application dated 06/07/2022 for revision of plans. The Respondent No.1 states that the Appellant had made an application for revision of plans on the 08/09/2021 which proposal was placed in the 311st GCZMA Meeting held on 21/06/2022 and upon the proposal being approved in the Meeting the same was conveyed to the Appellant on the

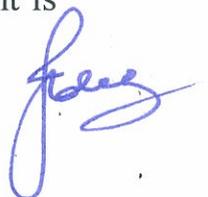
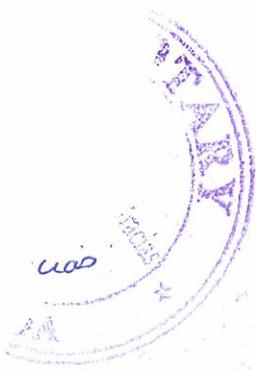


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08/07/2022 for an area of 1516sq mts with a further direction that the terms and conditions mentioned in the earlier approval dated 24/12/2019 will be applicable.

13. I say and submit that the contents of para 11, para 12 and para 13 are matter of record and the same do not need comment of the present Respondent.

14. I say and submit that the contents of para 14 the contents are partly admitted and partly denied. It is admitted that the Appellant has filed his reply to the Site Inspection Report at {page 92 (Annexure A-8) of the paper book} dated 03/03/2023. It is admitted fact that the Appellant has erected 08 cottages instead of 10 cottages which were approved however, in the latter part of the report gives a comparative chart of the area of what is approved as to what is available on site. If one peruses that report (at paged 92 of the paper book) it is evident that there is an increase in the area of the cottages. Moreover if one peruses the para below the table at point (A) it says that the height of each cottage is approx 4.5m but what was permitted is 3.00m. The Authorities decision that the cottages are not erected as per the approval sought is



justified from this report wherein it is clearly pointed out that not only is there a discrepancy in the area of the cottages but also there is a violation in the height. Moreover if one peruses the photographs attached to the Report it is clear that there is a first floor which again is in violations of the terms and conditions of the permission. The Order of the GCZMA is a speaking order where in its observation taken by the Authority is clearly stated *at page 7 of the Order of demolition which is at Annexure A-1 of the paper book page 54. {Hereto annexed is the copy of the approved plan wherein the Appellant himself has given the elevation levels which as of now is not in sync with the said approvals which is annexed herein as ANNEXURE "A"}*



15. The Respondent No.1 further states that, with regards to the Cottages: Firstly, with regards to the change in dimensions of the structure and Secondly, with regards to the materials used for the structure, Thirdly, with regards to the height of the structure, as the approved height was 3.00m. The Appellant had erected the structure having a height of 4.50m; thereby violating the very conditions of the approval. Further, it is

clearly specified on the approved plan that, wooden panels should be used for the cottages; however, on site, the Appellant had constructed the plinth of the structure using ceramic tiles supported on Mild Steel frame work and concrete foundation and on the metal base having concrete foundation. The Appellant in his reply dated 18/04/2023 filed before the Authority had defended his case by admitting that the area of the approved cottages vary and is not as per the approved plan. Further, the Appellant in his reply stated that he shall seek revision of plan. The very admission of the Appellant that the structures erected on site are not as per the approved plan; clearly proves on admission that the Appellant has violated the approvals granted and it amounts to the permission is fit for withdrawal; as per the Condition 6 of the granted permission dated 11/02/2020 and as per Condition 26 of the approval dated 24/12/2019.

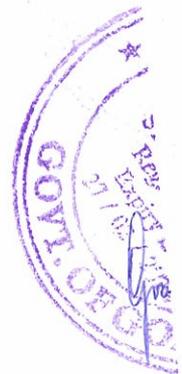


16. The Respondent No 1 states that upon perusal of the Permission granted to the Appellant dated 24/12/2019 which is *marked as at Annexure A-2 colly of the paper book pg 71* and condition 5 states, "*In the event of any change in the*

project profile, a fresh reference shall be made to the GCZMA” and Condition 7 states that, “The Office of the GCZMA reserves the right to revoke this recommendation/ clearance without prior intimation of non compliance of any one or more of the aforesaid conditions” .

17.The Respondent No.1 states that the application for revision of plan submitted by the Appellant was on 21/04/2023 in Sy No. 158/1 of Calangute Village, could not be processed/granted to the Appellant as the property for which approval was sought for was under violations/ inquiry. Granting permission of revised plan for a structure which is under notice would vitiate the proceedings before the Authority.

