

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

APPEAL NO. 20/2023

HARISHCHANDRA VITTHAL

NAIK

...PETITIONER

V/S

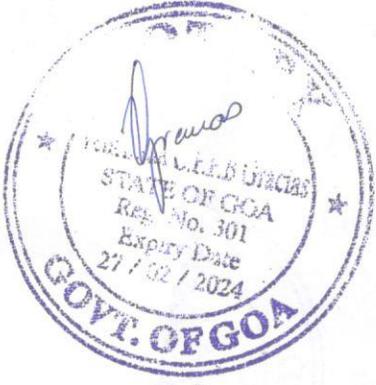
GCZMA & ORS.

...RESPONDENTS

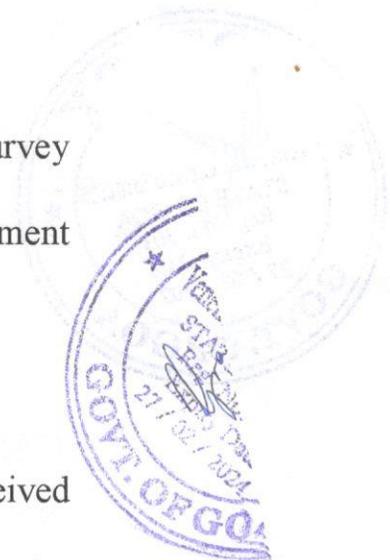
AFFIDAVIT IN REPLY OF THE RESPONDENT NO. 1

I, MR. JOHNSON BEDY FERNANDES, major of age, Indian National, presently working as the Member Secretary of the Goa Coastal Zone Management Authority i.e. the Respondent No. 2, having Office at Porvorim, Bardez-Goa, do hereby on solemn affirmation, state and submit as under:

1. I say and submit that the Appellant is challenging the demolition order dated 15/03/2023 passed by the present Respondent. The present Respondent has directed the appellant to demolish shack in Survey No. 269/3 and G+1 RCC structure in Survey No. 269/4, 5 and 6 of Junaswada, Mandrem, Pernem, Goa.

2. I say and submit that as per the CZMP the Survey Numbers 269/3, 4, 5 and 6 fall under the No Development Zone.
3. I say and submit that the present Respondent has received a complaint by the complainant dated 19/09/2020. A site inspection was conducted by the Expert Member on 06/12.2020. A copy of the same is annexed herewith and marked as **Annexure 'A'**. As per the said site inspection report following observations were made.
- a. No proof to show that the shack is legal.
 - b. In addition to the shack, construction was undertaken of a two storey building, landscaping blocks and a retaining /compound wall.
 - c. The adjoining plot indicated that this area could have been a coastal sand dune which is now damaged.
4. After observing serious violations, the present respondent has issued show cause cum stop work order dated 18.11.2020. I say and submit that the present Respondent





has noticed illegal construction of beach shack with bar, illegal cutting of the sand dunes, illegal construction of retaining wall and discharge of sewage in the sea along with illegal construction of two storey building for commercial purpose in Survey No. 269/3 which falls within NDZ. The alleged illegal construction is highly detrimental to the coastal ecosystem and the same has been carried out without any prior approval of the present Respondent. A copy of the show cause is annexed herewith and marked as **Annexure 'B'**.

5. After giving an opportunity of hearing to both the parties the impugned order has been passed.
6. The present appellant is substantiating his case on the basis of following documents:
 - a. House tax receipt bearing No. 22 dated 04/06/1986 issued by Gram Panchayat Mandrem, Pernem, Goa for structures bearing no. 444/2, 444/3 and 444/4.

b. Copy of permission for repairs correspondence dated 04/06/1986 issued by Gram Panchayat, Mandrem, Pernem Goa.

c. Copy of permission No. 9/90-91 bearing Ref No. VPM/PER/NOC/90-91/585 dated 07/09/1990 along with the plan issued by Gram Panchayat Mandrem, Pernem, Goa.

d. Letter dated 12/12/1990, Intimated the village Panchayat regarding completion of works.

e. Copy of permission for repairs correspondence dated 06/05/1986 issued by Gram Panchayat Mandrem, Pernem, Goa. After perusing the said documents, it was observed that there is no permission obtained from GCZMA nor any Survey Plan from the concerned department was produced on record to prove that the structures were in existence prior to 1991. There is no single document which would prove the legality of the structures and permission to use the same for commercial activity.

