

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

I.A. NO. 208 of 2024

IN

APPEAL NO. 30 of 2024

IN THE MATTER OF:

RAMESH SAZO GAUNS

... APPELLANT

versus

UNION OF INDIA & OTHERS

... RESPONDENTS

AFFIDAVIT-IN-REPLY

ON BEHALF OF THE RESPONDENT NO. 4

TO THE INTERIM APPLICATION FOR STAY

I, Jagdish Ravindranath Desai, son of Ravindranath Govind Desai, major of age, Indian habitant, resident of UG3, Milroc Temple Towers, Opposite Swami Samarth Temple, Mercedes, Goa, working as Head Environment - Sesa Goa - Vedanta Limited, authorized signatory of the Respondent No. 4 abovenamed having its office at Vedanta Limited, Sesa Ghor, 20 EDC Complex, Patto, Panaji, Goa - 403001 and having its registered office at 1st Floor, "C" Wing, Unit 103, Corporate Avenue, Atul Projects, Chakala, Andheri (East), Mumbai - 400093, do hereby solemnly affirm and state as under:-

1. I state that I am the authorized signatory of the Respondent No. 4 (the "**Answering Respondent**") and I am conversant with the facts of the present case and duly authorized to file the present reply. I am filing the present reply based on the facts which are available from the records of the Answering Respondent.
2. I state that I am filing the present reply to respond to the interim application for suspension of the EC dated 23.01.2024 (the "**Application**") filed by the

Appellant, wherein the Appellant has sought suspension of the said EC as well as a suspension of mining operations till the disposal of the captioned Appeal.

3. The Appellant has sought the aforesaid interim reliefs on broadly two grounds:
 - i. That the Answering Respondent has, in preparing the EIA Report allegedly not considered the Draft Notification No. 11-2/GSWA/2023-2024/Pub./803 dated 28.09.2023 issued by the Goa State Wetland Authority (GSWA) (the “**Draft Notification**”) to notify Lamgao Lake bearing Sy. No. 25/1 as a wetland under the WETLANDS (CONSERVATION AND MANAGEMENT) RULES, 2017; and
 - ii. That the Answering Respondent allegedly did not disclose the presence of 13 lakes within the mining lease area.

4. The Answering Respondent submits that broadly stated, the abovementioned grounds are devoid of merit, inasmuch as:
 - a. These arguments, apart from being based on his personal perceptions which are not borne from the record, do not by any measure meet the threshold for judicial review of an EC as laid down by the Hon’ble Supreme Court in *Rajeev Suri v. DDA*, (2022) 11 SCC 1.
 - b. The Answering Respondent has been in continuous operations, since it commenced mining operations in March 2024, for a period of close to 8 months. Importantly, the present application under reply has been filed belatedly, only on 14.10.2024, much after the Answering Respondent commenced operations, even though he was well aware that the operations were already underway.
 - c. The Answering Respondent will suffer irreparable loss if the EC is stayed since apart from the financial implications, it will not be able to meet its statutory and contractual obligations which will lead to irreversible consequences. To elaborate, the Answering Respondent has an obligation to produce and dispatch the mineral in a timely manner, both under the Mine Development and Production Agreement with the State of Goa as well as under the MINERAL (OTHER THAN ATOMIC AND HYDRO CARBONS

MINERALS) CONCESSION RULES, 2016. This apart, the Answering Respondent has long term contracts for the export of iron ore which would be jeopardised due to non-supply.

