

BEFORE THE NATIONAL GREEN TRIBUNAL WEST  
ZONE AT PUNE

Appeal No: 09/2025

Bosco Cruz Fernandes

....Appellant

V/s

Goa Coastal Zone Management Authority

....Respondents

**AFFIDAVIT-IN-REPLY TO APPEAL**

MAY IT PLEASE YOUR HONOUR

I, Mrs **Renita Elizabeth Fernandes e Andrade**, Aged 53 years,  
Indian National, Married , Service, resident of B-502, Raghu  
Vihar, New Link Road Dahisar West and Permanent Resident of  
House No. 7/18, Sauntawado, Calangute, Bardez Goa  
constituted **Power of Attorney Holder of Respondent No. 4**  
**Mrs Helen Lily Andrade** 77 years, Indian National, Resident of  
H. No 7/18, SauntaVaddo, Calangute, Bardez Goa, the



Respondent No. 4 above named, above named do on solemn oath and affirmation state and submit as under:

- 1) I say that I have read and understood the contents of the Appeal filed by the Appellant and at the outset I deny all and singular the contents of the Appeal, to the extent that they are contrary and/or repugnant to, and/or otherwise inconsistent with the contents of this Reply. Though this Reply might not traverse each and every averment in the Appeal Memo, none of its contents, not expressly denied, addressed and/or otherwise dealt with herein, may, only for want of specific traverse unless expressly admitted herein, be deemed to have been admitted by the Respondent No. 4/ Deponent herein.
- 2) Summary of Illegalities of Appellant

**A. Violation of CRZ Regulations**

The appellant's structures are located in a Coastal Regulation Zone (CRZ-III), which includes both No Development Zone (NDZ) and areas within 200-500



meters from the High Tide Line (HTL). The construction of new structures in these areas is strictly regulated, and the appellant has failed to obtain the necessary permissions and clearances required under the CRZ regulations .

### **B. Lack of Required Permissions**

The appellant has not obtained the necessary permissions and certificates for post-1991 constructions in CRZ areas, such as:

- Conversion Sanad
- NOC from Goa Coastal Zone Management Authority
- Technical Clearance from Town and Country Planning (TCP)
- Construction Licence from Village Panchayat
- Completion Certificate from TCP
- Occupancy Certificate from Village Panchayat



### **C. Invalidity of Appellant's Claims**

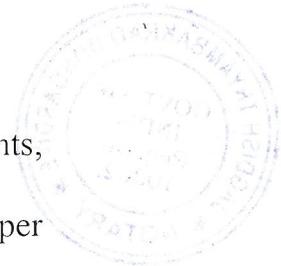
The appellant's claims of pre-1970 existence of structures are unsupported by survey records or the Coastal Zone Management Plan (CZMP). The reliance on electricity bills and house tax receipts has been invalidated by a recent Bombay High Court ruling, which states that such documents cannot be used to prove the existence of structures prior to the 1991 CRZ notification .

### **D. Questionable Documentation**

The appellant's documentation, including a suspicious Village Panchayat approval and missing clauses in the GSCCE permission copy, raises doubts about the authenticity and legality of the structures .

### **E. Unauthorized Commercial Operations**

The appellant is operating commercial establishments, such as a guesthouse and restaurant, without proper permissions or occupancy certificates. This is a clear violation of legal precedents that prohibit commercial



operations without the necessary approvals .

#### **F. Legal Precedents**

The respondent cites several important legal precedents, including a Bombay High Court ruling that invalidates Panchayat resolutions based on electricity bills or house tax receipts, and cases that prohibit commercial operations without occupancy certificates .

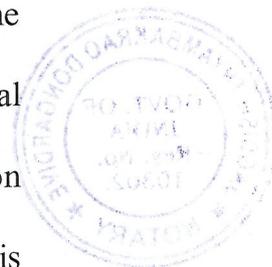
#### **G. Misuse of Fisherman Community Status**

The appellant's claim of exemption based on being part of the fisherman community is misconceived. The CRZ notification does not grant carte blanche for illegal constructions or commercial operations in CRZ areas. The exemption is limited to the reconstruction of dwelling units for residential purposes that existed prior to 1991 .

These legal grounds, supported by the evidence and legal precedents cited in the affidavit-in-reply, provide a strong basis for dismissing the appellant's claims and upholding the demolition order.



- 3) The Respondent No. 4 states that the present Appeal is misconceived in both the facts and law. The Appellant states that as per the Site Inspection Report dated 09/03/2024 it has been revealed that the Appellant had put up 17 illegal structures in CRZ-III (Partly NDZ and Partly 200-500) as per CZMA 2011 of Calangute Village . There were also 3 open wells in the said property as found by the site inspection team.
- 4) The Appellant thereafter filed a Reply dated 30/07/2024 to the present proceedings and has also filed Written Argument dated 08/08/2024. The Appellant in the said documents made some outlandish claims and made imaginary interpretation of the present laws in force in the State of Goa undermining the powers of Goa Coastal Zone Management Authority to deal with blatant violation of CRZ Regulations and basically claiming that he is above law and has a carte blanc of some kind to do any kind of violation/ construction as he pleases (Even in

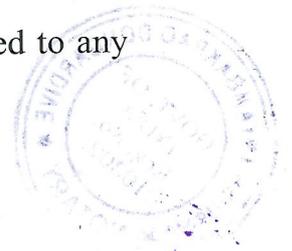


NDZ area) as long as he claims to be part of the fisherman community Goa by producing a Boat Registration of the year 1970 or prior.

5) Further the Appellant in his lengthy Replies was able to come up an explanation to only 1 structure (1 out of 17 Structures that admittedly belong to him) i.e. Structure F and for the other 16 structures, the Appellant having no answer of whatsoever nature has made a blanket statement claiming that the same is in existence prior to 1970 with no documents to support the said claim and based on such a frivolous argument and wanted the Goa Coastal Zone Management Authority to discharge with the Show Cause Notice.

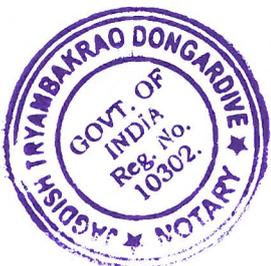


6) The Appellant also seems to be under some mistaken belief that just by registering a boat with the Fisheries Department prior to 1970 by itself grants him certain rights/privileges wherein he is no longer subjected to any

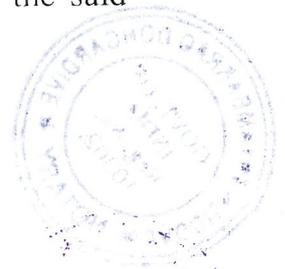


State Laws applicable for Construction/Development Permissions especially in CRZ areas and he is free to do as he pleases. Unfortunately the Boat Registering Authority i.e. Fisheries Department has not granted any such privilege to him to undertake entirely new construction in NDZ areas and run commercial operation of Guesthouse and Restaurants, both of which activities are unconnected to the Fisheries Department.

- 7) The Appellant is aware of the law that exists in Goa and that Structures constructed post 1991 in CRZ affected area need to be compliant with the following:
- a) CRZ regulations
  - b) Town and Country Planning Act
  - c) Goa Land Development and Building Construction Act and Rules
  - d) Goa Panchayat Raj Act
  - e) Goa Land Revenue Code
  - f) Health and Electricity NOC etc.



- 8) Respondent states that any Structure constructed post 1991 (In CRZ Affected Area) should be having
- Conversion Sanad
  - NOC from Goa Coastal Zone Management Authority
  - Technical Clearance from TCP
  - Construction Licence from Village Panchayat
  - Completion Certificate from TCP
  - Occupancy Certificate from Village Panchayat.
- 9) The Respondent states that to add to the above, there is no new construction permitted in No Development Zone (0-200) and for areas filling in 200-500 m, only 33% FAR is Permissible after complying with all the conditions at Para 7 above.
- 10) The Respondent states that in case there is a claim that any structure is in existence prior to 1991 by the Appellant, the Appellant needs to strictly prove the said



claim either by showing the Survey Records i.e. Survey Plan or the CZMP. The structures in question belonging to the Appellant are not shown on either of the said documents. In case the Appellant disputes veracity of the said document it is for him to approach the said Authorities and get the same corrected. Till such time there is no challenge to the Survey Records and CZMP and the same is overturned upon challenge, no such claim can be put forth by the Appellant.

