

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

APPEAL NO. 37/2023(WZ)

Trivesh Manohar Ajgaonkar.

...Appellant

V/s

State of Goa & Ors.

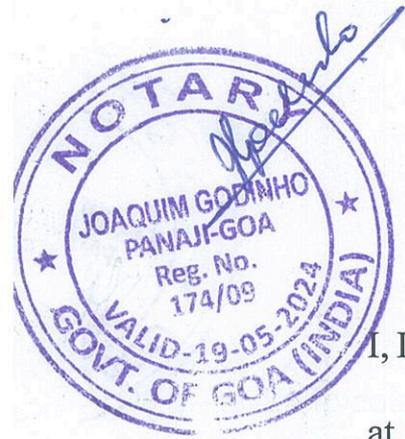
... Respondents

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**AFFIDAVIT IN REPLY ON BEHALF OF THE
RESPONDENT NO. 2.**

I, Dr. Shamila Monteiro, Indian National, major of age, having office at Saligao, Bardez, Goa, the Member Secretary of the Respondent No. 2 above named, do on solemn affirmation state and submit as under;

1. I say that I have read and understood the contents of the appeal memo. I say that I am filing this affidavit for the limited purpose of opposing the admission and grant of any interim reliefs as prayed for in the present Appeal/Application. I am not dealing with each and every averment made by the Appellant and I should not be deemed to have admitted any of the allegations, which are not specifically dealt in my affidavit in reply. I deny each and every allegation of the Appellant,



which is inconsistent with and contrary to whatever is stated by me hereinafter.

2. The present affidavit may only be considered as a preliminary affidavit in reply to bring on record certain material facts not disclosed by the Appellant herein and I crave leave to file a detailed affidavit in case this Hon'ble Tribunal permits.

3. Preliminary Objections:-

4. I submit that the Appellant is guilty of suppression of material facts which could have a direct bearing on the hearing in the present appeal.
5. It is submitted that the Appellant has not disclosed that the Impugned Order for sealing the premises has been passed pursuant to the directions of the Hon'ble High Court of Bombay at Goa in Public Interest Litigation No. 2853 of 2023(F) which has been now renumbered as Public Interest Litigation No. 1 of 2024. The Appellant is also a party respondent before the Hon'ble High Court and is arrayed as Respondent No. 19.



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6. It is further submitted that the matter involving the sealing of the Appellants premises, among other similar premises, is live before the Hon'ble High Court in the said PIL WP. No. 1/2024 and hence this Hon'ble Tribunal ought not to consider the same as a matter of judicial propriety to avoid a conflict of decisions.

7. It is stated that the above mentioned Public Interest Litigation came up for hearing before the Hon'ble High Court of Bombay at Goa on 13/12/2023. The Hon'ble High Court recorded the submission made on behalf of the Village Panchayat that the premises of the Appellant did not have any licences nor any occupancy certificate and that the demolition order issued by the Panchayat was stayed and that despite the demolition orders, commercial activities were being carried out in the said premises. The Hon'ble High Court thereafter directed that in case it is found that the premises were being operated without any consent from this Respondent then take action in accordance with law, including action for sealing the premises. A copy of the said Order dated 13/12/2023 is annexed hereto as Exhibit A.



[Handwritten signature]

8. Subsequently, the Respondent No.2 conducted a site inspection on 18/12/2023 of the Appellants premises and it was found that the unit was operating without valid Consent to Operate as required under the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981.

9. The Appellant was therefore directed to "Close/Suspend" operations of the unit until further orders.

10. I say that the PIL WP. No. 1/2024 was again heard by the Hon'ble High Court on 10/01/2024 along with a Misc. Civil Application No. 68/2024(F) which was filed by one of the individuals whose premises were also directed to be closed by this Respondent. The Appellant was also a party to the said Misc. Civil Application.

11. It is stated that the Hon'ble High Court in its Order dated 10/01/2024 has directed that;

"5. After obtaining all necessary permissions like occupancy certificate, consent to operate, etc. liberty is granted to the Respondents to seek orders for desealing and occupation of the premises. However, it is clarified that until all



✓

clearances are in place, there is no question of resealing of the premises. Without any occupancy certificates or consents to operate, where the law requires such consents, none of the Respondents can occupy or carry out any activities from the premises. Accordingly, leave of this Court must be sought before the sealed premises are unsealed or occupied for any purposes."



