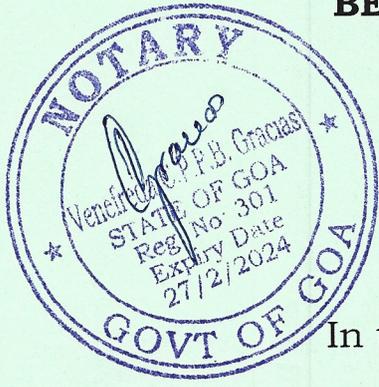


**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH) AT PUNE**



Original Application No. 75/2019 (WZ)

In the matter of:

Kashinath Shetye and ors.Applicants

V/s

State of Goa and Ors.Respondents

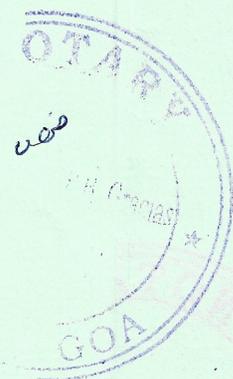
**AFFIDAVIT- IN -REPLY ON BEHALF OF GOA
COASTAL ZONE MANAGEMENT AUTHORITY
(RESPONDENT NO. 2)**

MAY IT PLEASE YOUR LORDSHIPS:

I, Mr. Dasharath Redkar, Son of late Mahadeo Redkar, aged about 53 years, Indian National, resident of "Darsh Residency" Hno.816, Chonwaddo, Dhargal, Pernem – North Goa, the Member Secretary, Goa Coastal Zone Management Authority (GCZMA), the Respondent No. 2 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. 2 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 filed by the Applicant; and have read and understood the contents thereof.
3. I say that the present Application challenges the Order under No. **GCZMA/N/ILLE-COMPL/15-16/106/729 dated 27/05/2019** DISCHARGING the Respondent Nos. 1 from proceedings in Show Cause Notice dated 2/11/2015 with regard to Residential structure in Sy No. 115/1-F at Goa Velha, Tiswadi- Goa (hereinafter referred to as the 'Impugned Order' for the sake of brevity).
4. I say and submit that the present Application is not maintainable under the provisions of the National Green Tribunal Act, 2010 (NGT Act). I say that in many other cases previously the Applicant has filed Appeals against such Orders of discharge, namely, Appeal Nos. 66/2018, Appeal Nos. 67/2018 and Appeal No. 68/2018. I say and submit that by filing the present Application, the Applicant has sought to bypass the limitation period of One month for filing an Appeal. The said Application which has been filed nearly 4 month after the passing of the Impugned Order, is nothing but a subterfuge to overcome the prescribed limitation under the NGT Act. The Application is liable to be dismissed on this ground alone.
5. I say and submit that even otherwise, the Application is untenable on facts and in law. I say that the Authority has discharged the Show Cause Notice referred above based on material documents and after conducting a detailed inquiry into the matter. I say that the Authority has rightly



concluded that the Respondent No. 3 belongs to the fisherfolk community and could have undertaken repairs and renovation; that the original structure was in existence prior to 1991. I also say that the besides vague objections, there is nothing on record to rebut the documents such as House Tax receipts etc produced before the Authority.

Para-wise comments

6. **With respect to the contents of Para 1 of the Memorandum of Application** - the same do not concern this Respondent.

7. **With respect to the contents of Para 2 of the Memorandum of Application** -it is denied that the Authority has shown a Foreigner as a fisherman in the Impugned Order. It is denied that the Authority cannot correct it's own Orders upon the same being admittedly remanded back by the Hon'ble High Court to re-consider the matter on merits and hear it afresh.

It is further denied that whilst passing the Impugned Order or otherwise the Authority has not considered the material placed on record.

It is further denied that the Authority has misdirected itself and/or ignored true/factual position in the case and/or lied to the Tribunal that the Respondent No. 3 is Indian Citizen. The Applicants are put to strict proof as to these allegations.

MD

8. **With respect to Paragraphs 3 to 10**, the same are narration of facts and/or do not concern this Respondent.
9. **With respect to the contents of Paragraph 11**, it is denied that the Impugned Order is illegal and/or arbitrary; it is denied that the Impugned order was passed without dealing with earlier findings. It is also denied that the Authority has blindly relied upon the documents produced by the Respondent No. 3 without testing the authenticity and/or credibility or otherwise. It is further denied that the Authority ignored the site inspection report of its members. It is denied that the Authority ignored the documents produced by the Applicant. It is also denied that the earlier Order was only set aside on account of the violation of principles of natural justice and not on merits. I say that the Hon'ble High Court directed the Authority to hear the matter afresh.
10. **With respect to Paragraphs 12**, I say and submit that the google images now sought to be relied upon were not produced before the Authority.
11. With respect to the grounds set out in paragraphs 13 and 14 –
- (a) It is denied that the Impugned Order is bad and/or illegal and/or arbitrary and/or misconceived;
- (b) It is denied that the Impugned Order is unreasoned and/or cryptic and/or non-speaking and/or suffers from non-application of mind;
- (c) it is denied that the Impugned order was passed without dealing with earlier findings.



- (d) it is denied that it is beyond the scope and ambit of the powers of the Respondent No. 2 to disagree with its own Order;
- (e) it is submitted that the authority only resolved to take a decision of regularization as is permissible under the Notification in cases where the structure belongs to traditional fishermen where repair and renovation is permissible;
- (f) It is denied that the Authority has blindly relied upon the documents produced by the Respondent No. 3 without testing the authenticity and/or credibility or otherwise;
- (g) It is denied that the earlier Order was only set aside on account of the violation of principles of natural justice and not on merits. I say that the Hon'ble High Court directed the Authority to hear the matter afresh;
- (h) It is denied that the Authority ignored the site inspection report of its members.
- (i) Ground does not concern the Authority.

12. **With respect to the contents of para 15**, I say and submit that the Applicants are not entitled to any reliefs.

13. The contents of paragraphs 16 to 21 pertain to mandatory narrations on Limitation, alternate remedy and Prayers do not warrant any comments.

14. 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.



15. 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 27th day of November 2020

[Handwritten Signature]
27/11/2020

DEPONENT



Solemnly affirmed before me
Dasharath Redkar

Who is identified before me by

At Calangute - Goa

Sr. No. 283/11/2020/P

Date. 27/11/2020

Gracias
Venefreda C.P.P. & Gracias
Advocate & Notary
Bardez - Goa