

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**



Appeal No.31/2025 (WZ)

Sylvester D'souza.,

... Appellant

V/S

Goa Coastal Zone Management

Authority and ors.,

... Respondents

**AFFIDAVIT IN REPLY ON BEHALF
OF THE RESPONDENT NO.2 TO THE
APPEAL NO.31/2025 (WZ) FILED BY
THE APPELLANT.**

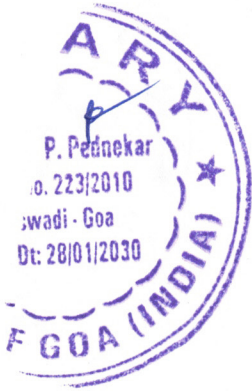
I, Mr. Bosco Cruz Fernandes alias Cruz Augustin Fernandes, 60 years of age, Resident of House No.6/172-A, Cobbra Vaddo, Calangute, Bardez, Goa, the Respondent No.2 hereinabove, do hereby on solemn affirmation state and submit as under: -

1. I have got, read and understood the contents of the appeal memo which has been served upon me

(hereinafter referred to as the “said appeal” for the sake of brevity) filed by the Appellant in response to which I crave leave to file the present Affidavit-in-Reply.

2. I say that I have preferred two appeals i.e. Appeal No.9/2025 (WZ) and Appeal No.10/2025 (WZ) before this Hon’ble Court challenging the Impugned Judgment and Order dated 24/10/2024 passed by the Respondent No.1 / Goa Coastal Zone Management Authority, to the extent that the Respondent No.1 has directed for demolition of the alleged illegal construction of the second floor of the Structure ‘A’ of the Site Inspection Report dated 28/07/2023 and all other structures shown in the Site Inspection Report dated 28/07/2023 except for the structures referred to as Structure ‘B’ and ‘L’ which is pending adjudication before this Hon’ble Tribunal.
3. At the outset, I deny each and every averment set out by the Appellant in the said appeal, to the extent that





the same are inconsistent with the case set out by this Respondent hereinbelow. I state that I am not dealing with each and every contention / averment made by the Appellant in the said appeal, and the averments / contentions which have not specifically been dealt with and / or denied by me may not be taken as having been admitted by me.

4. I say that the present appeal has been filed by the Appellant assailing the Impugned Judgment and Order dated 24/10/2024 passed by the Respondent No.1 / Goa Coastal Zone Management Authority to the extent that the same has discharged the structures identified as 'A', 'B' and 'L' as per the Site Inspection Report dated 28/07/2023 and discharging the structure 'A' to the extent of Ground + 1st floor as shown in the said report. I say that such a challenge at the instance of the Appellant / Original Complainant would not lie before this Hon'ble Tribunal in the absence of the Appellant being able to

demonstrate the locus / injury to fact for filing of the present appeal.

5. I say that even otherwise, the Judgment and Order dated 24/10/2024 to the extent that the same has discharged the proceedings qua the structures identified as 'A', 'B' and 'L' as per the Site Inspection Report dated 28/07/2023 and discharging the structure 'A' to the extent of Ground + 1st floor as shown in the said report, is in terms of the statutory permissions produced on record by the Appellant. I say that even otherwise, the Respondent No.1 has not disputed the soundness of the Judgment and Order dated 24/10/2024 passed by it, to the aforesaid extent. I say that admittedly the G.S.C.C.E upon consciously applying its mind has issued the Permission dated 30/09/1994 along with the approved plan for the Ground + 2 floor structure, in which circumstances the successive authority being the Respondent No.1 could not have taken a contrary view.





6. I say that once the G.S.C.C.E had applied its mind on the issue and having issued the Permission dated 30/09/1994 pertaining to the subject structure, there was reasonable presumption of the said permission having been issued upon consideration of all the relevant factors which existed at the relevant point of time. I say that the Judgment and Order dated 24/10/2024 to the extent of the same being challenged before this Hon'ble Tribunal by the Appellant, would thus not warrant any interference by this Hon'ble Tribunal.

