

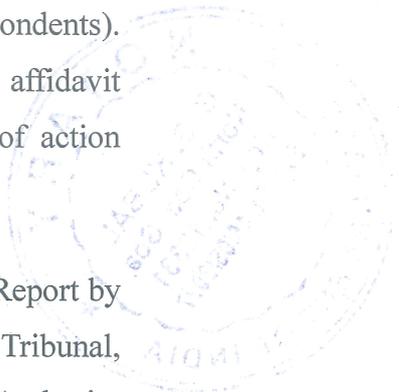
BEFORE THE NATIONAL GREEN TRIBUNAL**WESTERN ZONE BENCH PUNE****EXECUTION APPLICATION NO.1/2023****IN****ORIGINAL APPLICATION NO. 16/2016(WZ)****SALU D'SOUZA & ANR****.....APPLICANTS****VS.****GCZMA AND ORS.****..... RESPONDENTS****AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT NO. 1**

I, Johnson Bedy Fernandes, major of age, adult, having my office at 4th floor, Dempo Towers, Panaji, Goa, do hereby solemnly affirm and state as under:

1. I say that I am the Member Secretary of the GCZMA, i.e. Respondent No.1, and am authorised to affirm the present Reply Affidavit on its behalf. I have examined the relevant records available in my office in respect of the subject matter and I am affirming the present Reply Affidavit based on the same. Nothing in the present Reply Affidavit may be deemed to be an admission of any of the contents of the memorandum of the above-captioned Application. Nothing in the memorandum of the above-captioned Application may be deemed to have been admitted for mere want of specific denial.
2. I say that the present affidavit is filed interms of orders dated 08/09/2023 and 05/01/2024 passed by the Hon'ble Tribunal in the

present matter. The Hon'ble Tribunal vide orders dated 08/09/2023 and 05/01/2024 had expressed concern as to functioning of the Respondent No.11 to 16 (private Respondents). I say that Answering Respondent has earlier filed an affidavit dated 12/01/2024 interalia mentioning certain details of action taken in the matter.

3. I say that pursuant to site inspection and submission of Report by the Joint Committee constituted by this Hon'ble Tribunal, considering the observations and findings therein the Authority issued a Show cause notice under Section 5 of the Environment Protection Act, 1986 upon the Respondent no.11 to 16 (private Respondents). I say that show cause notice bearing no. GCZMA / APPLNO.16 / 2016 / WZ / NGT / 58 / PART I / 3195 dated 12/01/2024 was issued to M/s A V Salgaonkar Works Ship Building and repairing and show cause notice bearing no. GCZMA / APPLNO.16 / 2016 / WZ / NGT / 58 / PART I / 2863 21/12/2023 was issued to units of other Respondents. I say that vide aforesaid show cause notices the Respondents therein are required to show cause as to why directions to remove the extensions and restore the land to its original position should not be issued against them. Further also to show cause as to why stop operation order should not be issued vis-a-vis these Respondents.
4. I say that Respondent No.11 to 16 (private Respondents) were directed to file their detailed reply and remain present for personal hearing before the Answering Respondent.
5. I say that the matter was placed for hearing in the 382nd meeting held on 29/01/2024 before the GCZMA. In the said meeting the Complainant was absent. Adv. Vishwanath Gadnis present on



[Handwritten Signature]

behalf of Respondent Desa Engineering, Shaparia Engineering, Sardessai Engineering, Vipul Engineering, Sachita Engineering Feromar Engineering and submitted that he has not collected the report from DSLR, Fisheries. Advocate for Salgaonkar also remained present. Accordingly the Authority directed the Advocate for the Respondents to collect the copies of report and posted the matter on 15/02/2024 at 3.00pm. I say that the said time was granted in terms of principles of Natural Justice. Hereto annexed and marked **Annexure A** is the extract copy of the 382nd meeting held on 29/01/2024.

6. I say that the matter was placed for further personal hearing in the 386th GCZMA meeting held on 15/02/2024. In the said meeting Complainant remained absent. Adv. Girish Sardessai was present on behalf of Respondent Desa Engineering, Shaparia Engineering, Sardessai Engineering, Vipul Engineering, Sachita Engineering Feromar Engineering and submitted that he has not collected the report from DSLR, Fisheries. Advocate for Salgaonkar also remained present.