- 11) The Respondent states that Appellant has relied upon a bill dated 28/12/2022 where the date of energization is shown as 02/01/1991. The Appellant has also claimed that his House No. 6/172/A is in existence from 1970 as per Panchayat records based on a Letter issued by Village Panchayat of Calangute. Based on these 2 documents it is the claim of the Appellant that all his 17 structures have been conclusively proved to have existed prior to 1991, which is baseless and misconceived.



- 12) In a recent Order before the **Bombay High Court at Goa High Court on its Own Motion(In the Matter of Illegal Construction) V/s State of Goa 2024 SCC Online Bombay 514-(PIL SM No. 2 of 2024)** The Bombay High Court at Para 15 has stated as under

*"12. We further take note of the fact that many of the resolutions refer to the production of electricity bills or house tax receipts produced by the occupants of the structures as proof of their existence prior to 1991 when CRZ notification was issued. The resolutions rely upon documents such as the house tax receipts or electricity bills, to arrive at a conclusion that the structures were in existence prior to the CRZ notification and therefore, are legal. Such a resolution, on the face of it, is illegal and wholly without jurisdiction as the Environment Protection Act and CRZ*



*notification of 1991 exclusively vest the powers to decide the legality of the structures (whether it was in existence before or after 1991 notification) with the GCZMA, and neither the Panchayat nor the Town and Country Planning Department or concerned Planning Authority would have jurisdiction to arrive at such a decision. That being the case, we declare that all the resolutions in relation to 175 structures which are detailed herein below in a tabular form, passed by the Village Panchayat of Anjuna-Caisua on 13.01.2023, 06.02.2023, 20.02.2023, 14.03.2023, 15.03.2023 and 18.03.2023, are without jurisdiction and therefore, illegal.*

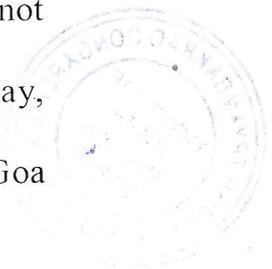
- 13) The Respondent states that it is clear from the above that Panchayat Resolution, House Tax Receipts or Electricity bills have no value while deciding the legality and existence of a structure prior to 1991. Therefore the



claim of the Appellant that the above two documents should suffice this Authority to reach a finding that all the 17 structures existed from 1970 is misconceived and baseless.

- 14) The Respondent No. 4 states that the frivolous argument raised by the Appellant that the complaint filed by the original Complainant/ Respondent No. 4 herein is vague as it is only one page, is totally baseless as the Complaint has been corroborated by the Site Inspection Report and Show Cause Notice of Goa Coastal Zone Management Authority identifying the illegalities.

- 15) The Respondent No. 4 states that the Survey No. 242/9 of Calangute falls in 0-200 Mts from HTL and Partly 200-500 from HTL. The Appellant is smartly addressing structures falling in 200-500 Mts and has not addressed the illegality from 0-200. And be that as it may, even construction from 200-500 requires NOC from Goa



Coastal Zone Management Authority before starting Construction / Redevelopment/ Reconstruction.

- 16) The Appellant in his Reply before Goa Coastal Zone Management Authority and this Appeal has relied upon a permission of GSCCE dated 30/09/1994. The said permission clearly states as under:

**Clause 2**

*" All environmental Guidelines under CRZ Regulation should be strictly followed"*

**Clause 3**

*"Prior to commencement of development work it will be incumbent upon the applicant to have valid conversion sanad of the use of land as contemplated under Goa Daman and Diu Land Revenue Code 1968"*

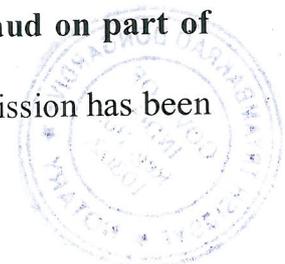


**Clause 8**

*“Occupancy Certificate should be obtained from this office after completion of the building”*

The Appellant herein has not complied with the aforesaid clauses 2, 3, 8 and therefore cannot be construed as a legal construction. The Appellant has failed to produce the Completion Certificate or Occupancy Certificate for the said Structure F.

- 17) The Respondent No. 4 states that a very alarming fact has come to light upon perusal of the Plan attached to the said Licence issued GSCCE dated 30/09/1994 . **The Village Panchayat has approved the said Licence on 21/03/2023 vide Permission No. VP/C/R13/Bldgs. L/22-23/5738 The Village Panchayat has signed the licence 28 years after the supposed reconstruction/Repairs work was completed, which is a total fraud on part of the Panchayat Authorities.** The said permission has been



granted during the pendency of the Proceedings before Goa Coastal Zone Management Authority and was an afterthought to pre-empt any adverse orders from Goa Coastal Zone Management Authority i.e. Respondent No. 1.

- 18) The Respondent No. 4 states that another concerning fact is that in the copy of said Licence issued by GSCCE dated 30/09/1994 provided by the Appellant, **the Clause No. 11 and 12 have been blanked out by the Appellant** in the copy supplied to this Authority raising a doubt about the authenticity of the same and if the clauses 11 and 12 contained any stricture that would expose the stand taken by the Appellant. It is imperative that Honourable Court directs the Appellant to produce the original for the purpose of verification before any inference can be made from such a suspect document.



19) The Respondent No. 4 states that the Appellant has further relied upon the gut book of the Talathi's Office to show that the structures existed before 1991. The Appellant is very well aware that the said Gut Book is just a reference book of the Office of Talathi and not a notified Document and therefore no value can be adduced to the same. In case the Appellant wishes to rely on the same he is supposed to show the said document was notified in Gazette Notification. The said structures that the Appellant is claiming to have existed since 1970 are neither reflecting in the Survey Records nor in the Form I & IV.



20) The Appellant claims to be a fisherman and that CRZ Notification supposedly gives him a carte blanche to do construction/violate the laws as he pleases. There is no such rule that fisherman can run commercial operation like Guest houses in CRZ areas. The liberty is only for



reconstruction of dwelling units that existed prior to 1991 and that too for residential purposes.

21) The Appellant in his Reply before Goa Coastal Zone Management Authority has relied upon the Sale Deed dated 12/10/1998 and that he purchased the property along with the House/ structure that is marked F in Show Cause Notice. **This itself is an admission** on behalf of the Appellant that as on date of execution of the Sale Deed i.e. 12/10/1998 only Structure F existed and other 16 structure have been constructed subsequently.

22) The Respondent No. 4 states that the Village Panchayat of Calangute could not have issued a Construction Licence on 21/03/2023 in the year 2023 i.e. 28 years after GSCCE without insisting on a fresh CRZ approval and TCP approval. Hence the same is patently illegal.



23) The Respondent No. 4/ Original Complainant states that taking advantage of the inaction of the State Authorities the Appellant after construction of illegal structures without permission from Authorities and without occupancy certificate is using the same for commercial operations by running a guesthouse and restaurant. The Complainant relies on the judgement of the Bombay High Court **Sion Kamgar V/s Municipal Corporation of Greater Mumbai Writ Petition (829 of 2013)** which has clearly settled the law at Para 8 that occupying the building without occupancy certificate and commencing commercial activity cannot be permitted.



24) The Respondent No. 4 shall be also relying on the following Judgements

a) **Village Panchayat of Calangute V/s State of Goa**

2022 SCC Online Bombay 7714



b) **Cruz Silveira V/s State of Goa 2023 SCC Online**  
Bombay 1749

The said judgements strictly prohibit continuing of commercial operations in illegal structures without Occupancy Certificates and valid permissions from authorities.

**Without prejudice to the above the Respondent No. 4 shall be dealing with the Contents of Appeal parawise**

25) With respect to the contents of Para 1 & 2 the Respondent No. 4 states that the same is a matter of record.

26) With respect to the contents of Para 3 the same are denied as false and baseless. The Appellant is not the owner in possession of Survey No. 242/9 of Calangute. It is denied that the Appellant has been residing in the



subject property since the last 6 decades. With respect to the contents of Para 3 wherein there is reference to Agreement of Sale dated 12/10/1998 the Appellant states that the same is under challenge before the Civil Judge Sr. Division A Court at Mapusa in Civil Suit No SCS 47/2016/A.

- 27) With respect to the contents of Para 4, the same are denied as false and baseless. The Deed of Sale dated 05/04/2016 has been executed by fraud by keeping out the actual owners of the property and the same is under challenge before the Civil Judge Sr. Division A Court at Mapusa in Civil Suit No SCS 47/2016/A and it is further denied that the Appellant is the owner of the entire stretch of the property bearing Survey No. 5425 Sq Mts. The special status granted to the fisherman community is to protect the dwelling houses of the traditional fisherman and it does not accord a carte blanche to the Appellant to undertake illegal construction in NDZ area of CRZ.



