

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE, AT PUNE**

**I.A. NO. 63 OF 2022
IN
APPEAL NO. 20/2022 (WZ)**

IN THE MATTER OF:

PAUL LOBO & OTHERS

... APPELLANTS

VERSUS

GOA COASTAL ZONE

MANAGEMENT AUTHORITY

& OTHERS

...RESPONDENTS

**AFFIDAVIT-IN-REPLY ON BEHALF OF
RESPONDENT NO. 1**

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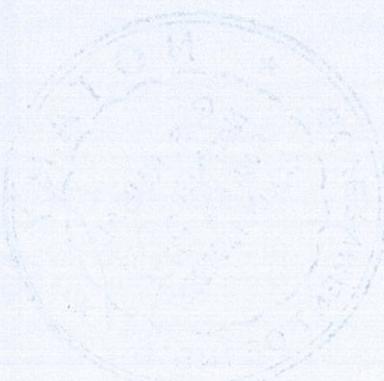
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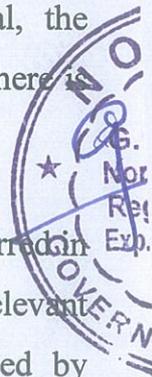
...RESPONDENTS

**AFFIDAVIT-IN-REPLY ON BEHALF OF
RESPONDENT NO. 1**

I, Mr. Dasharath Redkar, S/o Late Shri.Mahadeo Redkar age: 56 years, being the Member Secretary, Goa Coastal Zone Management Authority, having my office at: 4th Floor, Dempo Towers, Patto, Panaji, Goa, do hereby solemnly affirm and state as under:

1. I am the Member Secretary of the Respondent No. 1 Goa Coastal Zone Management Authority (hereinafter referred to as *GCZMA* for the sake of brevity and convenience) in the present Special Leave Petition. I am well-conversant with the facts and circumstances from which the present Appeal arises and am, as such, capable of affirming the present Affidavit-in-Reply.

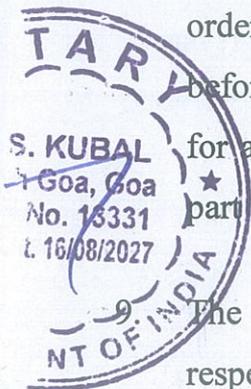
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2. I say that nothing in the present Affidavit may be deemed to be any admission of any content of the above-captioned Appeal filed by the Appellants, unless the same is categorically admitted herein. I further submit that nothing in the above-captioned Appeal may be deemed to have been admitted for want of specific denials.
 3. I am filing the present Affidavit solely for the purpose of opposing the reliefs claimed in the above-captioned I.A. I crave the leave of this Hon'ble Tribunal to file a detailed Affidavit-in-Reply against the present Appeal, if so directed or advised.
 4. The Appellant has filed the above-captioned I.A. to pray for condonation of delay in filing the present Appeal. By filing the present Appeal, the Appellants have, *inter alia*, challenged impugned the order dated 03.03.2022 passed by the answering Respondent GCZMA.
 5. The Appellants have admitted that they received a copy of impugned order on 05.03.2022. However, as per the records available on the website of this Hon'ble Tribunal, the present Appeal has been filed on 30.05.2022. Thus, there is a delay of 87 days in filing the present Appeal.
 6. The reasons cited by the Appellants for the delay incurred in filing the present Appeal include: (i) compilation of relevant documents; (ii) awaiting responses to queries raised by filing RTI applications; (iii) seeking legal advice; (iv) filing follow-up representations; and (v) waiting for the



Respondent No.2 to comply with the directions issued in the impugned order. At the outset, it is submitted that none of the aforesaid grounds and all other grounds cited by the Appellants meet the test of "sufficient cause" enumerated in Section 16 of the National Green Tribunal Act, 2010.

7. By filing the present Appeal, the Appellants have challenged the impugned order dated 03.03.2022 passed by the answering Respondent GCZMA. By the said impugned order, the answering Respondent discharged proceedings pertaining to the revocation of construction permission granted to the Respondent No. 2. However, the answering Respondent also directed the Respondent No. 2 to remove MS sheets and MS channels, and restore the sand dunes to their original condition.

