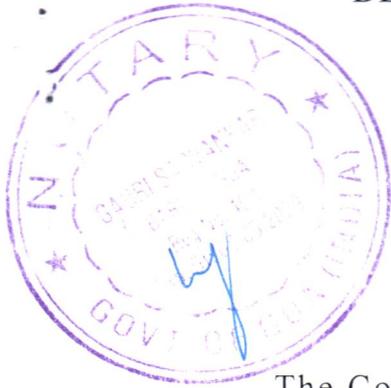


BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE AT PUNE



Appeal No. 06/2025(WZ)

The Colva Civic and Consumer Forum ...APPELLANT

Vs.

Goa Coastal Zone Management

Authority & Ors.

...RESPONDENTS

AFFIDAVIT IN REPLY ON BEHALF OF
RESPONDENT NO. 3

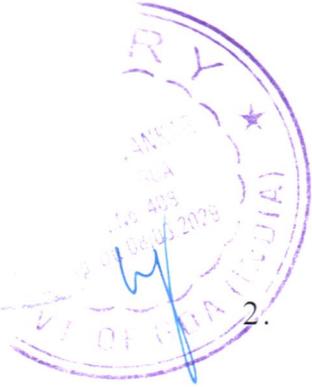
I, MS. GLORIA YELLOW MEHRA, D/o Kanwal Krishan Mehra, 51 years of age, Indian National, resident of Flat No. 401/C, Devashri Gardens, Porvorim, Bardez – Goa 403501, the authorized representative of Respondent No. 3 herein do hereby on solemn affirmation state as under:

PRELIMINARY OBJECTIONS

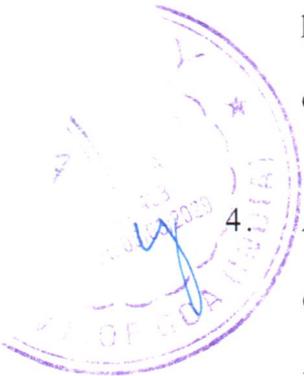
1. At the outset, I submit that the present Appeal is misconceived, devoid of merit, and constitutes an abuse of the process of law. It is liable to be dismissed in limine for want of jurisdiction and maintainability.

2. I deny all the allegations, contentions, and averments contained in the Appeal, which are contrary to the case set out by me. The statements made therein are baseless, unsubstantiated, and are denied in toto. The Appeal appears to be motivated and does not disclose any valid grounds for interference by this Hon'ble Tribunal. Anything which is not specifically denied shall not be deemed to be admitted. I deny the authenticity and veracity of the documents annexed herewith more particularly the ones which did not form part of the original proceedings. The same cannot be relied upon.

3. The Appellant has attempted to rely upon several documents and reports which were neither part of the original proceedings before the GCZMA nor made available to the Respondents at any stage. No leave has been sought or granted for introducing such documents in this Appeal. In



the absence of due compliance with procedural law, such documents cannot be entertained or relied upon in the present proceedings and must be avoided from consideration.



4. Appellant has not demonstrated any locus standi to challenge the NOC granted for a lawful, temporary, and regulated activity. There is no demonstrable injury or threat to the environment, and the appeal has been filed with the sole object of obstructing legitimate development. The Appellant has not approached this Hon'ble Tribunal with clean hands, having suppressed relevant facts and prior adjudications.

5. I say that the Permission (NOC) dated 18.10.2024 impugned in the present Appeal was issued pursuant to and in compliance with the directions issued under Section 5 of the Environment (Protection) Act, 1986 dated 16.10.2024. Said directions are final and binding and have not been challenged by the Appellant. In the absence of any challenge to the foundational directions under Section 5, the consequential permission/NOC dated 18.10.2024 cannot be



challenged collaterally through this Appeal. The Appeal is therefore not maintainable and is liable to be dismissed on this ground alone.

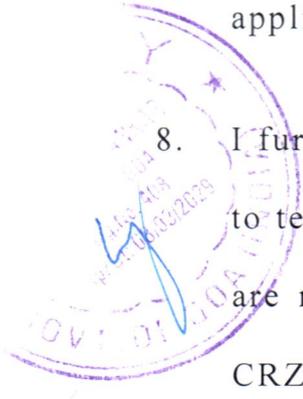


6. I deny the Appellant's allegation that the subject property bearing Survey No. 16/4 of Sernabatim Village comprises sand dunes. The said assertion is wholly baseless, unsupported by any contemporary or scientific evidence on record. The Hon'ble National Green Tribunal has, whilst relying on the NCSCM report in earlier proceedings, categorically held that the said property does not fall within the delineated area of sand dunes. The reliance on old and selectively quoted inspection reports is misleading and cannot override binding factual determinations made by this Hon'ble Tribunal in prior adjudication.

7. I say that the Goa Coastal Zone Management Authority (GCZMA), Respondent No. 1 herein, has issued the impugned NOC after careful and due consideration of the Beach Carrying Capacity Report, 2016. The allegation that the GCZMA misinterpreted or ignored the said report is incorrect. The subject area, being part of a continuous

Rajendra K. Jadhav

coastal stretch with demonstrable residual carrying capacity, was rightly considered suitable for erection of temporary eco-friendly structures in accordance with applicable regulatory norms.



8. I further submit that the permission granted pertains solely to temporary wooden cottages and related amenities, which are non-permanent in nature and fully compliant with the CRZ Notification, 2011, as amended. The construction is not on notified sand dunes or in any ecologically sensitive area and does not entail any irreversible change to the environment.

9. In light of the above, I respectfully pray that this Hon'ble Tribunal may be pleased to dismiss the Appeal with exemplary costs.

10. Without prejudice to the above, I say that the subject property was purchased by the Respondent No. 3 in the year 1996 from its predecessors in title. Prior to the purchase of the subject property, the boundaries of the subject property were demarcated on loco and fence was put up by the said predecessors of the Respondent No. 3. Considering the



possibility of illegal trespass by miscreants and/or destruction of the property by stray animals, the said fence was retained by the Respondent No. 3.

11. I say that on 21/07/2020, the Respondent No. 3 made an application to Respondent No. 1 for erection of temporary wooden cottages, shack/restaurant, toilet, kitchen, watchman shed and staff toilet in the subject property.