- 28) With respect to the contents of Para 5, the same are denied as false and baseless. The structures which are claimed to have been constructed by the mother of the undersigned somewhere in the years 1965-70, in case the said statement is true, should have been shown and depicted on the Survey Plan and CZMP 1991. The same not existing on the Survey Plan and CZMP 1991 conclusively proves that the said statement is false and baseless.
- 29) With respect to the contents of Para 6 and 7,8,9,10,11,12,13,14 the same are a matter of record.
- 30) With respect to the contents of Para 15, the same are denied as false and baseless. The Goa Coastal Zone Management Authority after conducting a Site Inspection has issued a Show Cause Notice and the Appellant having failed to produce the satisfactory proof that the said structures are legal have been rightly ordered to be

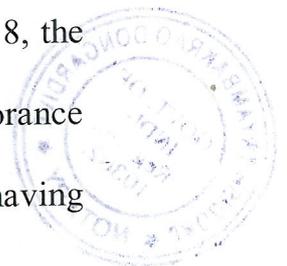


demolished. The Appellant has provided explanation for only one structure i.e. structure F and that too is a questionable permission issued during pendency of Goa Coastal Zone Management Authority proceedings and there is no explanation other than a bald statement that the structures existed prior to 1970. Having appreciated the evidence on record the Order dated 21/10/2024 has been passed by Goa Coastal Zone Management Authority.

- 31) With respect to the contents of Para 16 the same is denied as false and baseless for reasons already addressed in Paras 15, 16 and 17 of this affidavit. The said Licence is suspect and also there is no corresponding approval of Goa Coastal Zone Management Authority for the said Structure F for the upper floors.

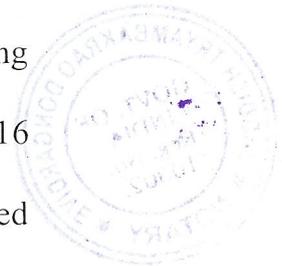


- 32) With respect to the contents of Paras 17 and 18, the Appellant is under misconception or feigning ignorance of the established legal procedure. The Appellant having



failed miserably to produce any document in support of his illegal construction is at Para 17 trying to put the onus on the Goa Coastal Zone Management Authority to prove that structures are illegal, which is frivolous and baseless and clearly made to misguide the Appellate Court.

- 33) With respect to the contents of Paras 19 & 20 the same is manipulation of facts. The Appellant has produced a permission of only one structure and that too issued after the institution of proceedings before Goa Coastal Zone Management Authority and there is no permission for the rest of the 16 structures and now trying to extend the said licence of Structure F to all 16 structures. The said Permission also cannot be considered as there is no corresponding approval of Goa Coastal Zone Management Authority.



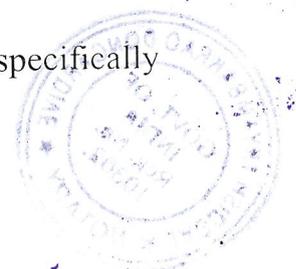
- 34) With respect to the contents of Para 21 and the grounds raised therein, the same are false and frivolous

grounds raised that have no connection whatsoever with the documents produced on record before the Goa Coastal Zone Management Authority and the same have already been addressed in the Paras above .

35) With respect to the contents of Para 24 the same are false and baseless. The Appellant have come to this court with unclean hands and is misusing the said illegal premises for running a guesthouse and running a commercial operation without any permissions. The Appellant is feigning injury by submitting that the structures are being used for residential purpose to gain sympathy from this Court.



36) The Appellant is not entitled to any relief from this Court as the said structures are patently illegal and any relief to the Appellant would amount to miscarriage of justice as it would be running contrary to CRZ Rules and Regulations that have been brought into force specifically



to check the illegalities of the nature put up by the Appellant herein.

- 37) The Respondent in his Reply to Appeal concludes as below:

**A. Strict Compliance with CRZ Regulations**

The Coastal Regulation Zone (CRZ) Notification, 1991, and subsequent amendments, strictly regulate activities in CRZ areas to protect coastal ecosystems. The appellant's structures fall within CRZ-III, which includes both the No Development Zone (NDZ) (0-200 meters from the High Tide Line) and the 200-500 meter zone. The following points can be emphasized:

- In the NDZ (0-200 meters), no new construction is permitted except for repairs or reconstruction of existing authorized structures. The appellant has failed to prove that the structures existed prior to 1991 or were authorized.

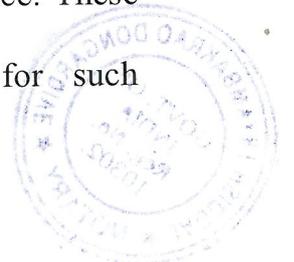


- In the 200-500 meter zone, only limited development is permitted, subject to compliance with CRZ regulations and a maximum Floor Area Ratio (FAR) of 33%. The appellant has not demonstrated compliance with these requirements .
- The appellant's failure to obtain mandatory permissions, such as NOC from the Goa Coastal Zone Management Authority (GCZMA), renders the constructions illegal .

### **B. Failure to Prove Pre-1991 Existence of Structures**

The appellant's claim that the structures existed prior to 1991 is unsupported by credible evidence. The following points can be highlighted:

- The appellant has not provided survey records or Coastal Zone Management Plan (CZMP) maps to substantiate the claim of pre-1991 existence. These are the only recognized documents for such verification .



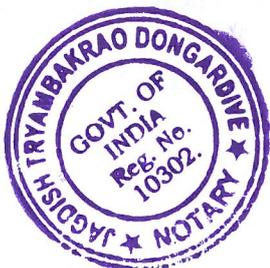
- The reliance on electricity bills and house tax receipts is invalid. The Bombay High Court has categorically held that such documents cannot be used to establish the legality of structures under CRZ regulations. The authority to determine the legality of structures lies exclusively with the GCZMA .
- The appellant's reliance on the Talathi's Office gut book is misplaced, as it is not a notified document and holds no legal value unless it is supported by a Gazette Notification .

### **C. Questionable Documentation and Procedural**

#### **Irregularities**

The appellant's documentation raises serious doubts about the legality of the structures:

- The Village Panchayat's approval of a 1994 license in 2023, nearly 28 years after the supposed reconstruction, is highly suspicious and appears to



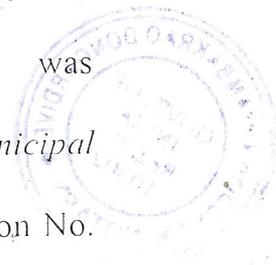
be an afterthought to preempt adverse orders from the GCZMA .

- The GSCCE permission copy provided by the appellant has missing clauses (11 and 12), raising concerns about its authenticity. The appellant should be directed to produce the original document for verification .

#### **D. Unauthorized Commercial Operations**

The appellant is operating commercial establishments, such as a guesthouse and restaurant, without obtaining the necessary permissions or occupancy certificates. This is a clear violation of the law:

- The Bombay High Court has held that commercial operations in structures without occupancy certificates are illegal. This principle was established in *Sion Kamgar V/s Municipal Corporation of Greater Mumbai*, Writ Petition No. 829 of 2013 .

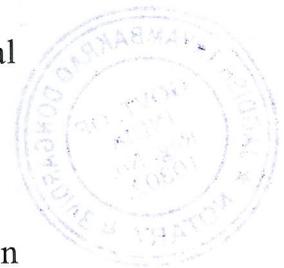


- Other judgments, such as *Village Panchayat of Calangute V/s State of Goa* (2022 SCC Online Bombay 7714) and *Cruz Silveira V/s State of Goa* (2023 SCC Online Bombay 1749), also prohibit commercial operations in illegal structures .

#### E. Misuse of Fisherman Community Status

The appellant's claim of exemption based on being part of the fisherman community is misconceived. The CRZ notification provides limited exemptions for the reconstruction of dwelling units for residential purposes that existed prior to 1991. It does not grant blanket immunity for illegal constructions or commercial operations:

- The appellant's reliance on a 1970 boat registration is irrelevant, as it does not confer any rights to undertake construction or commercial activities in CRZ areas .
- The sale deed dated October 12, 1998, indicates that



only one structure (Structure F) existed at the time of purchase. This undermines the appellant's claim that all 17 structures existed prior to 1991 .