18.I say and submit that the contents of para 15 the contents are partly admitted and partly denied. It is admitted that the structure is made up of MS steel sections but it is denied that the bison board is only placed. The Site was inspected by the Expert Members, Engineers and Surveyors of the GCZMA and the team has noted what they observed on site. It is denied



of having used permissible material as per the beach carrying capacity. The Respondent No.1 states that the very fact the Appellant has failed to seek permission for erecting the Electrical Panel it amounts to violation. The very fact the Appellant admits of having erected the electrical panel and it has no permission to erecting the same, amounts to violation of the CRZ Notification and the permissions. The Authority also noted that; the Condition 5 of the approval dated 24/12/2019, clearly states that in the event of any change in the project profile, a fresh reference shall be made to the Office of the GCZMA. The Appellants have failed to approach the Authority with a revised plan but has gone ahead and erected illegally the electrical panel thereby violating the provisions of CRZ Notification and the permission.



19.I say and submit that the contents of para 16 are partly admitted and partly denied. It is denied that the structure is within the permissible limits. The Respondent No1 states that the Authority noted that with regards to the Restaurant/Shack; the Appellant had extended the Restaurant / Shack beyond the permissible limits and it had also noted that the Appellant has

increased the height of the Shack of the permitted 4.5 sq mts to approx. 6.50sq mts. Further, the Appellant had also exceeded the area of the Restaurant. The Respondent No 1 states that the area of the approved restaurant is 200 sq mts and on site the restaurant is of an area of 354.29 sq mts. The Authority further noted that, the Appellant had not even left the mandatory setback as required thereby illegally touching the roofing of the structure to the compound wall. The Authority noted that the Appellant had used bison board but what were approved in were wooden panels to be used.

20.I say and submit that the contents of para 17 are denied. It is denied that the temporary structures are otherwise covered in terms of consumable FAR permissible in the property. The Respondent No 1 says that nothing is permissible if not approved. The Appellant has failed to produce permission from any competent Authority granting permission hence the Authority issued demolition orders. The Authority states that the very fact the violations are noted the Appellants have moved and application for revision of permission. Since violations are noticed granting revision of plan amounts to



regularizing the structure hence the application was not entertained as the property on which revision was sought for is a matter of violation.

21.I say and submit that the contents of para 18, and para 19 are denied. It is denied that swimming pool is constructed by assembling the material which is temporary in nature and the same is placed above the ground whilst taking advantage of the height variations in the subject matter of the property. The Respondent No. 1 states that since the area falls in the NDZ erecting any structure is illegal and violation of CRZ Notification.



22.I say and submit that the contents of para 20 are denied. It is denied that the Show Cause Notice is issued based on the violation noted in the Site Inspection report.

23.I say and submit that the contents of para 21, para 22 and para 23 are matter of record and the same do not need comment of the present Respondent.

24.I say and submit that the contents of para 24 are matter of record and the same do not need comment of the present

Respondent. However, the Respondent has passed a speaking order wherein justification has been given as to the violations. The Respondent No.1 has also categorically stated as to which conditions in the permission has been violated.

25.I say and submit that the contents of para 25 are denied. The Respondent No. 1 states that with regards to the Cottages: Firstly, with regards to the change in dimensions of the structure and Secondly, with regards to the materials used for the structure, Thirdly, with regards to the height of the structure, as the approved height was 3.00m. The Appellant had erected the structure having a height of 4.50m; thereby violating the very conditions of the approval. Further, it is clearly specified on the approved plan that, wooden panels should be used for the cottages; however, on site, the Appellant had constructed the plinth of the structure using ceramic tiles supported on Mild Steel frame work and concrete foundation and on the metal base having concrete foundation. *(Hereto annexed is the report along with photographs attached to the Report and marked as ANNEXURE "B")*.



26. The Appellant in his reply dated 18/04/2023 had defended his case by admitting that the area of the approved cottages vary and is not as per the approved plan. Further, the Appellant in his reply stated that he shall seek revision of plan. The very admission of the Respondent that the structures erected on site are not as per the approved plan; clearly proves on admission that the Appellant has violated the approvals granted and it amounts to the permission is fit for withdrawal of permission; as per the Condition 6 of the granted permission dated 11/02/2020 and as per Condition 26 of the approval dated 24/12/2019.