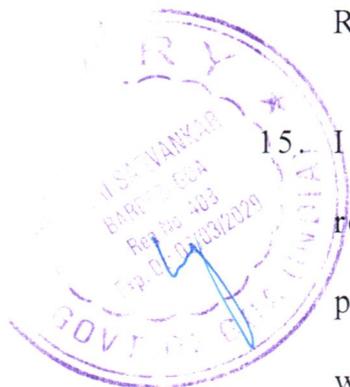
12. I say that thereafter the property was inspected by the expert members of the Respondent No. 1. Vide Permission/Approval dated 23/12/2020, the Respondent No. 1 was pleased to grant permission for erection of 10 temporary wooden cottages, 1 shack/restaurant, toilet, kitchen, watchman shed, and staff toilet in the property bearing Survey No. 16/4 of Sernabatim, Salcete – Goa. Annexed hereto and marked as **Annexure A-1** is the copy of the previous Permission dated 23/12/2020.

13. I say that in pursuance of the Permissions/Approval dated 23/12/2020 the Respondent No. 3 brought the material required for the proposed works into the subject property.



14. I say that it was in these circumstances and in order to undertake a fishing inquiry, the Appellant herein lodged a false and frivolous complaint dated 11/01/2021 before the Respondent No. 1 thereby attributing CRZ violations to the Respondent No. 3. Based on the said complaint, the Respondent No. 1 initiated proceedings against the Respondent No. 3.

15. I say that in the said proceedings, Respondent No. 3 filed a reply dated 22/01/2021 *inter alia* stating that the subject property was already fenced with concrete poles and barbed wire at the time of purchase of the property by the Respondent No. 3; that the Respondent replaced the barbed wire with honeycomb type mesh whilst repairing some of the existing concrete poles. It was stated that as the said property was already fenced with concrete poles and barbed wire, the Respondent did not deem it necessary to seek additional permissions whilst carrying out repairs in respect of the same. Respondent further stated that the Respondent intended to plant and grow a hedge on the boundary of the said property and is already in the process of setting up a bio-fence in order to protect it from stray animals and

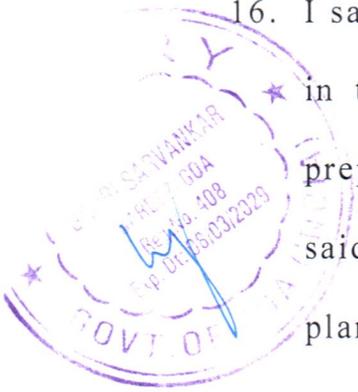


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unauthorized individuals. In such circumstances the Respondent undertook to remove the said existing poles as well as the newly repaired poles as soon as the bio-fence is set up. Annexed hereto and marked as **Annexure A-2** is copy of the Reply dated 22/01/2021.

16. I say that thereafter another site inspection was carried out in the subject property and report dated 02/02/2021 was prepared by the expert members of Respondent No. 1. In the said report, it was noted that red mud was stored for plantation purpose, water tank was installed, and that there was a bore well in the subject property. In the said report, the expert members recommended that all the unauthorized watchman shed, which was set-up without prior permission of the GCZMA, be removed, and the bore well be sealed. It bears mentioning that in the said report, there is absolutely no mention of existence of any sand dune in the subject property.

17. I say that pursuant to the inspection report dated 02/02/2021, the Respondent deemed it necessary to file an Additional Reply inter alia stating as under:



- (i) Respondent stated that Respondent had removed the temporary structure which was used as labour quarters. It was stated that the cement base was also demolished.
- (ii) Respondent stated that the toilet in the property was as per the approved plans and therefore the same was an authorized structure.
- (iii) It was stated that the Red mud which was brought for the purpose of plantation was not used and the same would be removed from the property.
- (iv) Respondent stated that it was already in the process of planting coconut trees and local beach vegetation as recommended by the expert committee.
- (v) It was further stated that the bore well was beyond 200 mts. NDZ line. Respondent disputed the inspection report to the extent that the bore well was held to be within 200 mts from the HTL. it was stated that the bore well was dug in pursuance of the approval dated Jan 1999 issued by the water Resources Department.
- (vi) The Respondent undertook to remove the concrete poles and fencing as soon as the bio-fence is set up.



Pradeep Kumar

Annexed hereto and marked as **Annexure A-3** is copy of the Additional Reply dated 18/02/2021.

18. I say that thereafter the Respondent No. 3, without prejudice to its rights and contentions, removed all the allegedly offending structures, and filed a compliance report dated 17/06/2021 whilst praying for an Order of discharge.

Annexed hereto and marked as **Annexure A-4** is copy of the compliance report dated 17/06/2021.

19. I further say that even though the bore well was beyond the NDZ, the Respondent No. 3 was directed by the Respondent No. 1 to install a hand pump or convert the same into open well. As neither of the options was feasible, the Respondent No. 3 decided to cap and seal the said bore well. The same has been certified vide Certificate for Closure of Well dated 25/05/2022 issued by the Water Resources Department. Annexed hereto and marked as **Annexure A-5** is copy of the Certificate for Closure of Well dated 25/05/2022 issued by the Water Resources Department.



20. I say that in such circumstances; the Respondent No. 1 was pleased to pass the Discharge Order dated 04/03/2022. Annexed hereto and marked as Annexure A-6 is copy of the Discharge Order dated 04/03/2022.

21. I say that the said Discharge Order dated 04/03/2022 was challenged in Appeal No. 13/2022(WZ) by the Appellant herein. Subsequently, the approval dated 23/12/2020 was also challenged in Appeal No. 21/2022(WZ) by the Appellant herein.

22. I say that by common Judgment and Order dated 28/09/2022 this Hon'ble NGT quashed and set aside the permission only on the limited ground that at the time of giving permission, GCZMA had not considered the Beach Carrying Capacity of Colva Beach as indicated in the beach carrying capacity report accepted by GCZMA. The permission was not set aside on any other count. In fact, the Hon'ble NGT has specifically observed that there is no sand dune in the subject property and in terms of the CRZ Notification, permission could be granted by the GCZMA in the said property. In the said Order Respondent No.3 was given



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liberty to approach GCZMA again for raising of temporary huts and it was further observed that in such a case the application shall be considered in light of the Beach Carrying Capacity on the date of its consideration.

23. In terms of the observation made by the Hon'ble NGT and in pursuance to the liberty granted by the Hon'ble NGT, Respondent No. 3 made an application for approval of 10 Wooden Cottages, 1 Shack/Restaurant, toilet, kitchen, watchman shed, staff toilet reception and 1 restaurant in Survey No. 16/4 of village Sernabatim, Salcete – Goa on the same terms as sought for in the previous approval.

24. The limited issue for consideration before the Respondent No.1 was whether the proposed construction is within the Beach Carrying Capacity of Village Sernabatim at the date of the application, and based on the same GCZMA can consider grant of approval.

25. As confirmed by the Hon'ble NGT, there is no sand dune in the subject property. Therefore, there is no impediment in the grant of permission for erection of temporary structures. The subject property falls within the CRZ-III area and the



Rajal Kulkarni

same is entitled to be used for erection of temporary structures.

