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BEFORE THE NATIONAL GREEN TRIBUNAL, WESTERN ZONE
BENCH, PUNE

Original Application No. 54/2018(WZ)

Kashinath Shetye & Ors.

...Applicants

Versus

Raul Silva Rodrigues & Ors.

...Respondents

AFFIDAVIT IN REPLY ON BEHALF OF
RESPONDENT NOS. 2 AND 3

I, **MIGUEL RODRIGUES**, major of age, Indian National, r/o House No. 1170, Mazil Wado, Benaulim, Goa, the Respondent No. 3 herein and also the Power of Attorney Holder of the proprietor of M/S. Mobrar Fisheries i.e. Respondent No. 2 above named, do hereby on solemn affirmation state and submit as under:

1. I say that I am filing the present Affidavit in Reply to the abovementioned Original Application filed by the Applicants. I deny each and every averment made in the said Application that is contrary to the case set out by the Respondent



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herein. Anything not specifically denied shall not be deemed to be admitted.

PRELIMINARY OBJECTIONS

2. I say that the Application is misconceived in facts and law. The Application has been filed with mala fide intent and for collateral purposes.
3. I say that the Application is grossly barred by limitation. The Applicants have primarily based the present Application on the complaints dated 23/06/2014 filed before Respondent No. 4 (Goa State Pollution Control Board), Respondent No. 7 (Goa State Bio-Diversity Board), and Respondent No. 8 (Village Panchayat of Cavelossim), which complaints have been filed by Cavelossim Villagers Forum, which is not a party to the present Application. On that count itself the Application is liable to be dismissed.
4. I say that the Applicants, in order to rake up the old issues and in an attempt to bring the Application within the prescribed limitation period, have filed a frivolous complaint dated 01/01/2018 before the Respondent No. 5 (Goa Coastal Zone Management Authority) which complaint

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is baseless and frivolous. The Applicants have chosen to approach this Hon'ble Tribunal after more than four years of the initial complaints which further establishes the mala fide intent, and on that count itself, the Application is liable to be dismissed.

5. The Applicants have failed to substantiate their claim that the present Application is sought in order to raise 'substantial question relating to the environment', which is in fact the primary ingredient for initiating proceedings under S. 14 of the NGT Act. In absence thereof, the Application is liable to be dismissed. Even otherwise, the Applicants are in no way, directly or indirectly, affected by the authorized activities carried out by the Respondent herein.

6. I say that this Respondent has necessary permissions for the activity that is presently undertaken by the Respondent in the said property which is in the nature of boat repair, boat pulling, fish storage and all other allied activities. The said permissions are not subject matter of challenge in the above Application and therefore on that count itself, the Application is liable to be dismissed.



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7. I say that the structures present at loco are all authorized structures existing since prior to 1991. The same is clear from the findings of Addl. Director of Panchayats-I at Margao, recorded in the Judgment and Order dated 02/12/2015 passed in Panchayat Appeal No. ADPI/54/15. I say that the temporary structures which were erected have been removed in compliance of the aforementioned Order. The same is further established by the decision taken by the Goa Coastal Zone Management Authority in its 215th Meeting held on 22/10/2019.

8. Without prejudice to the above, I say that I am the Power of Attorney holder of Ullal M. Mohammad alias Monnu who is the proprietor of M/s. Mobarar Fisheries (i.e. Respondent No. 2). M/s. Mobarar Fisheries is a tenant in respect of the property bearing Survey No. 107/1 of village Cavelossim. I say that I am also the co-owner of the property surveyed under Survey No. 117/1 of Village Cavelossim. Annexed hereto and marked as Annexure R-1 is the copy of the Power of Attorney.

9. I say that the Respondent had undertaken the activity of fishing, boat repair, boat pulling and net mending, fish storage since the year 1978. Be that as it may, this Respondent has obtained the

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following permissions for the activity that is presently undertaken:

- a) Consent to Operate dated 11/01/2019 under The Water (Prevention and Control of Pollution) Act, 1974 and The Air (Prevention and Control of Pollution) Act, 1981 for repairing the boats;
- b) NOC from the Health Department from sanitation point of view for running an establishment for carrying out business of fish storage and other allied fishing related activities like boat pulling, boat repairing, boat building and net mending;
- c) NOC dated 30/11/2018 by the Village Panchayat of Cavellosim to continue business of fish storage and do other allied fish and fishing related activities;
- d) NOC dated 24/01/2019 from Captain of Ports for usage of water frontage at Mobor/ Cavellosim under Survey No. 107/1 for repair of boats and fishing trawlers.