27. I say and submit that the contents of para 26 are denied in toto. The Respondent No.1 states that the Authority stand by the report drawn by the Expert Member and the Engineers of the GCZMA. Moreover the admissions of the Appellant that they have deviated from the approval but within the permissible FAR is a clear ground of violations of the permissions granted by the Authority. Moreover the stand taken that revision plan has been submitted to the Authority



clearly indicated that the structures on site is not as per approval granted by the GCZMA.

28.I say and submit that the contents of para 27 and para 28 are denied. The Order passed by the GCZMA is a speaking order and justification to issued demolition is clearly specified in the order and in the above paras and reiterates the stand taken herein above.



29.I say and submit that the contents of para 29 are denied and the details are explained the order at “Issue II” mentioned at page 11, 12 and 13 of the demolition Order dated 12/04/2024 marked as Annexure A1 of the paper book submitted by the Appellant.

30.I say and submit that the contents of para 30 are denied and the justification for the order of revocation of permission and demolition have been spelt out in this reply mentioned hereinabove.

31.I say and submit that the contents of para 31 are denied. The permissible activities are mentioned in the Beach carrying capacity and the undersigned seeks to rely on the same.

32.I say and submit that the contents of para 32 are denied and put to strict proof.

33.I say and submit that the contents of para 33 are denied. The Respondent No.1 states that the admissions made by the Appellants regarding variations in the measurements shown on the approved plan and the fact that the Appellant has moved the application for revision of plan during the pendency of the SCN clearly amounts to violation carried out by the Appellants.

34.I say and submit that the contents of para 34 are true as records clearly proves the same.

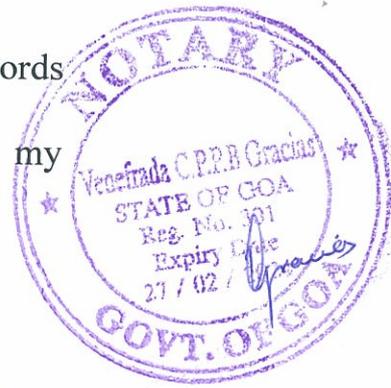
35.The Grounds set out by the Appellants have to be dismissed for the reasons mentioned hereinabove in the reply and moreover on admission that the Appellants have erected the structures beyond the approved plans and to top it up the revised plan moved by the Appellant to get the structure rectified clearly shows violations of the permissions.



36. The contents mentioned herein above are based on records and the same are true and correct to the best of my knowledge.

Panaji

29/05/2024

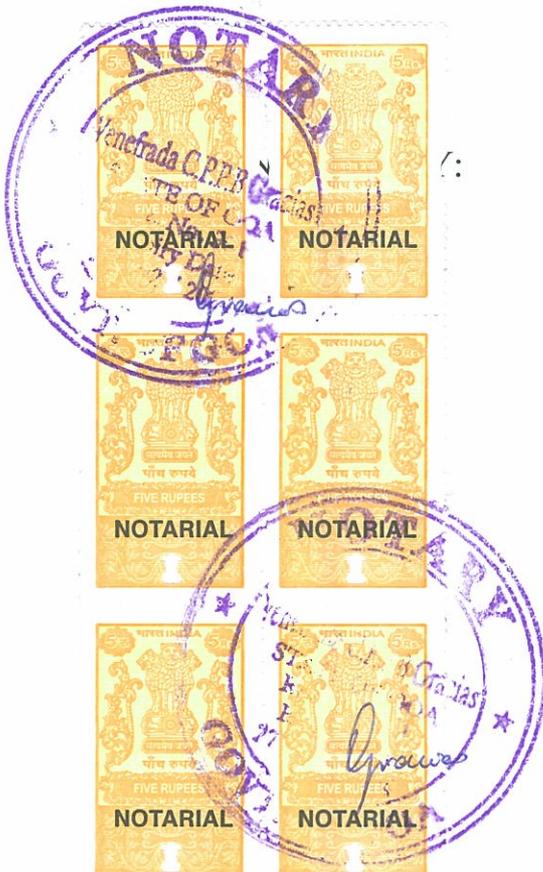


DEPONENT

VERIFICATION

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

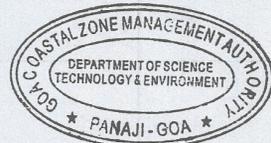
Verified at Panaji on this 29th day of May, 2024



