

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE AT PUNE

Execution No. 4/2018 (WZ)

The Colva Civic and Consumer Forum ...

Applicant

Versus.

The GCZMA and Ors. ... Respondents

Affidavit in Reply on behalf of Respondent no. 8 through the

Affidavit dated 15/03/2024 filed by the Respondent no. 1

I, Mrs. Cynthia Carvalo alias Cynthia Carvalo E. Fernandes, age 66 years, W/o Late Roque Fernandes, R/o House No. 4/170, Blanch House, Mangor hill, Vasco da Gama, Goa, the Respondent no. 8 above named do hereby solemnly state as under:

C. Fernandes

1. I say that, I have read and understood the contents of the Affidavit dated 15/03/2024 and the Affidavit dated 7/1/2025 filed by the Respondent no. 1 submitting the revised estimate for the cost likely to be incurred in carrying out the restoration work as directed by this Hon'ble Tribunal in its Judgment dated 03/07/2017.
2. I say that, I deny the contents of Para 04 of the Affidavit more particularly the revised estimate of Rs.27,39,882.97/- inclusive of 18% GST and the reasons given for the revised increased estimate.
3. I say that, the estimate submitted by the Respondent no.1 to this Hon'ble Authority is not supported by any scientific or any analytical data or physical verification for arriving at the revised estimate and increasing the expenditure to almost double of the previous estimate submitted in the year 2019.

Sandeep



4. I say that, the original Application filed by the Original Complainant before this Hon'ble Authority essentially pertained to Survey Nos. 41/4, 30/3, 44/2, 41/5, 42/0 and 42/3 of Village Sernabatim. When the first site Inspection was conducted by the member of the GCZMA on 17/06/2015, the site inspection was limited to the above Survey Numbers.



5. I say that, this Hon'ble tribunal by order dated 03/07/2017 had directed constitution of a Committee headed by the member Secretary of the GCZMA, Member Secretary Goa State Biodiversity Board, Chief Town Planner TCP Department to ascertain the dimensions of the Original Bundh/ Pathway or Paddy fields with reference to the land survey conducted by the Directorate of Settlement and Land Records, Margao in the year 1971 and further to ascertain the extent of sand dunes destruction due to dumping of soil and mud and on ascertaining the factual situation as aforesaid, thereafter to

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take measures to restore the sand dunes by removal of the mud and soil etc. dumped on it and such other necessary scientific measures. I say that, till date such exercise of identifying the sand dunes with reference to the DSLR records and land Survey records in consultation with the Office of the DSLR has not been carried out till date and the Respondent No. 1 has no scientific data of the Length or Breadth of the Bundh with reference to the Survey Record. In the absence of such data no estimate can be prepared on random figures and random analysis.

6. I say that, in the year 2019 the GCZMA had submitted an estimate of Rs.15,44,250/- for carrying out the restoration works through the Goa State Biodiversity Board. The said estimate contained an abstract of the work involved and the item rate on the basis of which the total estimate was finalized.

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7. I say that, in the first survey done by Dr. Antonio Mascarenhas and in the final order there is no mention of survey no 43/1-A and 41/3. In 2017 when the order was passed, the GCZMA had made 1 report and quote which was served to us in 2019 and then due to COVID - 19 there was a delay since the court was not functional. Hence they needed a fresh survey to be conducted.




8. I say that, in 2022 there was a fresh complaint by the Colva Civic consumer forum and Colva Biodiversity Management Committee against a completely different survey no 43/1-A and 41/3 stating that illegal road and cutting of sand dune had taken place. (Please note as per survey number and land records) Survey no 42/1-A and 41/3 is in a private gated property and not a property of any of the owners who are parties in Original Application No. 44 of 2015 and in Execution Application No. 4/2018. The names of the owner in form 1 and 14 who are the owners of the said property bearing Survey Nos. 43/1-A

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and 41/3 are not parties to the case and never were. As such any claim for any restoration work to be carried out in this survey numbers cannot be made part of the present Petitions and cost involved of restoration of these survey numbers cannot be foisted upon these Respondents.

9. I say that, survey Nos. 43/1-A and 41/3 are not a part of the survey numbers in the case as can be seen also in surveys carried out by Dr. Antonio Mascarenhas on 17th June 2015, Town planner on 02/01/2018 and DSLR mapping done on 04th July 2018. The estimate now prepared is therefore bad in law as the estimated factors in the said survey numbers and the same is done without any application of mind.

10. I say that, before accepting the present estimate, the Hon'ble NGT is required to direct the GCZMA to do a fresh survey of the case OA 44 of 2015 as per the order dated 03.07.2017 and also to find out the original size of



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the bund and to find out the extent of damage done to the same without which no justice will be brought to the parties involved.