Copies of the Orders dated 10/01/2024 passed in PIL WP No. 1/2024 and Misc. Civil Application No. 68/2024(F) are annexed hereto as **Exhibit B Colly**.

12. The matter had once again come up before the Hon'ble High Court on 31/01/2024 wherein the Village Panchayat has filed an affidavit before the Hon'ble High Court listing the Appellant's structure as being in violation. A copy of the said affidavit is annexed as **Exhibit C**.

13. I say that the Hon'ble High Court has thereafter granted time to the parties to file their affidavit and kept the matter for

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hearing on 06/02/2024. A copy of the said Order is annexed hereto as Exhibit D.

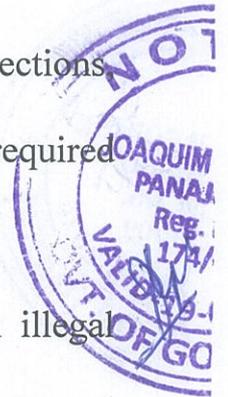
14. It is therefore submitted that in view of the matter being under the consideration of the Hon'ble High Court of Bombay at Goa, this Hon'ble Tribunal may be pleased to refrain from exercising the jurisdiction in the present appeal.

15. Without prejudice to the above preliminary objections it is stated that the appeal is without any merits and is required to be dismissed.

16. I submit that the Appellant's premises is an illegal structure, without any license or occupancy certificate and hence no consent to operate could be granted.

17. The Appellant had submitted his application for grant of Consent to Operate on 21/06/2023 for the operation of a restaurant with a 40 person seating capacity.

18. I say that this Respondent had raised a query on 12/10/2023 on the Appellant's application seeking clarification and directing the Appellant to furnish certain documents as regards the issue of CRZ and NOC from the Village Panchayat.



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19. It is therefore submitted that the issue of deemed consent would not arise as the application was processed and query was raised for action by the Appellant within a period of 4 months.

20. I further state that the Board has also received a letter from the Village Panchayat stating therein that the appeals filed by the Appellant as against the demolition orders passed by the Village Panchayat have been dismissed by the Additional Director of Panchayats.

21. I say that by our letter dated 29/01/2024, this Respondent has sought clarification from the office of the Village Panchayat as regards the issue of occupancy certificate issued by the Village Panchayat. A copy of the said letter is annexed hereto as Exhibit E.

22. Without prejudice to the above position that since the queries/clarifications were raised by the Board within 4 months and therefore no deemed consent can be presumed, it is submitted that even considering, without admitting, that the unit has deemed consent under the Water Act, there is no such provision under the Air Act which would entitle the Appellant to conduct his operations.



23. The Hon'ble High Court in its Order dated 10th of January, 2024 while dealing with the same issue, has clearly held that "*The principles of natural justice cannot be pressed only to continue with activities through premises that admittedly had no occupancy certificate or any consent to operate.*" It is therefore submitted that the ground taken by the appellant that his unit was closed without following principles of natural justice is also required to be rejected.

24. It is therefore submitted that there is no merit in the appeal and the same is required to be dismissed.

I say that what is stated by in the above paragraph nos. 1, 7, 17, 18, 20 and 21 is true to my knowledge and the contents of the remaining paragraphs are my legal submissions based on legal advice which I believe to be true. The annexures to this affidavit are the true copies of the originals.

Solemnly affirmed at Pangji, Goa

On this the 2nd day of February, 2024.


DEPONENT

Member Secretary
Goa State Pollution Control Board





SOLEMNLY AFFIRMED AND VERIFIED BEFORE ME
Dr. Shanula Monteiro

WHO IS IDENTIFIED BEFORE ME
BY AD.....

WHOM I KNOW *Personally known*
SERIAL NO. *10287* DATED *02/02/2024*

VALID UPTO 19-05-2024

JOAQUIM GODINHO-NOTARY-PANAJI-GOA

Shanula Monteiro
02/02/2024

JOAQUIM GODINHO
 B. Com., LL.B
 Advocate High Court
 & Notary
 Navelkar Trade Centre
 C/S-3, 2nd Floor, M.G. Road,
 Panjim-Goa. Ph.: 2422113



Jose

IN THE HIGH COURT OF BOMBAY AT GOA

P.I.L. WRIT PETITION NO.2853 OF 2023 (F)

SUDESH MAYEKAR AND ANR.