7. I say that at the outset even the Survey Plan of the subject property bearing Survey No.242 sub-division 9 of village Calangute, Bardez, Goa itself indicated of several structures being shown therein, thereby warranting the proceedings to have been discharged qua the Appellant. I say that further the Gut Book Plan and the P.T. Sheet Plan produced on record had clearly indicated of the structures being reflected

thereon indicating of the same being legal and existing authorized structures.

8. I say that even to the extent that the Judgment and Order dated 24/10/2024 has directed for demolition of the second floor of the subject structure, the non-application of mind on the part of the Respondent No.1 is writ large in as much as the Judgment and Order dated 24/10/2024 records of the second floor of the subject structure being allegedly illegal without any justification / basis or reasoning being accorded for the same. I say that evidently, the Permission dated 30/09/1994 along with the plan appended thereto which itself has been relied upon by the Respondent No.1 to discharge the proceedings qua the Appellant, pertained to the structure which comprised to be a Ground + 2 floor structure which was an existing authorized structure.
9. I say that the perusal of the present appeal along with the annexures appended to the present appeal would indicate that the Appellant has chosen to selectively



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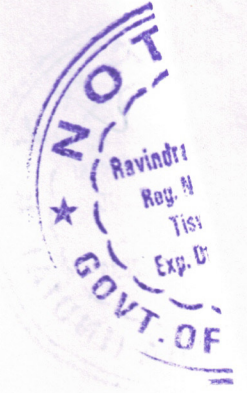


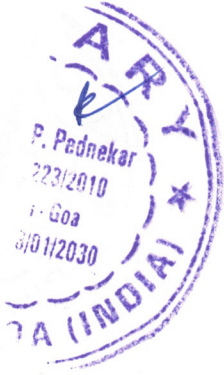
rely only on those documents which allegedly support the case of the Appellant. I say that the entire records on the file of the Respondent No.1 which includes the replies along with annexures filed by the Respondent No.2 have not been produced on record by the Appellant. I say that the said approach on the part of the Appellant who has sought to file a statutory appeal before this Hon'ble Tribunal by selectively producing documents, by itself would warrant dismissal of the present appeal.

10. I say that the present appeal cannot be adjudicated without the records and proceedings on the file of the Respondent No.1 / Goa Coastal Zone Management Authority being produced on record before this Hon'ble Court. I say that on the grounds of concealment of the relevant records and malafides attributable to the Appellant, the present appeal would warrant dismissal at the threshold.

**PARA WISE REBUTTAL TO THE APPEAL
FILED BY THE APPELLANT:-**

11. With reference to the contents of para 2 of the appeal memo, the same are denied. It is specifically denied that any challenge can be laid to the Judgment and Order dated 24/10/2024 at the instance of the Appellant who has failed to show any locus / injury to fact to file the present appeal. It is submitted that the Respondent No.1 / Goa Coastal Zone Management Authority has also not in any manner disputed the said portion of the Judgment and Order dated 24/10/2024 which is sought to be assailed in the present appeal, on which grounds alone the present appeal would deserve dismissal at the threshold. I say that I hereby reiterate and maintain the contentions taken by me in the two appeals i.e. Appeal No.9/2025 (WZ) and Appeal No.10/2025 (WZ) filed by me before this Hon'ble Court, and the contentions taken in the said appeals along with the documents shall be deemed to be reproduced and incorporated herein for all legal purposes. The contentions taken in the two appeals i.e. Appeal No.9/2025 (WZ) and Appeal





No.10/2025 (WZ) are not reproduced herein in the present reply for the sake of brevity.

12. With reference to the contents of para 3.1 of the appeal memo, the same are denied and the Appellant is put to strict proof thereof.

13. With reference to the contents of para 3.2 of the appeal memo, the same are denied. It is specifically denied that the Respondent No.2 has allegedly illegally constructed a Ground + 2 floor structure and has been allegedly running the business of a Hotel / Guest House in the said premises. It is specifically denied that the Respondent No.2 has allegedly illegally constructed a bore well in the said property for commercial purposes. It is submitted that the said contentions of the Appellant are entirely malafide, baseless and without any proof. It is reiterated and maintained that the subject structures comprise to be entirely legal and authorized structures which have been constructed in pursuance of all statutory permissions being procured therein by the Appellant.

