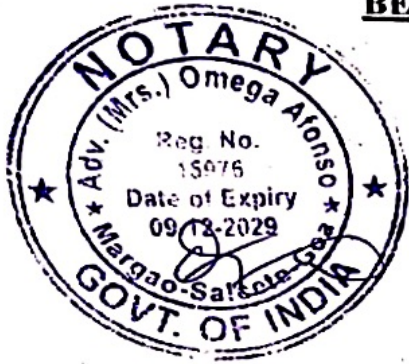


**BEFORE THE NATIONAL GREEN TRIBUNAL, WESTERN
ZONE BENCH, AT PUNE**



IA No.: _____/2025

in

Appeal No.: 430/2025

Michael Fernandes

... APPLICANT

in

Colva Civic and Consumer Forum

... APPELLANT

and

Goa Coastal Zone Management

Authority & Ors

... RESPONDENTS

**AFFIDAVIT-IN-REPLY OF THE APPELLANT TO THE
APPLICATION FOR DISMISSAL OF THE APPEAL ON
THE ISSUE OF MAINTAINABILITY FILED BY THE
APPLICANT DT. 03.08.2025**

1. I, Mrs. Judith Almeida, president of the Appellant Forum, respectfully submit this reply to the Interlocutory Application filed by the Applicant, (Respondent No. 3, Michael Fernandes) raising objections to the maintainability of the present appeal under Section 16(g) of the National Green Tribunal Act, 2010. At the outset, the Appellant denies all allegations, contentions, and legal objections raised in the said application unless specifically admitted herein. For the sake of clarity, the Appellant is not replying to each paragraph of the Interlocutory Application *seriatim* but rather addresses the

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core issues raised therein. The appellant craves leave to file a para-wise reply if required.

2. The Appellant emphatically denies that the present appeal is not maintainable. Section 16(g) of the NGT Act, 2010 expressly allows appeals against "*any direction issued... under Section 5 of the Environment (Protection) Act, 1986*". The impugned No-Objection Certificate/permission dated 30.06.2025 ("NOC") was issued by the GCZMA in exercise of its powers under the Environment (Protection) Act, 1986 ("EPA") and Coastal Regulation Zone (CRZ) Notification, and squarely falls within the ambit of the NGT's appellate jurisdiction. The impugned NOC itself acknowledges this, explicitly stating that any person aggrieved may prefer an appeal before the NGT under the NGT Act, a fact which Respondent No.3 cannot wish away.

3. The Respondent's contention that the NOC is not a 'direction' under Section 5 of the EPA is misconceived and denied. In substance and effect, the impugned NOC is an executive decision under the EPA framework permitting an activity in an ecologically sensitive CRZ-III No Development Zone (sand dune). Section 5 of the EPA empowers the issuing of directions "*in writing to any person, officer or authority*" to regulate environmental matters, and this power is intentionally broad. Whether an order tells a person "*no, you shall not*" (as in a prohibition) or "*yes, you may, subject to conditions*" (as in a permission), it is a two sides of the same coin, both are exercises of statutory power under the EPA meant to control



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activities in the interest of environmental protection, the former is a direction and the latter is a permission. The NGT Act does not intend to leave such significant decisions without oversight merely because they are styled as a "permission" rather than a "prohibition."

4. It is significant that the impugned NOC pertains to the very site of an earlier illegal structure that was subject to a demolition and restoration direction issued by the GCZMA on 03.07.2019 under Section 5 of EPA for CRZ violations. That 2019 direction unequivocally ordered removal of the structure and restoration of the sand dune, as the construction was in blatant violation of the CRZ Notification (CRZ-III NDZ). Respondent No.3 challenged the demolition order, but the NGT dismissed his appeal on 29.06.2021, finding no merit in his claim of any pre-existing authorized structure and upholding the GCZMA's action. The Hon'ble Supreme Court thereafter affirmed the NGT's judgment, dismissing Respondent No.3's Civil Appeal No. 2902/2021 on 10.11.2023 and thus conclusively upholding the demolition/restoration direction. In this backdrop, the impugned NOC of 30.06.2025, which purports to allow a shack and fencing on the same sand dune, cannot be seen in isolation. It directly impacts and undermines an existing Section 5 EPA direction, and is therefore subject to this Tribunal's scrutiny. Respondent No.3's attempt to characterize the NOC as outside the purview of Section 5 is artificial and ignores the continuity of the EPA-driven



enforcement process.

5. The Appellant submits that the GCZMA's very authority to regulate structures in CRZ areas flows from the EPA and delegated notifications thereunder. In fact, the GCZMA routinely exercises Section 5 powers when dealing with CRZ violations *and permissions*. By way of example, GCZMA orders granting or denying construction approvals in CRZ areas have been explicitly issued "*under Section 5 of the EPA*". The present NOC, though not explicitly labelled as a "*Section 5 direction*" by Respondent No.3, is functionally an order under the EPA scheme regulating activity in a protected coastal zone. The nomenclature cannot override substance, if the law were otherwise, authorities could insulate environmentally harmful decisions from appeal simply by avoiding the word "*direction*." Such a narrow reading would defeat the purpose of the NGT Act.