7. I say that the Answering Respondent upon considering proceedings in the matter before it decided as follows:- *"The Authority directed the advocate for the Respondents to collect the copies of the report. In the interregnum, the Authority observed that there is delay in filing replies by the Respondents on one pretext or the other. The Hon'ble NGT has also observed that necessary action should also be taken to ensure stoppage of activities in the event if there is no satisfactory justification given by the Respondents. Hence the Authority whilst issuing the Show cause notices had also called upon to justify as to why the activities should not be stopped. As there has been dilatory*



A handwritten signature in blue ink, appearing to be "G. S. Kubal", written in a cursive style.

tactics adopted by the Respondents we deem it fit to direct stoppage of commercial activities carried out by the Respondents. We also direct disconnection of electricity and water supply connection to these units until the proceedings before this Authority are taken to its logical end. The matter is posted for hearing on 14/03/2024." Hereto annexed and marked **Annexure B** is the extract copy of the 386th GCZMA meeting held on 15/02/2024.

8. I say that pursuant to decision taken in the 386th GCZMA meeting held on 15/02/2024 the Answering Respondent has issued Directions under Section 5 of the Environment Protection Act, 1986 bearing no. GCZMA / APPLNO.16 / 2016 / WZ / NGT / 58 / PART I /4249 dated 01/03/2024 directing the Respondent No.11 to 16 to stop all work, operations and commercial activities at site until final hearing and adjudication of show cause notices dated 21/12/2023 and 12/01/2024. The Answering Respondent in the said Directions dated 01/03/2024 also directed disconnection of electricity and water supply connection of the units belonging to the Respondent No.11 to 16. Hereto annexed and marked **Annexure C** is the copy of the Directions dated 01/03/2024 issued by the GCZMA.
9. I say that the Answering Respondent will endeavour to expeditiously hear all the matters before it and pass appropriate orders in accordance with law.

Place: Panaji-Goa

Date:08/03/2024

Deponent



VERIFICATION

I, the deponent above-named do solemnly affirm that all that is stated in this Affidavit is True to the best of my knowledge and belief, which is based on the records available in respect of the issue involved in the above-captioned Application. Nothing false has been stated herein.

Solemnly affirmed this 8th day of March 2024

[Signature]
Deponent

Solemnly affirmed before me by
Johnsen B. Fernandes
Reg. No: 06/163 Date: 9.3.2024
known / Identified to me by.

[Signature]
G. S. KUBAL
Notary (Govt. of India)
Panaji-Goa, India



EXTRACT OF MINUTES OF THE 382nd MEETING OF THE GOA COASTAL ZONE MANAGEMENT AUTHORITY (GCZMA) TO BE HELD ON 29/01/2024 at 3.00 PM. IN THE CONFERENCE HALL, FOURTH FLOOR, DEMPO TOWER, PATTO-PANAJI-GOA.

Case No 1.18

As per the order dated 11/05/2022 in OA No 16/2016 issued in Salu D,Souza matter Hon'ble National Green Tribunal directed that for remedial action for past violations and also for preparing a restoration plan a joint Committee comprising MoEF&CC, NCZMA, GCZMA, CPCB, State PCB and National Institute of Oceanography, (NIO) Goa were constituted. The GCZMA was made the nodal agency for coordination and compliance.

In view of above GCZMA had fixed and conducted Joint site Inspection of joint Committee comprising one member of MoEF&CC, NCZMA, GCZMA, CPCB, State PCB and National Institute of Oceanography, (NIO) Goa on 10/07/2023 at 11.00 am in Cortalim Creek South Goa for remedial action for past violations and for preparing a restoration plan as per the order of Hon'ble national Green Tribunal dated 11/05/2022 in OA No 16/2016.

After conducting inspection, meeting of Joint committee held on 24/07/2023 at 3.00 pm and on 31/08/2023 in the conference hall, of GCZMA, fourth floor, Dempo Tower, Patto, Panaji-Goa and in its meeting committee decided that DSLR should Re-survey the project areas at Cortalim Creek South Goa and to provide latest status report to the Committee regarding encroachments if any and GCZMA shall issue the notice to the DSLR for the same.