7. The receipt no.22 dt.04.06.1986 issued by the village Panchayat Mandrem does not specify the survey number






hence the same cannot be relied upon, the document at Annexure A-3 and Annexure A-4 which is alleged permission for repairs for the house no. 444/2, 444/3 and 444/4 cannot be relied upon as the local body i.e. Village Panchayat of Mandrem has categorically replied in response to the R.T.I. application of the Complainant that the said records do not form part of the records maintained by the Panchayat.

8. The permission for repairs at Annexure A6 is only for house number 444/1.
9. I say and submit that all the above documents with respect to so called permissions to repair talks about repair of houses and from the said documents it is evident that no authority has till date allowed the property to be used for commercial purpose. It is further submitted that in view of the property which is the subject matter of the present appeal falls within NDZ, any construction and/or repair must be done with the prior approval of the present respondent moreover the use of the same could also attract



provisions of CRZ notifications. In view of the above the present Respondent had issued the impugned order following due process of law and also opportunity of hearing was also accorded to the parties.

10.I therefore say and submit that the appellant has miserably failed to prove that the structures existed prior to 1991. Even after hearing the parties, the appellant could not satisfy the present respondent with respect to the same. Hence this affidavit.

Solemnly affirmed at Panaji, Goa.

On this 06th day of February, 2024.

[Handwritten signature]

MR. JOHNSON BEDI FERNANDES
DEPONENT



Executed before me
At Panjim Tiswadi - Goa
Reg. No. 16/02/2024/r
Dated: 6/2/24

[Handwritten signature]

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

Issue stop work order cum SCN

Inspection report of Illegal beach shack with bar, sand dunes cutting, retaining wall and sewage discharge in sea water in Survey number 269/3, Mandrem Junaswada

13/11/2020

06/11/2011 2020

As per the notice NO. GCZMA/N/ILLE-COMPL/20-21/52/741 dated 13.10.2020. The undersigned Member of the GCZMA along with Mr. Devendra Gaonkar, Mr. Satishkumar Naik, FS of GCZMA, Mr. Rajesh Harmalkar and Mr. Mandar Fadte visited the respective sites on 06.11.2011 and carried out inspections from 01:45 pm..

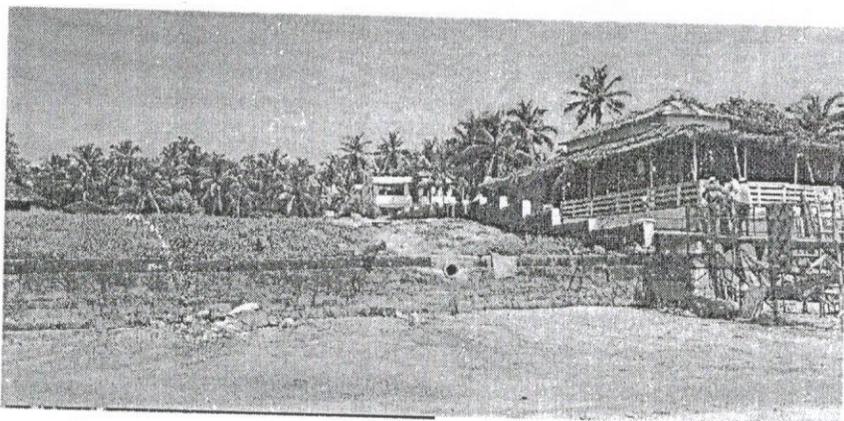
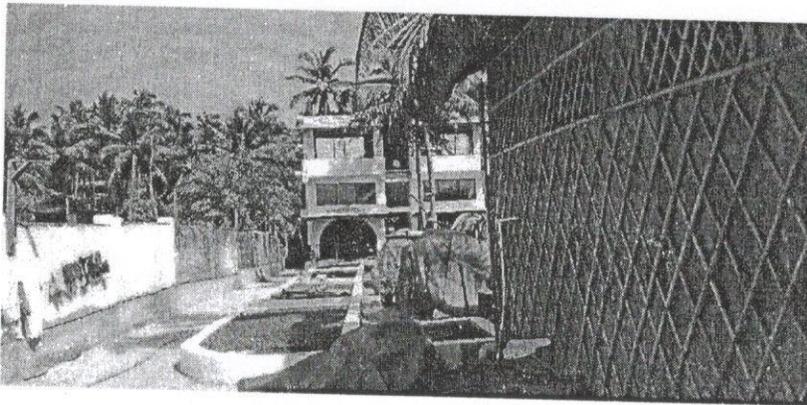
2020