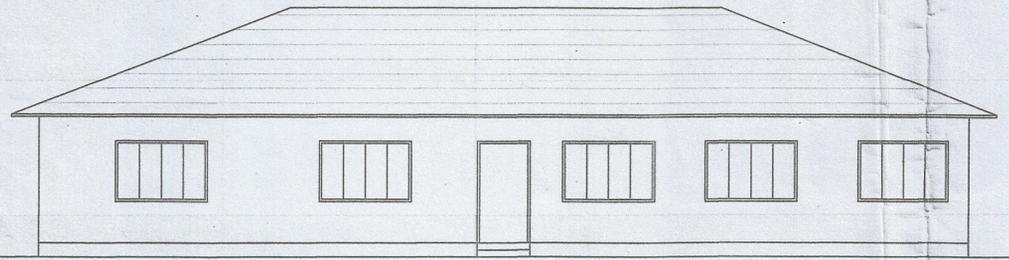
DEPONENT

Executed before me
At Calangute Bardez - Goa
Reg. No. 86/05/2024/P
Dated: 29/05/2024

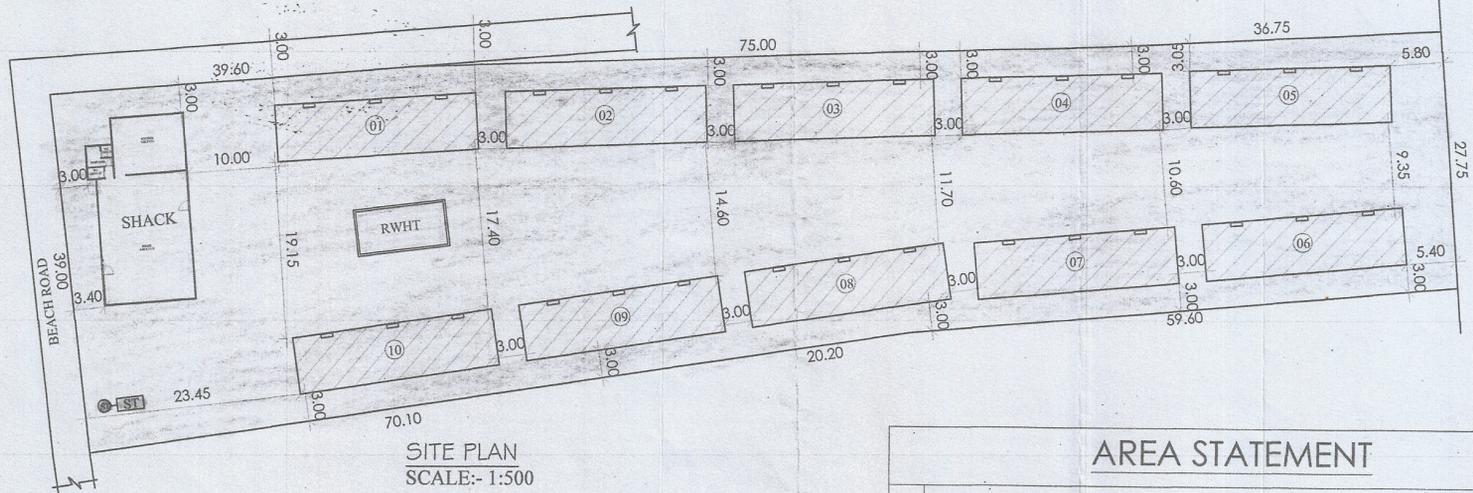
Venefrada C.P.P.B. Gracias
Advocate & Notary Goa State