DRAFT NOTIFICATION FOR LAMGAO LAKE

5. *Firstly*, the Draft Notification, as the name suggests, is only a ‘draft’ notification, i.e., it has not yet been notified. In other words, the said Lamgao Lake falling in Sy. No. 25/1, is yet to be notified as a wetland. Therefore, it is presumptuous, if not completely unwarranted for the Appellant to state that the Answering Respondent has carried out mining activities in a water body.
6. In fact, the Answering Respondent has filed its objection to the Draft Notification by a letter dated 14.03.2024 addressed to the GSWA. In the said letter, the Answering Respondent has clearly stated that there is a settling pond in Sy. No. 25/1, which is a part of the Bicholim Mineral Block-I, and is integral to the Environment Management Plan (EMP).
A copy of the letter dated 14.03.2024 addressed to the Goa State Wetland Authority by the Answering Respondent is hereto annexed and marked as **ANNEXURE R4-1**.
7. The purpose of a settling pond is to prevent contamination of streams, by channelising rain water into the settling pond after initial treatment and then allowing the same to flow naturally into the streams. Further, the provision of settling ponds in the mining lease area has existed since decades and is not a new activity. Therefore, it is for these reasons, that the Answering Respondent has objected to the Draft Notification contemplating the classification of the Lamgao Lake (Sy. No. 25/1) as a wetland. More importantly, the specifications of the settling ponds form a part of and are specifically disclosed in the EIA Report and the EMP (***Table 10.3, Pg. 1175, Reply***), which have been appraised by the EAC in several meetings, based on which the EC has been granted to the Answering Respondent.

8. *Secondly*, the application for EC as well as the EIA Report both predate the said Draft Notification, and hence could not possibly have been factored into the EIA Report. The following chronology would demonstrate the same:

16.03.2023	Application for the EC was submitted.	<i>Pg. 140, Appeal Paperbook</i>
01.09.2023	EIA Report along with Form I was submitted.	<i>Page 136, Appeal Paperbook</i>
28.09.2023	Draft Notification with respect to Lamgao Lake was issued.	

9. Thus, it was impossible for the Answering Respondent to factor the Draft Notification in the preparation of the EIA report, assuming that a ‘draft’ notification has any legal credence.

NO SUPPRESSION OF WATER BODIES

10. The Appellant seeks suspension of the mining activities of the Answering Respondent also on the ground that there has allegedly been a suppression of the presence of “13 lakes” within the mining lease area. The Appellant has predominantly relied on an RTI response dated 01.07.2009 for the said allegation.
11. In this respect, it is submitted that:
- a. It is pertinent to note that Standard Term of Reference No. 1.7 requires disclosure of only ‘important’ water bodies (*Pg. 938, Reply*).
 - b. Accordingly, the Answering Respondent has, in the EIA report, provided the key plan in Plate No. 3 (*Pg. 1671, Reply*) as well as the complete land use and land cover in Plate No. 18 (*Pg. 1241, Reply*), which disclose all the water bodies (including the settling ponds) within the mining lease area and its 10Km buffer zone.

- c. The said Plate Nos. 3 and 18 are in turn prepared on the basis of toposheet and satellite imagery, which are not prepared by the Answering Respondent, but by the Survey of India. In other words, there was no scope for the Answering Respondent to either include or exclude water bodies in the said Plates.
 - d. Therefore, any allegation of suppression or non-disclosure with respect to water bodies by the Answering Respondent is misplaced and baseless.
12. Thus, what emerges is that:
- a. Plate Nos. 3 and 18 prepared on the basis of publicly available data (not authored by the Answering Respondent) show all significant water bodies. Hence, the allegation of non-disclosure is not only wrong but also illogical, since the Answering Respondent cannot change the toposheet/ satellite image prepared by the Survey of India. Significantly, Plate Nos. 3 and 18 capture even the settling ponds within the mining lease area. Hence, it can be safely inferred that what is not depicted therein is insignificant and cannot lead to a conclusion of non-disclosure or suppression.
 - b. Additionally, in response to the TOR requiring “important” water bodies to be factored into the impact assessment, the Answering Respondent has correctly disclosed the presence of five (5) prominent/ important water bodies near the mine lease area: (i) Asnora River: touching lease boundary at one point; (ii) Bicholim River: 0.23Km; (iii) Mandovi River: 2.3Km; (iv) Chapora River: 7.5Km; and (v) Mayem Lake: 0.46Km (**Pg. 964, Reply**).
13. Most significantly, the survey nos. as mentioned in the RTI response dated 01.07.2009 that the Appellant has relied on, are not notified water bodies as per the GSWA, which would be the most authentic information bearer with respect to water bodies in the State of Goa. Hence, this is further proof of their insignificance.

14. A list of notified water bodies prepared by the GSWA shows 15 lakes, none of which are in the Bicholim Taluka and hence, are beyond the scope of the mining lease deed, which has been granted for Bicholim Mineral Block-I.