... Petitioners

Versus

STATE OF GOA THR

CHIEF SECRETARY AND 27 ORS.

... Respondents

Mr Rohit Bras de Sa with Mr Joel Pinto, Advocates *for the Petitioners.*

Mr D. Pangam, Advocate General with Mr Shubham Priolkar, Additional Government Advocate *for Respondent Nos.1 to 6, 8, 9, 11, 12, 13, 14 and 15.*

Mr P.A. Kamat, Advocate *for Respondent No.7.*

Mr Pavithran A.V., Advocate *for Respondent No.10.*

**CORAM: M.S. SONAK &
VALMIKI SA MENEZES, JJ.**

DATED: 13th December 2023

P.C.:

1. Issue notice to the Respondents returnable on 08.01.2024. Mr Priolkar, Mr Kamat, and Mr Pavithran waived service.
2. In addition to the usual mode of service, private service/humdist is allowed. Petitioner to file an affidavit of service.
3. The Petitioner's complaint is that Respondent Nos.16 to 28 are undertaking commercial activities through structures/buildings which have no licences or occupancy certificates.

4. Mr Pranay Kamat, learned Counsel for the Panchayat, states that the following establishments have neither any licences nor any occupancy certificates.

- i. Mehfil Gajanan Singh alias Chotu
- ii. Devils Club Vipin Singh/Dev Yadav
- iii. Three Kings Narayan Nirlikar
- iv. Club Tao Sunny Pandey
- v. Posh Nosh Sunil Bhomkar
- vi. Chawla Dilliwalla Ravikant Yadav
- vii. Black Heart Deepak Kumar

5. Accordingly, he points out that the Panchayat has already issued demolition notices. Mr Kamat states that the above seven parties have obtained interim orders from the Additional Director of Panchayats. He says that for the past year, no effective hearings have taken place before the Additional Director because the post of Additional Director is not filled in or is vacant. He pointed out that because of the interim orders, the demolitions could not be carried out, and the parties continued with their commercial activities through the said illegal structures.

6. Mr Kamat states that insofar as the establishment of "Plantain Leaf" operated by Respondent No.28 is concerned, the show cause notice is issued by the Panchayat and Mr Pranay Kamat states that the same will be disposed of within one month. Mr Pranay Kamat states that show cause notices in respect of Norms Pub, 39 Steps, Codda and Shield/Next will be issued within one week from today and the same will also be disposed of within one month from the receipt of response.

7. The learned Advocate General also states that in most cases, no permissions or occupancy certificates are obtained. He submits that undertaking commercial activities through structures which have neither any licences nor occupancy certificates is not permissible.

8. In such matters, the Additional Director of Panchayats or the Director of Panchayats, before granting interim orders, are duty-bound to ascertain whether the Appellants have any permissions from the competent authorities. Based on interim orders which are almost routinely granted without issuing any reasons, the parties cannot be allowed to continue with commercial activities through structures which have neither any licences nor any occupancy certificates.

9. Mr de Sa points out that these commercial activities involve participation by several members of the public. Without any permissions or occupancy certificates, we are not aware of whether any fire safety requirements have been complied with or not. Mr de Sa asserts that such requirements have not at all been complied with.

10. Accordingly, we direct the Director of Panchayats, in case no Additional Director of Panchayats is available, to dispose of the appeals instituted by the parties referred to in paragraph 4 above as expeditiously as possible and in any case by 05.01.2024. We request Mr Priolkar to place a copy of this order before the Director of Panchayats for necessary compliance.

11. Mr Pavithran learned Counsel for the GSPCB, states that the GSPCB officials will inspect the establishments operated by Respondent

Nos.16 to 28 within a week from today. In case it is found that consent to operate is necessary and the same has not been obtained, then the GSPCB will act in accordance with the law, including action for sealing the premises. This statement is accepted, and the GSPCB officials must act accordingly.

12. Considering the allegations in the petition that five of the structures have been put up in areas which would be affected by the CRZ notification, we permit the Petitioner to implead the Goa Coastal Zone Management Authority as Respondent No.29 in the petition. Amendment to be carried out forthwith. Mr Priolkar accepts and waives service on behalf of the GCZMA.

13. Mr Rohit Bras de Sa states that the objections will be cleared within two days from today without fail.

14. Stand over to 08.01.2024. All concerned to act on an authenticated copy of this order.

VALMIKI SA MENEZES, J.