26. The CRZ Notification, 2011 also makes a special provision for State of Goa, considering its topography and the demography. The tourism industry is one of the major industries in the State of Goa wherein tourists from all over the world travel to Goa throughout the year thereby maintaining a constant cashflow of revenue to the State of Goa.



27. The subject property admeasures 12,271 sq.mts. In terms of the applicable regulations, the permissible FAR is 33% which is about 4049.43 sq.mts. of built-up area which can be approved by this Authority. However, the area proposed by the Respondent No.3 is 1080.80 sq.mts which is about 9.95% coverage; the same is significantly lower than the permissible limits.

28. The project proposed in the property is a hospitality and tourism project to provide for quaint and peaceful experience to the visitors which shall not in any manner

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disturb the coastal ecology. In fact, the built-up area is kept significantly lower than the permissible limits to ensure that there is no interference with the coastal ecology whilst providing the best experience to the visitors.

29. Furthermore, the beach stretch of Sernabatim and the surrounding areas experience relatively less footfall, even during the peak seasons. Even the permanent population of the Village of Sernabatim is lesser than other villages in the coastal belt in Goa. Therefore, the question of overcrowding of the beach is extremely remote.



30. In view of the above the appeal is liable to be dismissed with cost.

31. I say that the contents of paragraphs 1pt, 2pt, 3pt, 4pt, 5pt, 6pt, 7pt, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18,19, 20, 21, 22pt, 23, 26, 27pt, 28 and 29 of the above affidavit are true and correct to my knowledge and/or based on records available with the company; and the contents of paragraphs 1pt, 2pt, 3pt, 4pt, 5pt, 6pt, 7pt, 9, 22pt, 24, 25 and 27 are legal submissions which I believe to be true.

Redacted

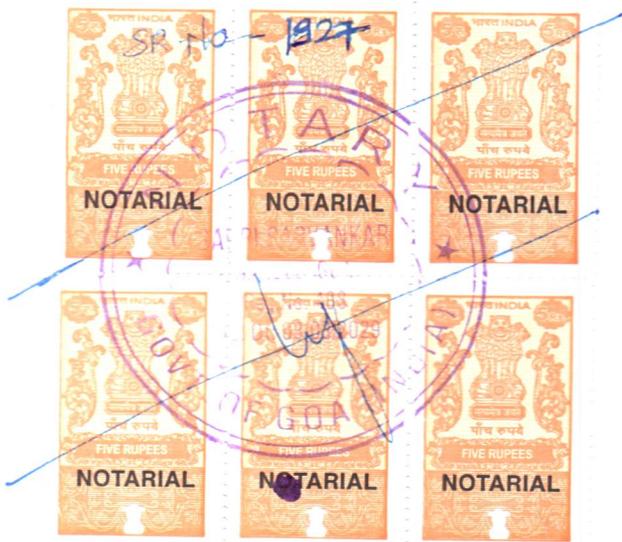
Solemnly affirmed at Mapusa – Goa

Bardez On this 31th day of May, 2025

[Signature]
DEPONENT



[Signature]
GAURI SARVANKAR
NOTARY FOR BARDEZ TALUKA
STATE OF GOA (INDIA)



I hereby attest the signature/ H.T.I. of Shri /Smt./Miss. Gilaxia Yellow Mehera.
R/o - H.No - 280, Kamal Retreat, Bardez Vaddo, Candolim, North Goa, Goa - 403515.
who has been identified before me by Aadhavan Card No - 771690289210
..... ~~who is personally known to me~~
registered under No. 1927/2025 dtd - 31/05/2025

SWORN BEFORE ME

[Signature]
GAURI SARVANKAR
NOTARY FOR BARDEZ TALUKA
STATE OF GOA (INDIA)

INFORMATION ISSUED UNDER RTI ACT 2005
GOA COASTAL ZONE MANAGEMENT AUTHORITY

C/o Department of Science, Technology & Environment, (Govt. of Goa)
 1st Floor, Pandit Deendayal Upadhyay Bhavan, Pundalik Nagar, Porvorim-Goa.
 Email: dir-ste.goa@nic.in, goacoastal zone @ gmail.com.

Ref. No. GCZMA/S/Shack-Hut-Cott-Tent/19-20/81/14/8

Dated: 23/12/2020

To,
 M/s. Hermitage Builders Pvt.Ltd,
 Praya beach resort,
 Sernabatim Beach Road,
 Ambeaxir, Salcete - Goa.

Sub: Permission/Approval for erection of temporary 10 wooden cottages, 1 shack/restaurant, toilet, kitchen, watchman shed, staff-toilet in the property bearing Survey No 16/4 of Sernabatim, Salcete-Goa in terms of CRZ Notification, 2011 as amended.

Ref: 1. Your application no. nil dated 21/07/2020.
 2. CRZ Notification, 2011 as amended from time to time.

With reference to your application on the above mentioned subject, it is hereby conveyed that the Goa Coastal Zone Management Authority (herein after referred to as 'the GCZMA', in short) has examined your proposal in its 239th GCZMA Meeting held on 10/12/2020 in accordance with the provisions of the clause 8 (v) (3) (iii) of CRZ Notification 2011 (as amended from time to time) for CRZ of Goa issued by the Ministry of Environment, Forests & Climate Change, Government of India. Accordingly, after detailed deliberation and discussion, the authority decided to grant approval for erection of temporary 10 wooden cottages, 1 shack/restaurant, toilet, kitchen, watchman shed, staff-toilet of wood and/or natural/biodegradable material only in the property bearing Survey No 16/4 of Sernabatim, Salcete, Goa for a total built up area of 1080.80 sq.mtrs subject to the conditions as specified in the Beach Carrying Capacity Report and further compliance of following conditions:-

1. The provisions of the CRZ Notification 2011, (as amended), should be strictly adhered to by you. No activity in contravention to the provisions of the CRZ Notifications shall be carried out.
2. The project proponent to adhere to the approved plan.
3. The eastern and western part of the property should not be disturbed.
4. The part of the property towards the North East opposite to the beach, has to be marked as preserved and maintained as NDZ.
5. Natural vegetation in the property bearing survey no. 16/4 of village Sernabatim to be left undisturbed.
6. The entry and exit to the huts, shack and beach to be provided to visitors without disturbing the dunes and the natural vegetation.
7. The applicant shall take all requisite environmental safeguard to ensure that there would not be any environmental degradation in this area.
8. The traditional access, right of way, easement shall not be blocked by the applicant.