#### **F. Environmental Protection and Public Interest**

The CRZ regulations are designed to protect coastal ecosystems and ensure sustainable development. Allowing the appellant's illegal constructions to remain would set a dangerous precedent and undermine the purpose of these regulations:

- The appellant's actions violate the Environment Protection Act, 1986, which empowers authorities like the GCZMA to enforce CRZ regulations and take action against illegal constructions .
- The demolition of illegal structures is necessary to uphold the rule of law and protect the coastal environment from further degradation .

#### **G. Burden of Proof Lies with the Appellant**

The appellant bears the burden of proving the legality of



the structures. The appellant's failure to provide credible evidence, such as survey records or CZMP maps, shifts the presumption in favor of the GCZMA's findings:

- The appellant's attempt to shift the burden of proof onto the GCZMA is legally untenable. The GCZMA has already conducted a site inspection and issued a show-cause notice based on clear violations .
- The appellant's reliance on a single questionable permission (for Structure F) cannot be extended to the other 16 structures, which remain unauthorized .

#### **H. Judicial Precedents Supporting Demolition**

The following judicial precedents can be cited to support the demolition order:

- *Bombay High Court on its Own Motion (In the Matter of Illegal Construction) V/s State of Goa*, 2024 SCC Online Bombay 514: This judgment invalidates Panchayat resolutions based on



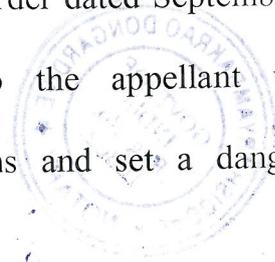
electricity bills or house tax receipts and emphasizes the exclusive jurisdiction of the GCZMA to determine the legality of structures .

- *Sion Kamgar V/s Municipal Corporation of Greater Mumbai*, Writ Petition No. 829 of 2013: This case prohibits commercial operations in structures without occupancy certificates .
- *Village Panchayat of Calangute V/s State of Goa*, 2022 SCC Online Bombay 7714, and *Cruz Silveira V/s State of Goa*, 2023 SCC Online Bombay 1749: These cases reinforce the prohibition on commercial operations in illegal structures .



### I. Prayer for Dismissal of Appeal

Based on the above submissions, the respondent can reiterate the prayer for dismissal of the appeal and enforcement of the demolition order dated September 21, 2024. Any relief granted to the appellant would undermine the CRZ regulations and set a dangerous precedent for future violations .



These detailed legal submissions, supported by evidence and judicial precedents, provide a robust foundation for the respondent's case and strengthen the argument for upholding the demolition order.

38) **It is therefore prayed that:**

This Hon'ble Court dismisses the frivolous and baseless contentions of the Appellant and passes necessary orders upholding the Demolition of the illegal structures upon the Impugned Order dated 21/09/2024.

39) I say that what is stated by me at Paras 1 to 39 of the above Affidavit are true to the best of my knowledge.



Solemnly affirmed at \_\_\_\_\_ on this \_\_\_\_\_ day of  
March 2025.

5 MAR 2025

01/03/2025

*Fernandes*

The Deponent

NOTARIAL  
REG. S.R. NO  
5083/25

BEFORE ME

*M*

JAGDISH TRYAMBAKRAO DONGARDIVE  
Advocate High Court & Notary, (Govt of India)  
Rahul Chawl Committee, Kranti Nagar,  
Akurli Road, Kandivaii (East),  
Mumbai-400 101.

5 MAR 2025



2024 SCC OnLine Bom 514

In the High Court of Bombay at Goa  
(BEFORE M.S. SONAK AND VALMIKI SA MENEZES, JJ.)

High Court on its Own Motion (In the Matter of  
Illegal Cosntruction) ... Petitioner;

*Versus*

State of Goa, Thr. the Chief Secretary and Others ...  
Respondents.

Public Interest Litigation (Suo Motu) No. 2 of 2022  
Decided on February 13, 2024

Advocates who appeared in this case :

Mr. A. Gosavi, Amicus Curiae with Advocate Mr. G. Naik.

Mr. D. Pangam, Advocate General with Mr. Deep Shirodkar,  
Additional Government Advocate for Respondent No. 1.

Mr. PA. Kamat, Advocate for Respondent No. 2.

Mr. D. Lawande with Mr. P. Dangui and Mr. C. Angle, Advocates for  
Sarpanch and panch member of Village Panchayat of Anjuna.

Mr. JA. Lobo, Advocate for former Secretary of Village Panchayat of  
Anjuna.

Mr. Pavithran A.V. with Mr. P. Kholkar, Advocates for the Goa State  
Pollution Control Board.

P.C.

1. Heard Mr. A. Gosavi, learned Amicus Curiae, Mr. D. Pangam,  
learned Advocate General with Mr. Deep Shirodkar, learned Additional  
Government Advocate for respondent no. 1, Mr. P.A. Kamat for  
respondent no. 2 - Panchayat, Mr. D. Lawande for the Sarpanch and one  
of the panch members of the Village Panchayat of Anjuna, Mr. J.A. Lobo  
for the former Secretary of the Village Panchayat of Anjuna and Mr.  
Pavithran A.V. for the Goa State Pollution Control Board (GSPCB).

2. From the earlier affidavits placed before us and the orders made  
by us, it is evident that the Panchayat had issued show-cause notices  
to 175 structures, the details of which were provided in a tabular form  
requiring the persons who had put up these structures or who were  
undertaking commercial activities from these structures, to show cause  
as to why these structures should not be demolished.

3. Curiously, even though most of the structures had no clearances  
from the GCZMA or no permissions under Section 66 of the Panchayat  
Raj Act or no Trade Licences, the Village Panchayat of Anjuna by  
resolutions dated 13.01.2023, 06.02.2023, 20.02.2023, 14.03.2023,

15.03.2023 and 18.03.2023 discharged the show cause notices for reasons best known to the Panchayat and its members.

4. By our detailed order dated 26.04.2023, we set aside the above resolutions and directed the Village Panchayat to decide the 175 show cause notices afresh and in the light of the observations made by us in our said order dated 26.04.2023. To date, the show cause notices have not been disposed of by the Village Panchayat; as a result of this, not only do these 175 structures continue to exist, but further through these 175 structures, commercial activities like bars, restaurants, and lodging houses continue to operate.

5. The Panchayat takes shelter of the order dated 06.09.2023 made by the Hon'ble Supreme Court in Special Leave to Appeal (C) No. 19887/2023. This order was made at the behest of the Sarpanch and a member of this Panchayat, who were ordered to be disqualified from holding their positions by our order dated 23.08.2023.

6. The Hon'ble Supreme Court's order dated 06.09.2023 reads as follows:

*"ORDER*

1. *Issue notice, returnable on 20.10.2023.*
2. *Liberty to serve the respondents through dasti notice also.*
3. *Meanwhile, removal of the petitioners from the offices of Sarpanch and Ward Member respectively of Gram Panchayat of Village Anjuna-Caisua shall remain stayed. However, the petitioners or the Gram Panchayat shall not dispose of any show-cause-notice and shall not drop the proceedings for removal of unauthorized constructions without prior approval of the High Court. The proceedings for petitioners removal pending before BDO shall also remain stayed."*

7. Since the removal of the Sarpanch and the ward member was being stayed, the Hon'ble Supreme Court did direct the Panchayat not to dispose of the show cause notices or not to drop the proceedings for removal of the unauthorised constructions without prior approval of this Court. Therefore, there was no bar to the Panchayats proceeding with the show cause notices and taking action against the structures if they were found to be illegal and unauthorised. However, if the Panchayats intended to drop the proceedings for removal of unauthorised constructions, in terms of the Hon'ble Supreme Court order, prior approval of the High Court was necessary.

8. In any case, consistent with the Hon'ble Supreme Court Order, we now propose to issue directions to the Panchayat to dispose of the show cause notices in accordance with law as expeditiously as possible.

9. From the records placed before us and the submissions made by Mr. PA. Kamat for the Panchayat, the following position emerges

regarding the 175 structures, in respect of which 175 show the Panchayat has issued cause notices.

