



BEFORE THE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH PUNE

I.A 213/2024(WZ)

In

Appeal No. 143/2024

VERNON RODRIGUES. APPELLANT

VS.

GCZMA AND ORS RESPONDENTS

AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT NO. 1

I, MR. JOHNSON BEDY FERNANDES, adult, being the Member Secretary, Goa Coastal Zone Management Authority, having my office at: 4th Floor, Dempo Towers, Patto, Panaji, Goa, do hereby solemnly affirm and state as under:

1. I say that I am the Member Secretary of the Respondent No. 1 Goa Coastal Zone Management Authority (hereinafter

referred to as *GCZMA*) in i.e. Respondent No.1, and am authorised to affirm the present reply affidavit on its behalf. I have examined the relevant records available in my office in respect of the order dated 21/03/2024 passed by the GCZMA and challenged before this Hon'ble Tribunal in the above-captioned Appeal and am affirming the present Reply Affidavit based on the same. Nothing in the present Reply Affidavit may be deemed to be an admission of any of the contents of the memorandum of the above-captioned Appeal. Nothing in the memorandum of the above-captioned Appeal may be deemed to have been admitted for mere want of specific denial.

2. That this Appellants through his sister had filed an application before the GCZMA seeking review of the Order dated 21/3/2024. *(Enclosed copy of Application - Annexure A*

3. That the review application was filed by Viola Rodrigues with regards to the demolition order issued against Mr Vernon Rodrigues. This application for review was placed before the GCZMA Authority in its 399th GCZMA Meeting held on 16/5/24. The Authorities decision is as under, "***Decision: The Applicant in the garb of stating that she has proprietor right in the land and by stating that she was not been served in the matter is seeking review***



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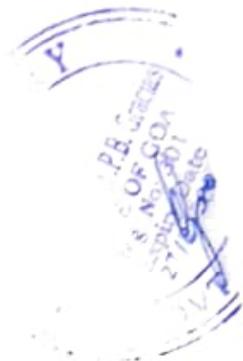
in the decision passed by the Authority. Surprisingly, in the garb of review the whole lot of documents are sought to be annexed as proof to substantiate the said structure which are directed to be demolished was of an era prior to 1991. It is quite surprising to note that the application of review was filed by the person who lives in United Kingdom she had the documents in United Kingdom rather than her own brother who was a Respondent in the proceedings. The said application for review is only an attempt to have a second round of innings before the Authority which cannot be allowed as there has been no procedure lapse while conducting the proceedings and passing final decision . The Review application hence stands rejected. [Enclosed copy of Minutes and order] MARKED AS "COLLY"

4. That with regards to the contents of paragraph 2, of the application for production of documents, the contents are denied. Since the Appellant is the son and is residing in the ancestral house he should have had the documents to be produced before the Authority at the time of hearing. Now production of documents in the appeal stage is not permissible under law.

5. That with regards to the contents of paragraph 3, of the application for production of documents, the contents are denied. It is stated that the very fact that the Panchayat's had made a letter fixing the date of inspection clearly proves that the Village Panchayat had also not granted permission and the Appellants went ahead and carried out the construction. The Appellants failed to establish as to when the construction was carried out. The Respondent No.1 states that after the application made by the father of the Appellant on 20/10/1983, the Village Panchayat vide letter dated 7/11/1983 stated that inspection will be carried out with prior notice.

6. That with regards to the contents of paragraph 4, of the application for production of documents, the contents are denied. The Respondent states that the application for review is only an attempt to have to have the matter reopened, which cannot be allowed as there has been no procedure relapse while conducting the proceedings and passing final decision.

7. That with regards to the contents of paragraph 5, of the application for production of documents, the contents are denied.



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These documents which the Appellant seeks to rely cannot be considered as they are mere applications filed before the Village Panchayat of Candolim but the Appellants have still failed to produce any approvals, conversion sanad, etc from all the Government Departments, hence this application has to be rejected.

8. That with regards to the contents of paragraph 6, and para 7 of the application for production of documents, it is denied. The sister of the Appellant had sent the GCZMA an email on the 9/5/24 seeking review of the order. However, in the email a copy was also sent to the daughter of the Appellant. This proves that these documents were always within the knowledge of the Appellants and it is confirmed via email dated 9/5/24. The Appellants filed the petition in April, the contention in para 6 that the documents were not with them is incorrect.

9. That with regards to the contents of paragraph 8, of the application for production of documents, is denied. The Documents produced by the Appellants are still not approved even by the Village Panchayat of Candolim. The Village



Panchayat of Candolim has also issued a demolition Order against the Appellant.