No. GCZMA/N/Shack-Hut-Cott-Tent/19-20/08/1988
 dt 08/07/2022

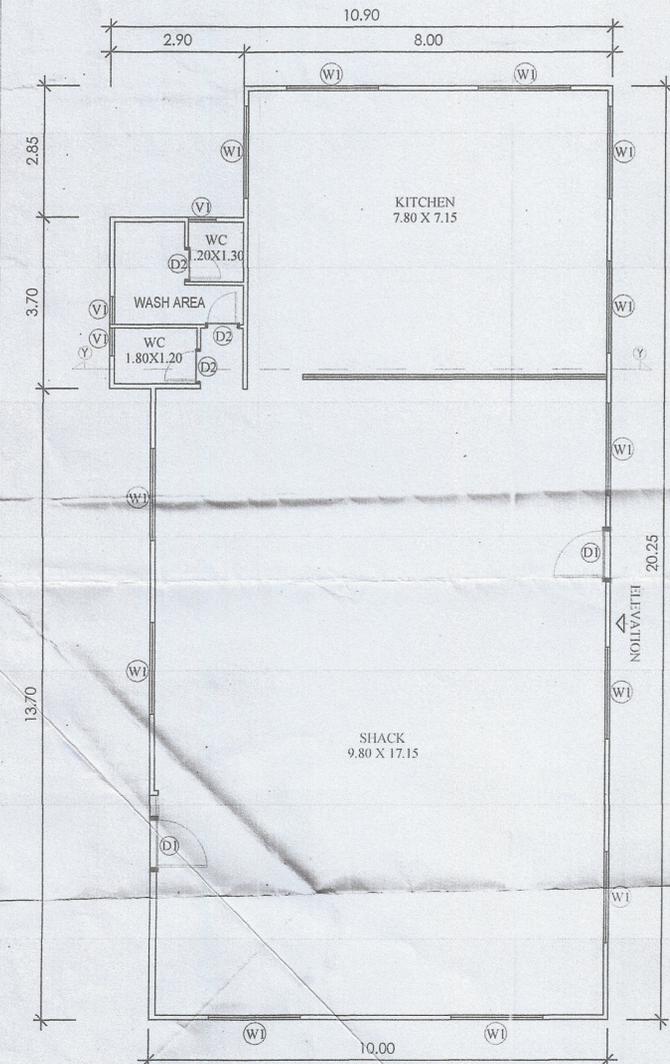


ELEVATION (WOODEN - SHACK)
 SCALE:- 1:100

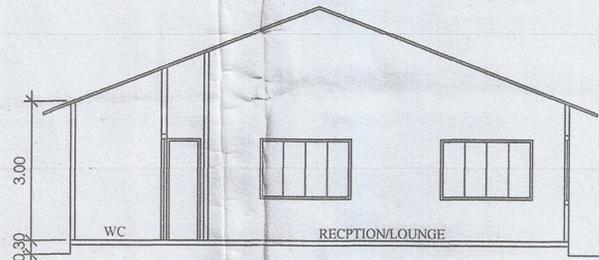


SITE PLAN
 SCALE:- 1:500

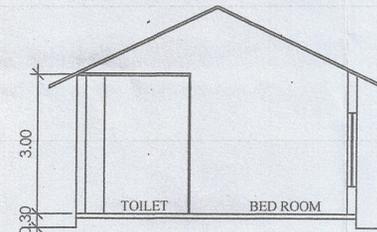
AREA STATEMENT					
1)	AREA OF THE PLOT	4700.00 M2			
2)	AREA UNDER ROAD WIDENING	NIL			
3)	NET EFFECTIVE AREA	4700.00 M2			
4)	PERMISSIBLE COVERAGE (33%)	1551.00 M2			
5)	PROPOSED COVERAGE (32.25 %)	1516.00 M2			
6)	PERMISSIBLE F.A.R (33 %)	1551.00 M2			
7)	PROPOSED F.A.R (32.25 %)	1516.00 M2			
8) DETAILS OF AREAS AND USE FLOORWISE					
FLOOR REF	USE	TOTAL B.U.A (m2)	AREAS FREE FROM F.A.R VER/BALC. (m2)	TOTAL (m2)	NET FLOOR AREA (m2)
GROUND FLR.		131.60	—	—	131.60
COTTAGES X 10 NOS		1316.00	—	—	1316.00
SHACK GROUND FLR.		200.00	—	—	200.00
GRAND TOTAL		1516.00	—	—	1516.00