8. It is submitted that after the aforesaid impugned order was passed, the Appellants waited for it to be implemented by the Respondent No. 2. However, the Appellants have challenged the impugned order on various other grounds. Thus, if the Appellants were aggrieved with the impugned order on merits, they ought to have challenged the same before this Hon'ble Tribunal immediately instead of waiting for a portion of it to be implemented. Such conduct on the part of the Appellants is hit by the vices of delay and laches.



The Appellants had approached this Hon'ble Tribunal in respect of the same permission granted by the answering Respondent GCZMA by filing Original Application No.

28/2021 dated 03.03.2021. The documents annexed to the present Appeal were also annexed to the memorandum of the said Original Application. The Appellants were also parties to the proceedings before the answering Respondent GCZMA, because of which they already had all the necessary documents. Thus, the Appellants cannot pray for condonation of delay incurred in filing the present Appeal on the ground that they took time to accumulate and compile relevant documents.

10. The Appellants had been pursuing their legal remedies in respect of their grievances against the Respondent No. 2. This is evident from the fact that they had previously approached this Hon'ble Tribunal and the relevant authorities in this regard. Thus, the Appellants were conscious of their legal remedies and had access to legal advice, despite which they filed the present Appeal after a gross delay.
11. In *Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy and Others* reported in (2013) 12 SCC 649, the Hon'ble Supreme Court has culled out the principles to be kept in mind while interpreting the expression "sufficient cause":

"21. From the aforesaid authorities the principles that can broadly be culled out are:

...

21.2. (ii) The terms "sufficient cause" should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these

MP



terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.

...

21.4. (iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.

21.5. (v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.

...

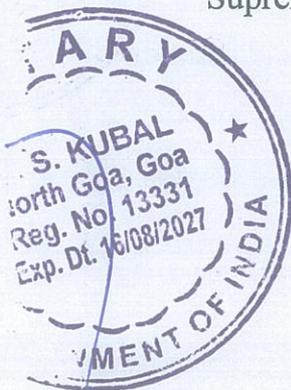
21.9. (ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

21.10. (x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.

21.11. (xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation."

[Emphasis supplied]

12. In *Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai* reported in (2012) 5 SCC 157, the Hon'ble Supreme Court has held as under:



“24. What colour the expression “sufficient cause” would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay.”

[Emphasis supplied]

13. The Appellants have relied on the Hon’ble Supreme Court’s decision in *Sridevi Datla v. Union of India and Others* reported in (2021) 5 SCC 321 in support of their arguments. The Hon’ble Supreme Court has held as under in the said decision:

“28. It is evident that the term sufficient cause is relative, fact dependent, and has many hues, largely deriving colour from the facts of each case, and the behaviour of the litigant who seeks condonation of delay (in approaching the court). However, what can broadly be said to be universally accepted is that in principle, the applicant must display bona fides, should not have been negligent, and the delay occasioned should not be such that condoning it would seriously prejudice the other party.”

[Emphasis supplied]

14. It is submitted that the conduct, behaviour and attitude of the Appellants amount to gross negligence and inaction on



their part. The reasons provided by the Appellants for condonation of delay in filing the present complaint are fanciful, concocted, and denied by the answering Respondent *in toto*. Therefore, the Appellants have not made out a case warranting this Hon'ble Tribunal's discretion for condonation of delay on the grounds of "sufficient cause" contemplated under Section 16 of the National Green Tribunal Act, 2010.

15. In light of the aforesaid, it is submitted that the above-captioned I.A. and Appeal filed by the Appellants may kindly be dismissed with costs.


22/11/2022

DEPONENT

VERIFICATION

MEMBER SECRETARY
GOA COASTAL ZONE MANAGEMENT AUTHORITY
PANAJI - GOA

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 Goa on this 22nd day of November, 2022



IDENTIFIED BY:


22/11/2022

DEPONENT

MEMBER SECRETARY
GOA COASTAL ZONE MANAGEMENT AUTHORITY
PANAJI - GOA

Solemnly affirmed before me by

Mr. Dushantha Peddes

Reg. No: 04/1364 Date: 22.11.22
known / Identified to me by.

G. S. Kubal
G. S. KUBAL
Notary (Govt. of India)
Panaji-Goa, India



MEMBER SECRETARY
GOA COASTAL ZONE MANAGEMENT AUTHORITY
PANAJI - GOA

MEMBER SECRETARY
GOA COASTAL ZONE MANAGEMENT AUTHORITY
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