



**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH) AT PUNE**

Original Application No. 97/2019 (WZ)

In the matter of:

DATTAPRTASAD PRABHU GOANKAR

.....Appellant

V/s

Goa Coastal Zone Management Authority & 3 ors

.....Respondents

**AFFIDAVIT- IN -REPLY ON BEHALF OF GOA
COASTAL ZONE MANAGEMENT AUTHORITY
(RESPONDENT NO. 1)**

MAY IT PLEASE YOUR LORDSHIPS:

I, Mr. Johnson Bedy Fernandes, Son of Germano Herculano Fernandes, aged about 44 years, Indian National, resident of Curchorem – South Goa, the Member Secretary, Goa Coastal Zone Management Authority (GCZMA), the Respondent No. 1 herein most respectfully state and submit as under: –

1. I say that I am presently the Member Secretary, Goa Coastal Zone Management Authority (GCZMA), the

Respondent No. 1 herein. I say that I am authorized to file the present Affidavit.



2. I say that I have perused a copy of the captioned Application; and have read and understood the contents thereof.
3. I say that the said Application filed under Sections 14 and 15 of the National Green Tribunal Act, 2010 seeking the following –
 - A) Compliance of conditions in **CRZ Clearance dated 28.09.2015** granted for construction of Canacona National Highway Bypass on NH-17 which involved construction of 3 bridges over Talpona River, (450 meters) Galgibag River (500 meters) and maxim Creek (100 meters); (CRZ Clearance dated 28.09.2015 annexed to OA 97/2019 as Annexure A-1, page.....)
 - B) Compliance of conditions in **NOC dated 1.09.2017** granted by the GCZMA for felling of mangroves and putting up of sound and light barriers on Mashem Bridge; (NOC dated 1.09.2017 annexed to OA 97/2019 as Annexure A-2, page.....)
 - C) Compliance of conditions in **NOC dated 30.4.2019** granted by the GCZMA for temporary earth filling in Galgibag River; (NOC dated 30.04.2019 annexed to OA 97/2019 as Annexure A-3, page.....)
4. Before dealing with the merits of the Appeal, the Respondent No. 1 raises the following preliminary objections to the admission and hearing of the present Application which are taken alternatively and without prejudice to one another –



A) The present Application is without any merit/s and has been filed without application of mind, in that, there is absolutely no substantial question of law arising under Sections 14 and 15 of the National Green Tribunal Act, 2010 to be adjudicated upon;

B) The present Application is an abuse of process of this Hon'ble Tribunal in as much, the Applicant has already filed an Appeal bearing No. 45/2017 challenging the CRZ Clearance dated 28.09.2015. The said Appeal was not even admitted and the same was pending adjudication of the Application for Condonation of delay. The prayer for stay was not even granted in the Appeal.

Now that the Applicant has realized that the prayers in the Appeal have been infructuous, the Applicant has filed the present Application and sought a prayer to withdraw the Appeal bearing No. 45/2017.

C) The Applicant is resorting to forum shopping to somehow try and thwart the public project, in connivance with some others, which project is for the benefit of the local villagers. I say that one Pamela Rodrigues has filed Public Interest Litigation Writ Petition No. 12/2018 in the High Court of Bombay at Goa for action to remove the mud, debris and filling that has allegedly been dumped as part of the construction besides raising other grounds mentioned in the present Application. Annexed hereto as **Annexure R1-1** is a copy of the Memo of Public Interest Litigation Writ Petition No. 12/2018. While the Petitioner in PIL Writ Petition No. 12/2018 specifies particulars of the Applicant herein being a co-villager and

litigant, the Applicant has surreptitiously avoided any mention of PIL Writ Petition No. 12/2018.

D) The present Application is hopelessly barred by limitation. I say that the project was completed on 29/11/2019. I say that the Applicant is seeking reliefs based in respect to a non-est cause of action. I also say and submit that the Application suffers from misjoinder of cause/s of action.



5. I say that the GCZMA has been continuously monitoring the work of the construction of Mashem Bridge which completed on 29/11/2019. I also say that in this regard, the GCZMA has been filing Affidavits and Reports before the Hon'ble High Court of Bombay at Goa in the said PIL Writ Petition No. 12/2018 with regards to the compliance of removal of debris, filling etc. Hereto annexed as **Annexure R1-2 Colly** are copies of Reports submitted by the GCZMA in PIL Writ Petition No. 12/2018. I say that the Hon'ble High Court is already seized of the matter.
6. Paragraphs I to II pertain to addresses etc and are a matter of record.
7. With regard to the contents of paragraphs 1 of the Application, the Applicant may be directed to file an Application for withdrawal in Appeal No. 45/2017 as per the statement made in para 1 in the Application; and till such withdrawal, the present Application may not be heard.
8. Paragraphs 2 and 3 are description of parties and an introduction to the Application and merit no response.

9. With respect to the contents of para 4 and 5 of the Application and non compliance of Condition Nos. 4 and 5 of the CRZ Clearance dated 28.09.2015, I say that the issue is at large in PIL Writ Petition No. 12/2018. I say that presently the project proponents have already removed the mud which was put to facilitate the construction of the bridge.