Annexed hereto and marked as Annexure R-2 (Colly) are the copies of the aforementioned permissions.

A handwritten signature in blue ink, appearing to be 'Anand', located at the bottom right of the page.



10. With reference to Paragraphs 1 to 4, it is denied that the Applicants are social activists and/or that they are nature lovers interested in protecting the environment, and/or try to curb the illegal activities. I say that the said Applicants initiate multiple litigations against various individuals for collateral purposes. The present Application is filed with a mala fide intent of causing grave prejudice to the Respondents herein.

11. With reference to paragraphs 5 and 6, I deny that any illegal construction of houses and jetties, and/or destruction of sand dunes and/or any other activities in the nature of illegally numbering the houses are undertaken by this Respondent. I say that the complaint dated 01/01/2018 is baseless and frivolous.

12. With respect to Paragraph 7 to 10, the contents thereof are denied. I reiterate and say that the structures present in the said property are authorized as the same are existing since prior to 1991. I say that all the 6 structures existing in the said property were constructed by M/s. Mobar Fisheries prior to 1991 and are existing in the said property since then. It bears mentioning that Cavelossim Villagers Forum had filed a complaint

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against M/s. Mobrar Fisheries in respect of alleged illegal structures in the said property bearing Survey No. 107/1 of Village Cavelossim and Demolition Order was issued by the Panchayat. The M/s. Mobrar Fisheries challenged the demolition order in Appeal No. 54/2015 before the Additional Director of Panchayat at Margao. In the said proceedings, the Additional Director of Panchayat at Margao sought a report from the Block Development Officer to ascertain the legal and illegal structures. By Order dated 13/08/2015, the Block Development Officer forwarded the Inspection Report to the Additional Director of Panchayat at Margao wherein the said structures bearing House Nos. 384, 385, 386, 366, 367 and 368 are clearly identified. The Additional Director of Panchayat at Margao was pleased to hold that the said 6 structures are legal and existing structures and the other structures which were in the nature of temporary sheds were demolished by M/s. Mobrar Fisheries. The said Inspection Report and the proceedings before the Additional Director of Panchayat at Margao clearly establish that the said 6 structures are in existence prior to 1991 and on that count itself, the above Show Cause Notice is liable to be discharged. The Order dated 02/12/2015 of the Additional Director of Panchayat at Margao is annexed hereto as Annexure 'R-3'.





13. I say that the structures present in the said property are authorized and therefore the question of destruction of sand dunes for construction of said structures does not arise. I deny that any activity detrimental to the environment is being carried out by the Respondent. The same is further established by the decision taken by the Goa Coastal Zone Management Authority in its 215th Meeting held on 22/10/2019 by which the GCZMA was pleased to discharge the Show Cause Notice issued against the Respondent herein. Annexed hereto and marked as Annexure R-4 is the copy of the Minutes of 215th GCZMA Meeting held on 22/10/2019.

14. With reference to Paras 12, this Respondent is the lessee of the said property and the lease which commenced in the year 1978 specifically contemplated fishing related activities of the nature undertaken by the Respondent. The allegation made '*that the Respondent herein has encroached in the property*' exposes the malafide intent and the illegal design of the Applicants of espousing the cause on behalf of some of the owners and indirectly seeking eviction of this Respondent and/or closure of business of the Respondent. The above Application is an abuse of the process of law. I deny that there is any



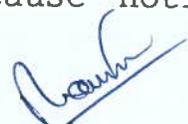
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illegal activity on part of this Respondent and that there is any pollution of any nature caused to the environment.

15. With reference to Para 14 to 18, I say that the structures in the said property have been existing since prior to 1991 and therefore the question of any violation of CRZ regulations does not arise. The reliance placed on the said reports and Google Earth images is highly misplaced. This Respondent has the necessary permissions from Goa State Pollution Control Board, Captain of Ports, Health Department and the Village Panchayat for the intended activity. Allegation that the Respondent has carried out illegal construction/activities in connivance of with other Respondents and/or paid bribes to the government officials is highly defamatory and baseless and the Applicants are put to strict proof thereof.

16. I say that the present issue raised by the Applicants herein was already raised by the Cavelossim Villagers Forum in PIL Writ Petition 47/2018 before the High Court of Bombay at Goa. In the said proceedings, the Minutes of the 215th Meeting held on 22/10/2019 were placed on record which clearly stated that the show cause notice



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issued to the Respondent herein was discharged; accordingly the Petition was disposed of.