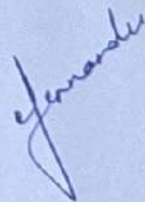
11. I say that, before accepting the present estimate, the Hon'ble NGT is required to call upon the GCZMA to make DSLR a party to this survey since as per the order the hon'ble court has asked the GCZMA to ascertain the original size of the bund and DSLR being the body which can provide the data needed for the same is vital in providing data to find out the facts of the case and provide data to this Hon court and also provide justice to us.

12. I say that, the Goa State Biodiversity Board has wrongly written in the letter no 7-3-2022/GSBB/Legal/206 and informed the GCZMA that the said survey nos 43/1-A and 43/3 fall in the case OA No. 44/2015 without verifying the same nor has GCZMA after receiving the email done any verification about the same.

efwands



13. I say that, we request the Hon'ble NGT to give us immediate relief and direct the GCZMA to withdraw the said letter received on 23/01/2024 and ask for a resurvey for original size of bundh along with ground reality of only survey nos/area pertaining to case of OA No. 44 of 2015 and not link a complaint done by the applicant against a new survey nos to our case OA No. 44 of 2015.
14. I say that, as per the details provided, no proper survey has been conducted with all the concerned parties nor has GCZMA followed the courts direction in finding out the original size and difference between ground reality which is the basis of the court order. GCZMA has to conduct the survey as per the original complaint received and not as per the letter written by GSBB to them about a further complaint in a property close by attaching it to our case.



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15. I say that, the estimate prepared and submitted now which includes the abstract submitted by the Goa State Biodiversity Board and the measurement sheet is clearly inflated which can be ascertained, comparative studied with the abstract sheet submitted in the year 2019.

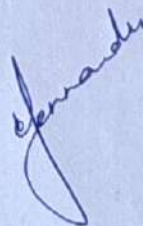
16. I say that I have already lodged my objections dated 19/02/2024, 5/03/2024 and 11/03/2024 before the GCZMA objecting to the revised estimate of merely Rs. 32,00,000/-. The Respondent No. 1 has conveniently suppressed the said objection to be placed before this Tribunal along with additional affidavit filed before this Tribunal. In the said objection letters, it was clearly pointed out that the revised estimate and the demand Notice pertain to Survey No. 43/1-A and 43/3 of Village Sernabatim, Colva which are distinct from the survey nos. involved in the present proceedings and that the same will did not pertain to the subject matter of the aforementioned case. A repeated request was also made to carry out a survey as per the judgment of this Hon'ble Tribunal dated 3/07/2017.



Sernabatim

However, these aspects have just not been considered and the affidavit and the revised estimate has been hurriedly filed before this Tribunal, merely to show hurried compliance to the Orders of this Tribunal.

17. I say that the estimate cannot be looked into as it firstly does not comply with the Order dated 3/07/2017. Secondly, it does not take into account that the adjoining survey lands are served by a bundh with a width of 4-12 meters which act as passageways for owners of paddy fields and coconut groves and as a road to carry farming implements. Thirdly, it has not taken into account that the bundhs were restored every year or whenever necessary as they tend to get eroded during the monsoons and are required to be restored accordingly. These bundhs and the water culvert are reflected in the survey plan. All these aspects are required to be considered before preparation of any estimate and the same is required to be done in reference with the office of the ISLR.



Edward



18. I say I have no issues in paying the necessary sum of money for restoration of the ecology and environment as a law abiding citizen but the Respondent has objections to pay for something not carried out by the Respondent and not in their property and for inflated figures and inflated estimates.

19. I say that the Order dated 3/7/2017 was passed on the premise that there was no existing bundh and land filing was carried out for the purpose of construction of road by cutting sand dunes and its vegetation and therefore issued directions to take measures to restore the sand dunes by removal of the mud and soil dumped on it and such other necessary scientific measures.

20. I say that the bundh/pathway is not passing through survey no. 44/1, 44/2, 43/1-A, 43/1, 41/1, 41/2, 41/3, 41/4, 41/5, 42/6, 42/7, 42/1 and 30/1 of Village Sernabatim but

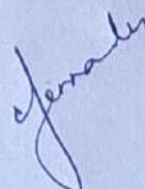


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is running continuously adjacent to the aforementioned survey holdings and is used for aiding and carrying out the agricultural activities in the paddy lands as depicted in the photographs attached to the additional affidavit. I further say that as seen in the photographs at internal page 15 and 16 of the affidavit there is a continuous waterway of around 1 meter width running parallel to the bundh and which separated the paddy field from the bundh.

21. I say that the alleged inspection which was carried out on 20/9/24, there was no proper and due service of the inspection by the Authorities upon me and therefore I was unable to remain present before the inspection.

22. I say that the contention raised by the Respondent no. 1 in para 6 that restoration of the sand dune is only to the extent of 372.50 sq mts which is located in property bearing survey no. 43/1 and 42/1 of the Village Sernabatim is contrary to the contentions raised in para 4 of the



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Affidavit that the bundh/pathway is passing through the properties continuously in the north south direction.