10. With respect to the contents of para 6 to 8 of the Application and non-compliance of Condition in NOC dated 1.09.2017, that the Authority also decided that since one section of the project is within 300-500 meters from the Turtle nesting site restriction with lighting to cover from the seaward and No Horn Zone maybe imposed while granting the permission. I say that the project proponent has partly complied to this condition and has planted the mangroves. The photographs of which is at **Annexure R1-3 colly.**

11. With respect to the contents of para 9 to 10 of the Application and non-compliance of Condition in NOC dated 30.4.2019, regarding removal of earth filling after completion of work. I say that the issue is at large in PIL Writ Petition No. 12/2018. I say that presently the project proponents have already removed the mud which was put to facilitate the construction of the bridge.

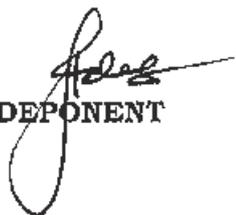
12. With respect to the contents of paragraphs 11, 13 and 14, the issue raised therein about the red murrum filling, the same is being decided in PIL Writ Petition No. 12/2018. I am attaching Orders of the Hon'ble High Court on the issue as **Annexure R1-4 Colly.**



13. With respect to the contents of paragraphs 12, the same are a matter of record.
14. The grounds raised in paragraph 15 A to J, more specifically the violations of the Clearance and NOCs are answered above accordingly.
15. With respect to the Limitation clause, I say and submit that Application is hopelessly barred by limitation. I say that the project was completed on 29/11/2019. I say that the Applicant is conveniently claiming recurring violations as a ruse. The Application ought to be dismissed on this ground itself.
16. I state that in view of whatever is stated hereinabove, no relief whatsoever can be granted in favor of the Appellants and the matter may be dismissed.
17. I state that whatever has been stated herein above is true to my own knowledge and based on the documents/records available with the office of this respondent to which I have access and the contents of the same which I believe to be true and correct.

Solemnly affirmed at Panaji - Goa
This 12th day of October 2020

Identified him by his Pan Card
Bearing No. AAJPF 3664 N


DEPONENT

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO.12 OF 2018

Mrs. Pamela Rodrigues ... Petitioner

Versus

The Executive Engineer,
Works Division XIV (NH) & Ors. Respondents

Mr. Nigel Da Costa Frias, Advocate for the Petitioner.

Mr. P. Faldessai, Additional Government Advocate for Respondent Nos.1, 2, 3, 5 and 6.

***Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.***

Date : 2 May 2018.

P.C.:

Heard Mr. Frias, the learned counsel for the Petitioner and Mr. Faldessai, the learned Addl. Government Advocate for Respondent Nos.1, 2, 3, 5 and 6.

2. Issue notice to Respondent No.4, returnable on 18 June

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 12 OF 2018

PAMELA RODRIGUES., ... Petitioner

Versus

THE EXECUTIVE ENGINEER, WORKS
DIVISION XIV (NH), PWD, GOVT. OF
GOA AND 5 ORS., ... Respondents

Mr. Nigel Da Costa Frias and Ms. Maria Correia, Advocates for
the Petitioner.

Mr. Pravin Faldessai, Government Advocate for the Respondent
Nos.1, 2, 3, 5 and 6.

Ms. Vidhati Shetye, Advocate for the Respondent No.4.

Coram:- N. M. JAMDAR &
PRITHVIRAJ K. CHAVAN, JJ.

Date:- 25th June 2018

P.C.

Ms. Shetye, learned Counsel, appears on behalf of
Respondent No.4. Service on Respondents is complete. Place
the Petition on Board for admission on 16 July 2018. Reply, if
any, to be filed before the next date.

2. By order dated 2 May 2018, we have already placed
responsibility on the Authority mentioned therein to ensure that
the work is in progress strictly as per the permissions granted and
as per law.

PRITHVIRAJ K. CHAVAN, J.

N. M. JAMDAR, J.

2018.

3. The learned counsel for the Petitioner submits that the work which is going on is not in consonance with the permissions that have been granted and if the work continues in the same manner, in view of the onset of the monsoon, various problems would arise, including the flooding of banks and nearby villages. In view of this concern, though we are not granting any ad-interim at this stage, we place the responsibility on the Goa Coastal Zone Management Authority and the Captain of Ports to ensure that the ongoing work is strictly within the permissions granted and the law, and it does not cause any immediate danger.

Prithviraj K. Chavan, J.

N.M. Jamdar, J.



- 2) The Member Secretary,
Goa Coastal Zone Management Authority,
Pt. Deendayal Upadhyay Bhavan,
Porvorim, Bardez, Goa

- 3) The Captain of Ports,
Captain of Ports Department, Government of Goa,
Dayanand Bandodkar Road, Panaji, Goa - 403001

- 4) M/s Venkat Rao Infra Projects Pvt Ltd,
Through The Sr Vice President,
H No 818, 2nd Floor, Above Audi Goa Showroom,
Opp. O'Coqueiro Hotel, Porvorim, Goa - 403501

- 5) The State of Goa,
Through the Chief Secretary of Goa, Government of Goa,
The Secretariat, Porvorim, Bardez, Goa

- 6) The Deputy Collector & S.D.O
Canacona Taluka,
Canacona, Goa.

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(All registered addresses)

PUBLIC INTEREST LITIGATION PETITION

I. Particulars of the cause/order against which the Petition is made:-

1. This Petition is filed to bring to the notice of this Hon'ble Court the ongoing illegal construction of a bridge across Maxem creek and filling of the Galgibag River Estuary at Mashem in Canacona Taluka, South Goa violation of the CRZ Notification 2011 and the CRZ Clearance granted by the Respondent No 2, by the respondents 1 and 4.