M.S. SONAK, J.

JOSE
FRANCISCO
DSOUZA
Digitally signed by Jose Francisco Dsouza
DN: cn=Jose Francisco Dsouza, o=JFD, ou=JFD, email=jfd@jfd.com

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EXHIBIT 'B' Colly
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IN THE HIGH COURT OF BOMBAY AT GOA
MISC. CIVIL APPLICATION NO. 68 OF 2024 (Filing No.)
IN
PIL WRIT PETITION NO.1 OF 2024

ANTHONY F. DSOUZA

... Applicant

Versus

SUDESH MAYEKAR AND ANR.

... Respondents

Mr J. E. Coelho Pereira, Senior Advocate with Mr Pancham Phadte, Advocate for the Applicant.

Mr Rohit Bras De Sa, Mr P. Naik, Mr J. Pinto and Ms N. Dias, Advocates for the Respondents/original Petitioners.

Mr D. Pangam, Advocate General with Ms Maria Correia, Additional Government Advocate for Respondent Nos. 1 to 6, 8, 9, 11, 12, 13, 14 and 15.

Mr P. A. Kamat, Advocate for Respondent No.7.

Mr Pavithran A. V., Mr Prasad Kholkar and Mr Pranav Sankhalkar, Advocates for Respondent No.10.

Mr S. D. Lotlikar, Senior Advocate with Mr Sarvesh Sawant, Advocate for Respondent No.16.

Mr Kapil Kerkar, Advocate for Respondent No.18.

Mr S. R. Adelkar, Advocate for Respondent Nos. 19 and 24.

Mr Y. V. Nadkarni with Mr Nilay Naik, Advocates for Respondent No.21.

Mr Shirin Naik, Advocate for Respondent No.22.

Mr Nigel Da Costa Frias and Ms S. Nishad, Advocates for Respondent No.23.

Mr Vinod Korgaonkar, Advocate for Respondent No.25.

Mr Parag Rao with Ms S. Drago and Mr Akhil Parrikar, Advocates for Respondent No.26.

Mr Nikhil Pai, Advocate for Respondent No.28.

CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
M. S. SONAK, J

DATED : 10th JANUARY 2024

P.C.

1. Heard the learned counsel for the parties.
2. This Misc. Civil Application is instituted by the Applicant Anthony F. Dsouza, who was impleaded as Respondent No.17 in the main petition, i.e. PILWP No. 1 of 2024. By this Misc. Civil Application, the Applicant seeks the removal of seals put up on the premises through which it was alleged that the Applicant was undertaking commercial activities, *inter alia*, without obtaining any occupancy certificate from the Panchayat and consent to operate from the Goa State Pollution Control Board (GSPCB).
3. Mr Pereira, learned Senior Advocate for the Applicant, submits that the GSPCB followed no principles of natural justice before sealing the premises. He submitted that the Applicant was not carrying out any activities from the premises, and, further, the Applicant has no intention of carrying out any activities from the premises without obtaining all permissions, N.O.Cs, consent, etc., from the authorities. Mr Pereira, on instructions, submitted that if the seals are ordered to be removed, the Applicant will himself put a lock to the premises, refrain from occupying the premises, or carry out any activities from the same. He submitted that the lock would be removed and activities carried out.

only after all permissions, like occupancy certificate, consent to operate, etc., are obtained by the Applicant.

4. The main writ petition alleges that Respondent Nos. 16 to 28 were undertaking commercial activities through the premises without permission from the authorities like Panchayat and GSPCB. Therefore, by order dated 13.12.2023, a statement on behalf of the GSPCB that its officials would inspect the establishments operated by Respondent Nos. 16 to 28 was recorded. Further, the statement was made by the GSPCB that in case it was found that consent to operate was necessary but was not obtained, the GSPCB would act in accordance with the law and take appropriate action, including an action for sealing the premises. This statement was accepted, and the GSPCB officials were directed to act accordingly.

5. Admittedly, the Applicant's premises neither have any occupancy certificate nor any consent to operate from the GSPCB. Mr Pereira did not even contest this position. The principles of natural justice cannot be pressed only to continue with activities through premises that admittedly had no occupancy certificate or any consent to operate.