23. I say that it is an established fact in the record of the DSLR (Land Survey Record) that the bundh runs continuously at a height elevation of 0.60 mts to 1.70 mts and varies in width as depicted on the survey plan on 1970-71. Bundhs are known to continuously exist in between the agricultural land throughout the village and in the State of Goa.



24. I say that the bundh has been in existence along its entire length in the north south direction since time immemorial and has been continuously and principally used as an access way/pathway for the field owners to transport their seeds, manure, farming equipment etc. and to carry out other allied agricultural activities.

Signature

25. I say that the report filed as Annexure- A to the additional affidavit dated 1/7/25 confirms the existence of a pathway along the survey numbers mentioned in the said report. The report further confirms that most of the survey numbers along the eastern side of the pathway and the western side of the pathway are mostly paddy fields/irrigation command areas and partly sand dune areas. The report further confirms that the pathway is reflected on the DSLR survey plan which is in the nature of the Bundh with elevation of 0.60 mts to 1.70 mts and on both sides of the elevated bundhs are paddy fields therefore from the observation it is clear that the bundhs / pathway is not effected by sand dunes.

26. I say that the report further bears out that the survey plan promagulated in the year 1970-71 itself shows the existence of a culvert in survey no. 40/1-1 of village Sernabatim dispels the contention that a culvert was constructed by destruction of sand dunes. The report

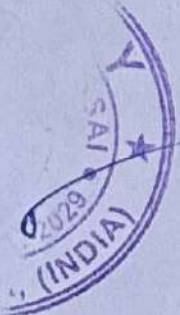


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further indicates that the sand dune which is located in the property bearing survey no. 43/1 and 42/1 is tapering towards the eastern side and is on the same level of the bundh which proceeds in the north south direction. Thus at the highest the sand dune is adjacent to the bundh but does not form a part of the bundh which is continuous in the north south direction.

27. I say that the report further clearly indicates that as seen in the plan of the DSLR there exists a bundh along the agricultural fields which is at an elevated level in comparison to the lands on its eastern and western side.

28. I say that the report submitted today as Annexure-A is in suppression of and contrary to its own earlier report dated 5/8/22 prepared by members of the GCZMA and the Goa State Biodiversity Board. This report has been intentionally and conveniently suppressed by the Respondent no. 1 as well as by the Petitioner.



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29. I say that the report dated 5/8/22 clearly reports that as on the year 2022 the area in question had become compact and restored itself naturally. Good natural vegetation cover was seen on and along the bundh. The dunes were to be protected and rejuvenated by way of protecting its vegetation cover and no alterations to the dunes and surrounding echo systems shall be permitted. Hereto annexed is a copy of the Report dated 5/8/22 along with photographs.

30. I say that therefore as per the report dated 5/8/22 no further restoration work is required to be done and the vegetation cover grown along the pathway and the dunes is not to be cleared or altered and is required to be protected. Therefore, there is no question of clearing of any jungle including uprooting of vegetation, grass, bush, wood, trees or saplings or removable of any soil either of the pathway



Jamanda

or along the dune area as removal of any soil now will effect the compacting which has happened naturally.

31. I say that the question of demolishing any laterite stone masonry in cement mortar or demolishing cement concrete also does not arise as the culvert is found to be in existence right from inception as per the survey plan promulgated in survey plan 1970-71.

32. I further say that the abstract sheet filed as on 17/1/24 is firstly completely contrary to the abstract sheet earlier submitted to this Hon'ble Court as the figures mentioned in the present abstract sheet do not tally with the figures mentioned in the earlier abstract sheet dated 16/5/19 and cannot be in variance thereof. Secondly the abstract sheet and the measurement sheet today run contrary to the report dated 5/8/22 and the report dated 20/9/24 submitted as Annexure-A before this Authority.



fernandes

33. I say that in view of the Report dated 5/8/22 read with the report dated 29/9/24, no further restoration work is required to be carried out at site and the present execution application is required to be dismissed and the Respondents are required to be discharged from making any further payments for restoration in the present execution.

34. I say that without prejudice to the above in the event this Hon'ble Tribunal arrives at a conclusion that some restoration work is yet required to be carried out, the Respondent is ready and willing to carry it out at their own expense.

35. I say that whatever said above is true to my knowledge

J. J. J.



Solemnly stated on Oath on

this 31st day of January 2025

At Margao, Goa

efernandes
DEPONENT

Identified by me:



Solemnly affirmed before me by
 Shr/Smt. *Cynthia fernandes*
 Who is identified before me by
 (Voter) *U GA 0247114*
 On this *31st* day of *Jan.* 20*25*

[Signature]
 SANDEEP B. DESSAI
 NOTARY
 SALCETE TALUKA
 State of Goa (India)
 Reg. No. *2062/2025*
 Date: *30/1/2025*

**BEFORE THE NATIONAL GREEN TRIBUNAL WESTERN ZONE AT
PUNE**

Execution No. 4/2018 (WZ)

The Colva Civic and Consumer Forum ... Applicant

Versus.