10. Mr. Kamat states that in respect of 45 structures, there is some NOC or clearance from the Goa Coastal Zone Management Authority (GCZMA). However, Mr. Kamat, based upon instructions from the Secretary of the Panchayat, who is present in the Court, admits that except for 5 or 6 structures, the rest do not have any permission under Section 66 of the Goa Panchayat Raj Act. They also do not have any Trade Licence. In respect of the 5 or 6 structures, he submits that permissions have been granted under Section 66 of the Panchayat Raj Act but without the same being backed by any clearances from the Town and Country Planning Authorities under the Goa Town and Country Planning Act, 1974. He submits that even with respect to these structures, it is not as if the technical authorities approved any plans before the permissions were granted under Section 66 of the Panchayat Raj Act. He states that the Panchayat has issued some NOCs to these 45 structures, based upon which they are continuing the operations. Mr. Gosavi points out that these NOCs were issued after 26.04.2023 and in the teeth of our order dated 26.04.2023.

11. In so far as the remaining 130 structures are concerned, Mr. Kamat, on instructions from the Secretary of the Panchayat, who is present in the Court, admitted that there are no clearances or NOCs from the GCZMA even though such clearances or permissions were necessary because this area is affected by the CRZ Notification. He admitted that none of these 130 structures have permission under Section 66 of the Panchayat Raj Act or clearances from the Town and Country Planning Authorities. He admitted that most of these structures have no Trade Licence issued to them by the Panchayat. He submitted that about 70 out of these 130 structures are operating on the basis of NOCs issued by the Panchayat.

12. Mr. Kamat also admitted that none of the 175 structures have any Occupancy Certificate issued to them. An Occupancy Certificate issued after the Authorities under the TCP Act have specified that the construction is put up in accordance with the permissions or clearances granted by them and the Panchayat. Before the completion or the Occupancy Certificate is issued, several authorities examine and inspect the structures to see whether fire safety requirements are duly complied with. None of these structures have any Occupancy Certificate or completion certificate. Yet, these structures have been occupied and used for commercial purposes based on some sort of NOC issued by the Panchayat.

13. These NOCs issued by the Panchayat are not relatable to any of the provisions of the Panchayat Raj Act. At least none were shown to us. By issuing such NOCs, the Panchayat, prima facie, is facilitating, if

not encouraging, the use of these structures for commercial purposes even though such structures have no permissions from the GCZMA under the CRZ Notification, no permissions from the Planning Authorities under the Town and Country Planning Act, 1974. None of these structures have been evaluated for fire safety, hygiene, discharge of sewerage and all other relevant parameters prescribed under various legislations, rules and regulations. Mr. Kamat was unable to explain the source or the statutory power for issuance of such NOCs.

14. The Amicus Curiae expressed apprehensions that the Panchayat would once again discharge the show cause notices based upon such self-serving NOCs issued by the Panchayat, which, according to him, are completely without the authority of law. He invited our attention to our various observations in our order dated 26.04.2023.

15. For the benefit of the Panchayat and to allay the apprehensions expressed by the learned Amicus Curiae, we transcribe the observations made by us in our order dated 26.04.2023, which read as follows:

*"7. Section 66(1) of the Act prohibits the erection of any building or its reconstruction without the permission of the Panchayat. Section 66(3) of the Act requires the Panchayat to demolish such a building if erected without permission or in any manner contrary to the Rules prescribed in sub-section (1). The definition of the word "building" under Section 2(2) of the Act includes a house, outhouse, stable, privy, urinals, shed, hut, wall and any other structures whether of masonry, bricks, wood, metal or any other material, but does not include a temporary structure erected on the ceremonial or festive occasion. The plain reading of the word "building" leaves no doubt that any structure whether temporary or permanent, other than a temporary structure erected on a ceremonial or festive occasion requires the permission of the Panchayat under Section 66 of the Act for its construction.*

*8. The procedure for obtaining such permission under Section 66 of the Act is laid down in the Goa, Daman and Diu Village Panchayats (Regulation of Buildings) Rules, 1971, (the Rules of 1971) which are made applicable to buildings regarding permission under Section 66 of the Act. Rule 4 of the Rules of 1971 requires any person seeking such permission to draw up a plan depicting the boundaries of the site in question, passing of access of the building proposed to be constructed, the position and dimensions of the proposed structure itself i.e. the dimensions of the front, rear and side setbacks. Rule 5 of the Rules of 1971 requires that the building plan of the proposed structure are required to be submitted in a particular scale with sections and elevation of the proposed building to be shown on the plan. Since the Panchayat does not have its own "Technical Officer" as defined under Rules 2(3) of the Rules of 1971, the same is sent to*

the concerned Town Planner with the jurisdiction over the areas covered by the Panchayat under Rule 3, for approval as a Technical Officer. The technical orders of the concerned Town Planner are communicated to the Panchayat who then passes a resolution granting or rejecting the building permission to the premises.

9. With this procedure in place, it is incumbent upon the Panchayat, when it issues a notice under Section 66 of the Act to first ascertain whether any of the 175 structures had applied for its permission under aforementioned provisions and whether the required procedure of submitting a plan and obtaining technical approval for the same was followed. He had also to ascertain whether a specific resolution for granting permission was passed.

10. Reading of the resolutions in question makes it clear that the Panchayat has, in none of these 175 cases received any Application for approval under Section 66 of the Act, under the required procedure of submitting a plan, nor have the owners of these 175 structures produced the technical approval of the concerned Town Planner or the Panchayat license for construction under Section 66 of the Act.

11. We further note that in the case of 175 structures which are subject matter of the resolutions discharging show cause notices under Section 66 of the Act, fall in the areas demarcated as No Development Zone (NDZ), in which, there is a blanket ban on construction, either temporary or permanent, unless approval for the same has been accorded by the GCZMA. This authority is charged with evaluating and granting all such permissions under the CRZ notification issued under the Environmental Protection Act. It is now a matter of record that GCZMA has not issued any permission for the construction of these 175 structures in question. So also, the GSPCB is on record stating that it has not issued the requisite consent to operate under the Air Act and the Water Act. It is thus clear that none of the owners of these 175 structures in question have produced any of the permissions referred to above, before the Panchayat, to obtain a legal discharge of the show cause notice issued to them under Section 66 of the Act.

12. We further take note of the fact that many of the resolutions refer to the production of electricity bills or house tax receipts produced by the occupants of the structures as proof of their existence prior to 1991 when CRZ notification was issued. The resolutions rely upon documents such as the house tax receipts or electricity bills, to arrive at a conclusion that the structures were in existence prior to the CRZ notification and therefore, are legal. Such a resolution, on the face of it, is illegal and wholly without jurisdiction as the Environment Protection Act and CRZ notification of

1991 exclusively vest the powers to decide the legality of the structures (whether it was in existence before or after 1991, notification) with the GCZMA, and neither the Panchayat nor the Town and Country Planning Department or concerned Planning Authority would have jurisdiction to arrive at such a decision. That being the case, we declare that all the resolutions in relation to 175 structures which are detailed herein below in a tabular form, passed by the Village Panchayat of Anjuna-Caisua on 13.01.2023, 06.02.2023, 20.02.2023, 14.03.2023, 15.03.2023 and 18.03.2023, are without jurisdiction and therefore, illegal.

Sr. No.	Date of Meeting	Meeting Resolution Number	How many Resolutions passed in the Meeting
1	13-01-2023	1(49), 1(50), 1(51), 1(52), 1(54), 1(55), 1(56), 1(57), 1(58), 1(59), 1(60), 1(61), 1(62), 1(63), 1(64), 1(65), 1(66), 1(67), 1(68), 1(69), 1(70), 1(71), 1(72), 1(73), 1(74), 1(75)	26
2	06-02-2023	1(10), 1(11), 1(12), 1(13), 1(14), 1(15), 1(16), 1(17), 1(18), 1(19), 1(20), 1(21), 1(22), 1(23), 1(24), 1(25), 1(26), 1(28), 1(29), 1(30), 1(31), 1(32), 1(33), 1(34), 1(35), 1(36), 1(37), 1(38), 1(39)	29
3	20-02-2023	3(15), 3(16), 3(17), 3(18), 3	18



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		(19), 3(20), 3 (21), 3(22), 3 (23), 3(24), 3 (25), 3(26), 3 (27), 3(28), 3 (29), 3(30), 3 (31), 3(32)	
4	14-03-2023	1(17), 1(18), 1 (19), 1(20), 1 (21), 1(22), 1 (23), 1(24), 1 (25), 1(26), 1 (27), 1(28), 1 (29), 1(30), 1 (31), 1(32), 1 (33),	17
5	15-03-2023	1(60), 1(61), 1 (62), 1(63), 1 (64), 1(65), 1 (66), 1(67), 1 (68)	9
6	18-03-2023	1(78), 1(79), 1 (80), 1(81), 1 (82), 1(83), 1 (84), 1(85), 1 (86), 1(87), 1 (88), 1(89), 1 (90), 1(91), 1 (92), 1(93), 1 (94), 1(95), 1 (96), 1(97), 1 (98), 1(99), 1 (100), 1(101), 1(102), 1(103), 1(104), 1(105), 1(106), 1(107), 1(108), 1(111), 1(112), 1(113), 1(114), 1(115), 1(116)	37
7	23-03-2023	12(16), 12(24), 12(25), 12(26), 12(27), 12(28), 12(31), 12(32),	39