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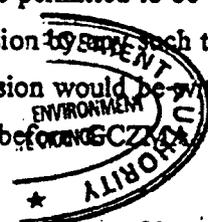
INFORMATION ISSUED UNDER RTI ACT, 2005

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8. The proposed temporary seasonal structure should be made of wooden material and as per the recommendation of Beach Carrying Capacity report. No cement / concrete should be used for flooring. No structure of permanent nature shall be erected/constructed.
10. In the event of any change in the project profile, a fresh reference shall be made to the GCZMA.
11. The GCZMA may stipulate any additional conditions subsequently if deemed necessary, for environmental protection which shall be complied with.
12. The office of the GCZMA reserves the right to revoke this recommendation / clearance without prior intimation of non compliance of any one or more of the aforesaid conditions.
13. You are required to obtain all the requisite permissions / licenses / NOC etc from the competent Authorities before actual operation of the said temporary structure/ enabling activities. This NOC is issued without prejudice to any other permission as required under the law including that of ownership of the property, property dispute, easement rights, court case etc. As such, prior to the erection and operation of the aforementioned 'temporary seasonal structures, it will be incumbent upon the applicant to obtain all the requisite permission / NOC / licenses etc from the Authorities / Departments for any other authority as required under the law including from the local authority, Goa State Pollution Control Board, Revenue Authority, Department of Tourism, etc.
14. Regular site inspections shall be carried by the team comprises of the Expert Members of the GCZMA and or other Authorities / Departments to ensure compliance of aforesaid condition. In case of any non compliance of the terms and conditions stipulated above, the action as deemed fit including that of demolition of structure, disconnection of Power / Water supply will be taken.
15. The said structures should be one meter above the ground on stilts of wooden poles wherever possible. However the ground clearance should not be more than 1.5 m.
16. The applicant will not transfer by any mode his premises to any other person.
17. This permission stands automatically revoked in case of any illegal/unlawful/immoral acts done by the applicant/proponent and or agent, lawful power of attorney holder, authorized person, any person acting for on behalf of the applicant/proponent in the said structures.
18. Further this approval also shall stand automatically revoked in case of any standing order of court of law/tribunal, arbitrator, quasi-Judicial Authority and suppressed by the applicant/proponent or otherwise.
19. All temporary structures shall maintain a standard buffer of a minimum of 3 m from adjacent huts/tents/cottages.
20. Appropriate use of renewable energy such as solar and wind energy to be used wherever possible.



21. Potable water requirement for domestic and tourist population has to be made available. The quality of water to be supplied should meet the national standard. Measures like rain water harvesting should also be encouraged to have access to clean and potable water.
22. Separate bins for different types of solid wastes(source segregation of solid wastes biodegradable and non bio-degradable) shall be provided by the operator. It will be the responsibility of the plot owner to dispose the waste generated from their plots to the respective bins. The Municipality/Village Panchayat or the contractor appointed by the Department of Tourism, as the case may be, shall collect waste from time to time and hand over the non- biodegradable waste to the Goa Waste Management Corporation. Solid waste to be transported to the solid Waste Management Facility at Calangute by the Village Panchayats in North Goa whereas in South Goa it will be responsibility of the owner/authorized representative to dispose the same by composting/biogas plant or to transport to the piggeries for the biodegradable waste.
23. In case the property on which these structures are permitted to be erected has several title holders any dispute/objection to this permission by any such title holder/holders, this permission shall stand revoked. This permission would be withdrawn in case an objection from owners regarding lease is filed before GCZMA. No hearing in the matter shall be allowed.
24. The validity of this permission is for 5 years from the date of issue or period of lease whichever is earlier. This permission should abide by the Notification dated 3rd May 2017 S.O 1393(E) issued by Ministry of Environment, Forests and Climate Change.
25. The applicant has to pay annual fee of Rs. 10000/- for shack and Rs. 10000/- for huts to GCZMA at the beginning of the tourist season month of October every year during the validity of this NOC. The fee may be revised by GCZMA.
26. All the structures shall be of ground floor in nature.
27. For private plots abutting the beach, a minimum set back of 3 mts from the survey boundary shall be kept by the applicant.
28. You should not barricade the proposed site.
29. In case of lease, the permission is conditional on the period of lease only and on the consent of the land owner.
30. All the other conditions as mentioned in Beach Carrying Capacity report w.r.t. FAR, construction material, spacing between huts, consent to establish from SPCB etc. shall have to be followed by the applicant.
31. This permission is liable to be revoked, if it is found, at any stage, that the application contained false information / wrong plans / calculations / documents / misleading or false information, etc. or documents not submitted as called for in this application.



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32. Any appeal against this provisional permission shall lie with the Hon'ble National Green Tribunal, if preferred within 30 days as prescribed under section 16 of the National Green Tribunal Act, 2010.

Yours faithfully,



(Dasharath M. Redkar)

Member Secretary (GCZMA)

Encl: As above

Copy to:

1. P.A to Secretary (Environment) / Chairman (GCZMA), Secretariat, Porvorim.....for kind information.
2. The Chairman, District Level Committee, (South Goa) Collectorate building, Margao-Goa for kind information.
3. The Director, Department of Tourism, Government of Goa, Patto Panaji Goa.... for information and necessary action.
4. The Member Secretary, Goa State Pollution Control Board, Saligao, Goa..... for information and necessary action.
5. The Commissioner of Commercial Taxes, Vikrikar Bldg. M.G. Road, Panaji-Goa.... for information and necessary action.
6. The Dy. Collector & SDO, (Salcete), Margao- Goa.... for information
7. The Secretary, Village Panchayat of Sernabatim, Salcete Talukafor information and necessary action.
8. S.A to upload on website.


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Annexure A-2

BEFORE THE GOA COASTAL ZONE MANAGEMENT

AUTHORITY

Ref. No. GCZMA/S/ILLE-COMPL/20-21/46/1607

Colva Civic & Consumer Forum **...Complainant**

v.

M/S Hermitage Builders **...Respondent**

REPLY TO PERSONAL HEARING NOTICE

DATED 15/01/2021

MAY IT PLEASE YOUR HONOUR:

The Respondent states and submits as under:

- 1.The respondent is in receipt of Personal Hearing Notice dated 15/01/2016 which notice is issued on the basis of complaint filed by the complainants. Respondent states that the respondent has not received the copy of the complaint and therefore is unable to offer any specific comments on the same.
- 2.The respondent states that the said notice makes a reference to an allegedly

illegal fence put up by the respondent herein.

3. Respondent states that the said property was already fenced with concrete poles and barbed wire at the time of purchase of the property by the Respondent herein.

4. Respondent states that the respondent replaced the barbed wire with honeycomb type mesh whilst repairing some of the existing concrete poles. Respondent states that as the said property was already fenced with concrete poles and barbed wire, the Respondent did not deem it necessary to seek additional permissions whilst carrying out repairs to the same.