It is submitted that in fact the Respondent No.1 was even pleased to place reliance on the G.S.C.C.E Permission dated 30/09/1994 which clearly reflects the Ground + 2 structure being shown therein. It is submitted that the construction / re-construction / repairs of existing authorized structures in No Development Zone and in CRZ - III areas is regulated under the Coastal Regulation Zone Notification, 1991. It is submitted that the mandate of Regulation CRZ-III (i) provides for the following:-

CRZ-III (i)

The area upto 200 metres from the High Tide Line is to be earmarked as 'No Development Zone'. No construction shall be permitted within this zone except for repairs of existing authorised structures not exceeding existing FSI, existing plinth area and existing density. However, the following uses may be permissible in this zone – agriculture, horticulture, gardens, pastures, parks, playfields, forestry and salt manufacture from sea water.”



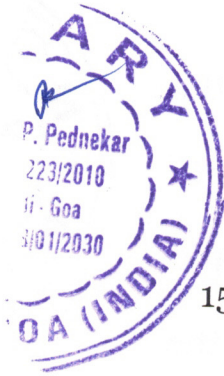


It is submitted that the perusal of the aforesaid Regulation in categorical terms indicates therein that repairs of existing authorised structures not exceeding existing FSI is a permissible activity in terms of the Coastal Regulation Zone Notification, 1991.

14. With reference to the contents of para 3.3 and 3.4 of the appeal memo, the same are denied. It is specifically denied that the structure has been constructed without any permission from any authority including the Respondent No.1 herein. It is submitted that the records unanimously indicate of the G.S.C.C.E Permission dated 30/09/1994 having been produced on record by the Respondent No.2 reflecting the Ground + 2 structure therein. It is submitted that the Goa State Coastal Committee on Environment comprises to be the erstwhile authority which preceded the Respondent No.1 / Goa Coastal Zone Management Authority which has upon due application of mind issued the Permission dated 30/09/1994 in respect of the said structure. It is

submitted that the Goa Coastal Zone Management Authority was earlier known as the Goa State Coastal Committee on Environment (GSCCE) which has itself issued the Permission dated 30/09/1994 in respect of the said structure. It is submitted that the Respondent No.1 / Goa Coastal Zone Management Authority has itself not disputed the authenticity or otherwise of the Permission dated 30/09/1994 along with the plan produced on record. That being the case, it would not be open for the Appellant / Original Complainant to dispute the authenticity or legality of the said Permission dated 30/09/1994 along with the plan produced on record. The records categorically indicate of the Respondent No.2 having itself relied upon the Permission dated 30/09/1994 along with the plan to adjudicate the said proceedings. The limited issue for consideration would be whether the said structure 'A' is in conformity with the Plan issued along with the Permission dated 30/09/1994. The Judgment impugned in the present appeal also in no manner indicates of the Respondent No.2 having





violated the Permission dated 30/09/1994 along with the plan issued.

15. With reference to the contents of para 3.5 of the appeal memo, the same are denied. It is specifically denied that the Respondent No.2 in the process of the construction had cut sand dunes, levelled and filled the ground in the said property. It is further specifically denied that the Respondent No.2 has felled all natural vegetation in the said area. It is submitted that the Appellant has resorted to making entirely baseless allegations and the Appellant is put to strict proof in respect of the said contentions. It is submitted that neither the pleadings of the Appellant and nor the records before the Respondent No.1 reflect of the said fact, which is sought to be brought on record for the first time by the Appellant in the present appeal which in any event cannot be considered in terms of law.
16. With reference to the contents of para 3.6 of the appeal memo, the same are denied. It is submitted

that even the Site Inspection Report of the Respondent No.1 reflects of the subject property falling partly under No Development Zone (NDZ) and partly under CRZ – III area. It is submitted that the Appellant has resorted to making bald statements which are contrary to the records.