		12(33), 12(48),	
		12(49), 12(50),	
		12(51), 12(52),	
		12(53), 12(54),	
		12(55), 12(56),	
		12(57), 12(58),	
		12(59), 12(60),	
		12(61), 12(62),	
		12(63), 12(64),	
		12(65), 12(66),	
		12(67), 12(68),	
		12(69), 12(70),	
		12(71), 12(72),	
		12(73), 12(74),	
		12(76), 12(80),	
		12(81)	

13. Accordingly, we quash and set aside the resolutions dated 13.01.2023, 06.02.2023, 20.02.2023, 14.03.2023, 15.03.2023 and 18.03.2023, which are tabulated herein above. Since we have set aside the above referred resolutions of the Panchayat, we deem it proper to direct the Village Panchayat of Anjuna-Caisua to decide and pass necessary orders on 175 show cause notices issued to the occupants/owners of these structures afresh, within a period of two months from today. The legality of these structures shall be decided only in terms of Section 66 of the Act i.e. to determine whether the Panchayat has issued any construction license under Section 66 of the Act to these structures either under the Goa Panchayat Raj Act or under the Goa (Regulation of Land Development and Building Construction) Act, 2008 and the Goa Land Development and Building Construction Regulations, 2010, and the procedure set out therein as referred to in this order. It is made clear that the production of house tax receipts or the trade license or electricity bills or water bills to prove the legality of the structures would be irrelevant for the purpose of passing an order on the show cause notice under Section 66 of the Act. The sole criteria for the Panchayat's decision under that provisions would be, whether it has issued a valid building license under the Act. Needless to say, that this decision would be always subject to the decision of the GCZMA on the legality of these structures under the CRZ notification and no discharge of the show cause notices can be granted on any other conditions."

16. The Panchayat is now directed to dispose of the 175 show cause notices issued by it as expeditiously as possible and, in any case, not later than 6 weeks from today. However, considering the material placed before us and the admission on behalf of the Panchayat, the

commercial operations in these 175 structures will have to be stopped immediately.

17. The reason for the stoppage of commercial activities through the above 175 structures is that any permissions or clearances from the Town and Country Planning Authorities back none of these structures. None of these structures have any completion or Occupancy Certificate. None of these structures are cleared from the perspective of fire safety, discharge of sewerage, etc.

18. Besides, out of these 175 structures, though 45 structures have some sort of clearance from GCZMA, around 40 out of these structures have no permissions under Section 66 of the Panchayat Raj Act. Similarly, about 130 of these 175 structures have neither any clearance from GCZMA, nor any permissions under Section 66 of the Panchayat Raj Act. These permissions are mandatory. Most of these structures do not have any Trade Licences. In any case, no parties shall use such unauthorised construction for any commercial purposes based only on Trade Licence, which Panchayat routinely issues to even grossly unauthorised constructions.

19. As noticed above, no commercial activities can be carried out from structures that have no GCZMA clearances, permissions under the Panchayat Raj Act, permissions from the Planning Authorities, Occupancy Certificates, no clearance under the Health Act, only based upon such NOCs which have no statutory basis. The Panchayats, we must say, are prima facie acting in breach of State and Central legislations by issuing such NOCs to unauthorised structures. Therefore, such NOCs cannot form the basis for using such structures for any commercial purposes.

20. The learned Advocate General states that even the GCZMA has issued a show cause notice and some such show cause notices have already been disposed of. The learned Advocate General states that remaining show cause notices will also be disposed of as expeditiously as possible and, in any case, within two months from today.

21. Accordingly, we direct the Panchayat to dispose of the 175 show cause notices within 6 weeks from today. However, the Panchayats, in the presence of the Block Development Officer and the Police Officials, will seal the 175 structures so that such structures are not used for any commercial purposes. The Panchayat and the BDO must file the compliance report within 10 days from today. The PI of Anjuna Police Station is directed to assist the Panchayat and the BDO in implementing this order.

22. The Panchayat is directed to place on record NOCs and the resolution, if any, based on which such NOCs were issued. This is because Mr. Gosavi points out that such NOCs were issued after 26.04.2023 and in the teeth of our observations and directions in the

said order. Under his affidavit, the Secretary must place all these NOCs along with the resolutions, if any, within 10 days from today.

23. The learned Amicus Curiae wishes to raise other issues. However, we propose to hear the other issues on the next date, which shall now be 04.03.2024.

24. Stand over to 04.03.2024.

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION NO.829 OF 2013**

M/s Sion Kamgar Cooperative Housing Society Ltd. ..Petitioner

-Versus-

Municipal Corporation for Greater Mumbai  
and others. ..Respondents

.....  
Mr.Harish R. Pawar, for the Petitioner.

Mr.A.Y.Sakhare, Senior Advocate a/w Mr.Clive D'Souza, i/by Ashok  
Satpute, for the Respondent Nos.2 and 3.

Ms.Trupti H. Puranik, for the Respondent/BMC.

.....  
**CORAM: S.C. DHARMADHIKARI  
AND  
G.S. PATEL, JJ.**

**DATE :- 15th October, 2013**

PC:

1 The Petitioner is complaining that the Municipal Corporation has not taken any action in respect of the Nursing Home/ Hospital which is set up by the Respondent Nos.2 and 3, known as Atharva Hospital and Research Centre, Sion Kamgar Cooperative Housing Society, Saiprasad Building, 101, 1<sup>st</sup> Floor, Opposite Chroma Showroom, Plot No.126, Sion (East), Mumbai-400022.

2 It is common ground that the Petitioner is a cooperative housing society and claims that pursuant to the Lease dated 19.10.1956 a right was created in its favour in respect of Plot No.126, Scheme No.6 by the Municipal Corporation for a period of 999 years. The intent was to provide residential units to the members of the Petitioner/ Society (Lessee). There are four buildings constructed which are styled as Wings A, B, C and D through the Builder appointed by the Petitioner.

3 Later on, there appears to be a dispute between the office bearers of the Petitioner Society then holding the charge and the

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wp.829.13.4.os

Developer. There was also dispute between one Mr.Prabhakar Parte and the then Managing Committee of the Petitioner Society. It is alleged that the terms and conditions in the Lease Deed have been violated by the earlier Managing Committee and the development activity is carried out. What is now alleged is that there are Wings E and F constructed on the said plot. That plot belongs to the Petitioner Society, but these wings were not part of the construction envisaged. In these circumstances the disputes between the Petitioner, members of the Petitioner, Developers or third party, apart, the construction of wings E and F is termed as unauthorized and illegal. The Petitioner has pointed out that the Builders and Developers have constructed the building known as Sai Prasad in violation of the terms and conditions of the Lease Deed and also stop work notice dated 03.03.2011 and demolition notice dated 18.03.2011. The construction is, therefore, patently unauthorized and illegal. Any activity such as setting up the nursing home in one of the flats, cannot be protected and therefore, requisite steps be taken so as to stop such illegal activities.

4 The Municipal Corporation has filed an affidavit in answer to this Writ Petition and what we find is that there is complete silence maintained with regard to the construction of Wings E and F and whether they are unauthorized as claimed. What has been pointed out and possibly as justification is that the Respondent Nos.2 and 3 were allowed to set up the Nursing Home on the first floor because they had all requisite licences and no objection certificates. Equally, they gave an undertaking to the Municipal Corporation, so also, executed the Indemnity Bond that the Occupation Certificate will be submitted as and when received.

5 Upon a query, Ms.Puranik, on earlier occasion sought time to take instructions.

6 Today, Ms.Puranik, on instructions, has made a statement that

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not just this Nursing Home and activity carried out by the Respondent Nos.2 and 3, but, the entire wings or building styled as Wings E and F on the plot of land leased to the Petitioner Society, has no occupation certificate. There are 49 persons/ occupants who have occupied the structure known as Wings E and F. If that is the position, then, Ms.Puranik states that the Municipal Corporation will initiate all steps and measures so as to proceed against the occupants and equally the building which has been occupied by these occupants. The requisite notices will be issued within a period of one week from today.