5. Respondent states that even otherwise, the respondent intends to plant and grow a hedge on the boundary of the said property and is already in the process of setting up a bio-fence in order to protect it from stray animals and unauthorized individuals.

6. Respondent states that the respondent shall remove the said existing poles as well as the newly repaired poles as soon as the bio-fence is set up.

7. It is therefore prayed that the complaints are dismissed and the notice is discharged.

Date: 22/01/2021

Place: Panaji - Goa

Respondent

Annexure A-3

BEFORE THE GOA COASTAL ZONE MANAGEMENT

AUTHORITY

Ref. No. GCZMA/S/ILLE-COMPL/20-21/46/1607

Colva Civic & Consumer Forum **...Complainant**

v.

M/S Hermitage Builders **...Respondent**

ADDITIONAL REPLY ON BEHALF OF
RESPONDENT

MAY IT PLEASE YOUR HONOUR:

The Respondent states and submits as under:

1. In pursuance to the inspection carried out on 01/02/2021, the Respondent seeks to file the present Additional Reply. Respondent disputes the inspection report to the extent that the same is inconsistent with the case put forth by the Respondent herein.
2. Respondent states that the Respondent has removed the temporary structure which was used as labour quarters. The

Respondent has also demolished the cement base of the said structure. Annexed herewith as **Annexure A** is the copy of the Photographs showing demolition of temporary structure.

3. Respondent states that the toilet in the property is as per the approved plans and therefore the same is an authorized structure.

4. Respondent states that the red mud which was brought for the purpose of plantation has not been used and the same shall be removed from the property.

5. Respondent states that Respondent is already in the process of planting coconut trees and local beach vegetation as recommended by the expert committee. Annexed hereto and marked as **Annexure B** is the copy of the photographs of the plantation being carried out.

6. Respondent states that as far as the bore well is concerned, the same is beyond 200 mts. NDZ line. Respondent disputes the inspection report to the

extent that the bore well is held to be within 200 mts from the HTL.

7. Respondent states that bore well is dug in pursuance to the approval dated Jan 1999 issued by the water Resources Department. Annexed hereto and marked as **Annexure C** is the copy of the WRD Permission.

8. Respondent states that so far as the concrete poles and fencing is concerned, the respondent shall remove the said existing poles as well as the newly repaired poles as soon as the bio-fence is set up.

9. Respondent therefore submits that there is no CRZ violation by the Respondent herein. In light of the above, this Respondent submits that the notice be withdrawn and the Respondent be discharged.

Date: 18/02/2021

Place: Panaji - Goa

Respondent

Annexure A-4

BEFORE THE GOA COASTAL ZONE MANAGEMENT

AUTHORITY

Ref. No. GCZMA/S/ILLE-COMPL/20-21/46/1607

Colva Civic & Consumer Forum **...Complainant**

v.

M/S Hermitage Builders **...Respondent**

COMPLIANCE REPORT ON BEHALF OF
RESPONDENT

MAY IT PLEASE YOUR HONOUR:

The Respondent states and submits as under:

1. In pursuance to the Directions of this Authority, the Respondent has, by way of abundant caution and without prejudice to its contentions, removed the allegedly illegal constructions.
2. Respondent states that the bore well is beyond 200 mts. NDZ line. The same was dug in pursuance to the approval dated Jan 1999 issued by the water Resources Department. However, the Respondent has

removed the concrete platform which was built around it. Annexed hereto and marked as **Annexure A(Colly)** are the photographs showing removal of bore well platform.

3. Respondent states that the Respondent has also demolished the water tank platform. Annexed hereto and marked as **Annexure B(Colly)** are the photographs showing removal of water tank platform.

4. Furthermore, Respondent states that the toilet has been dismantled and removed from the property. It bears mentioning that the toilet was authorized in terms of the approved plans. However, the same has now been removed, without prejudice to the contention of the Respondent. Annexed hereto and marked as **Annexure C(Colly)** are the photographs showing removal of the toilet.

5. Respondent states that the red mud which was brought for the purpose of plantation has been removed from the property.

6. Respondent states that Respondent has already planted coconut trees and local beach vegetation in the subject property, as recommended by the expert committee.

7. Respondent states that so far as the concrete poles and fencing is concerned, the respondent shall remove the said existing poles as well as the newly repaired poles as soon as the bio-fence is set up.

8. Respondent therefore submits that there is no CRZ violation by the Respondent herein. In light of the above, this Respondent submits that the notice be withdrawn and the Respondent be discharged.

Date: 17/06/2021

Place: Panaji - Goa

Respondent



GOVERNMENT OF GOA
OFFICE OF THE EXECUTIVE ENGINEER
WORKS DIVISION XIII
WATER RESOURCES DEPARTMENT

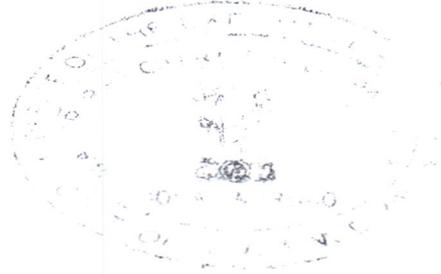
No : WRD/WD-XIII/ GR /F-1272022-2023/127

Dated :25/05/2022

CERTIFICATE FOR CLOSURE OF WELL

This is to certify that bore-well situated in scheduled area i.e. Sy.No. 16/4 in village Sernabatim, Salcete Taluka, Goa registered vide No: N480 in the name of M/s. Hermitage Builders Pvt. Ltd., Candolim - Goa has been capped, sealed and to be treated as closed w.e.f. 25/05/2022.

This certificate is issued to the applicant on his request.



[Signature]
25.05.22
Executive Engineer &
Ground Water Officer

To,
M/s Hermitage Builders Pvt. Ltd.,
H.No.280, Kamal Retreat,
Barman-Vaddo,
Candolim,
Goa - 403501.

Copy to :

The Assistant Engineer, SD-III, WD-XIII, WRD, Gogal, Margao - Goa for information.

Annexure A-6

GOA COASTAL ZONE MANAGEMENT AUTHORITY

C/o Department of Science, Technology and Environment (Govt. of Goa)

4th floor, Dempo Towers, PAtto, Panaji Goa.www.czma.goa.gov.in

Ref. No. GCZMA/S/ILLE-COMPL/20-21/46/2174

Date: 04/02/2022

03

DISCHARGE ORDER.

Sub: Directions to DISCHARGE the complaint with regards to illegal putting up of A-1 fencing in the property bearing Sy No. 16/4, 16/4A and 16/6A in Sernabatim Village by Hermitage Builders Pvt.Ltd.

