



BEFORE THE NATIONAL GREEN TRIBUNAL WESTERN
ZONE BENCH AT PUNE

APPEAL No. 63/2023

M/S.Shree Par Fragrances ... Appellant

Versus

Goa Coastal Zone

Management Authority ... Respondent

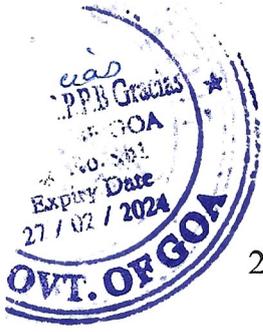
AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT
NO. 1

I, DR. SNEHA S. GITTE (IAS), Age: Adult, Occupation: Service, Working as the Member Secretary, Goa Coastal Zone Management Authority, of the Respondent No. 1 having my office at: 4th Floor, Dempo Towers, Patto, Panaji, Goa; do hereby beg to state on solemn affirmation 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

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inconsistent with what is stated hereinafter in the absence of specific denial.



2. I say and submit that the contents in para 1 to 4 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 present Appeal is challenging the order with respect to Survey Nos. 239/15 and 239/16 in Calangute, Bardez Goa.
4. I say and submit that the present Respondent denies all contention 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 para 1 to 15 are matter of record and the same do not need comment of the present Respondent.
7. I say and submit that contents in para number 16 are not true and correct. The said order regarding re-inspection of the site in question was to be done with the help of officials of DSLR so as to verify the demarcation of the 200 mts. from HTL. The present Respondent further decided to carry



out through verification of all the documents available in office records so as to clarify on the various discrepancies raised by the Respondent number 2 and the present Appellant in respect of the earlier order at Annexure P2.

8. I say and submit that the said re-inspection was carried out following due process of law. There was no illegality/irregularity in the said process of conducting the Inspection. The scope of the re-inspection did require consideration of the objections raised by the Appellant.

9. I say and submit that the contents in para no.18 are not true and correct. It is not true to say that the main structure was located beyond 200 mts. from HTL and the present Respondent cannot re-look into the matter I further say and submit that the Appellant is taking undue advantage of the fact that the present appeal involves numerous legal proceedings and various directions by the present Respondent. The Appellant is trying its best to confuse the Hon'ble Tribunal and not coming before this Tribunal with clean hand. In the Order dt.15.12.2008 the violations recorded are for different structures and were the subject matter of that Order and the Subject matter / alleged violations in the order under challenge of this present Appeal are different and can be seen from the type of construction mentioned on the first page of the order. The impugned Order under Appeal specifically enumerated the

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structures which are in violation of CRZ Notification 2011 and clearly depicted on the Plan dated 04/01/2016 which is marked at Exhibit P-3 Colly (page 42) and in the present Appeal only the legality of the same is to be considered.



10. The Respondent further submits that the contents in the amended paras cannot be considered in the present Appeal as the same are subsequent events which legally cannot form part of the original Appeal. The legal position for adjudication of an appeal is very limited and the same cannot be extended by expanding the scope of the present Appeal by including the subsequent events.

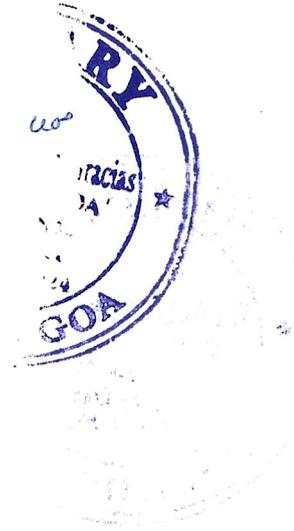
11. I say and submit that by incorporating the subsequent events by way of an amendment; the Appellant is misguiding this Hon'ble Tribunal by including various irrelevant facts which cannot be adjudicated in the present Appeal.

12. I further say and submit that the impugned Order has issued directions for demolition / removal of the following structures :

Removal/demolition of all structures within 200mts HTL

- i) Wooden Platform with vertical steel pipes along /close to the HTL
- ii) Conference hall that occupies the entire width of the plot located on the **pioneer dune** about 30-40 mts from HTL.

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- iii) Rectangular tiled portion adjacent to the Conference Hall.
- iv) Tiled pathway that leads eastward towards the interior of the plot
- v) Another tiled surface
- vi) Swimming pool close to 200 mts from HTL
- vii) Garden

13.I say and submit that all the above mentioned structures fall under the 200 mts and the same are to be demolished as per the impugned order. The Plans depicting the same exhibited as Exhibit P-3 Colly.

14.I say that the structures pertaining to the order dated 15/12/2008 was demolished by the Appellant as the construction was within 200 mts from the HTL hence the discharge order was issued. Subsequently the Appellants had illegally reconstructed the present existing structures reflecting on the survey plan dated 04.01.2016 which the Appellants have now Appealed. The Appellants were put to notice and heard in the matter thereby resulting in issuing of a demolition order dated 21/07/2016 which is now under challenge.

15.I say and submit that the Appellant is misguiding the Hon'ble Tribunal by stating that the structures within

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200mts are removed. However the compliance may be verified by conducting a fresh Site Inspection.



16. I further say and submit that on the point of the demarcation of 200mts (NDZ) the authority found the structures enumerated in the plan drawn dated 4.01.2016 attached to the impugned order to be falling within the NDZ. It is on the basis of various documents, 3 inspections and after giving opportunity of hearing to the Appellant, the impugned Order dated 21.07.2016 was passed.