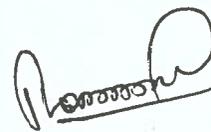
17. I say that the Applicants herein have not challenged the said decision of Goa Coastal Zone Management Authority, neither have they challenged the Consent to Operate issued by Goa State Pollution Control Board, or any other approval granted to the Respondent herein. In view of the same, the said issues cannot be agitated before this Hon'ble Tribunal.

18. I say that the Application is devoid of merit and is liable to be dismissed.

19. I say that the contents of paras 1pt, 8, 9, 10, 11, 12pt, 13pt, 14pt, 15, 16 and 17pt above are true to my own knowledge and/or based on information received; and the contents of the remaining paras, viz. 1pt, 2, 3, 4, 5, 6, 7, 11pt, 12pt, 13pt, 14pt, 15pt, 17pt and 18 are in the nature of legal submissions which I believe to be true.



Solemnly affirmed at Panaji, Goa
On this 19th day of September 2020.



*
DEPONENT

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Identified by me:

(Adv. for Resp. No. 2 & 3)

(Adv. A. Sardesai)

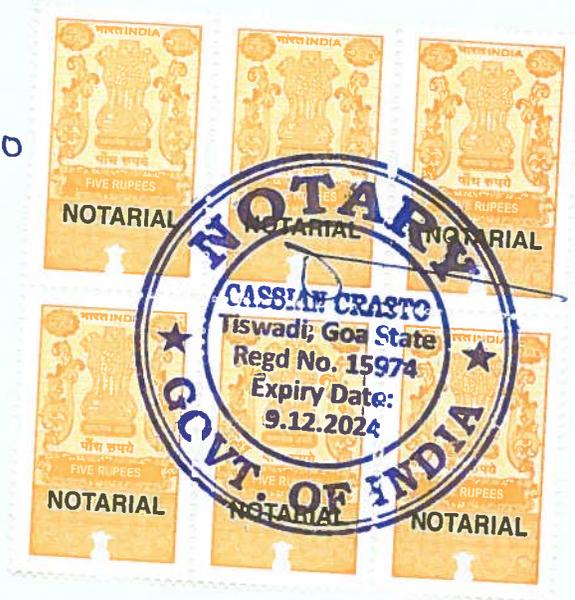
Solemnly affirmed before me by

Miguel Rodrigues

Date 19/09/2020 Reg. No. 1132/2020

known/identified to me by

CASSIAN CRASTO
Advocate & Notary
Govt. of India
Panaji, Tiswadi, Goa.



TRUE COPY

Annexure R-1, 88



BETWEEN KEROX, MARGAO
 License No. UD/STP/5/2002/AO
 MARGAO

665066

505
 Date 19/11/11
 Ullal M. Mohammed
 Margao
 function party

Purpose:

Signature of Star
 [Signature]

Signature of Star
 [Signature]

IRREVOCABLE POWER OF ATTORNEY

BE IT KNOWN TO ALL BY THESE PRESENTS THAT WE,
 Mr. ULLAL M. MOHAMMED alias MONNU, s/o late Mr. Ullal M.
 Hussain, 64 years of age, businessman, Indian National, holding
 PAN Card bearing No. ABQPU8169H, and Mrs. MUMTAZ BEGUM,
 60 years of age, daughter of Conceicao Pinto, housewife, Indian
 Nationals and residents of Silver Towers, Aquem, Margao, Goa,
DO HEREBY SEND GREETINGS.

[Signature] M. Beams

WHEREAS there exists a piece of land admeasuring 7500 sq.mts., bearing survey No/107/1 (part) of Village Cavelossim, alongwith the structures bearing House No. 11, 11/A, 11/C, 11/D, 384, 385, 386, 368(1), 366, 367 standing thereon, which piece of land is lying on the north-east corner portion of the larger property known as '**AFORAMENTO TERCEIRO LOTE DE PRAIAS**', bearing survey No. 107/1 of Village Cavelossim, admeasuring 72,000 sq. mts. described in the erstwhile Land Registration Office of Salcete under No. 16454 new series and enrolled under MatrizNo.1772, situated within the limits of the Village Panchayat of Cavelossim, Taluka and Sub-District of Salcete, South Goa District, Goa, which piece of land shall hereinafter be referred to as the **SAID PLOT**.