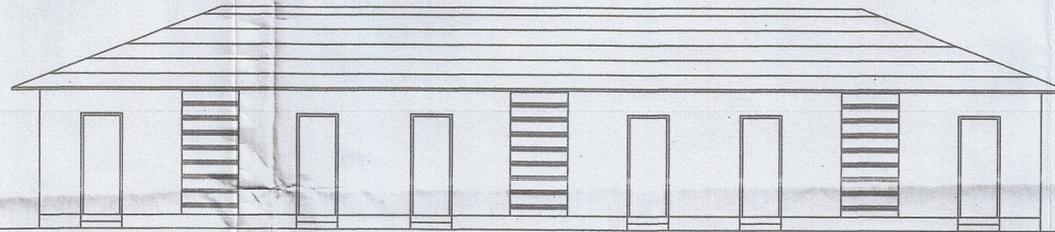
FLOOR PLAN - SHACK (METAL FRAME WORK WITH WOODEN PANELING)
 SCALE:- 1:100



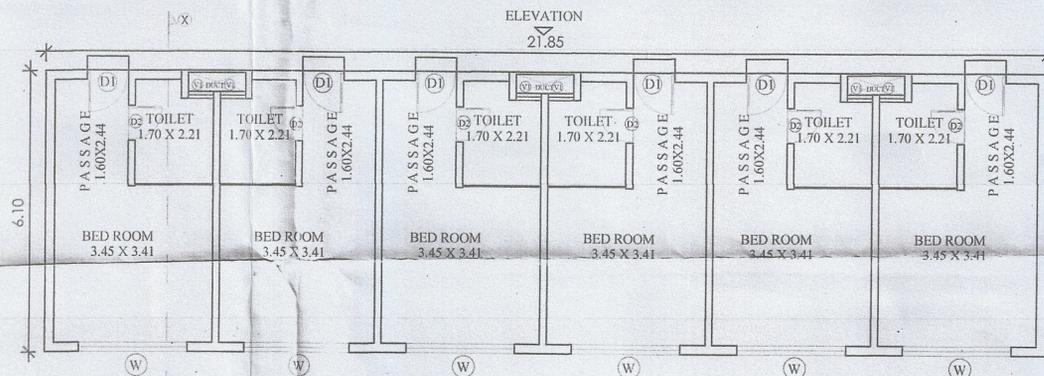
TY SECTION-YY (METAL FRAME WORK WITH WOODEN PANELING)
 SCALE:- 1:100



TY SECTION-XX (METAL FRAME WORK WITH WOODEN PANELING)
 SCALE:- 1:100



TY ELEVATION (METAL FRAME WORK WITH WOODEN PANELING)
 SCALE:- 1:100



TY FLOOR PLAN (METAL FRAME WORK WITH WOODEN PANELING)
 SCALE:- 1:100

REFER THIS OFFICE LETTER
 NO.GCZMA/N/SHACK-HUT-COTT-TENT/19-20/08/1988
 DATED 24/12/2019

SCHEDULE OF OPENINGS

D1	1.00 X 2.20
D2	0.80 X 2.20
W	2.35 X 1.60
W1	2.00 X 1.30
V1	0.60 X 0.80
SD	2.80 X 2.20

PROJECT TITLE:-
 REVISED PLANS SHOWING BEACH SHACKS AND WOODEN COTTAGES FOR TOURIST SEASON ON PROPERTY BEARING SY. NO 158/SUB-DIV NO 1, AT CALANGUTE VILLAGE BARDEZ TALUKA, GOA FOR MR. LLOYD ST. JUDE JOACHIM FERNANDES.

OWNER'S SIGNATURE:

CONSULTANT'S SIGNATURE:

(Handwritten Signature)

PARESH GAITONDE
 BE (CIVIL) AMIE CIV
 CHARITABLE ENGINEER
 T.C.P. Reg. No. ER/0057/2010

Site inspection report of violation of NOC dated 08/07/2022 issued by GCZMA to Mr. Llyod Joachim Fernandes for 10 temporary huts and 1 temporary shack in property bearing Sy. No. 158/1 of village Calagute, Taluka Bardez, Goa.

Background :

The Office of GCZMA received complaint – dated 27/10/2022 from Calangute Constituency Forum (CCF) & also from Goa Foundation dated 21/10/2022 with regard to violation of NOC dated 08/07/2022 issued by GCZMA to Mr. Llyod Joachim Fernandes for 10 temporary huts and 1 temporary shack in property bearing Sy. No. 158/1 of village Calagute, Taluka Bardez.

Inspection and Observation:

Upon instruction from the Member Secretary GCZMA, a site inspection was carried out on 03/03/2023 in-presence of following parties: -

- 1) Mr. Shricharan Desai, Expert Member (GCZMA)
- 2) Mr. Nehal Devidas, Engineer (GCZMA)
- 3) Mr. Keshav Naik, Engineer (GCZMA)
- 4) Mr. Vighnesh Naik, Field surveyor (GCZMA)
- 5) Mr. Agnello Baretto, on behalf of the complainant (CCF)
- 6) Mr. Hrushikesh Patil, on behalf of the complainant (Goa Foundation)
- 7) Mr. Llyod Joachim Fernandes, Respondant
- 8) Mr. Shubham Sakhalkar, Talathi, Calangute Village (Bardez Mamletdar)
- 9) Mr. Arjun Velip, Secretary, Calangute Village Panchayat
- 10) Mr. Joseph Sequeira, Sarpanch, Calangute Village Panchayat

The details of site inspection are as follows:

As per CZMP 2011, the above mentioned survey no. 158/1 falls in CRZ-III of Calangute village.