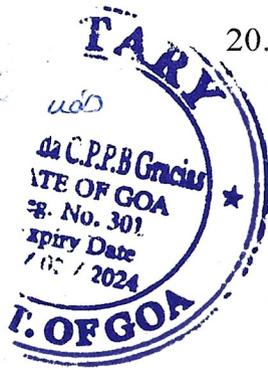
17. I say that the contents in the amended appeal cannot be considered in the present Appeal as the same are subsequent events which legally cannot form part of the original Appeal. The legal position for adjudication of an appeal is very limited and the same cannot be extended by expanding the scope of the present Appeal by including the subsequent events.

18. I say and submit that; by incorporating the subsequent events by way of an amendment; the Appellant is misleading this Hon'ble Tribunal by including various irrelevant facts which cannot be adjudicated in the present Appeal.

19. I say and submit that the Appellant has carried out the amendment to the present Appeal which include

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subsequent events of approval /permission for temporary structures.



20. I say and submit that the contents in Para 23 A and 23 B are true and correct and the Respondent admits the same. It is pertinent to note that the said approval is only for the temporary shack to be erected for tourism purpose. The same cannot be said to have any connection with the conference hall nor it is regularizing the conference hall. The contention of the Appellant that the same has been regularized in view of the Order dt.13.12.2021 is bad in law. It is specifically stated that the present Respondent has not regularized the structure nor it has power to do so in view of CRZ Notification 2011.

21. I further say that with regards to Para 23 A and 23 B the letter dated 13/12/2021 is only a temporary permission for temporary usage during the Tourist Season and given in the area not connected to the structures in dispute. I say that the Appellants have presented to this Hon'ble Tribunal that the permission dated 13/12/2021 is an order regularizing the structures which is totally false. This permission for temporary shack/restaurant pertains to only one survey number i.e 239/15 and is temporary in nature.

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22. I say and submit that the contents in Para 23 C are not true and correct and hence the Respondent denies the same. It is not true to say that the impugned Order is on the erroneous findings on demarcation of 200mts from HTL. It is also not true to say that the Appellant has always maintained the line of 200 mts and the main building and swimming pool fall beyond 200 mts.



23. I say and submit that the contents in Para 23 D with respect to removal of swimming Pool; needs verification after visiting the site. I further say that the office upon an application received ^{from} by the Appellants and as per the CZMP finalized the Appellants requested ~~an~~ independent line to be drawn showing the 200 mts line on the Sy No 239/15 of Calangute Village to which the GCZMA drew the Line. I say and submit that the Respondent has only given the copy of the plan showing the line but it does not depict that the swimming pool is beyond 200 Mts from HTL. Neither the plan is superimposed to show that the structure is beyond the line.

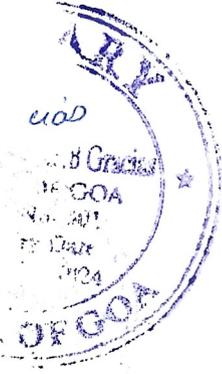
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24. I say that the Appellants have produced a report from the Private Civil Engineer Mr A.V.Aroskar. The Report produced by a private surveyor cannot be taken

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on record as he is not a government approved surveyor.



25.I say and submit that the contents in Para 23 E the contents need verification to be carried out on site to verify if the statements of compliance with the directions are carried out by the Appellants.

26.I say and submit that the contents in Para 23 F the same wrongly mentions that the Order with respect to the swimming pool is complied with. The present Respondent cannot comment on the same without conducting the site inspection. The pleadings with respect to “deemed regularization “of conference hall lacks any legal backing. The Respondent does not admit the same. The Respondent has not regularized the construction of conference hall vide Permission dt. 13.12.2021, moreover there is no such provision of regularizing any structure in CRZ Notification.

27.I say and submit that the contents in Para 23 G is partly admitted and partly denied. It is admitted that the Authority has given permission dated 13.12.2021 to erect a the temporary structures in survey no 239/15 of Calangute Village. It is denied that the permission dated 13.12.2021 is an order to regularize the structure as claimed by the Appellant in the present and the

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preceding paras. I say that the very fact the Appellants have admitted that they will apply for the permission to erect swimming pool clearly indicates that the swimming pool was constructed without any approvals.



28. I say and submit that with reference to the contents in Para 23 H it is not true to say that the Appellant has complied with the impugned order for structure (i), (iii) and (v) thereof until verification is carried out either by the Authority. The Respondent submits that the Appellant has not removed the said structure. The removal of swimming pool needs to be verified after site visit, the other structures which are the subject matter of the impugned order need to be removed/demolished. The copy of the plan dt. 4/1/16 is exhibited as "Exhibit P-3 Colly".

29. I say that the contents at para 23 I are denied. The structures mentioned in the order dated 21/07/2016 are illegally erected without any approvals. I say that the Authority has arrived at a conclusion based on the documents produced by the Appellants, hearing were offered and order was passed based on the available documents on records.

30. I say that the contents at para 23 J are denied. I say that the CRZ Notification 2011 does not have

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provisions to regularize any illegal structures. Further the Appellants are trying to misguide this Hon'ble Authority by mixing two issues one is demolition of the structures and second is granting permission for temporary using the land bearing sy no 239/15 for erecting temporary seasonal shack/ restaurant etc. I say that the illegalities at (ii) wrt conference hall has not been regularized and wrt (iv) and (vi) the same need to be demolished as per the Demolition order dated 21/07/2016.



31. I say that with reference to the amended prayer b1 the prayer cannot be allowed as the GCZMA has not regularized the conference hall, but infact the letter dated 13.12.2021 is only permission for approval to erect temporary structure, shack, restaurant in sy no 239/15 of Calangute village. The Letter dated 13.12.2021 is not an order but a mere approval.

32. I say that with reference to the amended prayer b-2; b-3; b-4 and b-5 the compliance needs to be verified with the site.

33. I say and submit that all the structures mentioned in the impugned Order must be demolished/removed.

34. The Order challenged in the present Appeal is not perverse, arbitrary and/or bad in law.

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