6. Mr Pereira, however, submitted that necessary applications had been made for obtaining occupancy and consent to operate. If such applications are made, then the authorities must dispose of such applications expeditiously. However, until all permissions like occupancy and consent to operate are not placed, there is no question

of Applicant either occupying premises or undertaking any commercial activities therefrom.

7. Only because the Applicant has undertaken to put his own lock on the premises and, further, not to occupy the premises or carry out any activities therefrom, the GSPCB may remove its seals. At the time of removal of the seals, however, the GSPCB should ensure that the Applicant locks the said premises in the presence of GSPCB's officials. The GSPCB's officials and the Applicant are to mutually decide on a suitable date and time for carrying out this exercise. For this, the Applicant must approach the GSPCB. The statements made on behalf of the Applicant are accepted as undertakings to this Court, except that the Court's leave must be obtained before the lock is removed and any activity is undertaken from the premises.

8. After the Applicant obtains all permissions from all authorities, including but not restricted to consent to operate from the GSPCB and the occupancy certificate from the Panchayat, liberty is granted to the Applicant to apply to this Court for discharge of undertaking. The Applicant shall not, without the leave of this Court, either occupy the premises or carry out any activities therefrom.

9. If the Applicant applies to any of the authorities for permissions, consent, occupancy certificate, etc., such authorities must dispose of such applications expeditiously.

10. The Misc. Civil Application, No. 68 of 2024 (F), is disposed of in the above terms. A copy of this order must be placed in the file of the main Writ Petition.

M. S. SONAK, J

CHIEF JUSTICE

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IN THE HIGH COURT OF BOMBAY AT GOA

PIL WRIT PETITION NO.1 OF 2024

SUDESH MAYEKAR AND ANR.

... Petitioners

*Versus*STATE OF GOA THR CHIEF
SECRETARY AND ORS.

... Respondents

Mr Rohit Bras De Sa, Mr P. Naik, Mr J. Pinto and Ms N. Dias,
Advocates for the Petitioners.Mr D. Pangam, Advocate General with Ms Maria Correia; Additional
Government Advocate for Respondent Nos. 1 to 6, 8, 9, 11, 12, 13, 14
and 15.

Mr P. A. Kamat, Advocate for Respondent No.7.

Mr Pavithran A. V., Mr Prasad Kholkar and Mr Pranav Sankhalkar,
Advocates for Respondent No.10.Mr S. D. Lotlikar, Senior Advocate with Mr Sarvesh Sawant, Advocate
for Respondent No.16.Mr J. E. Coelho Pereira, Senior Advocate with Mr Pancham Phadte,
Advocate for Respondent No.17.

Mr Kapil Kerkar, Advocate for Respondent No.18.

Mr S. R. Adelkar, Advocate for Respondent Nos. 19 and 24.

Mr Y. V. Nadkarni with Mr Nilay Naik, Advocates for Respondent
No.21.

Mr Shirin Naik, Advocate for Respondent No.22.

Mr Nigel Da Costa Frias and Ms S. Nishad, Advocates for Respondent
No.23.

Mr Vinod Korgaonkar, Advocate for Respondent No.25.

Mr Parag Rao with Ms S. Drago and Mr Akhil Parrikar, Advocates for
Respondent No.26.

Mr Nikhil Pai, Advocate for Respondent No.28.

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
M. S. SONAK, J**

DATED : 10th JANUARY 2024

P.C.

1. Heard the learned counsel for the parties.
2. By a separate order, we have disposed of Misc. Civil Application No.68 of 2024 (F) filed by Respondent No.17 herein. The learned counsel for Respondent Nos. 16, 19, 22, 23, 24 and 25 submitted that their premises had been sealed for want of consent to operate from the Goa State Pollution Control Board (GSPCB). They submitted that these Respondents have already applied to the GSPCB for consent to operate without prejudice to their rights and contentions. They submitted that some directions may be issued to the GSPCB to dispose of such applications in accordance with law expeditiously.
3. The request made is reasonable, and accordingly, the GSPCB is directed to dispose of the applications seeking consent to operate in accordance with law expeditiously. The Applicants must also cooperate with the GSPCB by submitting all requisite documents and other compliances as may be necessary.
4. Similarly, such of the Respondents who do not have occupancy certificates or other N.O.Cs, permissions, and certificates necessary to occupy the premises and undertake any activities therefrom are granted

liberty to apply to the appropriate authorities for such permissions, N.O.Cs etc. If such applications are made, such authorities must dispose of the same in accordance with law and on their own merits expeditiously.