10. That with regards to the contents of paragraph 9, of the application for production of documents, are denied. The Documents sought to be relied are bad in law. These additional documents cannot be produced at the appellate stage. Moreover, the documents the Appellants are seeking to rely /produced are not even approved permission but a mere application filed at the Panchayat of Candolim.

11. The documents sought to be produced also seems to be vexatious because on the letters addresses by Victor Rodrigues e austensively to the Chairman Candolim Bardez Goa, which are thereafter bearing seal of the Village Panchayat of Candolim and does not bear the signature of the person who has received the said letter. Secondly, there was never a post of Chairman in the Village Panchayat of Candolim as the local bodies were always represented by the duly elected Sarpanch and not Chairman.

12. The documents in the nature of a plan also smacks Of malafides and stands in the early 1980's had to be approved by



From:

Mrs. Viola Philomena Rodrigues,

Presently residing at Flat 6,

11 Little Hackets,

Havant, Hampshire,

United Kingdom, PO95AU.

Email : violaphilomenarodrigues@aol.com

To,

The Goa Coastal Zone Management Authority,

C/o. Department of Science,

Technology and Environment (Govt. of Goa),

1st Floor, Pt. Deendayal Upadhyay Bhavan,

Pundalik Nagar, Alto, Porvorim,

Bardez-Goa.

REF: 1) Demolition Order date 21/03/2024 bearing Ref no.

GCZMA/N/ILL-COMPL/21-22/894649.

SUBJECT: Recall/Review of the Demolition Order date 21/03/2024

bearing Ref no. GCZMA/N/ILL-COMPL/21-22/894649

issued by GCZMA.

Respected Sir/Madam

1. The undersigned has been informed that this Authority pursuant to a complaint has initiated process of inquiry to ascertain the facts and/or the allegation of alleged illegal construction carried out in the property bearing Survey no. 135/7 of village Candolim Bardez Goa.

2. At the outset is it imperative to place on record certain material facts which are relevant for deciding the present controversy at hand:-
 - a. That there exist a landed property known as "Bilipachera Bhat" and duly identified under Survey No. 135/7 of Village Candolim, Bardez-Goa, which totally admeasures an area of 5,900 sq mtrs, Hereinafter be referred to as the Said Property.
 - b. That the Said Property originally belonged to Mathais Rodrigues i.e. the grandfather of undersigned and upon his death the Said Property devolved upon Mr. Victor Rodrigues and Edward Rodrigues (uncle of the undersigned) and accordingly their names were recorded in the Occupants column of the said form 1&XIV as owners of the Said Property.

c. That the Said Property originally consisted of a structure having a plinth area of 200 sq mtrs approx., however late Victor Rodrigues being the co-owners of the Said Property applied for requisite permissions for reconstruction of the said existing structure and to redevelop a commercial building in the Said Property before the chairman of Village Panchayat of Candolim. Annexed hereto and marked as **Annexure - A colly** is the copy of the application dated 17/11/1982 along with the proposed development plans of the structures.

d. That by operation of law interms of the Panchayat Regulations 1972 which reads as follows:-

" 83. Control of Erection of Buildings:- (1) No person shall erect or re-erect or commence to erect or re-erect within the limits of village, any building without prevision permission of the Panchayat.

(2) Permission shall be presumed to have been granted if the Panchayat fails to communicate its sanction or refusal in respect thereof within two months from the date of receipt of the application for permission. Incase of refusal the Panchayat shall communicate to the Applicant the reasons

thereof; and appeal shall lie against any such order of refusal to the deputy collector / sub-divisional officer incharge of the sub-division within a period of 30 days of the date of communication of such refusal.

(3) No person who becomes entitle under sub-section (1) or (2) to proceed with any intended work of erection or re-erection shall commence such work after the expiry of one year from the date on which he first became entitle so to proceed therewith, unless he shall again become so entitled by a fresh compliance with the provisions of such preceding sections."

- e. The said provision being a deeming provision operates in favour of grant of permission as such late Victor Rodrigues commenced the construction / development activities in the Said Property and completed the same in accordance with the plans submitted and additionally vide its communication dated 28/10/1983 informed the village Panchayat to inspect the said construction as the said development was completed in all respects and the building was in habitable condition. The said inspection was mandatory in terms of section 83(2) of the said

regulations. Annexed hereto and marked as **Annexure - B** is the copy of communication dated 20/10/1983 addressed to the Candolim Panchayat.