The respondents were not present at the site. No documents were produced to prove that the shack is legal. In addition to the shack, it is also observed at site a under construction two-story building, landscaping blocks, and a compound wall. The adjoining plot indicates that this area could have been a coastal sand dune eco-system, which is now damaged.

Surveyors have done the survey work of the complaint site and will submit their findings. The new building which is being constructed at site has not been surveyed since this was not part of the complaint. It is recommended to ascertain legality of this construction too through a proper survey.

Mr. Mahesh Patil, Expert Member GCZMA could not attend the site inspection due to prior commitments.

Mr. Flaviano Jose Miranda, Expert Member GCZMA was also present during the site inspection. He was not formally part of the inspection team.



Sujeetkumar Dongre

Sujeetkumar Dongre
Expert Member
GCZMA

Village Panchayat Mandrem

Inward No. 1462

Date: 07/12/2020

GOA COASTAL ZONE MANAGEMENT AUTHORITY

C/o Department of Science, Technology and Environment (Govt. of Goa)

1st floor, Pt. Deendayal Upadhyay Bhavan, Pundalik Nagar, Alto,

Porvorim, Bardez- Goa-403 521, Phone: (0832) 2416561

www.czma.goa.gov.in

Ref.No.GCZMAN /ILLE-Compl/20-21/52/1202

Dated: 02/11/2020
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SHOW CAUSE NOTICE CUM STOP WORK ORDER IS ISSUED UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION) ACT, 1986, READ WITH RULE 4 OF THE ENVIRONMENT (PROTECTION) RULES, 1986.

WHEREAS, the Goa Coastal Zone Management Authority (hereinafter referred to as 'the GCZMA' in short) has been constituted by the Ministry of Environment & Forests (MoEF), Government of India pursuant to the directions of the Hon'ble Supreme Court of India to deal, inter alia, with violation of the Coastal Regulation Zone (CRZ) Notification 2011 and implementation of the CRZ Notification.

WHEREAS, the Office of the Goa Coastal Zone Management Authority (hereinafter referred as 'the GCZMA' in short) had received a complaint from Vishwanath Kamat Dessai wherein it has been submitted Rajesh Kumar Mehra (sunny) and Sudesh Kumar Mehra (Billa) have carried out illegal construction of beach shack with bar, illegal sand dunes cutting, illegal construction of retaining wall and sewage discharge in sea. Illegal construction of Two storey building for commercial purpose in the property bearing survey no 269/3, of Village Junaswada, Mandrem, Pernem, Goa. (Enclosed Copy of the complaint)

AND WHEREAS, upon receipt of the Complaint the GCZMA carried out a site Inspection, on 06/11/2020; and a submitted the report to this Authority. (Enclosed Copy of the report)

AND WHEREAS, upon receipt of the Complaint and the report from the Expert Member, the GCZMA issued a Show Cause notice bearing No. GCZMA/NILLE-COMPL/20-21/52/1041 dated 18/11/2020; to Rajesh Kumar Mehra (sunny) and Sudesh Kumar Mehra (Billa).

AND WHEREAS, the Matter was placed for Personal Hearing before the GCZMA Authority in its 238th Meeting held on 26/11/2020. The Proceeding of the Meeting were as under, "Ld. Adv Amey Phadte for Respondent present and submitted that the notice is wrongly served upon him and that the property bearing survey no 269/3 of Village Mandrem does not belong to him but belongs to one Mr. Harichandra Naik and the notice be issued to him".