5. After obtaining all necessary permissions like occupancy certificate, consent to operate, etc., liberty is granted to the Respondents to seek orders for the desealing and occupation of the premises. However, it is clarified that until all clearances are in place, there is no question of desealing of the premises. Without any occupancy certificates or consents to operate, where the law requires such consents, none of the Respondents can occupy or carry out any activities from the premises. Accordingly, leave of this Court must be sought before the sealed premises are unsealed or occupied or used for any purposes.

6. Mr Nadkarni, on behalf of some of the Respondents, submitted that some of the premises have not been sealed because such premises have all necessary permissions. He submitted that affidavits would be filed within two weeks, and these Respondents would urge that they may be dropped as parties to these proceedings.

7. Liberty is granted to all the Respondents to file their affidavits within two weeks from today by giving an advance copy to the learned counsel for the Petitioners. Respondent Nos. 7 and 10 must also file affidavits within two weeks about the status of compliance with directions contained in our order dated 13.12.2023. The Petitioners are

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granted two weeks' time to file a rejoinder if the same is found to be necessary.

8. The petition is now posted for further consideration on 12.02.2024.

M. S. SONAK, J

CHIEF JUSTICE

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**IN THE HIGH COURT OF BOMBAY AT
GOA
AT PORVORIM GOA**

PIL Writ petition No. 1 of 2024

Sudesh Mayenkar Petitioner

V/s

State of Goa and Ors Respondents

**AFFIDAVIT OF RESPONDENT
NO. 7 VILLAGE PANCHAYAT
CALANGUTE**

I, Shri. Arjun Velip, aged 47 years, Secretary of the
Village Panchayat of Calangute - Bardez, having its
Office at Calangute, Bardez, Goa, the Respondent

Red
at 11.45 am
3/10/2024
in open court

no. 7 herein do hereby solemnly affirm on oath state as under:

1. I say that this Honorable Court by order dated 10/5/2024 had directed to file affidavit in relation to action taken by the panchayat.
2. I say that panchayat has issued order of demolition of structures and revocation of license to 10 parties and decision in respect of show cause notices issued to 3 parties is pending.

The chart of the same is as under:-

Sr. No	Name of Operator	Survey no. Owner Name	Appeal No.	Civil Revision Application pending
1.	Mehfil Gajanan Singh alias Chotu	177/8 Nasim Parvaiz Jafrani	PA no. 299 /2023	CRA No. 4/2024 next date 02/02/2024

2.	Devils Club Vipin Singh/Dev Yadav	196/11 Trivesh Azgaonkar (Casa Ventures)	PA no.302/2023	CRA 6/2024 next date 3/2/2024
3.	Three Kings Narayan Nirlikar	209/10 Vijay Shetty	PA no. 305/2023 PA no. 255/2022	CRA 7/2024 next date 3/2/2024
4.	Club Tao Sunny Pandey	240/1, Sunny Pandey	PA no. 307/2023	CRA 5/2024 next date 31/1/2024
5.	Chawla Dilliwala Ravikant Yadav	124/4 Merwyn Alvares	PA no. 301/2023 PA no. 259/2023	CRA 3/2024 next date 2/2/2024
6.	Black Heart Deepak Kumar	144/5 Deryl Thomas Dsouza	PA no. 315/2023	CRA 14/2024 next date 31/1/2024

7.	Posh Nosh Sunil Bhomkar	241/8, KK Suresh	PA no. 308/20 23. Appeal dismiss ed	
8.	Plantain Leaf Rest Adesh Krishna Rai	186/2F Joaquim Fernandes	PA No. 5/2024 is pending , Stay granted next date 15/02/2 024	
9.	39 steps Aldo D'Souza	242/3, 4, Raja Singh	PA No. 452/20 23,pend ing, Stay not granted next date 1/02/20 24	
10.	Shield/N ext Level Ravikant Yadav	167/3 Anthony F Dsouza	PA No. 37/202 4,pendi ng Stay granted	

			next date 19/2/20 24	
11.	Norms Pub Roshan Azavedo	243/2 Roshan Azavedo	Show Cause notice issued, pending for final decision	
12.	Tropical 24x7 Shriran S Giri	186/2B Naresh Gidwani	Show Cause notice issued, pending for final decision	
13.	Codda Urban Dsouza	186/2B Lizia Goes Proenca	Show Cause notice issued, pending for final decision	