- Ref.: (1) Email from Colva Civic and Consumer Forum. Dated 11/02/2021
 (2) Letter from Suvam Bandekar dated 11/01/2021

WHEREAS, the Office of the GCZMA has received complaint letter dated 11/01/2021 from Colva Civic and Consumer Forum and Letter from Suvam Bandekar dated 11/01/2021; with regard to the illegal putting up A-1 fencing of permanent nature using concrete in Sy No. 16/4, in Sernabatim Village, by Hermitage Builders Pvt. Ltd., in the NDZ area. Subsequently, on 11/01/2021 the Authority also received a letter from Suvam R. Bandekar enclosing photographs of some RCC poles erected with the cement concrete on the boundary of his property and the adjacent property bearing Sy No. 16/4 and 16/6. He states that he is the owner of the property bearing Sy No 16/4A and 16/6A but he is not the one who has erected the poles in the said survey numbers.

AND WHEREAS, the Authority issued a Notice of personal hearing bearing No GCZMA/S/ILLE-COMPL/20-21/46/1607 dated 14-15/01/2021; to the Violator M/s Hermitage Builders Pvt. Ltd, Praya Beach Resort Sernabatim Beach Road stating that, "from the complaints it has been brought to the notice of this Authority that you have violated the approvals granted by this Authority. The Authority hereby directs you to remove any permanent structure and not to cause harm to beach area and to use only the approved materials".

AND WHEREAS, the matter was posted for hearing on 21/01/2021 however the meeting was cancelled and postponed to 25/01/2021.

AND WHEREAS, in the 244th GCZMA meeting held on 25/01/2021. The proceedings of the present matter can be seen as follows: "The complainant remained present in person and stated that the Respondent is using the foreign material and

True Copy

erecting the cement pole fencing for which the Respondent is not given the permission. The Respondent had dumped the mud and using cement concreting to erect the fencing. The Complainant produced the photographs before this authority. Respondent representative present and informed that in order to protect the property being encroached and to stay from the menace of stray cattle she is doing the fencing to her property and stated that she will abide by the directions of this authority".

AND WHEREAS, the said matter was deliberated during 244th GCZMA meeting held on 25/01/2021 wherein, the Authority decided that, "The Authority asked the Expert Members to carry the site inspection and place the site inspection report before this authority before the next date of hearing fixed on 04/02/2021 at 3.30pm. The Authority warned the Respondent if violation is found on site then the penalty will be imposed".

AND WHEREAS, in the 246th GCZMA meeting held on 04/02/2021. The proceedings of the present matter can be seen as follows:-" Complainant Judith Almeida appeared in person. Ld advocate appeared for Respondent and filed the reply. Copy of the same is given to the complainant. The copy of the inspection report of the Expert members is also given to both the parties.

AND WHEREAS, the said matter was deliberated during 246th GCZMA meeting held on 04/02/2021 wherein, the Authority decided that, "The Authority directed both the parties to go through the expert members report and lead arguments. The matter is posted on 18/02/2021 at 3.30pm.

AND WHEREAS, in the 249th GCZMA Meeting held on 18/02/2021, The matter was adjourned as the Secretary Environment & CC and the Chairman CRZ had to leave to Delhi for official work and hence the matter was adjourned to 23/02/2021 at 3.30p.m

AND WHEREAS, in the 251st GCZMA meeting held on 25/02/2021. The proceedings of the present matter can be seen as follows:-" The Complainant remained present and filed the written statement and also objection to the inspection report dated 02/02/2021 of the Expert Members. The Ld Adv Shivan Desai for the Respondent present and filed the additional reply. The Expert Members brought to the notice that the Respondent had dug the concrete bore well and over head tank with RCC/concrete. The Respondent agreed of digging of well with the permission of WRD and said well is beyond 200mts. The Respondent agrees to remove the concrete structures of her own".

AND WHEREAS, the said matter was deliberated during 251st GCZMA meeting held on 25/02/2021 wherein, the Authority decided that, *"The Authority directed the Respondent to remove all the Concrete structures from the property and file the compliance report before this authority. The Matter is posted on 11/03/2021 at 3.30Pm.*

AND WHEREAS, in the GCZMA meeting to be held on 11/03/2021. The meeting was cancelled due to unavailability of Chairman (GCZMA) the same matters are posted on 25/03/2021 at 3.30p.m. The Matters listed for the hearing on 25/03/2021 at 3.30p.m was adjourned to 30/03/2021 at 3.30p.m. Further, on 30/03/2021 at 3.30p.m the matters were adjourned to 01/04/2021. The Matters listed for hearing on 01/04/2021 was cancelled and the Authority decided to issue fresh hearing notice to all the parties.

AND WHEREAS, in the 260th GCZMA meeting held on 10/06/2021. The proceedings of the present matter can be seen as follows:-*"Adv. Shivan Dessai appeared for respondent. Complainant did not appear. However, complainant sent email stating her unavailability to appear for the matter due to short notice".*

AND WHEREAS, the said matter was deliberated during 260th GCZMA meeting held on 10/06/2021 wherein, the Authority decided that, *"The Authority after taking note of the email from the complainant decided to postpone the matter to 17/06/2021 at 3.30 pm".*

AND WHEREAS, in the 261st GCZMA meeting held on 17/06/2021. The proceedings of the present matter can be seen as follows:-*" Advocate S. Dessai present on behalf of Respondent. Mrs. Judith Almeida present on behalf of Complainant. The Complainant submitted that in the present case a show cause notice has not be issued. It is contented that only a notice of personal hearing has been issued. The complainant submitted that issuance of show cause notice is legal requirement and forms basis of inquiry and in absence of SCN she is unable to file reply. A specific ground has also been raised by her in her written submissions. The advocate for respondent submitted that the said argument for issuance of show cause notice doesn't hold good and clock need not be set behind. The respondent stated that they have received a notice of personal hearing and hence before the authority. The Respondent submitted that they are not shying away from the authority and have carried out certain compliances to the recommendations of the authority. The*

respondent stated that they have filed a compliance report on their behalf and intend to modify positioning of temporary structures.

The complainant rejoined stating the compliances needs to be verified/checked. It was informed that new plan of temporary structures has been verified and found to be in order.

AND WHEREAS, the said matter was deliberated during 261st GCZMA meeting held on 17/06/2021 wherein, the Authority decided that, "The Authority after hearing the parties decided to post the matter for final hearing on 24/06/2021 at 3.30pm.