Accordingly, GCZMA issued directions to DSLR conduct site inspection areas at Cortalim Creek South Goa and DSLR has submitted detail report before GCZMA after conducting site inspection of Cortalim Creek South Goa and after perusal of site inspection report submitted by DSLR it is noticed by the Authority that there are violations as project proponents done further extension in the areas as allotted to them by Captain of Port. The said plan/map prepared by DSLR is enclosed as Annexure-A

The Authority also in opinion that as per joint committee report project proponents still in operational in Cortalim Creek despite of order of Hon'ble NGT hence same need to be stopped from operating in Cortalim creek.

Proceeding: Complainant absent. Adv. Vishwanath Gadnis present on behalf of Respondent Desa Engineering, Shaparia Engineering, Sardessai Engineering, Vipul Engineering, Sachita Engineering Feromar Engineering and submitted that he has not collected the report from DSLR, Fisheries. Advocate for Salgaonkar present.

Decision: The Authority directed the Advocate for the Respondents to collect the copies of report and posted the matter on 15/02/2024 at 3.00pm.

EXTRACT OF 386th MINUTES OF THE MEETING HELD ON 15/02/2024 IN THE CONFERENCE HALL OF GOA COASTAL ZONE MANAGEMENT AUTHORITY, DEMPO TOWER, PATTO, PANAJI GOA.

Case No 1.5

As per the order dated 11/05/2022 in OA No 16/2016 issued in Salu D,Souza matter Hon'ble National Green Tribunal directed that for remedial action for past violations and also for preparing a restoration plan a joint Committee comprising MoEF&CC, NCZMA, GCZMA, CPCB, State PCB and National Institute of Oceanography, (NIO) Goa were constituted. The GCZMA was made the nodal agency for coordination and compliance.

In view of above GCZMA had fixed and conducted Joint site Inspection of joint Committee comprising one member of MoEF&CC, NCZMA, GCZMA, CPCB, State PCB and National Institute of Oceanography, (NIO) Goa on 10/07/2023 at 11.00 am in Cortalim Creek South Goa for remedial action for past violations and for preparing a restoration plan as per the order of Hon'ble national Green Tribunal dated 11/05/2022 in OA No 16/2016.

After conducting inspection, meeting of Joint committee held on 24/07/2023 at 3.00 pm and on 31/08/2023 in the conference hall, of GCZMA, fourth floor, Dempo Tower, Patto, Panaji-Goa and in its meeting committee decided that DSLR should Re-survey the project areas at Cortalim Creek South Goa and to provide latest status report to the Committee regarding encroachments if any and GCZMA shall issue the notice to the DSLR for the same.

Accordingly, GCZMA issued directions to DSLR conduct site inspection areas at Cortalim Creek South Goa and DSLR has submitted detail report before GCZMA after conducting site inspection of Cortalim Creek South Goa and after perusal of site inspection report submitted by DSLR it is noticed by the Authority that there are violations as project proponents done further extension in the areas as allotted to them by Captain of Port. The said plan/map prepared by DSLR is enclosed as Annexure-A

The Authority also in opinion that as per joint committee report project proponents still in operational in Cortalim Creek despite of order of Hon'ble NGT hence same need to be stopped from operating in Cortalim creek.

The said matter was deliberated in 382nd Meeting held on 29/01/2024 the minutes to be read as under: Complainant absent. Adv. Vishwanath Gadnis present on behalf of Respondent Desa Engineering, Shaparia Engineering, Sardessai Engineering, Vipul Engineering, Sachita Engineering Feromar Engineering and submitted that he has not collected the report from DSLR, Fishries. Advocate for Salgaonkar present. The

Authority directed the Advocate for the Respondents to collect the copies of report and posted the matter on 15/02/2024 at 3.00pm.

Proceeding: Complainant absent. Adv. Girish Sardessai present on behalf of Respondent Desa Engineering, Shaparia Engineering, Sardessai Engineering, Vipul Engineering, Sachita Engineering Feromar Engineering and submitted that he has not collected the report from DSLR, Fisheries. Advocate for Salgaonkar present.