A copy of the email dated 12.11.24 along with a list of notified water bodies as prepared by the Goa State Wetland Authority is hereto annexed and marked as **ANNEXURE R4-2**.

15. Above all, it cannot be lost sight of that the sub-committee of the EAC conducted a site visit from 29-30.10.2023 as directed by the EAC in its 20th Meeting held on 22.09.2023 and noted the presence of settling ponds in the mining lease area (**Pg. 158, Appeal Paperbook**). The observations and recommendations made by the sub-committee were considered by the EAC in its 22nd Meeting held on 14.11.2023.

16. Furthermore, it must be stated that the Appellant is merely a busy body who is attempting to nitpick the detailed EIA Report and its consideration by citing the RTI response, even though the very same grievance was raised by the Appellant at the time of the public hearing, and was duly responded to (**Pg. 1323, Reply**), which response reads as follows:

“all the water bodies within the buffer zone are covered under Land use pattern under chapter 3 of EIA”

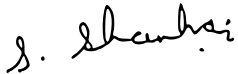
17. The aforesaid response is in consonance with the contents of the EIA Report, especially Plate Nos. 3 and 18, which, as already stated hereinabove, were superimposed on maps prepared by the Survey of India.
18. Therefore, it is respectfully submitted that the Appellant's assertion about the presence of lakes in the mining lease area and their non-disclosure by the Answering Respondent is a bald attempt to mislead this Hon'ble Tribunal by mis-characterising settling ponds as 'lakes'.
19. It is significant to note that in response to the additional details sought dated 01.12.2023, the Answering Respondent has set out the details of “12 nos. of

interlinked siltation ponds” in Table No. 4 (**Pg. 1518, Reply**). Importantly, every detail of these siltation/ settling ponds including their precise dimensions has been provided in the said tabular chart. It appears that it is these ponds, which the Appellant perceives as “lakes”.

20. In summary, it is submitted that the Appellant has not made out a case for the grant of the abovementioned interim reliefs because:
 - a. The Draft Notification dated 28.09.2023 issued to notify Lamgao Lake (Sy. No. 25/1) as a wetland has not yet attained finality and more importantly, has been objected to by the Answering Respondent on 14.03.2024 on the ground that it is, in fact, a settling pond.
 - b. There has been no non-disclosure or suppression by the Answering Respondent with respect to the presence of water bodies in the mining lease area.
 - c. The Answering Respondent, in compliance with Standard ToR 1.7, has provided the key plan in Plate No. 3 as well as the complete land use and land cover in Plate No. 18, which disclose all the water bodies (including the settling ponds) within the mining lease area and its 10Km buffer zone. Both these plates are importantly superimposed on maps prepared by the Survey of India and are not prepared by the Answering Respondent.
 - d. The settling ponds along with their specifications have been tabulated in Table 10.3 of the EIA Report and hence, were very much in the knowledge of the EAC while considering the grant of the EC dated 23.01.2024 to the Answering Respondent.

21. In the above conspectus, it is submitted that the Application be dismissed as being without merit and all the three factors relevant for the consideration of interim relief are in favour of the Answering Respondent inasmuch as:
 - a. The Appellant has failed to demonstrate a *prima facie* case warranting the grant of interim relief since all objections are an attempt at nitpicking into the EIA process, and there is no demonstrable defect in the manner in which

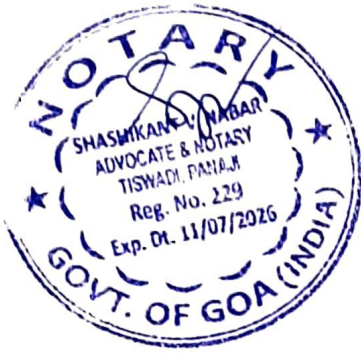
- the same has been conducted to warrant the exercise of judicial review in terms of *Rajeev Suri (supra)*.
- b. The balance of convenience is squarely in favour of the Answering Respondent since it commenced mining operations in March 2024, and has been in continuous operations for a period of close to 8 months. Importantly, the present application under reply has been filed belatedly, only on 14.10.2024, much after the Answering Respondent commenced operations, even though he was well aware that the operations were already underway.
 - c. The Answering Respondent will suffer irreparable loss if the EC is stayed since apart from the financial implications, it will not be able to meet its statutory and contractual obligations, which will lead to irreversible consequences.