II. Particulars of the Petitioner

2. The petitioner is a resident of Lotiem village and is directly affected by the environmental and socio-economic destruction that threatens the village due to the violation of the CRZ Notification and the Clearance granted by Respondent No. 2. The ongoing violations threaten the village with disastrous flooding in the future, will obstruct the present fishing activities, shall permanently destroy the

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potential for shipping and related economic activities and shall destroy the environment and marine life.



III.

Declaration and undertaking of the Petitioner:-

3. That the entire litigation costs, including the advocate's fee and other charges are being borne by the Petitioner.
4. That a thorough research has been conducted in the matter based on which the grounds are raised in the petition.
5. That to the best of the knowledge of the Petitioner and research done by it the issues raised in this petition were not dealt with or decided in any other petition and that a similar or identical petition was not filed earlier by them.
6. That the Petitioner has understood that in the course of hearing of this petition the court may require any security to be furnished towards costs or any charges and the Petitioner shall comply with such requirements.
7. That to the knowledge of the Petitioner there is no civil or criminal litigation pending with regard to the

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subject matter of this petition before any other Court except Appeal 45 of 2016 (WZ) challenging the grant of CRZ Clearance filed by another villager, Shri Dattaprasad Prabhu Gaonkar, before the Hon'ble NGT, Pune Bench, which is not functioning presently.

IV. Facts in brief, constituting the cause :-.

1. The village of Mashem is bounded on the western side by the Galgibag river which runs its course from the forests of Cotigao Wild Life Sanctuary and ultimately meets the Arabian sea at Galgibag. The entrance to the Maxem creek was first partly filled by Respondent No 1 in early 2000 for the construction of the new alignment of the NH-17. Local residents protested strongly to the illegal filling of the creek. Copies of a letter written by local resident on 21.01.2000 objecting to the filling of the river on various grounds and a reply from Respondent No 1 to Shri Minguel Rodrigues dated 31.01.2000 admitting that the river was being filled are annexed as **Exhibit A**.

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2. Subsequent to the protests of the villagers due to the threat of impact on the flooding and the fishing activities, the filling was stopped by the authorities, who promised to remove the mud and restore the creek to its original state. However, no attempts were made to restore the mouth of the creek by removing the material dumped. The Respondent No 1 submitted a report on 04.10.2002 stating that the filling of the river was stopped and recommended that the project be closed and a revised proposal be prepared for the construction of a bridge instead of filling of the river. He also admitted in the letter that water levels has risen in the last monsoon causing flooding in the residential houses. Copy of the said report is annexed as **Exhibit B**.
3. The mouth of Maxem creek has been greatly affected by the filling as is evident from the images obtained from google earth. The creek is now blocked by the formation of a sand bar across its mouth. Attached as **Exhibit C** are copies of the marked up google images of the years 2002, 2005, 2011, 2014, 2015 and 2017.

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4. Loliem village is situated around the valleys of the Western Ghats formed by the now silted Loliem river. The river basin drains into the Arabian Sea and due to the steep slopes of the Western Ghats, is subjected to annual floods during the high intensity monsoons rains. The existing houses and agricultural lands are located taking into account the annual monsoon flooding patterns of thousands of years.
5. The village of Loliem suffered unprecedented flooding on 2nd October 2009 for the first time in its history. While this was not a local event as neighboring areas of Poinguinim and Bhatpal were also affected, the filling of the mouth of the creek at Maxem undoubtedly contributed to the flooding, losses and damage in Loliem village. The floods caused two deaths, destroyed scores of houses completely and caused huge losses to agriculture and properties. The floods were declared as a State Disaster by an order passed on the very next day and an order was passed by the Government on 12.10.2009 for payment of

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gratuitous relief to the victims of the floods, the notification and orders being attached as **Exhibit D**.



6. The Respondent No 1 applied in July 2015 for CRZ Clearance for the construction of the Canacona National Highway Bypass stating that a Tender was already floated to be opened on 14th August 2015, The proposal also gave the salient features of the project, including details of three bridges across river Talpona, river Galgibag and Maxem Creek with lengths of 450, 500 and 100 m each and stating that each bridge will have one navigational span of 50.00 meters x 10 m height. The proposal also stated that the project would not pass through sand dunes or mangroves, that the entire project passes through plain area which is not ecologically sensitive or fragile, that the project does not pass through low lying land which is ecologically fragile or environmentally vulnerable, that the project does not pass through isolated water bodies such as lake or pond and that the project is 300 meters away from the turtle nesting site in Galgibag village and is

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not affecting the same in any manner. Copy of the proposal is attached as **Exhibit E**.

7. The Expert Member of the Respondent No 2, Dr Antonio Mascarenhas, inspected the site on 2nd September 2015 and prepared a report which observed under paragraphs 1, b and e and 3, A that the project passes through low lying areas along the river banks which would require large amounts of filling. The Expert Member also observed under paragraphs 1, h and 3, D that the Talpona and Galgibag rivers and the Maxem Creek are all characterized by luxuriant mangroves and that a large patch of mangroves would have to be sacrificed for the project. He observed under paragraph 3, E that seven columns of Talpona Bridge, three columns of Galgibag bridge and two columns of Maxem creek bridge will be located within the river/backwater. Stating that any impediment within a water body alters and affects river flow and tidal current patterns, he concluded that the PWD needed to study if and in what way, the morphology of the river banks, sedimentation patterns of the river bed (in



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particular) and the river flow characteristics (in general) will be impacted. He noted under paragraph 3, F that coffer dams/ access embankments done for Konkan Railway bridges were never removed resulting in a lot of mud lying within the estuary choking the water body, and stated that such inappropriate actions must not be repeated. Under paragraph 3, G he raised concerns about the Galgibag estuary – Maxem backwaters stretch as the proposed alignment would be along the High Tide Line and the sea water line, stating that this stretch of coast may need a further study particularly with respect to the evolution of Galgibaga estuary. The Expert Member concluded his report by stating in paragraph 4 that a fresh EIA be done by collating the latest/fresh data wherever available. Copy of the report dated 02/09/2015 is attached as **Exhibit F**.