- f. That the Village Panchayat of Candolim vide their correspondence dated 07/11/1983 bearing reference number VP/41/45/83/84 was pleased to acknowledge the fact that they received the application dated 20/10/1983 addressed by late Victor Rodrigues and further intimated that the inspection of the Said construction shall be carried out with a prior notice. Annexed hereto and marked as **Annexure - C** is the correspondence dated 07/11/1983 bearing reference number VP/41/45/83/84.
- g. It is pertinent to state that the late father of the undersigned had completed the entire construction in the Said Property in consonance with the plans submitted to the Panchayat as such the structures are legal and existing prior to 1991.
- h. It is further stated that the above said documents annexed along with this Application are vital documents which fortify the fact of existence of the structures prior to the year 1991 and more particularly all the structures were ready and in habitable conditions in the year 1983

and the same was also intimated to the Panchayat of Candolim.

- i. That the undersigned learnt about the demolition order issued by this authority from the local daily newspaper report (e-report) published in local daily "the Goan" accordingly the undersigned confirmed the same from her brother viz Mr. Vernon Rodrigues. Annexed hereto and marked as **Annexure - D** is the newspaper publication.
3. It is stated that the present representation is vital to be considered in as much as Mr. Vernon Rodriguez who was served with the show cause notice by this authority and also the demolition notice had made a representation in the absence of the very vital documents which are relied by the undersigned in the present communication.
4. The said documents goes to the root of the matter in as much as the same unambiguously establish that the entire structure in the Survey no. 135/7 of village Candolim was developed and or reconstructed in the year 1983 and the same is in existence since then, moreover the said structure has been maintained by said Vernon Rodrigues all

throughout and no more additional construction has been carried out in as much as the same would have to be done in consultation and or with the consent of the Applicant/undersigned.

5. It is stated that the undersigned being the co-owner of the Said Property is an interested party and has all legal rights to defend the said structure moreover in the present circumstances where one co-owner who was not in possession of vital documents which could have established the existence of the structure for being in existence prior to the year 1991.
6. It is stated that the present demolition order issued by this authority would definitely require a review in as much as the documents relied by the undersigned would require a consideration which were not presented before this Authority for its consideration.
7. That no prejudice will be caused to any person incase the present documents are considered and the demolition order is reviewed in the light of the present facts and circumstances.

8. That great prejudice shall be caused to the undersigned being a co-owner of the said property which shall jeopardize the proprietary rights of the undersigned incase the present application for review is not considered on its own merits.

9. It is graciously requested that pending the review application the demolition order be kept in abeyance for which the undersigned shall be forever grateful.

Thanking You,

Your faithfully.

Viola P. Lawrence

(Mrs. Viola Philomena Rodrigues)

MINUTES OF THE 399TH MEETING OF THE GOA COASTAL ZONE MANAGEMENT AUTHORITY (GCZMA) HELD ON 16/05/2024 at 2.30 PM. IN THE CONFERENCE HALL, FOURTH FLOOR, DEMPO TOWER, PATTO-PANAJI-GOA.

The 399th Meeting of the Goa Coastal Zone Management Authority (GCZMA) was held under the Chairmanship of the Secretary (Environment), on 16/05/2024 at 02.30 p.m. in the conference hall, fourth floor, Patto-Panaji -Goa.

The following members were present for the meeting on 16/05/2024.

1. Secretary, Environment & Climate Change /Chairman(GCZMA)
2. Representative on behalf of Director, Directorate of Panchayat, Panaji Goa.
3. Director, Directorate of Tourism
4. Representative of the Principal Chief Engineer PWD
5. Representative of the Principal Chief Engineer WRD
6. Radha Rao, Expert Member,(GCZMA)
7. Shri GaneshVelip, Expert Member, (GCZMA)
8. Dr. Sushant Naik, Expert Member,(GCZMA)
9. Director, Environment & Climate Change /Member Secretary, (GCZMA)

Item No.1

Case 1.1

To decide on the Complaint from Mr Francisco Drago regarding violations carried out by Mr Yuvraj Bandoakar in Sy No 334/5 of Anjuna Village

Background: The office of GCZMA in receipt of Complaint dated 26/06/2023 from Mr. Francisco Drago, R/o H.No 1634, Vagator, Bardez Goa with regards to construction of house by a non traditional community person/entity, thereby cutting of huge trees, excavation of mud in the property bearing Sy.No 334/5 in the village of AnjunaVagator carried out by M/s. Redstone Spaces a proprietorship firm of Mr. Shakeel Afzal Ladak, having its registered office at , Everest CHSL, 5th Floor, Hill Road Bandra West, Mumbai -400050.