Adv For the Respondent No 4

Pune

Dated 27.11.2024



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I.A. NO. 208 of 2024
IN
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IN THE MATTER OF:

RAMESH SAZO GAUNS

... APPELLANT

versus

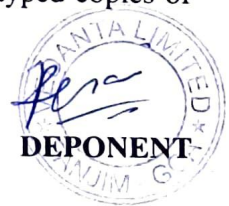
UNION OF INDIA & OTHERS

... RESPONDENTS

AFFIDAVIT

I, Jagdish Ravindranath Desai, son of Ravindranath Govind Desai, major of age, married, Indian National, residing at UG3, B1, Milroc Temple Towers, Opposite Swami Samarth Temple, Merces, Goa, the authorised representative of the Respondent No. 4 in the captioned appeal, do hereby solemnly affirm and declare as under:-

1. That I am the Head Environment – Sesa Goa – Vedanta Limited of the Respondent No. 4 in the captioned matter and hence am aware of the facts of this case and I have been duly authorised, hence I am competent to swear this affidavit.
2. That contents of the accompanying reply at paras 1 to ²¹19 have been drafted by my counsel under my instructions and after going through and carefully understanding the same I state the same to be true and correct to the best of my knowledge and belief based on the records of the case available at hand and the legal submissions made therein are based on legal advice which I believe to be true. No part thereof is false and nothing material has been concealed therefrom.
3. That the annexures enclosed with the said reply are true and/ or typed copies of their respective originals.
4. That the contents of this affidavit are true and correct.



VERIFICATION

Verified at Panaji on this 26/11 day of November, 2024 that the contents of the foregoing affidavit are based on my knowledge and belief and that no part thereof is false and that nothing material has been concealed therefrom.



SHASHIKANT V. NABAR
 Advocate & Notary
 Tiswadi Taluka
 Panaji-Goa, Goa



sesa goa

To
 Head of Nodal Agency
 Goa State Wetland Authority (GSWA)
 Ground Floor Goa State Pollution Control Board building,
 Opposite Saligao Seminary, Saligao, Bardez - Goa.

14/03/2024



Subject: Allegations w.r.t Settling Ponds situated in Sy no. 69/1 of Mulgao Village and 25/1 of Lamgao village falling within Block I Bicholim Mineral Block.

Respected Sir

With reference to above subject, we would like to bring on record following points:

Block 1 Bicholim Mineral Block was recently auctioned by the state government and Vedanta was declared as preferred bidder, following which Vedanta Ltd obtained all the necessary permissions for various Government authorities.

It is brought to our notice that some local stakeholders are claiming that above mentioned settling ponds located in Sy.No 69/1 of Mulgao Village and 25/1 of Lamgao village are wetlands.

We would like to state that the above mentioned settling ponds are part of the Block 1 Bicholim mineral block and are important part of our Environment Management Plan (EMP). The monsoon water after initial treatment in mine pit is further channelised in to the above mentioned settling ponds and then the clear water is allowed to flow naturally in to the streams. We are attaching herewith approved EMP for your ready reference. This arrangement of settling pond is existing since decades and not a new activity.

We request you that the above mentioned settling ponds should not to be notified as wetlands.

Thanking you

Yours faithfully

Dhirajkumar Jagdish
 Dy. CEO - Iron Ore Goa
 Authorised Signatory

VEDANTA LIMITED

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 T +91 0832 2460600 Website: www.sesagoaironore.com

Registered Office: Vedanta Limited, 1st Floor, 'C' wing, Unit 103, Corporate Avenue, Atul Projects, Chakala, Andheri (East), Mumbai-400093, Maharashtra, India.
 CIN: L13209MH1965PLC291394

2043

Annexure R4-2**Subject: Re: List of notified lakes in the state of Goa**

Tue 12 N



Goa Wetland <goawetland@gmail.com>
to Jagdish Desai, ms-gswa.goa@gov.in

CAUTION:- Email originated from outside of the organization. Do not click links open attachments unless you recognize the sender and know the content is safe

Sir,

As directed by Head of the Nodal Agency GSWA,

As requested by you, please find attached list of notified wetlands along with Gazette notifications of the same for your perusal.