Decision: The Authority directed the advocate for the Respondents to collect the copies of the report. In the interregnum, the Authority observed that there is delay in filing replies by the Respondents on one pretext or the other. The Hon'ble NGT has also observed that necessary action should also be taken to ensure stoppage of activities in the event if there is no satisfactory justification given by the Respondents. Hence the Authority whilst issuing the Show cause notices had also called upon to justify as to why the activities should not be stopped. As there has been dilatory tactics adopted by the Respondents we deem it fit to direct stoppage of commercial activities carried out by the Respondents. We also direct disconnection of electricity and water supply connection to these units until the proceedings before this Authority are taken to its logical end. The matter is posted for hearing on 14/03/2024.

427 Annexure C
GOA COASTAL ZONE MANAGEMENT AUTHORITY

C/o Department of Environment and Climate Change (Govt. of Goa)

4th floor, Dempo Towers, Patto, Panaji-Goa

E-mail: goacoastalzone@gmail.com

Ref.No.GCZMA/APPLno.16/2016/WZ//NGT/58/Part-I/ 4245

Dated: 01/03/2024

DIRECTIONS 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.

AND WHEREAS, an Application bearing No. 16/ 2016 (WZ) was filed by Salu D'souza before Hon'ble NGT, Pune inter alia aggrieved by permanent / semi permanent anchoring of barges and ships ostensibly brought for repair work to the docks, shipyards & repair companies (Respondent No.7 to 13 therein) set up along the waters edge which block the Cortalim creek's water channel and disrupt fishing rights. The applicants alleged that there is industrial pollution in the said creek which is caused by dumping of metals, debris, rust, chemicals etc from the ship building and repair activities and so also there are illegal encroachments in the said creek in connection with said activities.

AND WHEREAS, the Honble Tribunal vide order dated 11/05/2022 in Original Application No. 16/2016 directed for remedial action for past violations and also for preparing a restoration plan for which a joint Committee comprising MoEF & CC, NCZMA, GCZMA, CPCB, State PCB and National Institute of Oceanography, (NIO) Goa was constituted. The GCZMA was made the nodal agency for coordination and compliance.

AND WHEREAS, an Execution Application bearing No.1/2023 was filed in Original Application No. 16/2016 (WZ) inter alia seeking compliance of the directions contained in judgment/order dated 11/05/2022.

AND WHEREAS, in view of above GCZMA had fixed and conducted Joint site Inspection of Joint Committee comprising one member of MoEF & CC, NCZMA, GCZMA, CPCB, State PCB and National Institute of Oceanography, (NIO) Goa on 10/07/2023 at 11.00 am in Cortalim Creek South Goa for remedial action for past

violations and for preparing a restoration plan as per the order of Hon'ble National Green Tribunal dated 11/05/2022 in Original Application No 16/2016.

AND WHEREAS, after conducting inspection, meeting of Joint Committee held on 24/07/2023 at 3.00 pm and on 31/08/2023 in the conference hall, of GCZMA, 4th floor, Dempo Tower, Patto, Panaji-Goa and in its meeting committee decided that DSLR should Re-survey the project areas at Cortalim Creek South Goa and to provide latest status report to the Committee regarding encroachments if any and GCZMA shall issue the notice to the DSLR for the same.

AND WHEREAS, accordingly, GCZMA issued directions to DSLR conduct site inspection areas at Cortalim Creek South Goa and DSLR has submitted detail report before GCZMA after conducting site inspection of Cortalim Creek South Goa and after perusal of site inspection report submitted by DSLR it was noticed by the Authority that there are violations as project proponents done further extension in the areas as allotted to them by Captain of Port. The said plan/map prepared by DSLR was enclosed.

AND WHEREAS, the Authority also is of opinion that as per joint committee report project proponents are still in operation in the Cortalim Creek despite of order of Hon'ble NGT hence same need to be stopped from operating in Cortalim creek.

AND WHEREAS, the Authority earlier had issued a show cause notices dated 21/12/2023 and 12/01/2024 to the all the dockyards.