AND WHEREAS Mr. Ullal M. Mohammad & Mrs. Mumtaz Begum are the sole proprietors of a businessconcern name and styled as M/s Mobrar Fisheries, which is in possession and utilizing the said plot, for various activities, exclusively without the interference and obstruction of any person, the SAID PLOT having been leased out first to the late father of the Mr. Ullal M. Mohammad & Mrs. Mumtaz Begum in the year 1978 and after two subsequently renewals was leased out in perpetuity and as such Mr. Ullal M. Mohammad & Mrs. Mumtaz Begum are in absolute and exclusive possession of the SAID PLOT.

AND WHEREAS We are solely and exclusively entitled to and in absolute possession of the **SAID PLOT** and proprietors of business concerned **M/s Mobrar Fisheries** therein and we propose to nominate and appoint and constitute, **Mr.MIGUEL RODRIGUES**, s/o late Mr.Jose Rodrigues, 49 years of age, businessman, Indian National,

M. Miguel
M. Rodrigues

holding PAN Card bearing No. ABTPR1388N, resident of 1170, Mazilwaddo, Benaulim, Salcete, Goa, as our constituted attorney to do following acts, deeds and things concerning the said property, which he has agreed to do.

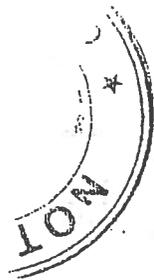
NOW KNOW YE ALL THAT WE, (1) Mr. ULLAL M. MOHAMMED alias MONU, son of late Mr. Ullal M. Hussain and **(2) Mrs. MUMTAZ BEGUM**, 59 years of age, daughter of Conceicao Pinto, the executants herein, do hereby jointly and severally (individually) constitute, nominate and appoint **Mr. MIGUEL RODRIGUES**, son of late Mr. Jose Rodrigues, irrevocably, as our constituted Attorney, to do following acts, deeds and things in our name jointly and/or individually, for us and on our behalf and also for the proprietary firm **M/s Mobrar Fisheries** as under:

1. To apply and make representations, petitions, represent lodge complaints, applications, suits, etc. To any Municipal Authority, Panchayat Authority, State and Central Government Departments and Statutory Authorities/Local Bodies, Comunidade Authorities, etc. for obtaining various licences, permissions, approvals, sanctions, for the purpose of acquiring title and/or construction and/or reconstructions of a new structure, obtaining new electricity and water connections and for doing all such necessary and incidental work/s in respect of the said plot.
2. To engage the services of Architects/Engineers, Surveyors, labour and other contractors, labourers and to allow the entry of such persons or any other person/s in the said plot and to function in M/s Mobrar Fisheries.

Ullal M. Mohammed
M. Mumtaz Begum

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3. To apply for, pursue, obtain , receive, accept, recover either in our name and/or in the name of our said attorney all kinds of permissions, licenses, development, clearances, sanctions, approvals, receive and make registered AD posts, tree-cutting licenses, construction licenses, land filling permissions, approval of construction plans, repair licenses, renovation licenses, permits, occupancy certificates, completion certificates, renewals, extensions, electrical connections, waterconnections, telephone connections, internet connections, all other kinds of connections, facilities, licences, permissions, approvals, etc. AND FOR THESE PURPOSE to sign, execute, verify, file, submit, amend, withdraw, re-file all kinds of applications, plans, drawings, maps, sketches, petitions, declarations, forms, returns, letter, affidavit, consent, etc.
4. To make payments on our behalf to all person/s, entities, authorities, etc. with respect to the said plot.
5. To handover possession of the said plot to any person as our said attorney deems fit.
6. To represent us before the Town and Country Planning Department, and Development Authority, NGPDA, GCZMA, CRZA, Panchayat, Municipality, Talathi, Avalkarkun, Mamlatdar, Dy. Collector, collector, Chief Secretary, Planning Board, P.W.D., Electricity Department, Police Department, Fire & Emergency Services Department, Irrigation Department, Agriculture Department, Forest Department, Transport Department, Tourism Department, Fisheries Department, Telephone Department, Health



M. Anand
M. Anand

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Department, Postal Authorities and any other Central and State Government or Local Authority constituted under any law in force and to file any applications, affidavits, declarations, etc. and to obtain there from all necessary licenses, approvals, N.O.C.'s, permissions, etc.

To appear and represent us before all Courts, Civil and Criminal, Revisional, Appellate, High Court, Supreme Court, Tribunals, Revenue Courts, Planning Boards, Central Government Departments, State Government Departments, Local Authorities and all other Authorities constituted by law, with respect to the said plot.

