



**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, AT PUNE
APPEAL NO. 2/2022**

IN THE MATTER OF

DR. JOED'SOUZA AND ANR.

...APPELLANTS

VERSUS

THE STATE OF GOA AND ORS.

...RESPONDENTS

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

I, Dasharath M. Redkar, Age: 55 years, Occupation: Member Secretary, Goa Coastal Zone Management Authority, having my office at 4th Floor, Dempo Towers, Patto, Panaji, Goa do hereby affirm and state as under :

1. I say that I am the Member Secretary of the Respondent No. 2 Goa Coastal Zone Management Authority and I am as such competent to affirm the present Affidavit-in-Reply. The present Affidavit is being filed to oppose any reliefs, interim or final, from being granted in favour of the Appellants. I say that I have examined the relevant records in my office in relation to the construction of the terminal building on the Panjim Jetty [hereinafter referred to as "*the project*" for the sake of brevity and convenience] and I am filing the present Affidavit-in-Reply on the basis of the record available in my office.
2. I say that nothing in this Affidavit-in-Reply may be deemed to be an admission of any of the contents of the present Appeal unless the same is categorically admitted herein.
3. I say that the impugned order passed by the answering Respondent No. 2 is a detailed and a well-reasoned order. While passing the impugned order, the answering Respondent No. 2 has already considered the contentions and objections raised by the Appellants in this Appeal. Thus, I am filing the present Counter Affidavit without adverting to a para-wise reply to this Appeal. The

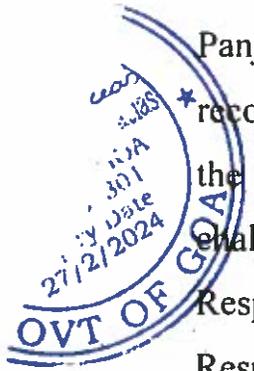
Answering Respondent seeks liberty of this Hon'ble Court to file a detailed/additional affidavit if required at a later stage.

4. The project involves the construction of a terminal building on the existing Panjim Jetty on the banks of River Mandovi. Clearance was granted to the reconstruction of the Panjim Jetty in 2008 by the answering Respondent and the construction came to be completed in 2015. Pertinently, this was never challenged. The terminal building is being constructed atop this Jetty. The Respondent No. 5 made an application dated 09.10.2014 to the answering Respondent seeking clearance under the CRZ Notification for the project. The answering Respondent granted clearance to the project falling in CRZ-II area under the CRZ Notification *vide* its letter dated 20.07.2015.

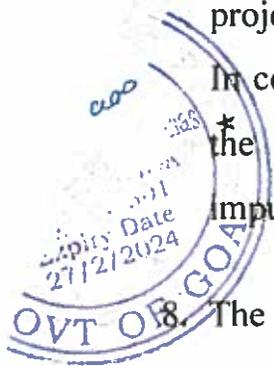
5. At the outset, it is submitted that the Appellant is essentially seeking revocation of the clearance dated 20.07.2015 granted by the answering Respondent under the Coastal Regulation Zone Notification, 2011 [hereinafter referred to as "*CRZ Notification*" for the sake of brevity and convenience] and has also prayed for setting aside the order dated 15.07.2021 passed by the answering Respondent wherein his representations were rejected. It is clear that the Appellant has not challenged the aforesaid clearance and its legality is not under question. Even assuming but not admitting that the Appellant has made such a challenge, the said challenge suffers from gross delay. Thus, the clearance dated 20.07.2015 has attained finality.

6. The Appellant sent a legal notice dated 10.05.2019 to the Respondents alleging illegalities in the project and asking for all permissions granted to the project to be revoked. The Appellant also asked for immediate stoppage of the construction work. In response to the aforesaid legal notice, the answering Respondent carried out a site inspection on 18.06.2019 in the presence of the Appellants, the officers of Respondent No. 5 and other officers concerned. It was concluded that the project clearly falls within CRZ-II area. At no point has the Appellant disputed or questioned the aforesaid conclusion.

7. The Appellant filed PIL Writ Petition No. 55/2019 in the Hon'ble Bombay High Court at Goa. Pertinently, even before the Hon'ble High Court, the Appellant did not challenge the legality of the clearance dated 20.07.2015 but



only sought directions to the answering Respondent for the revocation of the clearance. *Vide* its order dated 26.02.2020, the Hon'ble High Court directed the answering Respondent to hear the Appellant, the Respondent No. 5 and the Goa State Infrastructure Development Corporation Ltd. in respect of the issues raised by the Appellant. Moreover, given the public importance of the project, the Hon'ble High Court refused to stay the construction of the same. In compliance with the aforesaid order, the answering Respondent has heard the Appellants and the Respondent No. 5 at length and has passed the impugned order.