17. With reference to the contents of paras 3.7 and 3.8 of the appeal memo, the same are denied. It is specifically denied that the Respondent No.2 had been conducting the business of hotel / guest house and that he was allegedly commercially exploiting the said property. It is submitted that the subject structure were always used for residential purposes and are used for the same purposes till date. The contentions of the Appellant about the subject structure being used allegedly for commercial purposes / guest house are entirely arbitrary, baseless and without any corroboration.

18. With reference to the contents of para 3.9 of the appeal memo, the same are denied. It is specifically



denied that the Respondent No.2 in alleged gross violation and abuse of the laws in force including the CRZ Regulation, has allegedly illegally erected Ground + 2 structure in the subject property. It is reiterated and maintained that Permission dated 30/09/1994 along with the plan appended thereto issued by the G.S.C.C.E produced on record pertained to the structure which comprised to be a Ground + 2 floor structure which was an existing authorized structure constructed in terms of law.

19. With reference to the contents of para 3.10 of the appeal memo, the same are denied in the manner pleaded. It is submitted that the mere filing of the application under Right to Information Act, 2005 would not establish any factual contention which has been raised by the Appellant in the present appeal. The application filed under the Right to Information Act, 2005 in any event does not make a reference to the statutory permissions produced on record by the Respondent No.2 on the file of the Respondent No.1.

20. With reference to the contents of para 3.11 of the appeal memo, the same are denied. It is submitted that the perusal of the complaint dated 14/09/2022 filed by the Appellant would indicate of the same being vague in nature which would have otherwise not warranted consideration before the Respondent No.1. It is submitted that the complaint dated 14/09/2022 in any event was also not backed by any relevant documents / corroboration being afforded therein by the Appellant which by itself were sufficient grounds for its dismissal.
21. With reference to the contents of para 3.12 of the appeal memo, the same comprises to be a factual position which would not warrant any comments from the instant Respondent.
22. With reference to the contents of para 3.13 of the appeal memo, the same are denied in the manner pleaded. It is reiterated and maintained that the application filed by the Appellant under the Right to Information Act, 2005 did not make any remote





reference to the statutory permissions produced on record by the Respondent No.2.

23. With reference to the contents of para 3.14 of the appeal memo, the same comprises to be a factual position which would not warrant any comments from the instant Respondent No.2.

24. With reference to the contents of para 3.15 of the appeal memo, the same are denied. It is submitted that the application of the Appellant filed under the Right to Information Act, 2005 being vague in nature, the Respondent No.1 had rightly rejected the same in terms of law. It is submitted that the perusal of the contents of para 3.15 would indicate that the Appellant has based his case on mere assumptions / presumptions which would not merit consideration before this Hon'ble Court. It is submitted that the usage of the terms "*Appellant has good reasons to believe that Respondent No.2 has not availed any permissions whatsoever*" would by itself indicate of

the Appellant himself being unsure of the facts of the present case.

25. With reference to the contents of paras 3.16 and 3.17 of the appeal memo, the same does not concern the Respondent No.2 and as such would not warrant comments from the instant Respondent No.2.

26. With reference to the contents of paras 3.18 of the appeal memo, the same does not concern the Respondent No.2 and as such would not warrant comments from the instant Respondent No.2.

27. With reference to the contents of paras 3.19 and 3.20 of the appeal memo, the same are denied. It is specifically denied that ab-initio any action was warranted from the Respondent No.1 in the present matter.

28. With reference to the contents of para 3.21 of the appeal memo, the same are denied. It is specifically denied that any transgressions were notice in the Site Inspection Report. It is submitted that the Site





Inspection Report was prepared without even serving a notice on the Respondent No.2 herein, and the same was prepared without taking into consideration the statutory permissions issued in favour of the Respondent No.2.

29. With reference to the contents of para 3.22 to 3.43 of the appeal memo, the same comprise to be factual statements about the hearings having been conducted before the Respondent No.1 / Goa Coastal Zone Management Authority and as such would not warrant comments from the Respondent No.2.