3. I say that the panchayat appeals filed by parties at s. no. 1 to 7 has been rejected by the Additional Director of Panchayat and parties at sr. no. 1 to 6 have filed Civil Revision Application before the Hon'ble District Court in which interim stay has been granted on demolition of structures.
4. I say that appeal filed by party at serial no. 8 to 10 is pending before the Additional Director of Panchayat.
5. I say that the show cause notices issued to the parties at serial no. 11 to 13 along with filed reply filed by them will be placed before the panchayat to take decision and further action will be taken. I say that the requisition for demolition squad for demolition of the structures were made to the Block Development Officer on 10/1/2024. However due to stay granted by the District Court further action is pending.

6. I say that this Hon'ble Court had directed to file affidavit within two weeks by order dated 10/1/2024. However due to oversight the affidavit remained to be filed.
7. I tender my unconditional apology and this Hon'ble Court may be pleased to condone the delay in filing the affidavit.
8. I say that consent of paragraphs from 1 to 7 are based on records of the panchayat to which I have access.

Solemnly affirmed at Porvorim

On this 31st day of January 2024 Deponent

Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

MISC. CIVIL APPLICATION NO.56/2024

IN

PIL WRIT PETITION NO.1/2024

ROSHAN AZAVEDO

... APPLICANT

Versus

SUDESH MAYEKAR AND ANR.

... RESPONDENTS

Mr Sarvesh Sawant, Advocate *for the Applicant.*Mr Rohit Bras de Sa, Advocate *for the Original Petitioners/Respondents herein.*Mr D. Pangam, Advocate General with Mr N. Vernekar, Additional Government Advocate *for the State.*Mr P. A. Kamat, Advocate *for Respondent No.7.*Mr Pavithran A. V. with Mr P. Kholkar and Mr R. Sankhalkar, Advocates *for Respondent No.8.*Mr S. D. Lotlikar, Senior Advocate with Mr Sarvesh Sawant, Advocate *for Respondent No.16.*Mr B. Fernandes, Advocate *for Respondent No.17.*CORAM: M.S. SONAK &
VALMIKI SA MENEZES, JJ.DATE: 31st JANUARY 2024P.C.:

1. Mr Pavithran states that de-sealing of the premises of respondent no.17 would be carried out within two days. Mr B. Fernandes, learned counsel for respondent no.17 states that no sooner the de-sealing is done, the seventeenth respondent will put his locks on the premises and not

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IN THE HIGH COURT OF BOMBAY AT GOA

PIL WRIT PETITION NO.1 OF 2024

SUDESH MAYEKAR AND ANR.

... Petitioners

*Versus*STATE OF GOA THR CHIEF
SECRETARY AND ORS.

... Respondents

Mr Rohit Bras De Sa, Mr P. Naik, Mr J. Pinto and Ms N. Dias,
Advocates for the Petitioners.

Mr D. Pangam, Advocate General with Ms Maria Correia, Additional
Government Advocate for Respondent Nos. 1 to 6, 8, 9, 11, 12, 13, 14
and 15.

Mr P. A. Kamat, Advocate for Respondent No.7.

Mr Pavithran A. V., Mr Prasad Kholkar and Mr Pranav Sankhalkar,
Advocates for Respondent No.10.

Mr S. D. Lotlikar, Senior Advocate with Mr Sarvesh Sawant, Advocate
for Respondent No.16.

Mr J. E. Coelho Pereira, Senior Advocate with Mr Pancham Phadte,
Advocate for Respondent No.17.

Mr Kapil Kerkar, Advocate for Respondent No.18.

Mr S. R. Adelkar, Advocate for Respondent Nos. 19 and 24.

Mr Y. V. Nadkarni with Mr Nilay Naik, Advocates for Respondent
No.21.

Mr Shirin Naik, Advocate for Respondent No.22.

Mr Nigel Da Costa Frias and Ms S. Nishad, Advocates for Respondent
No.23.

Mr Vinod Korgaonkar, Advocate for Respondent No.25.

Mr Parag Rao with Ms S. Drago and Mr Akhil Parrikar, Advocates for
Respondent No.26.

Mr Nikhil Pai, Advocate for Respondent No.28.

