

BEFORE THE NATIONAL GREEN TRIBUNAL WESTERN
ZONE BENCH, PUNE
APPEAL NO. 18 OF 2025 (WZ)

LUDOVICO GOVEIA ...APPLICANT
VERSUS
GCZMA & ANR ...RESPONDENTS

AFFIDAVIT-IN-REPLY ON BEHALF OF GCZMA I.E.,
RESPONDENT NO 1.

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 bringing certain facts on record. 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*. I crave leave of this Hon'ble Tribunal to file an additional detailed Affidavit, if found necessary.



3. I say that the present appeal challenges the Order dated 18.12.2024 ("**Impugned Order**") passed by the Answering Respondent whereby the Appellant herein has been directed to pay a sum of Rs. 39,47,16,000/- (Rupees Thirty Nine Crores Forty Seven Lakhs Sixteen Thousand) as Environmental Compensation for the damage caused by the Appellant to the environment in ecological sensitive CRZ areas.

4. I say that this Hon'ble Tribunal vide Order dated 31.01.2025 in the present appeal has observed as under:

"10. The main thrust, which we have found to have been raised by learned counsel for the appellant, is that while calculating the amount of EDC, the GCZMA has applied the formula, which provides for damage to be evaluated @ Rs.2590/- per sq. mts x no. of years * Area in sq. mts., which formula applied by the Joint Committee appointed by the GCZMA, has no sanctity and the same is arbitrarily fixed. Besides, he has also pointed out that the lagoon, which was to be restored, of it only 3360 sq. mts. area could have been said to have been adversely impacted by alleged filling of mud by the appellant. Instead of that, the entire area of 12,700 sq. mtrs. has been taken to have been affected, which has led to the huge amount of EDC to be levied from the appellant, which is erroneous and the same needs to be set aside forthwith."



5. I say that the Hon'ble High Court of Bombay at Goa vide order dated 15.03.2024 in WP. NO. 772/2023 observed and held as under:

"21. At this stage, we must refer to the conduct of the fourth respondent, which we think is plainly dishonest

and contumacious. Despite the order dated 07.04.2017 attaining finality, the fourth respondent, to date, has not bothered to comply with the directions therein fully. Further, despite urging that the directions in GCZMA's order dated 07.04.2017 being substituted by the NGT's order dated 15.12.2022 (which contention is incorrect and misconceived), the fourth respondent did not even bother to comply with the directions in the order dated 15.12.2022. In the course of the hearing, and based on instructions from the fourth respondent who was present in the Court, full compliance is now assured up to 20.03.2024. This means that if the present petition were not to be instituted, in all probabilities, the fourth respondent would have gotten away with not complying with the orders made by the GCZMA and the NGT.



22. The fourth respondent had no qualms about writing to the GCZMA that he had complied with the GCZMA and NGT orders. These letters were addressed with full knowledge that there was no compliance. Even before this Court, the fourth respondent, who had appeared in person, had no qualms about making incorrect statements or avoiding the Court processes.

...

26. Even Mr Rao, learned counsel for the fourth respondent, admitted that the above statements were false. There is ample material on record about the area being affected by CRZ and the property being subject to tidal influence. At every stage, the fourth respondent made false statements, and it is apparent that the fourth respondent had no regard for the truth, not to mention any environmental concerns. Considering the conduct of the fourth respondent, in not only of not complying with the orders, but also of making a false statements of having complied with the same, we in fact were of a mind to issue a notice of contempt to the fourth respondent, however, considering the assurances by Mr. Rao, learned Counsel for the fourth respondent, we as of now are refraining from doing so.

27. The record bears out that the fourth respondent virtually filled up a natural lagoon with a view to finding a place for putting up a commercial project. Concrete walls were constructed on the river bank; sluice gate walls were demolished and re-constructed, and sluice gate openings were unduly widened. The constructions put up on the property virtually amount to environmental havoc. Still, the fourth respondent wants to put more cottages on the property for commercial exploitation. All this, even without



complying with the orders made by the GCZMA and the NGT.