The GCZMA and Ors. ... Respondents



Affidavit in Reply on behalf of Respondent no. 8 through the Affidavit dated

15/03/2024 filed by the Respondent no. 1

I, Menino Vaz, major in age, R/o House No 20 Novovaddo Sernabatim Colva Salcete Goa, the Respondent no.4 above named do hereby solemnly state as under:

1. I say that, I have read and understood the contents of the Affidavit dated 15/03/2024 and the Affidavit dated 7/1/2025 filed by the Respondent no. 1 submitting the revised estimate for the cost likely to be incurred in carrying out the restoration work as directed by this Hon'ble Tribunal in its Judgment dated 03/07/2017.

M. Vaz

2. I say that I have also read and understood the contents of the affidavit filed by Mrs. Cynthia Fernandes, the Respondent no. 8 herein.

3. I say that I crave leave to refer to and rely upon the affidavits dated 17/4/24 and dated 31/01/2025 filed by Respondent no. 8 Herein and I crave leave to adopt the same and the same maybe also treated as my affidavits in reply for the purpose of the present execution and response to the Respondents Affidavits.

4. I say that whatever said above is true to my knowledge

Solemnly stated on Oath on
this 31st day of January 2025

At Margao, Goa

M. Vaz

DEPONENT

Identified by me:

Solemnly affirmed before me by
Shr/Smt. Merino Mariano Vaz
Who is identified before me by
Shr/Smt. CC/ 2754 dd 200 3430
On this 31st day of Jan 2025

[Signature]
SANDEEP B. DESSAI
NOTARY
SALCETE TALUKA
State of Goa (India)
Reg. No: 2072/2025
Date: 31/01/2025



SITE INSPECTION REPORT

As per the Notice No. GCZMA/Appeal No.44/15/WL/NGT/05/924 dated 03/08/2022 of the Member Secretary of GCZMA, a joint inspection by GCZMA and Goa State Biodiversity Board (GSBB) was conducted on 05/08/2022 at 11.00 am to ascertain the restoration of illegal demolition of sand dunes in terms of judgement of order dated 03/07/2017 passed by the Hon. NGT, Pune in respect of survey number 43/1A and 43/3 of Sernabatim village of Salcette taluka, South Goa.

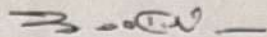
The following representatives were present at site:-

- | | |
|-----------------------------|---|
| 1. Shri Sujeetkumar Dongre | Expert Member, GCZMA |
| 2. Shri Satishkumar Naik | Field Surveyor, GCZMA |
| 3. Smt. Reshma Kerkar | Scientific Administrator Officer, GSBB |
| 4. Smt. Shakuntala Mesquita | Secretary, Colva Civic and Consumer Forum |
| 3. Shri. John Fernandes | Representative for Smt. Cynthia Carvalho e Fernandes,
Respondent |

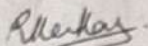
Observations and Recommendations:

1. It is observed that the respondents have constructed a kutchha pathway by using the laterite murrum approximately covering a length of about 350 mtrs (north to south) on the bund abutting to the low lying paddy fields and few patches of dunes.
2. Upon asking the reason why the construction was undertaken, Mr. John Fernandes who represented Mrs. Cynthia Carvalho e Fernandes informed that the work was undertaken to repair the existing bund in order to arrest the salt water ingression and also to use the same as an access pathway to reach the respective fields to carry out agricultural activities.
3. **The alteration** to the coastal eco-system by way of construction/repair of the bund has been done in the year 2017. Today, in the year 2022, the area in question has become compact and restored itself naturally. Good natural vegetation cover was **seen on/along the bund.**
4. The respondents should be asked to ensure that no further extension of the bund is done in the said area. The existing one shall be strictly used as traditional access only. Dunes shall be protected and rejuvenated by way of protecting its vegetation cover. No alteration to the dunes and surrounding ecosystem shall be permitted.

5. Mrs. Reshma Kerkar, Scientific Administrative Officer was also part of the earlier joint inspections done in the year 2018 and well conversant with the land in question.
6. The inspection concluded at 12:10 pm.
7. Site photographs are attached with the report.



Sujeetkumar Dongre
Expert Member
GCZMA



Reshma Kerkar,
Scientific Administrative Officer
GSBB



Satishkumar Naik
Field Surveyor,
GCZMA

Place: Sernabatim, Salcete

Dated: 05/08/2022

Site Photographs



→ 011 → *Allen* *1961*