8. The proposal was taken up by the Respondent No 2 in the 120th GCZMA meeting held on 11/09/2015 under Case No 2.7. The minutes of the meeting record the contents of the application submitted by the project proponent and the inspection report prepared by the



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Expert Member of the Board and states that after detailed discussion and due deliberation and on considering the said documents, the Authority decided to approve the proposal. Subsequently, the CRZ Clearance was granted on 28th September 2015. Copies of the minutes of the 120th Meeting of Respondent No 2 and the CRZ Clearance letter dated 28th September 2015 are attached as **Exhibit G Colly**.



9. The CRZ clearance has been challenged by one Dattaprasad Prabhu Gaonkar the National Green Tribunal in Appeal. The petitioner has been informed that the appeal is pending adjudication.
10. Construction works for the stretch of NH-17 from Talpona to Maxem and beyond was started in October 2016 based on a Work Order issued by the Chief Engineer (NH, R&B), PWD to M/s Venkata Rao Infra Projects Pvt Ltd on 04/12/2015. Copy of the Work Order is attached as **Exhibit H**.
11. The Respondent No 3 was approached by the Respondent No 4 by letter dated 8th August 2016 for approval of vertical clearance for Maxem Bridge,

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based on which a joint site inspection was conducted at the site and a report prepared based on the site inspection and a General Arrangement Drawing of Maxem Bridge. The report recorded that no construction activity had started on site. The General Arrangement Drawing was examined and it was recorded that the length of the proposed new bridge was 100 meters and the overall vertical clearance to be maintained was 3.0 meters. It was observed that the approvals/documents requested by an earlier letter dated 19th February 2015 were not received by Respondent No 3, except for the General Arrangement Drawing. The inspection report dated 12th August 2016 is attached as **Exhibit I**.



12. The Assistant Engineer, SD – IV, WD XIV (NH), PWD wrote to the Executive Engineer, WD XIV (NH), PWD on 08/09/2016 with reference to letter from Respondent No 3 dated 16/08/2016 stating under paragraph 1) that as per the agreement drawings, the Mashe creek has a provision of bridge for a length of 100 m with a height of 8.00 mts. The Asst Engineer

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further stated under paragraph 2) that the letter of Respondent No 3 mentioned that the proposal received from Respondent No 4 is for approval of vertical clearance of 3.00 mts for the proposed bridge at Maxem. The letter also noted the objections of the locals to the restriction/obstruction created at the mouth of Maxem creek during previous works in 2003. Copies of the letters dated 16/08/2016 and 08/09/2016 are attached as Exhibit J Colly.



13. On 22nd March 2017, the Hydrographic Surveyor submitted a Note stating that no navigation movements were observed in and around the proposed site during the inspection carried out on 12th August 2016 and hence the vertical clearance of 3.0 meters may not create any difficulty in future. The Note further stated that the NOC from Respondent No 2 and site plan were submitted by the project proponent and that since NOC from the Respondent No 2 and EIA report are not applicable to projects amounting to more than Rs 100/- crores, the Captain of Ports Department may issue

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NOC with normal terms and conditions. Copy of the Note dated 22nd March 2017 is attached as **Exhibit K**.

14. The Respondent No. 3 granted approval for the vertical clearance for Maxem bridge by letter dated 22nd March 2017 to the Chief Engineer (NH, R & B) with conditions, including condition no 11 stating, *"Reclamation of the river in Goa is totally banned. Therefore, earth filling of the river is totally prohibited"* and condition no 12 stating, *"However, in the event if any earth filling is detected to have been undertaken during the course of the construction of the said bridge, at any stage of time, P.W.D. (NH, R&B) shall remove the entire earth filling immediately at their own cost and risks under the supervision of this Department and conduct post removal check Hydrographic Survey for verification of the same, at the costs of P.W.D (NH, R&B)."* Copy of the letter dated 22nd March 2017 is attached as **Exhibit L**.

15. Respondent No 1 gave a written undertaking by letter no 394 dated 09/06/2017 agreeing to abide to the terms and conditions mentioned in the approval issued by

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Respondent No 3 on 22/03/2017. Copy of the letter dated 09/06/2017 is attached as **Exhibit M**.

16. The Citizens Committee of Loliem and the Traditional Fishermen of Maxem submitted letters to the Respondent No 3 on 20th June 2017 and 3rd July 2017 respectively, pointing out various relevant facts and irregularities in the ongoing works at Maxem river, including the fact that numerous registered fishing vessels operate from Maxem bridge and that the approval of the vertical clearance was based on false information, the fact that the Maxem creek/river is an invaluable maritime resource and has great potential for fishing and eco-tourism infrastructure for which the vertical clearance of 3 meters is totally inadequate, inadequate studies of past records and secondary or primary data, illegal filling of 370 meters of the Maxem creek/river, threat of flooding and loss of lives and properties, concealment of facts and violation of conditions of NOC and need for redesign of proposed bridge at Maxem. The complaint letters submitted by the Citizens Committee of Loliem and the Traditional



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Fishermen of Maxem were forwarded by Respondent No 3 to Respondent No 1 on 24th October 2017 asking the Respondent No 1 to reply within a week and to treat the matter as MOST IMMEDIATE. However, neither has a reply been given by Respondent No 1 nor has the NOC been revoked by Respondent No 3. Copies of the complaints letters and the covering letters from Respondent No 3 to Respondent No 1 are attached as Exhibit N Colly.