As per the office records, for survey no.158/1 permission was given for 10 nos. of wooden cottages & wooden shack under ref. no.: GCZMA/N/Shack-Hut-Cott-Tent/19-20/08 dated 08/07/2022.

As on date of site inspection, the construction of shack was complete, where as the construction of 8nos cottages with attached electrical panel were complete. Also, there was a swimming pool along with a water fountain and reception block with attached security cabin which doesn't reflect on approved drawing.



The site conditions were compared with the approved plan. The findings as per the officials are tabulated as below:

Table-1.0

Sr. No.	Structure as on site	Number of Structures approved by authority	Structure Area (in sq. meter) as approved	Approx. Structure Area (in sq. meter) as per site
1.0	Cottages	10 (8no constructed)	133.285sqm each (21.85 x 6.10)	144.30sqm each for 6no of cottages (22.20 x 6.50)
			133.285sqm (21.85 x 6.10)	104.00sqm (16.00 x 6.50)
			133.285sqm (21.85 x 6.10)	72.15sqm (11.10 x 6.50)
2.0	Electrical Panel	-	-	3.41sqm each (3.10 x 1.10)
3.0	Restaurant / Shack	1.0	200.00sqm	354.29sqm
4.0	Reception Block	-	-	36.57sqm (5.30 x 6.90)
5.0	Security Cabin	-	-	3.645sqm
6.0	Swimming Pool	-	-	173.70sqm
7.0	Landscaping	-	-	-
8.0	Water Fountain	-	-	11.65sqm

A) For Sr. No.: 1.0, Cottages;

The structure is temporary in nature made up of MS steel sections with wooden walls. As per the permission given by authority, in total 10nos of cottages were permitted but on site 8nos are constructed. The plinth of structures are constructed of ceramic tiles supported on MS framing. Also, as observed on site the height of each cottage is approx. 4.50m (as permitted, the height of each cottage is 3.00m). The cottages are at different levels.

B) For Sr. No.: 2.0, Electrical Panel;

The structure is made up of MS steel sections. The base of structure is permanent in nature with concrete flooring.

C) For Sr. No.: 3.0, Restaurant / Shack;

The structure is temporary in nature for the super structure. The roof of structure is of temporary sheets supported on MS members. Walls of structure are of bison board. As observed on site, the height of structure is approx. 6.50m. Attached to shack there exists a roofing attached to shack directly touching the property compound. Underneath the extension, space has been made for sewage holding tank. Sewage holding tank is of cast iron.

D) For Sr. No.: 4.0, Reception Block;

The structure is temporary in nature made up of MS steel sections.

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E) For Sr. No.: 5.0, Security Cabin:

The structure is temporary in nature made up of MS steel sections.

F) For Sr. No.: 6.0, Swimming Pool:

The structure is temporary in nature made up of fiber board. The structure is embedded into the ground by approx. depth of 1.50m.

G) For Sr. No.: 7.0, Landscaping:

The area surrounding the structures has been covered with artificial grass, tiles and wooden flooring.

H) For Sr. No.: 8.0, Water Fountain:

The structure is constructed with temporary materials.

Few site photos are enclosed as Annexure- I.

Conclusion and Recommendation:

- i) As per CZMP 2011, the above mentioned survey no. 174/6-A falls in CRZ-III of Calangute village.
- ii) As per the CRZ Regulation, no permanent construction is permissible within the CRZ-III (NDZ) area except the repair or reconstruction of the old structure existing prior to 1991, with proper permission from GCZMA.
- iii) The findings of site inspections and the structures reflected in permission drawings as per the Authority record are tabulated above.
- iv) This may be deliberated in the Authority meeting for a decision.



Mr. Shricharan Desai

(Expert Member, GCZMA)



Mr. Nehal Devidas

(Engineer, GCMZA)



Mr. Keshav Naik

(Engineer, GCZMA)



Mr. Vighnesh Naik
(F.S., GCZMA)

ANNEXURE – I




10/4/23.