AND WHEREAS, the Hon'ble National Green Tribunal while hearing the Execution Application bearing no.1/2023 in Original Application no. 16/2016 (WZ) vide order dated 05/01/2024 interalia observed the following "3. *As per our previous order dated 08.09.2023 in para no.5, we had directed the respondent Nos.1 to 3 and 11 to 16 to ensure that the private respondents i.e. respondent Nos.4 to 10 be not allowed to function. But no affidavit has been filed from their side in this regard stating that they have ensured that these units were not allowed to operate, rather it is being admitted by the learned counsel for respondent Nos.1 to 3 that some of the private respondents are still functioning. It is a thing of great concern. We provide them last opportunity of one week to file reply affidavit in this regard.*"

AND WHEREAS, the Authority in its 386th GCZMA meeting held on 15/02/2024 decided to issue stop work order and the decision is interalia read as “ *The Authority directed the advocate for the Respondents to collect the copies of the report. In the interregnum, the Authority observed that there is delay in filing replies by the Respondents on one pretext or the other. The Hon'ble NGT has also observed that necessary action should also be taken to ensure stoppage of activities in the event if there is no satisfactory justification given by the Respondents. Hence the Authority whilst issuing the Show cause notices had also called upon to justify as to why the activities should not be stopped. As there has been dilatory tactics adopted by the Respondents we deem it fit to direct stoppage of commercial activities carried out by the Respondents. We also direct disconnection of electricity and water supply connection to these units until the proceedings before this Authority are taken to its logical end. The matter is posted for hearing on 14/03/2024.* ”

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, read with power vested with the GCZMA vide Order S.O. 6071 (E) dated 27/12/2022 issued by the Ministry of Environment & Forests, Government of India, the GCZMA, hereby directs you to **STOP ALL WORK / OPERATIONS / COMMERCIAL ACITIVTIES** at site and further directs disconnection of electricity and water supply connection of the units until final hearing and adjudication upon show cause notices dated 21/12/2023 and 12/01/2024 by this Authority.


(Johnson Bedy Fernandes)
Member Secretary (GCZMA)

To,

1. **M/s A V Salgoancar, Dock and Shipyard, Ship Building & repairing, Maddant Cortalim.**
2. **M/s Sapia Dock Steel Pvt Ltd, Ship building and repairing, Maddant, Cortalim.**
3. **M/s Sardesai Egg Works Dockyard and Ship building and repairing, Maddant, Cortalim.**
4. **M/s Vipul Engg Works Dock, Slipway, Ship building and repairing Maddant, Cortalim**
5. **M/s Sanchita Engg Ship building and Repairing C/o Shirodkar Engg Chovoth, Cortalim**

6. M/s Ferromar Shipping Pvt Ltd Ship building and Repairing, C/o Agarwal Shipyard, Chovoth, Cortalim
7. M/s Desa Engineering works, Ship building and repairing, Maddant, Cortalim, Goa.

Copy to:

1. **The Collector & District Magistrate (South), Office of the Collector (South), Mathany Saldanha administrative complex, Margao -Goa...** *for information and necessary action.*
2. **The Dy. Collector and S.D.O of Mormugao, Office of the Dy. Collector and S.D.O of Mormugao, Vasco-Goa...** *directed to ensure implementation of above directions and ensure stoppage of work/commercial activities and operations at site.*
3. **The Executive Engineer, Division XI, Electricity Department having office near Vasco-Goa...** *to ensure disconnection of electricity connection of all the aforementioned units.*
4. **The Executive Engineer, Division IX Sub Division I , Public Works Department (PHE) having office at Katem Baina, Vasco-Goa....** *to ensure disconnection of water connection of all the aforementioned units.*
5. **The Secretary, Village Panchayat of Cortalim, Goa...** *for information and necessary action.*
6. **Mr. Salu D'Souza R/o Hno.905 Maddant Cortalim, Goa...** *for information*
7. **Mr.Joaquim Vaz R/o Hno. 788/1, Zamboll, Cortalim, Goa...** *for information.*
8. **Mr.Antonio Domingos Puthampurakal R/o Hno.955 Maddant Cortalim, Goa...** *for information.*