That the officials attached to the office conducted the site inspection and accordingly submitted a site inspection report. The said report interalia has stated that GCZMA had earlier granted NOC dated 29/09/2022 to one Mr. YuvrajBandodkarfor construction of residential house.

That upon close perusal of the complaint and site inspection report the following alleged gross violation of CRZ Notification 2011 is noticed:

SR. NO.	SY.NO./SUB-DIV	NAME OF STRUCTURE	DETAILS OF STRUCTURE
1	334/5, AnjunaVagator	A	<ul style="list-style-type: none"> • RCC plinth with RCC Columns under construction
2	334/5AnjunaVagator	B	<ul style="list-style-type: none"> • Under-Construction RCC Swimming Pool
3	334/5AnjunaVagator	C	<ul style="list-style-type: none"> • Under construction Residential RCC Structure with Basement Ground floor • The Ground Floor and Basement floor is covered with laterite stone

xix) Approvals/NOC's issued by any other Department's/Authorities: NA

xx) Nature of violation if any, with regards to provisions of CRZ Notification 2011:
No

xxi) Whether the proposed construction meet the CZMP Guidelines: Yes

Conclusion/Recommendation:

The property in survey no. 141/2-A falls in CRZ III (NDZ - River) as per CZMP 2011. The proposal is for reconstruction of existing plinth. As per the survey plan issued by the DSI R, there are 2 structures reflecting on it each of area 171.00sqm and 174.00sqm.

As per the form I and XIV, in occupant's column applicants name appearing. The total plot area is 2355.00sqm. As per class 'n', the plinth area of structures in sy. no. is 342sqm. The applicant has proposed reconstruction of both the structures namely A & B. The proposed structure A is G+1 structure with total built up area of 308.09sqm. The proposed structure B is ground floor only with total built up area of 33.15sqm. The total area of both the structures including G+1 is less than that of the area reflecting of DSI R survey plan and form I & XIV. Also, it is to be noted that the proposed area of structure A is total of addition of areas of existing structure A and structure B. Also, the applicant has proposed underground sump tank and underground septic tank.

At the time of inspection, it was noted that there are 2 plinth at a height of 0.30m above ground level. The measurements of same couldn't be taken at loco as the land was marshy due to rains. Also, on both the sides of plot there is water logged area. On the west side of property, there is river and on the east side of property, there is nullah.

The proposal was discussed in 389th GCZMA Meeting held on 07/03/2024 the Authority decided to call the project proponent for clarification to throw light on the documents adduced to the project proposal.

The proposal was again discussed in 397th GCZMA Meeting held on 30/04/2024. The Authority decided to defer the proposal on 14/05/2024 at 3.30 p.m.

Decision: Authority decided to approve the proposal of 2 structures reflecting on the Survey Plan each of area 171.00sqm and 174.00sqm and of Ground floor nature only in Survey no. 141/2-A of Siolim village, Bardez Taluka

ADDITIONAL AGENDA.

Item No. 4

Case No.1

To discuss on the Review Application filed by Viola Rodrigues with regards to the demolition order issued to Mr. Vernon Rodrigues, house no 483, Vaddy, Candolim, Bardez Goa; with regards to illegal construction of multiple structures of Ground +2 nos. 13/14 shops structures; in the property bearing survey no 135/7, at Vaddy, Candolim, Bardez Goa within CRZ III filed by Judith Rodrigues.

Decision: The Applicant in the garb of stating that she has proprietor right in the land and by stating that she was not been served in the matter is seeking review in the decision passed by the Authority. Surprisingly, in the garb of review the whole lot of documents are sought to be annexed as proof to substantiate the said structure

which are directed to be demolished was of an era prior to 1991. It is quite surprising to note that the application of review was filed by the person who lives in United Kingdom she had the documents in United Kingdom rather than her own brother who was a Respondent in the proceedings. The said application for review is only an attempt to have a second round of innings before the Authority which cannot be allowed as there has been no procedure lapse while conducting the proceedings and passing final decision . The Review application hence stands rejected.

The Meeting ended with thanks to the Chair.


Member Secretary 21/12/24
(GCZMA)


Chairman
(GCZMA)

GOA COASTAL ZONE MANAGEMENT AUTHORITY

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

4th Floor, Dempo Towers Patto, Panaji Goa.

www.czma.goa.gov.in

Ref. No. GCZMA/N/ILLE-COMPL/21-22/89/1345

Date: 25/07/2024

ORDER.**SUB: (i) Show Cause Notice: GCZMA/N/ILLE-COMPL/21-22/89/168**

dated 25/04/2022

(ii) Review Application of Viola Rodrigues

WHEREAS, the Goa Coastal Zone Management Authority (hereinafter referred to as 'the GCZMA' in short) has been constituted by the Ministry of Environment & Forests (MoEF), Government of India pursuant to the directions of the Hon'ble Supreme Court of India to deal, inter alia, with violation of the Coastal Regulation Zone (CRZ) Notification 2011 and implementation of the CRZ Notification.