AND WHEREAS, in the 262nd GCZMA meeting held on 24/06/2021. The proceedings of the present matter can be seen as follows:-"The matter was called out through VC, Complainant Judith Almeida appeared in person, Adv Shivan Dessai appeared on behalf of the Respondent. The Complainant submitted that on 17/06/2021 the Respondent had filed their compliance report. That during the pendency of the hearing of the complaint on the same subject matter the Respondent has filed for revision of plan and the same has been approved by the Authority. The Complainant further submitted that the Respondent has dug the bore well on the sand dunes in NDZ and water is being pumped out using a water pump. Further the Complainant submits that the Respondent has dumped fresh mud in the No Development Zone (NDZ). The Advocate for the Respondent submitted that the mud has been brought for, the plantation purpose in the property which is permissible activity interms of CRZ Notification 2011. Further, Advocate for Respondent submits that the bore well was constructed with the permission from Water Resources Department (WRD) in the 1999 and same falls beyond No Development Zone. Advocate for Respondent also submitted that he has filed a detailed compliance interms of report of the Expert Member of GCZMA and has removed the violations. With regards fencing it was submitted by the Respondent that it is not removed as a measure only facilitate to bio fencing and the same to be removed once the bio fencing is stable. The Advocate for the Respondent prayed that the Respondent be discharged from the proceedings. The Complainant submitted that a fresh inspection has to be carried out to verify compliance. The Complainant submitted that a copy of the revised plan/permission must be provided to her. The Complainant reserved her right to file the reply once the fresh inspection is carried. The Borewell is illegal and will facilitate ingress of salt water and the water will be drawn using mechanical pump for commercial purposes which is prohibited.

AND WHEREAS, the said matter was deliberated during 262nd GCZMA meeting held on 24/06/2021 wherein, the Authority decided that, *"The Authority after hearing both parties decided to carry out fresh inspection with respect to new plan submitted and compliance to the observations made by Expert Members in their report dated 02/02/2021; and matter will be heard after issuing fresh hearing notice upon receipt of report."*

AND WHEREAS, in the 266th GCZMA meeting held on 22/07/2021. The proceedings of the present matter can be seen as follows:- *"Judith appeared in person through VC. Adv Shivan Desai appeared on behalf of Hermitage Builders through VC. The Respondent stated that he has complied with the directions of removing all the illegalities on site. The Complainant Objected to the Site Inspection as She was not served a Site Inspection Notice. Adv for Respondent objected and stated that she need not remain present for the Site inspection as her presence was not required as it was for compliance"*.

AND WHEREAS, the said matter was deliberated during 266th GCZMA meeting held on 22/07/2021. wherein, the Authority decided that, *"The Authority noted that the Expert Member Shri Mahesh Patel inspected the site on 21/07/2021. The Authority conveyed that the Notice need not be served as it is a Compliance Site Inspection that was carried out by the Expert Member. In view of the objections raised by the Complainant the Authority directed that the copy of the Site Inspection report that was carried out to verify the compliance may be sent to the Complainant via e-mail today itself and fixed the matter on Monday i.e 26/07/2021 for objections/reply if any"*.

AND WHEREAS, in the 267th GCZMA meeting held on 26/07/2021. The proceedings of the present matter can be seen as follows:- *"Complainant Judith Almeida appeared in person. Adv. Shivan Dessai appeared for Respondent. The Complainant filed reply to the Site inspection report dated 21/07/2021 and further objected to the Site Inspection report prepared by the Expert Member. She pointed out to point no 3 of the report and stated that the contents mentioned therein does not appear to be the case at loco. She stated that the Expert Member conducted the Site Inspection without notice to the Complainants and the date on which inspection was carried out was a Public Holiday (21/07/2021). This Complainant reiterates all her earlier submissions dated 25.01.2021, 18.02.2021, 25.02.2021, 17.06.2021 & 24.07.2021, 25.02.2021, 17.06.2021 & 24.07.2021. The Complainant stated that the report has been prepared either sitting in the office of the Expert Member or that of the office of the Respondent without any visit to the site."*

She further stated that the report states, the cement platform of the borewell pump has been removed and yet the photograph attached shows the existence of the concrete base to the pump.

The Complainant stated that at point no. 2 the Expert member has failed to mention that the poles with wire mesh are concrete in nature and continue to be stabilized with concrete on a sand dune and further suggests that the fencing may be removed after the trees have grown to a height of three meters thus making out a case for retaining the illegal concrete fencing which even threatens the collapse of the sand dunes and is in violation of the Environment Protection Act 1986 and the CRZ Notification 1991/2011 to continue.

The Complainant stated that the Expert Member has spoken about the revision application filed by the Respondent. The Complainant further states that the Photographs attached by the Expert Member to his report is dated 30/06/2021. The Complainant states that during the Site Inspection conducted on 2/2/2021; the party had stated that they removed 5000 lts of water from the bore well. She stated that bore well cannot be allowed in NDZ. The Complainant stated that the Area is CRZ I Area. She refused to accept this Site Inspection report and demanded for a fresh Site Inspection and thorough investigation.

The Respondent stated that the Complainant need not remain present for the Site Inspection; he stated that the inspection report is very clearly documented by photographs. Adv for respondent stated that the compliance report is on records and the same has clearly mentioned that the Respondent has complied with all directions and has removed even the temporary structure. The Adv stated that there is not pump attached to the bore well; he undertakes to use hand pump if required. The respondent said that the red mud is soil and will be used in the pit for plantation. He stated that the bore well is sunk with the permission from WRD. The Adv stated that the observations made by the expert Member in the Site Inspection report will be complied with and will submit a compliance report to this authority;

AND WHEREAS, the said matter was deliberated during 267th GCZMA meeting held on 26/07/2021 wherein, the Authority decided that, *"The Authority heard the parties at length and kept the matter for orders"*.

AND WHEREAS, the Chairman who heard the parties was transferred and in view of a new Chairman being appointed the matter is reheard and taken up for arguments.

AND WHEREAS, in the 286th GCZMA meeting held on 25/01/2021. The proceedings of the present matter can be seen as follows:-“ *Complainant Judith Almeida appeared in person. Adv. Shivan Dessai appeared for Respondent. Complainant filed written submissions before Authority. The Advocate for Respondent pointed out findings of site inspection report by Expert Member and submitted that he had complied with the recommendations of expert members and there is no violations at the site and prayed that the complaint be dropped*”.

AND WHEREAS, the said matter was deliberated during 286th GCZMA meeting held on 25/01/2021 wherein, the Authority decided that, “*The Authority after hearing both the parties at length decided to keep the matter for orders*”.