7 We accept these statements made as undertakings given to this Court.

8 As far as the Respondent Nos.2 and 3 are concerned, we need not advert to their stand in the affidavit. They may have some justification for entering in the property and possibly that they were completely unaware of the disputes between the Developers and the Petitioner. However, occupying the building without occupation certificate and commencing the activity styled as Nursing Home, cannot be countenanced and permitted in law. They will have to be proceeded against by the Municipal Corporation and it is thereafter, open to them to initiate such measures and adopt such proceedings against the Petitioners or Municipal Corporation if they are aggrieved by any of their acts. We need not foreclose their remedies.

9 We clarify that recording of the statements made by Ms.Puranik on instructions, shall not be construed as any opinion being expressed by this Court on the rival contentions. They are kept open.

10 In the light of the statements made by Ms.Puranik, the Writ Petition need not be kept pending and it is disposed of. No costs.

(G.S.PATEL, J.)

(S.C. DHARMADHIKARI, J.)

2023 SCC OnLine Bom 1749

In the High Court of Bombay at Goa  
(BEFORE M.S. SONAK AND BHARAT P. DESHPANDE, JJ.)

Cruz Silveira and Another ... Petitioners;

*Versus*

State of Goa, through the Chief Secretary,  
Secretariat, Alto Porvorim and Others ...  
Respondents.

Pil Writ Petition No. 13 of 2022 and Misc. Civil Application No. 2548  
of 2022(F)

Decided on August 22, 2023

Advocates who appeared in this case :

Mr. Rohit Bras De Sa with Mr. Prataprao Naik and Mr. P. Navti,  
Advocates for the Petitioners.

Mr. D. Pangam, Advocate General with Mr. S. Priolkar, Additional  
Government Advocate for Respondents - State.

Mr. A.D. Naik, Advocate for Respondent No. 3.

Mr. P.A. Kamat, Advocate for Respondent No. 5.

Mr. S.G. Desai, Senior Advocate with Mr. V. Parshekar, Advocate for  
Respondent No. 6.

The Judgment of the Court was delivered by

M.S. SONAK, J.:— Heard Mr. Rohit Bras De Sa with Mr. P. Navti for  
the petitioners. Learned Advocate General appears along with Mr. S.  
Priolkar, the learned Additional Government Advocate for the State, Mr.  
A.D. Naik appears for respondent no. 3, Mr. P.A. Kamat appears for  
respondent no. 5 (Panchayat), and Mr. S.G. Desai, the learned Senior  
Counsel, appears along with Mr. Parshekar for respondent no. 6.

2. Rule. The rule is made returnable immediately at the request of  
and with the consent of the learned Counsel for the parties.

3. The petitioner complains about alleged illegal construction put up  
by respondent no. 6 and inaction on the part of the authorities in taking  
action against such alleged illegal construction and the commercial  
activity undertaken through the same.

4. On 26.04.2022, this Court made the following order:

"P.C.:

1. *The Petitioner complains about the illegal construction put up  
by Respondent No. 6 which is presently being used for  
commercial purposes.*
2. *At least, prima facie, the record bears out that the construction*

is not authorized for several reasons including but not restricted to violations of the CRZ notification.

3. The CRZ authorities inspected the site and a copy of the inspection report dated 29.01.2021 was made available to the Petitioner under RTI.
4. The findings and recommendations in the said report read as follows:—

"V. FINDINGS & RECOMMENDATIONS.

11. As per the approved plan copy furnished by the complainants, the construction falls within 200 - 500 m of HTL.

12. The structures listed at para 5 (b) to (d) above have been/are being constructed by Mr. Ashok Kashinath Meher on the property bearing Sry no. 206/1-B of village Calangute without prior permission of the Authority, and in flagrant violation of CRZ Notification.

13. In the foregoing prima-facie view and pending inquiry, a stop work order alongwith show cause notice may be issued to the alleged violator Mr. Ashok Meher, forthwith.

14. Pending inquiry, WRD may be asked to seal the well existing in the property to stop further extraction of ground water within CRZ area.

15. DSLR may be asked to conduct detailed survey of the property bearing Sry no. 206/1-B with total station instrumentation, and plot all structures thereon, the access road and the 500 m HTL line on plan.

However, Authority may decide as deemed fit."

5. Further, inspection was scheduled on 07.04.2022. However, Respondent No. 6 simply addressed an email message to the GCZMA authorities and based upon the same, the GCZMA authority virtually obliged the Respondent No. 6 by postponing the inspection by two months.
6. We think that this is a serious matter. The allegation is about an illegal construction that is put up in an Eco-sensitive CRZ Zone. The allegation is that the structure is being used for commercial purposes. The postponement of inspection means postponement of action. It also means that in the peak tourist season, Respondent No. 6 will continue with his commercial activity in an Eco-sensitive Zone through a structure which is, prima facie, illegal and unauthorized.
7. Today, however, the learned Advocate General has placed before us a notice preponing inspection to 04.05.2022. The inspection should be held on 04.05.2022 as scheduled and the same cannot be postponed based upon a simple email

- communication from Respondent No. 6 stating that he is "preoccupied".
8. Further, we direct the GCZMA to expedite its action in the matter.
  9. Mr. Vernekar, the learned Counsel for the Village Panchayat, states that there is no occupancy certificate granted by the Panchayat to the structure put up by Respondent No. 6. In the absence of any occupancy certificate, and further, considering the report of the GCZMA, we cannot conceive how the structure is put to use for commercial purposes by Respondent No. 6. Ms. Govekar states that she is unable to obtain any instructions from Respondent No. 6 in the matter. Normally, we would have adjourned the matter, but considering the gross facts of this case, we do not think that Respondent No. 6 should simply avoid legal process and based on such avoidance, continue to exploit the structure for commercial purposes.
  10. Even the GCZMA report recommends that the stop-work order along with show-cause notice should have been issued to Respondent No. 6. The report also recommends that the WRD should seal the well existing in the property to stop further extraction of ground water within CRZ area.
  11. Therefore, by way of an interim relief, we direct the WRD authorities to immediately proceed to the site and to seal the existing well and stop forthwith the extraction of ground water from the CRZ area in the occupation of Respondent No. 6. No such water should be extracted or used for any purpose until further orders.
  12. Further, we direct the Respondent No. 6 to forthwith cease using the structure in question for any commercial purposes. If there are any occupants, Respondent No. 6 should ensure that they vacate within two days from today. The Panchayat and the Police authorities should ensure compliance.
  13. We post this matter on 02.05.2022, for the Panchayat, the Deputy Collector & SDO of Bardez, WRD officials and the Police authorities to report compliance.
  14. All concerned to act on an authenticated copy of this order."
5. Further, in Misc. Civil Application No. 2821/2022(F) filed by the Village Panchayat of Calangute, this Court made the following order on 28.12.2022:
- "P.C.:
1. Heard Mr. Pranay Kamat for the Applicant, Mr. Gaurang Panandikar for Original Respondent No. 6, Mr. Rohit Bras de Sa for the Original Petitioners and Mr. Shubham Priolkar the learned

*Additional Government Advocate for Respondent Nos. 1, 2 and 4 in the original petition.*

2. *Mr. Kamat appearing for the Applicant/Village Panchayat Calangute is the Original Respondent No. 5 in the petition would submit that inspite of clear instructions passed by this Court in its order dated 26 April 2022 in PILWP\* No. 13/2022, there is no compliance report furnished till date.*
3. *Mr. Priolkar hands over the report of Water Resources Department dated 29 April 2022 stating that the well existing in the premises occupied by Respondent No. 6 is sealed.*
4. *Mr. Kamat submits that the activities in the said premises are going on specifically during night time which include commercial activities. He submits that Panchayat has already issued the demolition order as entire structure in the said premises is found to be illegal and without any occupancy certificate.*
5. *Mr. Panandikar has filed an affidavit in reply stating that Respondent No. 6 is not conducting any commercial activities in the said premises.*
6. *However, it is found that the structure is provided with electricity connection and apparently the same is used for carrying out commercial activities. It is quite surprising that inspite of issuing demolition order and without any occupancy certificate from the Village Panchayat, the premises are used allegedly for commercial purpose.*
7. *We, therefore, direct Respondent Nos. 2 and 4 to immediately seal the said premises. The P.I. of Calangute Police Station should provide the necessary assistance. Report shall be furnished to this Court on 2 January 2023.*
8. *The Miscellaneous Civil Application is accordingly disposed of.*
9. *Office to post the main P.I.L. Writ Petition on 10 January 2023.*
10. *All parties should act on the authenticated copy of this order."*

6. As a result of the above orders, the alleged illegal construction has been sealed. Mr. Desai confirms that the premises have been sealed, and they remain sealed.