AND WHEREAS, the Office of the Goa Coastal Zone Management Authority (hereinafter referred as 'the GCZMA' in short) had received a complaint letter dated 28/01/2022 from Mrs. Judith Rodrigues, r/o H.No.D-6; TRT Holiday Enclave, Near Hotel Golden Tulip, Muddowaddo, Candolim Bardez Goa; with respect to illegal construction of multiple structures of Ground +2 nos. 13/14 shops structures; in the property bearing survey no 135/7, at Vaddy, Candolim, Bardez Goa within CRZ III area carried out by Mr. Vernon Rodrigues, house no 483, Vaddy, Candolim, Bardez Goa; within the CRZ Limits.

AND WHEREAS, the Authority issued a Show Cause Notice bearing No. GCZMA/N/ILLE-COMPL/21-22/89/168 dated 25/04/2022; seeking clarification on the violations and also show caused the Respondent as to why environmental compensation and penalty should not be levied for environmental damage caused to the environment. The Respondent was directed to file reply and remain present for a personal hearing on the 05/05/2022. The Respondent failed to file reply to the Show Cause Notice.

AND WHEREAS, the Authority placed this matter in various GCZMA Meeting and after hearing the parties and considering the replies, the Authority in its 399th Meeting issued directions to the Respondent Mr. Vernon Rodrigues.

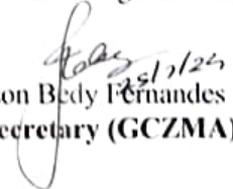
AND WHEREAS, the Order of demolition bearing No GCZMA/N/ILLE-COMPL/21-22/89/4649 dated 21/03/2024 issued to the Mr. Vernon Rodrigues is under challenge before the Hon'ble National Green Tribunal in Appeal No 143/2024 (WZ).

AND WHEREAS, in connection with this matter after the Directions were communicated the Respondent Mr Vernon Rodrigues; the Authority is in receipt of an application for review filed by Viola Rodrigues with regards to illegal construction of multiple structures of Ground +2 nos. 13/14 shops structures; in the property bearing survey no 1357, at Vaddy, Candolim, Bardez Goa within CRZ III filed by Judith Rodrigues.

AND WHEREAS, this matter was placed in the 399th GCZMA meeting held on 16/05/2024, The Authority in this Meeting decided as under, *"The Applicant in the garb of stating that she has proprietor right in the land and by stating that she was not been served in the matter is seeking review in the decision passed by the Authority. Surprisingly, in the garb of review the whole lot of documents are sought to be annexed as proof to substantiate the said structure which are directed to be demolished was of an era prior to 1991. It is quite surprising to note that the application of review was filed by the person who lives in United Kingdom she had the documents in United Kingdom rather than her own brother who was a Respondent in the proceedings. The said application for review is only an attempt to have a second round of innings before the Authority which cannot be allowed as there has been no procedure relapse while conducting the proceedings and passing final decision . The Review application hence stands rejected."*

NOW THEREFORE, the GCZMA in exercise of the powers conferred under Section 5 of the Environment (Protection) Act, 1986 (Central Act 29 of 1986) read with sub-rule (3) (a) of Rule 4 of the Environment (Protection) Rules 1986, and read with powers vested with the GCZMA vide Order S.O. 6071 (E) dated 27/12/2022 issued by the Ministry of Environment & Forests, Government of India, and in view of the decision taken in the **399th GCZMA Meeting** held on 16/05/2024; the Authority hereby rejects the Review application filed by **Viola Rodrigues** and case is disposed off accordingly.

For and on behalf of the
Goa Coastal Zone Management Authority


Shri Johnson Bedy Fernandes
Member Secretary (GCZMA)

To,

1. **Viola Rodrigues, C/o Adv Amay Phadte, o/o El-Capitan Center, Feira Alto, 1st Floor, Office No. 16&17, Mapusa Bardez Goa**

Copy to:

1. **The Collector & District Magistrate (North), Office of the Collector (North), Panaji -Goa... for information and necessary action.**
2. **The Deputy Collector and SDO of Bardez, Office of the Dy Collector and SDO Mapusa Goa... for information and necessary action**