17. The petitioner has written letters to the Chief Secretary of Goa and to the Governor of Goa on 13.10.2017 and 09.11.2017 complaining about the blatant illegalities regarding filling of the river and the reduction of the vertical clearance, but neither has any action been taken nor have replies been received. Copies of the letters submitted by the Petitioner are attached as Exhibit O Colly.
18. When the villagers found that Respondents 1 and 4 had started filling the mouth of Maxem creek with mud and debris further, a representation was made by local fishermen and residents to Respondent No 2 on

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21/10/2016 pointing out the illegal filling of the river. The Respondent No 2 wrote to Respondent No 6, the Deputy Collector & SDO of Canacona, by letter dated 11/11/2016 directing to arrange site inspection and to issue Stop Work Order "if the same is prima facie illegal activity" and initiate action to restore the land to its original condition. Site inspections were carried out by the Talathi of Loliem and the Field Surveyor confirming the illegal filling done and reports were filed by the two officials to the Mamlatdar of Canacona on 01/12/2016 and 05/12/2016 respectively, who wrote to the Respondent No 6 on 16/12/2016 reporting the details of the illegal filling. The Respondent No 6 wrote to Respondent No 2 on 21/12/2016 reporting the illegal filling in the CRZ area (within the NDZ) and enclosing the reports submitted by the Mamlatdar with all attachments. Copies of the letters and reports dated 21/10/2016, 11/11/2016, 01/12/2016, 05/12/2016, 16/12/2016 and 21/12/2016 are attached as **Exhibit P** Colly.

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19. The report of the Mamlatdar dated 16/12/16 mentions that the filling of the river bank was being done by the PWD for construction of a road. The petitioner submits that there is no road approved through this area which is otherwise eco sensitive being in close proximity to the river and rich in biodiversity.



20. As recorded in letter from the design consultant to the Asst Engineer of Respondent No 1 dated 31/08/2017 and from the Asst Engineer to the Deputy Collector & SDO of Canacona dated 20/11/2017, the bridge works are being redesigned by adding an elevated section of 480 meters connecting the Galgibag and Maxem bridges for an overall length of 1080 meters, but the drawings are not yet prepared. Copies of the letters dated 31/08/2017 and 20/11/2017 are attached as Exhibit Q Colly.

21. The works are proceeding in great haste on the site and it is seen that the authority wishes to construct the bridge at a much lower height than the height specified in the CRZ Clearance, by using the illegally filled part of the river, thus violating the CRZ Clearance. That

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the works on site are proceeding in violation of the CRZ Clearance, since the illegally filled portion of the creek is not mentioned in the CRZ clearance.

22. That the works are proceeding in violation of the approval given by Respondent No 3 on 22nd March 2017 since conditions 11 and 12 clearly state that earth filling of rivers in Goa is totally prohibited and that earth filling undertaken for the project, at any stage of time, must be removed. The petitioner is relying of photographs of the site taken on 8th April, 2018 and 20th April 2018, the same are attached and marked **Exhibit R** colly.

23. That the Respondent No 1 has concealed facts from Respondent No 3 that the CRZ Clearance and the Work Order were based on a vertical clearance of 10 meters and has applied for approval for 3 meters vertical clearance after concealing the relevant facts.

24. That whilst approving the vertical clearance of 3 meters the Respondent No 3 failed to apply its mind to the fact that fishermen are presently using the Maxem

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creek and that future potential exists for fishing, eco-tourism and shipping at Maxem creek.

25. That based on complaints filed by the villagers, Respondent No 3 had written to the Respondent No 1 asking for clarifications on the serious issues raised, but neither has the Respondent No 1 given any reply, nor has the respondent No 3 revoked the approval for vertical clearance of 3 meters.



26. That the work is proceeding on site without preparing any new drawings and in violation of the CRZ Clearance in terms of the vertical height and the approved drawings.

27. That Respondent No 2 directed Respondent No 6 to issue a Stop Work Order after verifying the violation of CRZ laws, but Respondent No 6 instead reported the violation back to Respondent No 2, who also refuses to act against the violation. The respondents 2, 3 and 6 who are concerned with regulating such activities in CRZ areas have failed to take action in accordance with law.

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28. That the works on site are proceeding in violation of the CRZ Clearance, since the clearance is given based on a height of 10 m while the works on site are being carried out based on a much lower height achieved by using the illegally filled portion of the creek.



29. That the Contractor is violating the height specified in the Clearance only to make huge profits. However, the compromised height and the filling of the creek are completely against public interest and will cause huge environmental and socio-economic costs if allowed.

30. The petitioner is therefore constrained to approach this Hon'ble Court by way of this petition.

V Source of information:-

31. The information gathered by the Petitioners is based on the documents secured from Respondents 1, 2 and 3 under the Right to Information Act and their personal knowledge of the facts.

VI NATURE OF THE INJURY CAUSED / APPREHENDED.