8. To enter upon the said plot and to Manage, Administer possess and look after the said plot M/s Mobar Fisheries, the structures standing thereon and all the activities carried outtherein, on our behalf.

To sign, execute, verify and affirm applications, letters, petitions, affidavits, declarations, No Objection Certificates, Objections, Suits, Written Statements, Counter-claims, complaints, plans, consent terms, compromise suits, claims, complaints, cases, etc. on our behalf and to file them before the competent courts and authorities.

10. To sign affidavits, verifications and to testify and give statements on oath before any Courts, Tribunals and Authorities.

M. Arun
M. Beenu

11. To file, defend, oppose, settle any proceedings, suits, complaints that may be filed against us or that may be required to be filed by us, in any Courts, Tribunals, Authorities, etc., with respect to the said plot, on our behalf.
12. To accept notice, summons, write, from any courts, Tribunals, or other Authorities with respect to any proceedings initiated against us with respect to the said plot and to represent us in any such matter.
13. To appoint counsels, advocates, solicitors, architects, engineers, developers, contractors, chartered accountants, and/or any other attorney's on our behalf as our said attorney shall deem fit and proper to discharge them and to pay their requisite professional fees.
14. To sign, execute and do all such acts, deeds and things as may be deemed fit and proper and necessary and we hereby agree, confirm and ratify all such acts, deeds and things that would be done by our said Attorney either in his name or in our name, with respect to the said plot and M/s Mobarar Fisheries.

AND GENERALLY to do, execute and perform all and every other deeds and things which are incidental or necessary for giving full effect or to carry out the powers herein above given to the said attorney.

M. P. Patel
M. B. Bhat



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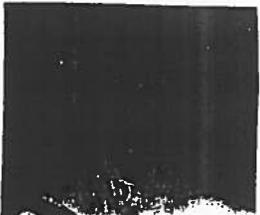
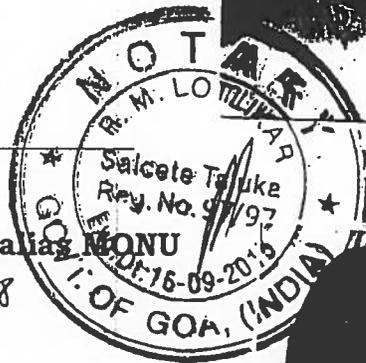
AND we hereby agree to ratify all lawful acts, deeds and things done by the said attorney in pursuance of the powers herein contained as if the same are done by us personally and on our behalf.

IN WITNESS WHEREOF we have set and subscribed our hands at Margao, Goa on this 20th day of May 2015.

SIGNED, SEALED AND DELIVERED]
BY THE WITHIN NAMED EXECUTANTS]



M. J. F. ...



1. Mr. ULLAL M. MOHAMMED alias MONU
*v.c. n. w BZ0345108
for margao court*



M. Begum

2. Mrs. MUMTAZ BEGUM
*v.c. n. Hry 9504382
for margao court.*



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SIGNED SEALED AND DELIVERED
BY THE WITHIN-NAMED ASSIGNEE

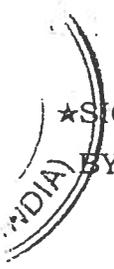


Miguel Rodrigues

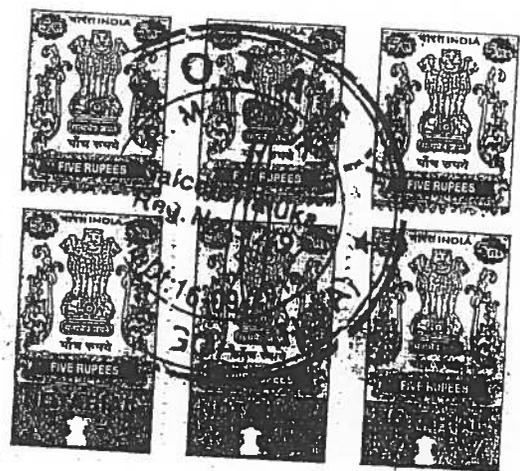
Mr. MIGUEL RODRIGUES (Specimen Signature)
D/L M. CA 08 R-2009-0124790
dt: 07-08-2009 ilr Goa ST.