The application made by the Respondent No. 5 seeking clearance was accompanied by the site plans of the project and the answering Respondent was well aware of the location of the project. In the year 2016, the Respondent No. 5 made an application dated 26.07.2016 for correction and resurvey of the site of the Jetty. Accordingly, the Deputy Collector and Sub-Divisional Officer, Panaji passed an order dated 23.11.2016 confirming the Report dated 04.11.2016 of the Assistant Survey and Settlement Officer, Panaji observing that the jetties were wrongly shown under Chalta Number 2, PT Sheet No. 7 as the same are actually concrete platforms standing on piles above the water body. Once the construction in question is a permissible activity, the issue regarding the site of construction bearing a Chalta Number or whether the project falls in riverine or land area are of no significance. There is an existing Jetty which was reconstructed in 2015 after obtaining necessary permissions and the terminal building is placed atop the said Jetty in order to facilitate the use and operation of the Jetty. The location of the Jetty and the fact that the same is a structure standing on piles above the water body was known to the answering Respondent *inter alia* because the permission/clearance for the same was granted by the answering Respondent way back in 2008. Moreover, the Respondent No. 5 sent a letter dated 28.11.2019 to the answering Respondent regarding the correction of the survey records with the copy of the plan after the resurvey of the Chalta No. 2, PT Sheet No. 7.

9. The answering Respondent carried out another site inspection on 31.05.2021 pursuant to the decision taken in its 257th Meeting dated 27.05.2021. The answering Respondent considered the Appellant's prayer for

interim stay on the construction activities of the project in its 260th meeting dated 10.06.2021. Upon hearing the Appellant and the Respondent No. 5, the answering Respondent did not grant any interim stay on the project and fixed the matter for final hearing. The final hearing took place in the answering Respondent's 261st meeting dated 24.06.2021. The primary contention of the Appellants before the answering Respondent was that the clearance dated 20.07.2015 granted by it should be revoked as conditions therein have not been abided by. However, the Appellant above-named did not bring any documents or facts on record to support his contention about violation of the conditions. In fact, after going through the records and the site inspection reports, it is clear that the Respondent No. 5 has abided by all the necessary conditions. The answering Respondent finally decided the matter in its 264th meeting dated 06.07.2021 thereby rejecting the Appellant's complaints and a detailed and reasoned order dated 15.07.2021 (impugned order) came to be passed.

10. The order dated 14.06.2021 and 15.07.2021 (impugned order) make it abundantly clear that all the objections raised by the Appellant were carefully considered and dealt with. According to Regulations 4(i)(d) and 4.2(i)(b) of the CRZ Notification, as the construction of the terminal building involves less than 20,000 sq. mts. built-up area, no rapid Environment Impact Assessment [hereinafter referred to as "*rapid EIA*" for the sake of brevity and convenience] was required for the project. Moreover, the project does not fall within the purview of the Environment Impact Assessment Notification, 2006 [hereinafter referred to as "*the EIA Notification*" for the sake of brevity and convenience] and as such no prior Environmental Clearance was required.

11. As is clear from the facts and circumstances of the case, the Appellant's objections are mala fide which have been raised only because of the inconvenience caused to the Appellant as the project is coming up in front of his house. On this ground alone, the Appeal deserves to be dismissed.

12. Therefore, in light of the aforementioned facts and circumstances, it is most humbly submitted that the impugned order does not deserve any interference from this Hon'ble Tribunal and the above-captioned Appeal ought to be dismissed.





VERIFICATION

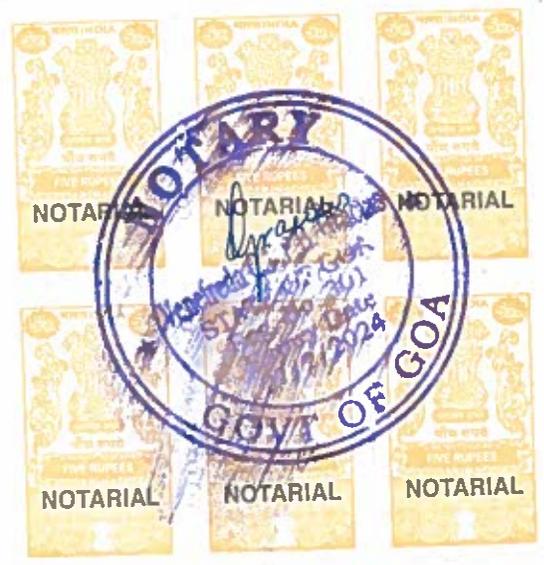
I, Dasharath M. Redkar, Age: 55 years, Occupation: Member Secretary, Goa Coastal Zone Management Authority, having my office at 4th Floor, Dempo Towers, Patto, Panaji, Goa, the above-named deponent, do hereby state on oath that the statements made by me in the above affidavit are true and correct to the best of my knowledge, information and belief. No part of it is false and nothing material has been concealed there from.

Place:Panaji-Goa

Date:06/04/2022

M. Redkar
06/04/2022

DEPONENT



Solemnly affirmed before me
Dasharath M. Redkar
Who is identified before me by

At Calangute - Goa

Sr. No. 61/04/22/P
Date. 06/04/2022

C.P.P.B. Gracias
Ven. Ja C.P.P.B Gracias
Advocate & Notary Goa State