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- A) The non adherence to the height specified the CRZ Clearance will directly impact the clearance under the bridge causing loss of navigability, fishing activities and future prospects for achieving the shipping potential of the Maxem creek and the Loliem river, if restored. This effectively closes the doors on the future socio-economic potential of the creek and river for the village of Loliem. The villagers mostly depend on fishing and related activities for their livelihood, the interference with the navigation channels along the Galgibag river and illegal filling /reclamation of the river/riverine land will affect the economies of the villagers thus violating their fundamental rights guaranteed under articles 14 and 19 of the Constitution of India.
- B) The filling has been done to reclaim the river /estuary and the riverine land (land along the river bank which is inundated during high tide and open during low tide), this area is ecosensitive and rich in bio diversity with thriving marine species.



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Interference with this land can affect the geomorphology of the area adversely.

- C) The refusal to remove the mud filled illegally in the creek in order to increase profits for the Contractor has severe and grave implications for the village of Loliem, since the filling is blocking the drainage of the creek/river and also leading to large scale changes to the adjoining parts of the river and sea, including formation of sand bars, that further block the drainage of the creek/ river. The flooding of the village is going to increase greatly, causing large scale damage and losses to the entire local community, houses, agriculture and properties.
- D) The fisheries and rare and endemic species that inhabit this eco-sensitive area will suffer severely due to the filling of the creek and impact on their habitats.
- E) There is an impending ecological disaster in the making due to the gross inaction of the concerned authorities particularly the respondents 2 and 3 who are entrusted with the duty to ensure that the CRZ regulations are adhered to, that the rivers/creeks



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and other water bodies in the State are allowed to run their course unhindered and that there is /are no impediments in the navigation channels.

- F) The fundamental rights of the citizens of Mashem and Loliem villages under articles 14,19 and 21 of the Constitution of India are being violated.



VII ANY REPRESENTATION ETC. MADE:-

The petitioner has written to the PWD, GCZMA and various other authorities and the letters are annexed as Exhibits N Colly, O Colly and P Colly.

II DELAY, IF ANY, IN FILING THE PETITION AND EXPLANATION THEREOF:-

32. The petitioner submits that they are constrained to approach this Hon'ble Court after the authorities have refused to act on their complaints, the delay if any in filing this petition has occurred on this count.

IX DOCUMENTS RELIED UPON:-

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The documents at Exhibit 'A' to Exhibit 'R Colly' herein above mentioned.

X RELIEF'S PRAYED FOR:-

- cas.
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- A) For a writ of mandamus or any other writ, order or direction thereby commanding the respondents no. 2, 3 and 6 to forthwith take immediate action to have the mud and debris dumped for filling of the Galgibag River Estuary at Mashem in Canacona Taluka, South Goa, removed and the site restored to its original condition.
- B) For a writ of mandamus or any other writ, order or direction thereby commanding the respondents no. 2, 3 and 6 to comply with the Vertical Clearance of 10 m at Maxem creek.
- C) For a writ of mandamus or any other writ, order or direction thereby commanding the respondents no. 2, 3 and 6 to forthwith take immediate action against the violator responsible for filling of the river/riverine land at Mashem.

Pamela

D) Such further and other reliefs this Hon'ble Court deems fit in the facts and circumstances of this case.



XII. INTERIM ORDER IF PRAYED FOR:-

For an interim order in terms of prayer clauses (a) and (b) hereinabove.

XIII. CAVEAT:-

No notice of caveat has been received by the Petitioner till the filing of this PIL Writ Petition.

20/04/18
 श्री. कव्यंजलि किशोर नाईक
 Kavyanjali Kishor Naik Gaunkar
 ADVOCATE & NOTARY
 CANACONA, GOA

Place: Canacona Goa.

Dated: 20/4/2018

The Petitioner

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VERIFICATION

I Mrs. Pamela Rodrigues r/o H No 405, Agas, Loliem, Canacona, Goa - 403728 do hereby on solemn oath and affirmation state that the contents of paragraphs 1 - of this PIL Writ Petition are true and correct to my own knowledge and the contents of the other paragraphs are submissions based on legal advice received which I believe to be true.



Verified at Canacona on this

[Signature] on this 20th day of April 2018

[Signature] 20/04/18
Smt. Anjali Arind Patil Desai alias
Kavyanjali Kishor Naik Gaunkar
ADVOCATE & NOTARY
CANACONA, GOA

[Signature]
Deponent

Identified by me
as per Aadhar card no.
9591 1269 7653

Solemnly affirmed before me by
Shri/Smt. *Pamela Rodrigues*
Who is identified to me by
Shri/Smt. *Aadhar card*
to whom I personally know or
this 20th day of April 2018

Reg. No. 202/2018

[Signature] 20/04/18
Smt. Anjali Arind Patil Desai alias
Kavyanjali Kishor Naik Gaunkar
NOTARY
CANACONA-GOA





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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
AT PANAJI GOA

P. I. L. Writ Petition No.: /2018

Mrs Pamela Rodrigues Petitioner

V/S

Executive Engineer, WD XIV, PWD & Ors. Respondents

AFFIDAVIT CUM UNDERTAKING ON BEHALF OF THE
PETITIONER

I Mrs. Pamela Rodrigues, major of age, r/o H No 405, Agas, Loliem, Canacona, Goa do hereby declare and undertake as under :

1. That I am an Indian Citizen.
2. That I have no personal interest in the subject matter of the petition and the same is not motivated by any private interests.
3. That the entire litigation costs, including the advocate's fee and other charges are being borne by the Petitioner.
4. That a thorough research has been conducted in the matter based on which the grounds are raised in the Petition.
5. That to the best of the knowledge of the Petitioner and research done by her the issues raised in this petition were

Pamela

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not dealt with or decided in any other petition and that a similar or identical petition was not filed earlier by her.