AND WHEREAS, in the 289th GCZMA meeting held on 08/02/2022. The Authority after hearing parties at length, took on record and gave due consideration to submissions made by the complainant and the learned counsel for the Respondent and derived at a conclusion as under:

The Expert members carried out the Site Inspection and it was noted that:

1. The property in question has been fenced on all sides with 1.50 m high wire mesh and RCC fencing poles with concrete at the base. The respondent did not produce any permission from GCZMA for the said fence.
2. At the entrance gate, two structures (including a toilet and rest room) have been constructed by using teen sheets on a cement concrete platform. Ms. Mehra informed that these structures are being used as labour quarters. Cement mortar and cement concrete has been used in the base/floor of these structures. Use of cement as base material is not permitted in NDZ areas.
3. Red mud has been stacked at the entrance. Ms. Mehra informed that this was brought for the plantation purpose. The same shall be removed from the property without using it
4. A bore-well has been dug in the property along the northern boundary. We were informed by the respondent that about 5000 liters of water is being drawn daily for irrigation and construction purpose. A shed for housing the pump has been constructed along with cement flooring around the bore-well. Construction of bore-wells and extraction of ground water is prohibited in NDZ areas.
5. A 5000-liter capacity polyethylene water tank (Sintex) has been placed on a concrete on the mound at the eastern end of the property.
6. Casuarina and other species are being planted along the boundary of the property.

7. (a) All above offending structures, namely, the RCC fencing poles, the shed structures and the polyethylene water tank built/erected without prior permission from GCZMA may be removed from the site without causing any damage to the coastal ecology.

(b) The bore-well may be sealed by WRD to prevent further extraction of ground water within the NDZ.

The Respondent has filed compliance in the above matter and has stated as under:

The Respondent states that to the observation at Point 1 of the report dated 1/2/2021; the Respondent in their reply dated 25/01/2021 clearly states that the property was fenced with concrete poles and barbed wire at the time of purchase of the property by this present Respondent. The Respondent states that he intends to plant and grow a hedge on the boundary of the said property and is already in the process of setting up bio-fencing in order to protect stray animals and unauthorized individuals. The Respondent stated in his reply dated 25/01/2021 that he shall remove the said existing poles as well as the newly repaired poles as soon as the bio-fencing is set up.

The Respondent states in his reply dated 18/2/21; that to the observation at Point 2 of the report dated 1/2/21; the Respondent has removed the temporary structure which has been used as labour quarters and also demolished the cement base of the said structures. The Respondent further stated that the toilet in the property is as per the approved plans and hence is an authorized structure. However, it is noted that the Respondent in his compliance report dated 17/06/2021 has clearly stated that he has demolished the toilet and has produced photographs to that effect.

The Respondent states that to the observation at Point 3 of the report dated 1/2/21; Ms. Mehra informed that the red mud which has been stacked at the entrance was brought for the plantation purpose. The same shall be removed from the property without using it. Subsequently in the compliance report of the Respondent dated 17/06/2021 the Respondent has clearly stated that they have removed the red mud which was brought for the purpose of plantation.

The Respondent states that to the observation at Point 6 of the report dated 1/2/21; the plantation of coconut trees and beach vegetation has already been planted as per the recommendation of the Expert Committee.

The Respondent states that to the observation at Point 7 (a) of the report dated 1/2/21; as far as the concrete poles and fencing is concerned the Respondent shall remove the said existing poles as well as the newly repaired poles as soon as the bio-fencing is set up.

The Authority perused the reply/ compliance dated 17/06/2021 and the photograph produced by the Respondent showing that he has demolished the water tank platform.

The Respondent states that to the observation at Point 7 (b) of the report dated 1/2/21; the Respondent states that the bore-well is beyond 200 mts from HTL and that the same is dug in pursuance to the approval dated January 1999 issued by the Water Resources Department

The Authority noted that the Respondent has supported his contention by producing photographs and also by producing Form III which is a certificate of registration of an existing well in property bearing sy no 16/4 and is valid till 31/03/2025.

The Authority noted that the Respondent via their compliance report has clearly stated that he has complied with the Directions of this Hon'ble Authority by further removing the concrete platform which was built around the bore well. The Respondent has also produced photographs on record.

The Authority decided to inspect the site in dispute in order to verify the authenticity of the Compliance report submitted by the Respondent. A team of Expert Members of GCZMA who had gone on site noted that:

The Project proponent/Respondent has undertaken extensive plantation along the plot periphery.

The fencing provided for the plantation is of poles and wire mesh which will not harm animals but protect plants. The fencing may be removed once plants attain more than 3 meters height (above grazing heights).

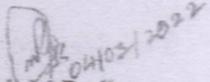
It was observed that:

- (i) cement platform and tin shade for bore well pump is removed. The Respondent had carried out plantation with coconut, cashew and other shade plants suited to coastal climate

- (ii) that red mud/soil is used in pits for the plantation.
- (iii) that Project proponent/ Respondent has filed a revision application to the GCZMA for approval. It is informed that application is filed after detail site study and wind impact during the recent Tauktae cyclone as well as suggestions from Expert members to protect open space within the plot.
- (iv) that there exist bore well within the plot outside 200-meter NDZ line. Bore well is registered with Water Resource Department. CRZ regulations allows only open well within CRZ area. Therefore, either hand pump be fitted or convert it into open well, for irrigation to the plantation purpose, after due permission from that Water Resources Department.
- (v) that the staff toilet and other structures are removed.
- (vi) that the Project proponent in the modified plan, has proposed a stilted pathway to beach and bamboo fencing around, the sand mounds/ open space, an innovative approach to safeguard the sand and vegetation. This practice is followed in developed countries and should be encouraged. This will protect the sand mound, vegetation, and further strengthen its growth to prevent erosion.

In view of the foregoing, the Authority has concluded that in view of the compliance carried out by the Respondent/Project Proponent and the same being verified by the Authority, the Complaint dated 11/01/2021 is dropped and the Respondent is discharged.

NOW THEREFORE, the GCZMA in exercise of the powers conferred under Section 5 of the Environment (Protection) Act, 1986 (Central Act 29 of 1986) read with sub-rule (3) (a) of Rule 4 of the Environment (Protection) Rules 1986, and read with powers vested with the GCZMA vide Order S.O. 3975 (E) dated 31/10/2019 issued by the Ministry of Environment & Forests, Government of India, in view of the documents submitted and compliance report the Authority hereby discharges the Respondent M/s Hermitage Builders Pvt. Ltd, Praya Beach Resort, as decided by the Authority in its 289th GCZMA meeting held on 08/02/2022 and case is disposed as discharged.


Dasharath M Redkar
Member Secretary (GCZMA)

To,

1. M/s Hermitage Builders Pvt. Ltd, Praya Beach Resort, Sernabatim Beach Road, Ambeaxir, Salcete Goa.
2. Colva Civic & Consumer Forum, C/o Mrs Judith Almeida, Hno.257/1, ward 3, Bagdem, Colva, Salcete-Goa.