6. Section 16(g) must be given a purposive interpretation consistent with the NGT Act's object of providing a specialized forum for environmental grievances. The term "*any direction*" in Section 16(g) is not confined to only coercive orders like demolition or closure; it encompasses all executive directives under the EPA that have environmental implications. The legislative notes to the NGT Act confirm that the Tribunal's appellate jurisdiction covers orders, decisions or directions under the listed environmental laws including the EPA. The impugned NOC authorizing construction on a sand dune (despite the zone's protected



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status and prior restoration order) is precisely the kind of EPA-linked decision that calls for NGT oversight. To hold otherwise would undermine the “civil adjudicatory” mandate of the NGT over environmental matters, as the present dispute involves a clear question arising from implementation of the EPA and CRZ regulations in a fragile coastal ecosystem.

7. As noted, the impugned NOC (pg. 90 of the Appeal) itself contains a recital that any grievance against it is appealable to the NGT under the Act. This is a standard statutory disclosure, mirroring the requirements of the NGT Act and the understanding of the issuing authority that such permissions are subject to NGT’s appellate review. Respondent No.3, having obtained the benefit of the NOC with that condition on record, cannot approbate and reprobate by now claiming that no appeal lies. The inclusion of the appellate advice in the NOC is consistent with Section 16 of the NGT Act and decisively rebuts the maintainability objection.
8. Even assuming *arguendo* that the impugned NOC was not a classic Section 5 “direction” (a contention denied for reasons aforesaid), dismissing the present appeal on such a hyper-technical ground would result in a serious miscarriage of justice. The Appellant, a public-spirited citizens’ forum, would be left without an expeditious remedy to halt ongoing environmental harm to an ecologically sensitive sand dune. It is well-settled that where environmental damage is at stake, procedures must serve and not thwart substantive rights. The Tribunal is empowered to look at the real nature of the action.



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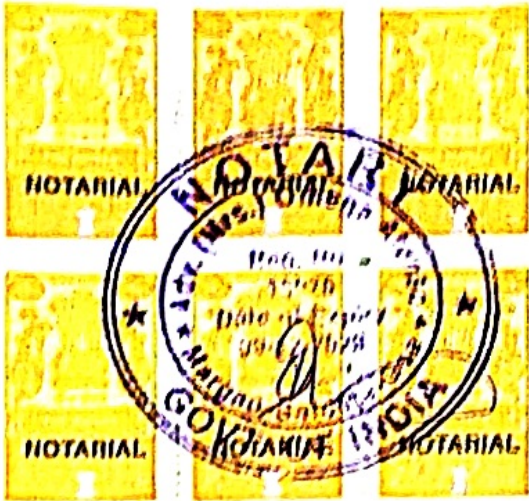
In the present case, the real nature of the NOC is to permit activity that the law (and prior binding orders) otherwise disallow, making it imperative for this Tribunal to adjudicate the legality of that decision. Dismissing the appeal on a formalistic interpretation would allow an illegality to persist unabated, contrary to the very mandate of the NGT Act.

9. In light of the foregoing, each and every assertion in the Respondent's IA on maintainability is denied. The impugned permission/NOC is patently an appealable decision under the NGT Act. The Appellant has rightly invoked Section 16 for redressal of its grievance, and this Hon'ble Tribunal has the jurisdiction and duty to hear the matter on merits. The IA filed by Respondent No.3 is nothing but an attempt to delay and obfuscate the serious CRZ violations in issue. The Appellant therefore prays that the IA be dismissed with costs, and that the appeal be kindly heard and decided on merits at the earliest in the interest of justice and environmental protection.

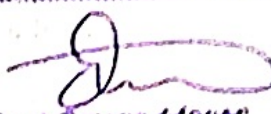
10. I state that the contents of this affidavit are true and to the best of my knowledge and nothing material has been concealed therein.

Solemnly affirmed on this 05th day of September, 2025, at Margao, Goa, India.





I solemnly affirm before me the
Juchell N. Almeida
 who is identified to me by GCPC
Juchell Almeida has NO KNY 3000
 that he is not boundly know to me
 this 20th day of April 2025
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 Notary Public
 State of California
 My Comm. No. 12345

I, the undersigned, a Notary Public in and for the State of California, do hereby certify that the foregoing is a true and correct copy of the original document as presented to me for certification.

Witness my hand and the seal of my office this 20th day of April, 2025.

Notary Public
 State of California
 My Comm. No. 12345

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