34. The GCZMA, as noted earlier, is statutorily enjoined to protect the areas affected by the CRZ notification. Therefore, if there are instances of environmental damage, it is the duty of the GCZMA to stop such damage by vigilant action and, in any case, to make suitable orders for the restoration of these areas to their original condition. There is also a duty to assess and recover environmental damage costs. Ultimately, the GCZMA must remember that they are only the trustees appointed to take care of the CFRZ areas, and therefore, it is not for them to arbitrarily waive the environmental damage costs from some parties or to levy them on others. In all cases where there is environmental damage, it is the duty of the GCZMA officials to assess and recover environmental damages. The public trust doctrine, which applies in such situations, requires the GCZMA to recover such environmental damage costs. Accordingly, We direct the GCZMA to tentatively assess the environmental damages caused by the fourth respondent and issue a show-cause notice to the fourth respondent for recovery of such damages. Such show-cause notice must be issued and disposed of in accordance with the



law as expeditiously as possible and not later than four months from today."

6. I say that pursuant to and in compliance of the above order dated 15.03.2024 in WP. NO. 772/2023, the Answering Respondent passed the Impugned Order.

7. I say that the Environmental Compensation amount of Rs.39,47,16,000/- was arrived at by the Answering Respondent by using the formula "Rs. 2590/- per sq mt x No. of Years x Area in sq mts = Environmental Compensation".

8. I say that an Expert Committee was appointed by this Hon'ble Tribunal to study and develop a method for assessing environmental compensation to be recovered from the violators in different areas with respect to the CRZ violations in areas such as Mangroves, Coastal Sand Dunes, Mudflats, Salt Marshes (Khazans), Coastal Wetland Habitat, Estuarine Habitat, Turtle Nesting Sites and All Other



(Signature)



Ecologically Sensitive Areas. I say that the Committee submitted a Report titled "Environmental Compensation for Coastal Damage through Total Ecosystem Service Values", whereby the said Expert Committee has arrived at a figure of Rs. 2590/- per sq mts by performing standard meta-analysis which combines the results of multiple scientific studies from "coastal ecosystem" of the Indian Sub Continent. I say that this Hon'ble Court *vide* order dated 12.05.2023 in EA No. 1 of 2019 to 06 of 2019 in Original Application No. 23 of 2014 (WZ), has accepted the said formula and directed the Answering Respondent to levy Environment Compensation on violators. I say that the said Report also specifies that the term "coastal ecosystem" shall also include "lagoons". I say that the present violation committed by the Appellant for which the Impugned Order is passed pertains to ecological damage to a "lagoon".

9. It is respectfully submitted that the Appellant contends that, in the computation of the Environmental Compensation,

the entire extent of the subject site, measuring approximately 12,700 square meters, has been erroneously taken into account, whereas only an area of 3,360 square meters falls within the Coastal Regulation Zone (CRZ). The Answering Respondent, while reserving all rights and contentions, most respectfully seeks the leave of this Hon'ble Tribunal to recalculate the Environmental Compensation, as applicable to the subject site.

10. I say that what has been stated in paragraphs 1 to 9 are true to my own knowledge and/or are based on documents/records available with the Answering Respondent and the contents of the same are true and correct and nothing material has been concealed herein.

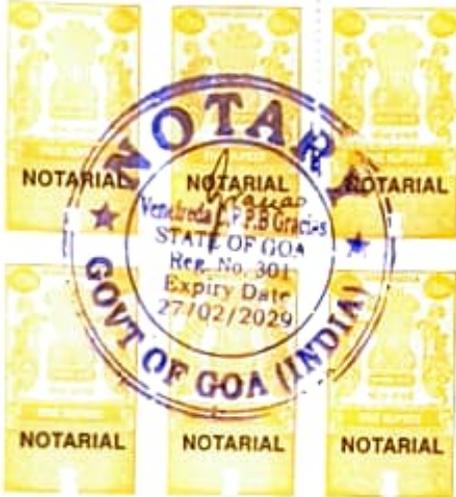
Solemnly Affirm on Oath

Place: Panaji

Date: 02/06/2025


DEPONENT





Solemnly Affirmed Before me by
Sachin S. Desai

who is identified before me by

_____ at Calangute - Goa

Sr. No. 287/06/2025

Date: 02/06/2025

Gracias
Venefreda C.P.B. Gracias
Advocate & Notary
Bardez-Goa