



**BEFORE THE NATIONAL GREEN TRIBUNAL -
WESTERN ZONE AT PUNE**

I.A. No. 53/2019 (WZ)
In
Appeal No.48/2018 (WZ)

Colva Civic and Consumer Forum ...Appellant

v.

Ceaser Vaz & Ors. ...Respondents

**AFFIDAVIT-IN-REPLY ON BEHALF OF
RESPONDENT NO. 1 TO THE
APPLICATION FOR AMENDMENT**

I, **MR. CAESER VAZ**, son of Mr. Caitano Rosario Mario Vaz, 42 years of age, Indian National, Resident of H.No. 214, Vaz Building, Near Government School, Mangor Hill, Vasco Da Gama, Goa, the Respondent No. 1 hereinabove on solemn affirmation state and submit as under:

1. I say that I am in receipt of an Application for amendment dated 05/04/2019 filed by the

Appellant herein. I have read and understood the contents of the same.



2. I deny and dispute the contents of the said application including the proposed amendment in toto. Anything that is not specifically denied shall not be deemed to be admitted.
3. I say that the Application is erroneous, misconceived and an abuse of process of law. The application is vague and bereft of specific details in as much as the Appellant has failed to substantiate any ground for permitting amendment of the Appeal at such a belated stage. There is no provision in the NGT Act to challenge two orders in one Appeal and on that count the above Application is liable to be dismissed.
4. The Appellant is seeking to amend the Appeal as a matter of right without making out a case for the same.



5. I say that the Appellant has incorporated the contents of the proposed amendment in the Application for Amendment to indirectly place the same on record which is untenable.
6. I reserve my right to respond to the proposed amendment on the merits thereof in case this Hon'ble Tribunal deems it appropriate to allow the Application for Amendment.
7. I say that even otherwise, the Order dated 03/08/2018 of granting approval to the Respondent No. 1, which is sought to be challenged by way of the proposed amendment, has attained finality and therefore the challenge to the same is grossly barred by limitation.
8. I say that in terms of the NGT Act, this Hon'ble Tribunal has powers to condone the delay only to the extent of 60 days. The said period to prefer an Appeal along with Application for condonation of delay expired somewhere in November 2018.

Therefore the challenge to the order by way of amendment is beyond the permissible period that can be condoned by this Hon'ble Tribunal in terms of the proviso to S. 16 of the NGT Act.



9. I say that the Appellant has sought to challenge the said Order by way of an amendment in pending Appeal in order to wriggle out of the issue of limitation.

10. I say that the above conduct of the Appellant is condemnable and illegal which needs to be taken into consideration by this Hon'ble Tribunal whilst adjudicating the Application and the Appeal.

11. I say that insofar as the Letter dated 28/02/2019 is concerned, the same is based on the original approval dated 03/08/2018. The said letter is merely a communication endorsing the approval and the DSLR Report. The same cannot be construed as a direction under the Environment

Protection for it to be assailed under S. 16 of the NGT Act.



12. I say that the proposed amendment is based on concocted and colourable cause of action which has the effect of changing the entire nature of the original Appeal; the same is impermissible.

13. I say that the Order dated 05/03/2018 and Approval dated 03/08/2018 read with Communication dated 28/02/2019 are passed/granted by the Respondent No. 2 after considering all the relevant factors and the documents on record, which establish the existence of authorized structure and the right of the Respondent No. 1 to reconstruct the same in terms of the CRZ Regulations.

14. I say that the Appellant has resorted to initiating frivolous litigation with mala fide intent and/or for collateral purpose.

15. I say that there is no substance in the main Appeal No. 48/2018 which is liable to be dismissed in toto. Therefore the question of permitting the Appellant to amend the pleadings to fill up the lacunae is redundant.

16. I say that the application is an abuse of process of law and the same does not deserve any indulgence. Therefore the application be dismissed with costs.

17. I say that the contents of para 1, 2pt, 10pt, and 14 are true to my own knowledge and/or based on records; and the contents of para 2pt, 3, 4, 5, 6, 7, 8, 9, 10pt, 11, 12, 13, 15 and 16 are based on legal submissions which I believe to be true.

Solemnly affirmed at Panaji – Goa

On this 14th day of January, 2023

solemnly affirmed before me by
Mr. Caesar Vaz
who is identified to me by
Adv. Shiran Desai
whom I personally know,


DEPONENT


SWETA NAIK GAUNEKER
NOTARY

TISWADI TALUKA NORTH GOA

Place Panaji Goa Date 14/1/2023

Reg. No. 3542

SWETA NAIK GAUNEKER
ADVOCATE & NOTARY

Notary stamps and five-rupee stamps. The notary stamp is circular and contains the text: "NOTARY", "Ms. SWETA NAIK GAUNEKER", "TISWADI TALUKA (NORTH GOA)", "Reg. No. 32W/2014", "Exp. dt. 02/2024". The circular stamp also includes "GOVT. OF GOA (INDIA)". There are three five-rupee stamps from the Government of India, each featuring the national emblem and the text "GOVT. OF INDIA" and "FIVE RUPEES".