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15/4/23, *[Signature]* *[Signature]* *[Signature]*



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10/4/23

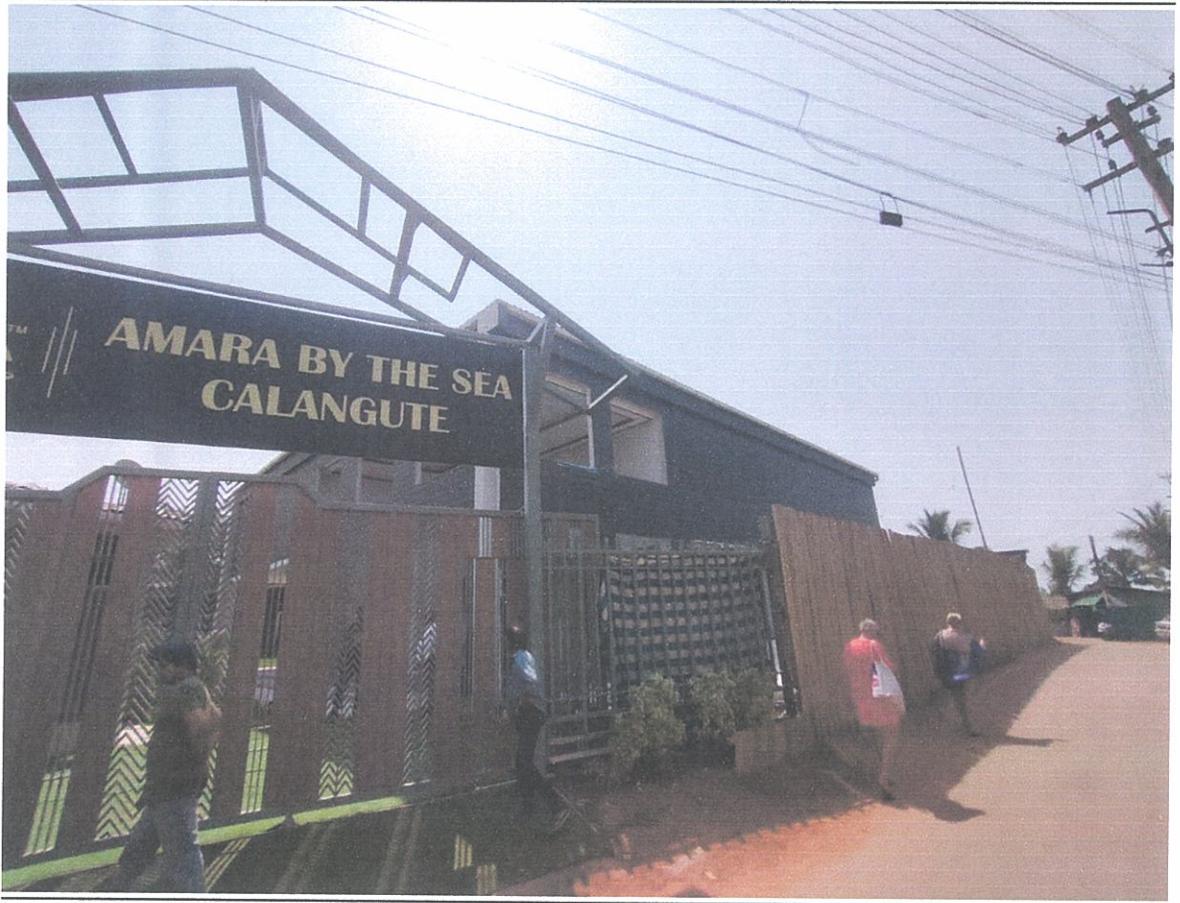



14/4/23.









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10/4/23, ~~Adan~~, Amalok, Arack



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10/4/23

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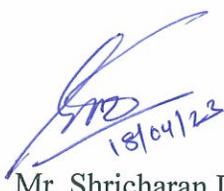
Dylan

CORRIGENDUM TO SITE INSPECTION REPORT DATED 10/04/2023

With reference to site inspection report dated 10/04/2023 issued to Calangute Constituency Forum represented by Mr. Agnelo Barreto R/o, Sequeira vaddo, Candolim Bardez on 10/04/2023 & to Mr. Llyod Fernandes R/o, Gauravaddo, Calangute, Bardez on 12/04/2023.

In this regard, in the above report at **Conclusion and Recommendation under point (i)**, there is inadvertent error occurred in survey number mentioned i.e. Sy. No.: 176/6-A, and the shall be read as Sy. No.: 158/1. The rest of the contents of the report remains the same.

This is for your kind information.



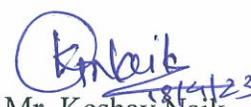
Mr. Shricharan Desai

(Expert Member, GCZMA)



Mr. Nehal Devidas

(Engineer, GCMZA)



Mr. Keshav Naik

(Engineer, GCZMA)



Mr. Vighnesh Naik

(F.S., GCZMA)