AND WHEREAS, the Authority in its 238th Meeting held on 26/11/2020, decided that, " *The Authority decided to issue Stop Work Order cum Show Cause Notice to Harichandra Naik and serve the same through the Village Panchayat of Mandrem. The matter is kept on 10/12/2020 at 3.30p.m.*"

AND WHEREAS, the Alleged Violators Rajesh Kumar Mehra (sunny) and Sudesh Kumar Mehra (Billa) filed his reply to the Show Cause Notice stating that the structure in question is owned and possessed by Shri Harichandra Vithal Naik and his sons. He further stated that the SCN is wrongly issued to them. The alleged violators have also furnished the address of the Owner. *(Enclosed Copy of the Reply dated 23/11/2020)*

AND WEREAS, based on the upon receipt of the Complaint and the report from the Expert Member and reply filed by alleged violators Rajesh Kumar Mehra (sunny) and Sudesh Kumar Mehra (Billa) the following alleged illegal construction resulting in blatant and serious violation of CRZ Notification 2011 is noticed. The details of the violations are indicated here below:-

Sr No	Name of the Party/alleged violator	Survey No. Village	Type of Construction	Distance from HTL
1.	Shri Harichandra Vithal Naik	Survey No/ 269/3 Junas wada Mandrem	illegal construction of beach shack with bar, illegally cut the sand dunes, Illegal construction of retaining wall and sewage discharge in sea. Illegal construction of Two storey building for commercial purpose.	Within NDZ

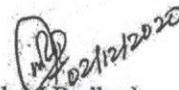
AND WHEREAS, as per the CRZ Notification, 2011; the entire belt of 100 mts. from the High Tide Line (HTL) of river and 200mts. from the HTL from the sea is designated as the No Development Zone (NDZ) and hence no construction/development whatsoever are permissible in the said belt;

AND WHEREAS, the alleged illegal construction is highly detrimental to the Coastal ecosystem / riverine ecosystem. Further it is observed that you have not obtained any prior approval of the GCZMA for the purpose of alleged construction as required under the CRZ Notification 1991/2011.

NOW THEREFORE, in exercise of the powers conferred by section 5 of the Environment (Protection) Act, 1986 read with sub-rule (3) (a) of rule 4 of the Environment (Protection) Rules, 1986, delegated to the GCZMA, the GCZMA hereby directs you to **STOP WORK** with immediate effect and **SHOW CAUSE** as to why a direction to demolish the structures and to restore the land to its original condition should

not be issued to you. Further, you are directed to ensure that no civil work of whatsoever kind and nature is carried out at said site.

FURTHER TAKE NOTE THAT, you are required to file your reply on alongwith compliance report and produce construction/reconstruction/repair licence/approvals, if any, issued by the concerned Authorities including GCZMA along with approved plan, as also documents to show the title to the Office of the GCZMA, having its Office at 1st Floor, Pt. Deendayal Upadhyay Bhavan, Pundalik Nagar, Alto, Porvorim, Bardez- Goa on or before 08/12/2020 and remain present for a personal hearing on the 10/12/2020 at 03.30p.m at the 2nd Floor, Conference Hall, Secretariat, Porvorim, Goa Secretariat, Porvorim, Goa. Take note that if you fail to submit your reply along with the required documents, the GCZMA will come to the conclusion that you have no justification to carry out its activities as above stated and the Authority shall proceed to issue final directions to you in this regard without any further notice which inter alia includes order of demolition of structures, disconnection of water / power supply etc.


 (Dasharath M Redkar)
 Member Secretary (GCZMA)

Encl: As above

To,

- 1) Shri Harichandra Vithal Naik, resident of House No. 10, Junas Wada, Mandrem, Pernem Goa

Copy to:

1. The Collector & District Magistrate (North), Office of the Collector (North), Collectorate Building, Panaji-Goa... for information and necessary action.
2. The Dy. Collector & SDO of Pernem, Goa..... who is required to enforce these directions and ensure that no work is carried out at site, other than in accordance with law.
3. The Secretary, Village Panchayat of Mandrem, Pernem, Goa..... who is required to serve the Notice and submit report of service. Further to enforce these directions and ensure that no work is carried out at site and also initiate action under the Goa Panchayat Raj Act, 1994 and to report the compliance to the GCZMA.
4. VISHWANATH KAMAT DESSAI, resident of Madlamaj Mandrem, Pernem Goa 403527.


 Vithal Naik