Thanking you,

Regards,

GSWA

On Tue, Nov 12, 2024 at 1:21 PM Jagdish Desai <Jagdish.Desai@vedanta.co.in> wrote:

To
Member Secretary,
Goa State Wetland Authority (GSWA),

Respected sir,

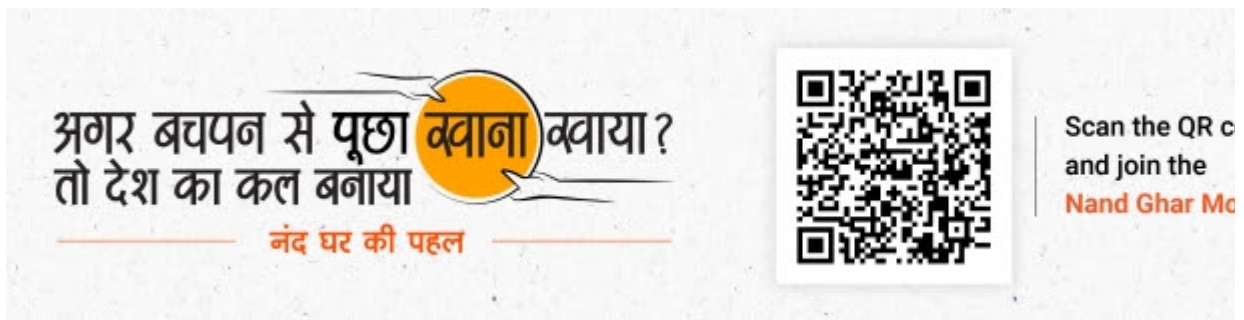
We request you to kindly provide us with a list of Notified lakes/ water bodies in the State of Goa.

Thanking you

Yours faithfully

Jagdish Desai

9822696852



Sensitivity: Public (C4)

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अगर बचपन से पृथ्वी बना बचाया? तो देश का कल बनाया
नंद घर की पहल



Scan the QR code and join the Nand Ghar Movement



Sensitivity: Public (4)

Goa State Wetland Authority (GSWA)

Address: O/o Goa State Biodiversity Board (GSBB)
1st Floor, Dept. of Science, Technology & Environment
Opp. Saligao Seminary, Saligao, Bardez- Goa.

Note: Request you to direct all future communications to the new email address of GSWA i.e., ms-gswa.goa@gov.in and the gmail account gsawetland@gmail.com will be gradually phased out.

16 attachments • Scanned by Gmail



Grid of 16 document thumbnails, each with a PDF icon and the text 'Final Notification ...'. The thumbnails contain various diagrams, maps, and text related to wetland notifications. The last thumbnail in the second row is labeled 'Finally Notified W...'.

Finally Notified Waterbodies

Sr. No.	Name of the wetland	District	Village	Taluka
1.	Durga Lake	South Goa	Chinchinim	Salcete
2.	Carambolim Lake	North Goa	Carambolim, Corlim	Tiswadi
3.	Batim Lake	North Goa	Batim	Tiswadi
4.	Coneix Lake	South Goa	Priol	Ponda
5.	Tarvale Lake	South Goa	Shiroda	Ponda
6.	Sulabhat Lake	North Goa	St. Lawrence	Tiswadi
7.	Pali Lake	South Goa	Dicarpale, Davorlim	Salcete
8.	Toygar Lake	North Goa	Chimbel	Tiswadi
9.	Saulem Lake	North Goa	Pilerne	Bardez
10.	Dashi Lake	North Goa	Revora	Bardez
11.	Cottombi Lake	South Goa	Avedem, Cottombi	Quepem
12.	Xeldem Lake	South Goa	Xeldem	Quepem
13.	Sarzora Lake	South Goa	Sarzora	Salcete
14.	Bondvol Lake	North Goa	Calapur	Tiswadi
15.	Nanda Lake	South Goa	Cacora	Quepem

*Nanda Lake (Quepem) is designated as Goa's first Wetland of International Importance (Ramsar site)