30. With reference to the contents of para 3.44 of the appeal memo, the same are denied. It is submitted that there would be nothing shocking about the complaint of the Appellant being tagged along with the complaint filed by one Lily Andrade, since both of the complaints were concerning the same subject matter.

31. With reference to the contents of para 3.45 of the appeal memo, the same are denied. It is submitted

that there would arise no occasion for the Appellant to have been made aware of the proceedings instituted on the file of the Respondent No.1 on the complaint filed by one Lily Andrade. It is submitted that it was only upon the said fact being brought to the knowledge of the Respondent No.1, the Respondent No.1 thought it to be necessary to club both the complaints together since both pertained to the same subject matter.

32. With reference to the contents of para 3.46 of the appeal memo, the same are denied. It is completely illogical to suggest that clubbing of both the proceedings had granted more time to the Respondent No.2 to allegedly delay the matter. It is specifically denied that the Respondent No.2 is allegedly prolonging his alleged illegal business of hotel rooms by taking advantage of the said clubbing. In fact the records of the present appeal would indicate that the Appellant himself has filed the present appeal belatedly beyond the statutory period





of limitation. The Appellant is therefore guilty of delaying the present matter.

33. With reference to the contents of paras 3.47 and 3.48 of the appeal memo, the same are denied for want of knowledge. It is submitted that the Respondent No.2 was never served in the said proceedings.

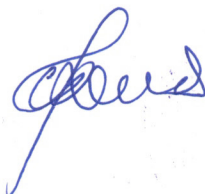
34. With reference to the contents of para 3.49 of the appeal memo, the same comprises to be a factual statement which would not warrant any comments from the instant Respondent No.2.

35. With reference to the contents of para 4 of the appeal memo, the same are denied. It is specifically denied that the Respondent No.1 had not confirmed the authenticity or veracity of the plan produced on record by the Respondent No.2. It is submitted that the Respondent No.1 has vide the Judgment and Order dated 24/10/2024 stated therein that the subject structure comprises to be a legal and authorized structure by placing specific reliance upon

the Permission dated 30/09/1994 issued by the G.S.C.C.E.

36. With reference to the contents of paras 5 and 6 of the appeal memo, the same are denied. It is specifically denied that the Respondent No.2 has not challenged the Judgment and Order dated 24/10/2024 passed by the Respondent No.1. It is submitted that the Appeal No.10/2025 (WZ) filed by the Respondent No.2 is pending adjudication before this Hon'ble Tribunal. It is specifically denied that the Respondent No.2 is carrying out any commercial activities through the subject structure.

37. With reference to the contents of paras 7 to 7.14 of the appeal memo, the same are denied. It is submitted that the present appeal is sought to be maintained on entirely arbitrary and flimsy grounds. It is submitted that no any case has been made out by the Appellant which would warrant consideration by this Hon'ble Tribunal.





38. With reference to the contents of paras 13, 13.1 to 13.4 of the appeal memo, the same are denied. It is submitted that the present appeal itself not being maintainable, the prayers cannot be granted by this Hon'ble Tribunal.

39. Nothing may be deemed to be admitted for want of specific denials.

40. I state that whatever has been stated in paras 1pt, 2, 3pt, 9pt, 15pt, 17, 18pt, 28pt, 31pt, 35pt and 36 of the affidavit-in-reply are true and correct to my knowledge and the submissions contained in paras 1pt, 3pt, 4 to 8, 9pt, 10 to 14, 15pt, 16, 18pt, 19 to 27, 28pt, 29, 30, 31pt, 32 to 34, 35pt and 37 to 39 of the affidavit-in-reply are legal submissions which I believe the same to be true and correct.

Solemnly affirmed at Panaji

on this 11th day of October 2025

Deponent



Solemnly affirmed before me by
 Shri/Smt. Agostinho Fernandes
 who has been identified by se
Padrao No. 312.434.899448
 whom I personally know.
 Reg. No. 2072 Dated 11/10/2025

Ravindra P. Pednekar
 Notary For Tiswadi Taluka
 State of Goa (India)