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
M. S. SONAK, J**

DATED : 10th JANUARY 2024

P.C.

1. Heard the learned counsel for the parties.
2. By a separate order, we have disposed of Misc. Civil Application No.68 of 2024 (F) filed by Respondent No.17 herein. The learned counsel for Respondent Nos. 16, 19, 22, 23, 24 and 25 submitted that their premises had been sealed for want of consent to operate from the Goa State Pollution Control Board (GSPCB). They submitted that these Respondents have already applied to the GSPCB for consent to operate without prejudice to their rights and contentions. They submitted that some directions may be issued to the GSPCB to dispose of such applications in accordance with law expeditiously.
3. The request made is reasonable, and accordingly, the GSPCB is directed to dispose of the applications seeking consent to operate in accordance with law expeditiously. The Applicants must also cooperate with the GSPCB by submitting all requisite documents and other compliances as may be necessary.
4. Similarly, such of the Respondents who do not have occupancy certificates or other N.O.Cs, permissions, and certificates necessary to occupy the premises and undertake any activities therefrom are granted

liberty to apply to the appropriate authorities for such permissions, N.O.Cs etc. If such applications are made, such authorities must dispose of the same in accordance with law and on their own merits expeditiously.

5. After obtaining all necessary permissions like occupancy certificate, consent to operate, etc., liberty is granted to the Respondents to seek orders for the desealing and occupation of the premises. However, it is clarified that until all clearances are in place, there is no question of desealing of the premises. Without any occupancy certificates or consents to operate, where the law requires such consents, none of the Respondents can occupy or carry out any activities from the premises. Accordingly, leave of this Court must be sought before the sealed premises are unsealed or occupied or used for any purposes.

6. Mr Nadkarni, on behalf of some of the Respondents, submitted that some of the premises have not been sealed because such premises have all necessary permissions. He submitted that affidavits would be filed within two weeks, and these Respondents would urge that they may be dropped as parties to these proceedings.

7. Liberty is granted to all the Respondents to file their affidavits within two weeks from today by giving an advance copy to the learned counsel for the Petitioners. Respondent Nos. 7 and 10 must also file affidavits within two weeks about the status of compliance with directions contained in our order dated 13.12.2023. The Petitioners are

granted two weeks' time to file a rejoinder if the same is found to be necessary.

8. The petition is now posted for further consideration on 12.02.2024.

M. S. SONAK, J

CHIEF JUSTICE

TARI AMRUT NAGESH Digitally signed by TARI AMRUT NAGESH
Date: 2024.01.31 19:07:23 +05'30'

GOA STATE POLLUTION CONTROL BOARD

गोंय राज्य प्रदूषण नियंत्रण मंडळ

(An ISO 9001:2015, ISO 14001:2015, ISO 45001:2018 Certified Board)

Phone Nos : 0832- 2407700,
2407701, 2407703



Email Ids:
Chairman, GSPCB: chairman-gspcb.goa@nic.in
Member Secretary, GSPCB: ms-gspcb.goa@nic.in
Office: mail.gspcb@gov.in

No. 1/25/23-PCB/Tech/23618

Date: 29/01/2024

To
The Sarpanch /Secretary
Office of the Village Panchayat Calangute,
Calangute, Bardez, Goa, 403516

Sub: PIL WP No. 2853/2023 in the Honourable High Court (Sudesh Mayekar & Ors v/s State of Goa).

Ref: Your letter no. VP/Cal/F-74/23-24/5294 dated 09/01/2024

Sir,

With regards to your letter referred above, the Board was in receipt of applications from the following establishments seeking consent to operate of the Board along with the Occupancy certificate issued by your office:

1. Devils Club (Amani Baga) (Trivesh Azgaonkar)
2. Tropical 24 x 7 (Shivan Giri)

In view of the submission made by the applicants, you are kindly requested to clarify regarding the occupancy certificate issued by your office and whether their applications can be considered for grant of consent to operate.

You are requested to clarify immediately in view of the court matter.

Yours faithfully,

(Dr. Shamila Monteiro)
Member Secretary
Goa State Pollution Control Board

Copy to:

1. Devils Club (Amani Baga) (Trivesh Azgaonkar), Survey No. 196/11, Calangute, Bardez,

Goa...for information.

2. Tropical 24 x 7 (Shivan Giri), Nalkawado, Calangute, Bardez, Goa, 403516...for information

ISSUED