7. The record bears out that there is no Occupancy Certificate issued in respect of the said premises. At least prima facie, the construction was unauthorised. Yet, we were constrained to express our surprise at how electricity and water connections were released to these premises to facilitate commercial activity through the same. No explanation was, however, offered by the State in this regard.

8. Accordingly, we direct the Chief Engineer of the Electricity Department and the Chief Engineer of the Public Works Department to inquire into this matter and submit a compliance report to this Court

within two months about the circumstances in which the electricity connection and water supply were released to the said premises despite the fact that these premises were prima facie unauthorised and, in any case, had no Occupancy Certificate. The compliance report must give all facts, including details of the Officers involved in releasing this electricity and water connection to these premises.

9. In the reply filed on behalf of respondent no. 6, it is now disclosed that the Goa Coastal Zone Management Authority (GCZMA) has issued a show cause notice/Stop Work Order on 25.07.2023 to respondent no. 6. Accordingly, we direct the GCZMA to dispose of the said show cause notice dated 25.07.2023 in accordance with law and on its own merits. The GCZMA should offer an opportunity for hearing not only to respondent no. 6 but also to the petitioner.

10. The reply filed by respondent no. 6 discloses that the Village Panchayat of Calangute has also issued a show cause notice dated 12.07.2023 to respondent no. 6. Accordingly, the Panchayat must also dispose of this show cause notice by granting an opportunity of hearing not only to respondent no. 6 but also to the petitioner.

11. The GCZMA and the Panchayat of Calangute must file compliance reports no sooner after their respective show cause notices are disposed of. Copies of the decisions must be communicated to the parties immediately and placed on record with the compliance reports.

12. Said premises must remain sealed until the GCZMA and the Panchayat dispose of the show cause notice. Such sealing should continue for a period of at least four weeks from the date of communication of the decisions of GCZMA and Panchayat to the petitioner, in case, the GCZMA and the Panchayat decide to discharge the show cause notice. The Respondent No. 6 or any person or entity cannot occupy the said premises without an occupancy certificate.

13. Now that the authorities are activated into acting based on the petitioner's complaint, this petition need not be kept pending. The Rule is made absolute by issuing above directions. The petition is accordingly disposed of with the above directions. The concerned authorities must file their compliance reports in this Court after serving an advance copy on the learned Counsel for the petitioner.

14. Misc. Civil Application does not survive and the same is disposed of. No costs.

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2022 SCC OnLine Bom 7714

In the High Court of Bombay at Goa  
(BEFORE BHARAT P. DESHPANDE AND VALMIKI SA MENEZES, JJ.)

Village Panchayat Calangute Thr. its Secretary ...  
Applicant;

*Versus*

State of Goa Thr. the Chief Secretary and Others ...  
Respondents.

Misc. Civil Application No. 2821 of 2022 (F) and P.I.L. Writ Petition  
No. 13 of 2022

Decided on December 28, 2022

Advocates who appeared in this case :

Mr. Pranay Kamat, Advocate for the Applicant/Original Respondent  
No. 5.

Mr. Rohit Bras de Sa with Mr. P.N. Navti, Advocates for the Original  
Petitioners.

Mr. Shubham Priolkar, Additional Government Advocate for  
Respondent Nos. 1, 2 and 4.

Mr. Gaurang Panandikar, Advocate for Original Respondent No. 6.

P.C.

1. Heard Mr. Pranay Kamat for the Applicant, Mr. Gaurang Panandikar for Original Respondent No. 6, Mr. Rohit Bras de Sa for the Original Petitioners and Mr. Shubham Priolkar the learned Additional Government Advocate for Respondent Nos. 1, 2 and 4 in the original petition.

2. Mr. Kamat appearing for the Applicant/Village Panchayat Calangute is the Original Respondent No. 5 in the petition would submit that inspite of clear instructions passed by this Court in its order dated 26 April 2022 in PILWP No. 13/2022, there is no compliance report furnished till date.

3. Mr. Priolkar hands over the report of Water Resources Department dated 29 April 2022 stating that the well existing in the premises occupied by Respondent No. 6 is sealed.

4. Mr. Kamat submits that the activities in the said premises are going on specifically during night time which include commercial activities. He submits that Panchayat has already issued the demolition order as entire structure in the said premises is found to be illegal and without any occupancy certificate.

5. Mr. Panandikar has filed an affidavit in reply stating that

Respondent No. 6 is not conducting any commercial activities in the said premises.

6. However, it is found that the structure is provided with electricity connection and apparently the same is used for carrying out commercial activities. It is quite surprising that inspite of issuing demolition order and without any occupancy certificate from the Village Panchayat, the premises are used allegedly for commercial purpose.

7. We, therefore, direct Respondent Nos. 2 and 4 to immediately seal the said premises. The P.I. of Calangute Police Station should provide the necessary assistance. Report shall be furnished to this Court on 2 January 2023.

8. The Miscellaneous Civil Application is accordingly disposed of.

9. Office to post the main P.I.L. Writ Petition on 10 January 2023.

10. All parties should act on the authenticated copy of this order.

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BEFORE THE NATIONAL GREEN TRIBUNAL WEST  
ZONE AT PUNE

Appeal No: 09/2025

Bosco Cruz Fernandes

....Appellant

V/s

Goa Coastal Zone Management Authority

....Respondents

AFFIDAVIT-IN-REPLY TO APPLICATION FOR STAY

MAY IT PLEASE YOUR HONOUR

I, Mrs **Renita Elizabeth Fernandes e Andrade**, Aged 53 years,  
Indian National, Married , Service, resident of B-502, Raghu  
Vihar, New Link Road, Dahisar West and Permanent Resident of  
House No. 7/18, Sauntawado, Calangute, Bardez Goa  
constituted **Power of Attorney Holder of Respondent No. 4**  
**Mrs Helen Lily Andrade** 77 years, Indian National, Resident of  
H. No 7/18, SauntaVaddo, Calangute, Bardez Goa, the



Respondent No. 4 above named do on solemn oath and affirmation state and submit as under:

- 1) I say that I have read and understood the contents of the Application for Stay filed by the Appellant and at the outset I deny all and singular the contents of the Application for Stay, to the extent that they are contrary and/or repugnant to, and/or otherwise inconsistent with the contents of this Reply. Though this Reply might not traverse each and every averment in the Application for Stay, none of its contents, not expressly denied, addressed and/or otherwise dealt with herein, may, only for want of specific traverse unless expressly admitted herein, be deemed to have been admitted by the Respondent No. 4/ Deponent herein.
- 2) The Respondent No. 4, shall be relying on the contents of Affidavit-in-Reply filed to the Appeal and the same may be considered as reproduced herein for the sake of brevity.
- 3) With respect to the contents of para 3 to 9 of the Application for Stay, the same are denied as false and



baseless. The Appellant has failed to provide any justification for the structures existing at the site which are ordered to be demolished in the impugned Order. There is no prima facie case in favour of the Appellant for reasons stated in the Affidavit-in-Reply to Appeal.

4) With respect to the contents of para 10, it is denied that there can be irreparable loss if the stay is not granted as the Appellant are seeking to obtain a stay from this Court in Order to delay the matter and run commercial operations in patently illegal structures and profit from the same.

5) **It is therefore prayed that:**

This Hon'ble Court dismisses the frivolous Application for Stay of the Appellant as the same has been filed without any merit and with oblique reason to delay and protract the proceedings.

6) I say that what is stated by me at Paras 1 to 5 of the above Affidavit are true to the best of my knowledge.



Solemnly affirmed at \_\_\_\_\_ on this \_\_\_\_\_ day of  
March 2025.

5 MAR 2025

*[Handwritten Signature]*

The Deponent

NOTARIAL  
REG. SR. NO  
5082/25



BEFORE ME

*[Handwritten Signature]*

JAGDISH TRYAMBAKRAO DONGARDIVE  
Advocate High Court & Notary, (Govt of India)  
Rahul Chawl Committee, Kranti Nagar,  
Akurli Road, Kandivali (East),  
Mumbai-400 101.

5 MAR 2025