- 6. The Petitioner undertakes to disclose before the Court the source of its information relating to this petition as and when called upon to do so by this Hon'ble Court.
- 7. That the Petitioner has understood that in the course of hearing of this petition the Court may require any security to be furnished towards cost or any other charges and the Petitioner shall comply with such requirements and shall pay all such costs as may be ordered.



Solemnly affirmed at Canacona, Goa

on this 20th day of April, 2018.

[Signature]
 Smt. Anjali Arvind P. Desai alias
 Kavyanjali Kishor Malik Gaunkar
 ADVOCATE & NOTARY
 CANACONA GOA

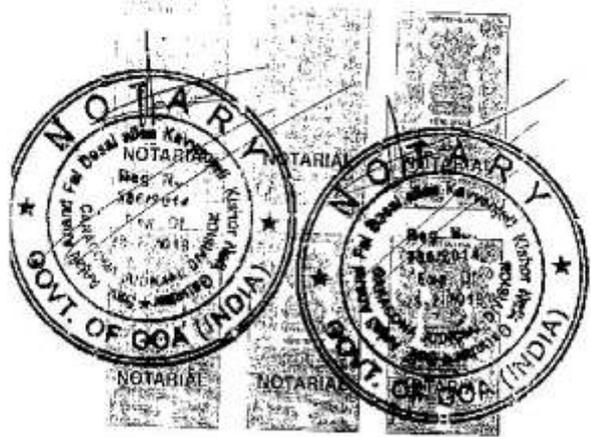
[Signature]
 Deponent

Identified by:
 as per Aadhar card
 No. 9891 1269 7653

Solemnly affirmed before me by
 Shri/Smt. Pamela Rodrigues
 Who is identified to me by
 Shri/Smt. Aadhar card
 to whom I personally know or
 this 20th day of April 2018

Reg. No. 207/2018

[Signature] 20/04/18
 Smt. Anjali Arvind P. Desai alias
 Kavyanjali Kishor Malik Gaunkar
 NOTARY
 CANACONA-GOA



Report of Site Inspection for a Complaint regarding Collapse of Road at Mashem River in Canacona Taluka, South Goa.

Background

A PIL WP bearing No. 12/2018 filed by Mrs. Pamela Rodrigues before the Hon'ble High Court of Bombay at Goa on which the High Court has interalia observed that the filling done in between pillars 10 and 11 is to be removed completely. So, a site inspection was fixed to verify the same.

However, during the visit at site for the above mentioned site inspection, there was a big crowd of public from local area who insisted the Expert Members to inspect the end point of the bridge at Mashem towards the southern side where, the approach road constructed by doing land filling in river has collapsed. According to the request of the local public the site inspection was done at the said area. This report therefore pertains to the inspection carried out under public pressure from the locals in the area and so it is not as per the Court direction. Besides this a representation objecting to the filling done in Mashem River was given by the Villagers of Loliem, including Mrs. Pamela Rodrigues. So, considering the seriousness of the situation due to the collapse of the approach road at site, this site inspection has been carried out.

Inspection and Observation

The site inspection was carried out on 02/08/2019 by the Expert Members Dr. Prabhakar Shirodkar and Eng. Audhoot Bhonsule along with the Chief Hydrographic Surveyor of the Captain of Ports, Mr. Ramchandra Gupta. At site, other members present were Mrs. Pamela Rodrigues, Mr. Dattaprasad Prabhugaonkar, Mrs. Matilda Rodrigues, Mr. Denis Fernandes, and Mr. Sandesh Telekar, who showed the site and explained about the road collapsed. The details are as follows:

- i) About 100m portion of Mashem River towards southern side has been filled with red murrum by leaving about 2/3rd of the riverine area free in the northern side.
- ii) The filling done by red murrum is on the Hume pipes which were put up earlier by the old contractor way back in 2002.
- iii) This filling is raised to a high level of about 12m to bring it in line with the bridge level to give a link to the bridge constructed over Galgibag River in the northern side to continue with the road ahead.
- iv) The protection to this 12m high red murrum filling was provided by lateritic boulders pitching on the western side and a gabion wall on its eastern side.
- v) The location where the filling by red murrum is done for making the road is a confluence point (meeting place of Galgibag River coming from the northern side and Mashem River coming from the eastern side).
- vi) Due to the said land filling done directly in the riverine waterfront area and since there are no piles below the filling, the water coming from Mashem River is

getting accumulated towards the eastern side of the filling. This exerts a tremendous pressure on the gabion wall of the said filling having a tar road over it and this pressure increases during the monsoon, due to which the gabion wall has collapsed.

- vii) Now, the PWD has started constructing a 06.00 m wide plum concrete wall in place where the gabion wall existed, to protect the filling that is having a tar road over it.
- viii) The local public is objecting to this construction of plum concrete wall for which no permission from GCZMA has been obtained by PWD/Contractor.
- ix) The local public also complained at site that the PWD/Contractor should not be permitted by GCZMA to construct the plum concrete wall to the 100 m length of the land filling in the riverine area, as this filling is done over the Hume pipes put up at site earlier. If it is permitted, then it will lead to flooding and collapse of the road again.

Conclusion and Recommendation

- i) The plum concrete wall of 06m width which is being constructed presently towards the eastern side of the road made over the red murrum filling in the waterfront area at the confluence of Mashem and Galgibag River is falling in CRZ IV as well as in NDZ area of river, both of which are CRZ areas.
- ii) Since both, the filling done and the construction of plum concrete wall going on at site are falling in CRZ areas, the permission from GCZMA is very much required.
- iii) The concern of the local public is also genuine as during the flooding, the plum concrete wall will not be able to sustain the water pressure and it can collapse any time once again.
- iv) The local public has cited the incidences that have taken place in the past where the flooding that took place in the area completely destroyed several constructions, including old houses, etc.
- v) The demand of the locals that the PWD/Contractor should remove the said filling from the riverine water front area and do piling and construct the bridge that would allow free movement of water is also acceptable.
- vi) As there are no piles put up within the river but the road is made just over the filling done in river, it can pose a danger to the public life and the traffic over the bridge, etc.
- vii) As per the CRZ Regulation, within NDZ and in CRZ IV area of river, no filling is permissible.

- viii) So, as voiced by the local public, the PWD/Contractor may be called during the Authority meeting for an explanation for obtaining an assurance for making suitable measures to rectify the problem.
- ix) This may be deliberated in the Authority meeting for a decision.


(Eng. Audhoot Bhonsule)


(Dr. Prabhakar Shirodkar)

Report of Site Inspection of Mashem Bridge Site along Galgibaga River in Canacona, South Goa as per the Order dated 19/07/2019 of Hon'ble High Court of Bombay at Goa against PIL WP filed by Mrs. Pamela Rodrigues in High Court.

Background

A PIL WP bearing No. 12/2018 was filed by Mrs. Pamela Rodrigues from Loliem, Canacona before the Hon'ble High Court of Bombay at Goa, being aggrieved by the said project which was approved to the Executive Engineer PWD, WD XIV (NH), Govt. of Goa, Fatorda.

The said matter came up for hearing along with contempt petition No. 9/2019 in PIL WP No. 12/2018, Civil application No. 175/2018 in PIL WP No. 12/2018, MCA No. 414/2014 in PIL WP No. 12/2018, STA No. 3692/2018 in PIL WP No. 12/2018 and STA 1934/2019 in PIL WP No. 12/2018 on 19/07/2019 before the Hon'ble High Court of Bombay at Goa. The High Court has vide order dated 19/07/2019 interalia observed that the issue can be sorted out by GCZMA and accordingly directed the GCZMA to depute suitable Expert/Official to investigate the site in question and state whether the temporary land filling which was done between pillar Nos. 10 and 11 has been removed completely and the bank of the river is restored to its original position. Accordingly, the site inspection was fixed by GCZMA to verify whether the land filling done in between pillar 10 and 11 is removed and site is restored to original or not.

Inspection and Observation

Upon instruction from the Member Secretary GCZMA, a site inspection was carried out by the Expert Members Dr. Prabhakar Shirodkar and Eng. Audhoot Bhonsule on 02/08/2019. At site, the members present were Mr. R. Gupta - Hydrographic Surveyor from the Captain of Ports, Mr. Subhas Pagi - AE, PWD WD IV of Canacona and Mr. Nagaraj Adpaikar, the TA from PWD. Whereas from the Complainant's side the members present were Mrs. Pamela Rodrigues, Mr. Dattaprasad Prabhugaonkar, Mrs. Matilda Rodrigues, Mr. Denis Fernandes and Mr. Sandesh Telekar who showed the site and explained about the land filling. The details are as follows:

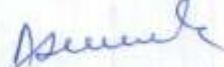
- i) The site is towards the northern bank of Galgibag River from where the pillars for the bridge over the river have been constructed under NH project.
- ii) The pillar Nos. 10 is at the edge of land within the riverine base, whereas, pillar No. 11 is falling in the waterfront area of Galgibag River. Behind pillar No. 10, there is a public tar road.
- iii) The complainants explained that during the erection of pillar nos. 10 and 11, the filling was done by the Contractor in the riverine waterfront area and now the

bridge is complete long back but the filling done has been only partially removed.

- iv) Lot of land filling still exists at site, which should have been removed completely from site after completing that segment of the bridge.
- v) It was seen that lot of land filling still exists in between pillar Nos. 10 and 11.
- vi) The filling remaining at site in between the said pillars is to the extent of 25 m x 10 m, which is about 250 sq. m. in area.
- vii) The AE of PWD, Mr. Subhas Pagi told at site that they will remove the land filling remaining at site very soon.

Conclusion and Recommendation

- i) The filling done in between pillar nos. 10 and 11 was for some specific purpose to construct the pillars as well as to lift the concrete girder by Crane on top of the pillars for completing the bridge span.
- ii) The area where the filling is done is an intertidal zone and is a CRZ I area where no filling is normally permissible, however, to help the PWD/Contractor in completing the bridge span by putting up the girder on top of the piles it was allowed.
- iii) So, the filling done should have been removed completely by the respondent from the said area to restore it to normal condition.
- iv) Instead, the land filling is just partially removed and most of the filling is still remaining intact at site, which is to the extent of 250m sq. m. of area.
- v) If the remaining land filling is not removed, than it will affect the riverine course, geomorphology and the riverine environment.
- vi) So, the PWD or its Contractor should be directed to remove the remaining land filling in between pillar nos. 10 and 11 immediately so that the riverine water flows freely, its geomorphology is protected and the environment of the river is restored to original.
- vii) This report is submitted based on PIL WP filed by Mrs. Pamela Rodrigues in High Court of Bombay at Goa.


(Eng. Audhoot Bhonsule)


(Dr. Prabhakar Shirodkar)