*SIGNED SEALED AND DELIVERED
BY THE WITHIN-NAMED ASSIGNEE



Mr. MIGUEL RODRIGUES (Specimen Signature)



EXECUTED BEFORE ME
WHICH I ATTEST

R. M. Lotlikar
20/05/15

R. M. LOTLIKAR
ADVOCATE & NOTARY
MARGAO-GOIA
INDIA

Pgr. no 2658/15

Annexure R-2 (colly)

GOA STATE POLLUTION CONTROL BOARD**गोंय राज्य प्रदूषण नियंत्रण मंडळ**

(An ISO 9001:2015, ISO 14001:2015, OHSAS 18001:2007 Certified Board)

Phone Nos : 0832- 2407700,
2407701, 2407702
Tel/Fax No: 0832- 2407700

Email Ids
 Chairman, GSPCB, chairman-gspcb.goa@nic.in
 Member Secretary, GSPCB, ms-gspcb.goa@nic.in
 Environment Engineer, GSPCB, ee-gspcb.goa@nic.in
 Scientist, GSPCB, scientist-gspcb.goa@nic.in
 Office: goapcb@gspcb.in

No.12/2018-PCB/81740/O000521

Date: 11/01/2019

Consent to Operate under Section 25/26 of the Water (Prevention & Control of Pollution) Act, 1974 & under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981 and Authorisation under Rule 6(i) of the Hazardous & Other Wastes (Management and Transboundary Movement) Amended Rules 2018.

[To be referred as Water Act, Air Act and HW (M & T) Rules respectively]

CONSENT TO OPERATE is hereby granted to:

M/s MOBRAR FISHERIES
 (Orange Category)
 Represented by Minguel Rodrigues

Survey No 107/1 (part)
 H.No - 385,
 Mobor, Cavelossim,
 Salcete goa

Located in the area declared under the provisions of the Water Act, Air Act subject to the provisions of the Act and the Rules and the Orders that may be made further and subject to the following terms and conditions:

1. This consent to operate is valid up to 31/10/2019.
2. This Renewal of Consent to operate is valid for the following:

Sr. No	Description	Quantity
1	Repairing of Boats	10 Nos/month

Near Pileme Industrial Estate, Opp.- Salgao Seminary, Salgao-Bardez Goa-403511

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td

3. **CONDITIONS REQUIRED TO BE COMPLIED UNDER THE WATER ACT:**

- (i) The daily quantity of domestic effluent from the factory shall not exceed **1.5 KLD.**
- (ii) **Domestic Effluent treatment and Disposal:-**
The domestic wastewater shall be treated in a properly designed septic tank and discharged on land for percolation through soak pit of adequate size within the factory premises.
- (iii) **The unit should empty septic tank and soak pit periodically through night soil tankers for safe disposal and submit the copies of the receipts to the Board on regular basis.**
- (iv) A good house-keeping shall be maintained within the factory premises. All pipes, valves and drains shall be maintained in leak-proof condition. Floor washings shall be maintained to the effluent collection system only and shall not be allowed to find way in open areas.

(v) **Non-Hazardous Solid Waste:**

All the Solid wastes arising in the premises shall be properly classified and disposed off to the satisfaction of the Board :

Sr. no.	Type of segregated solid waste	Quantity	Disposal
1	Wood	500Kg/month	To be disposed to Village Panchayat OR To be disposed to registered contractor
2	Fibre Waste	10Kg/month	
3.	Metal	50kg/month	

The total quantity shall be segregated and treated as follows:

Sr. no.	Type of segregated solid waste	Quantity	Disposal

4. **CONDITIONS REQUIRED TO BE COMPLIED UNDER THE HAZARDOUS AND OTHER WASTES (MANAGEMENT AND TRANSBOUNDRY MOVEMENT) AMENDED RULES 2018:**

- (i) The unit is hereby granted authorization to operate a facility for collection, storage and disposal of hazardous wastes as specified below:

Sr. No.	Category	Type of waste	Quantity	Mode of disposal
1	21.1	Process waste, residues and sludge (Empty Paint containers)	30 nos/month.	Thinner to be used for cleaning paint tins and same thinner be used for dilution of paint and decontaminate tins given for recycling.

Near Pilerne Industrial Estate, Opp.- Saligao Seminary, Saligao-Bardez Goa-403511

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- (ii) *The authorizer shall comply with the provisions of the Environment (Protection) Act, 1986 and the rule made thereunder.*
- (iii) The person authorized shall not rent, lend, sell or transfer or otherwise transport the hazardous waste without obtaining prior permission of the Goa State pollution Control Board.
- (iv) Any unauthorized change in personnel, equipment or working conditions as mentioned in the application by the person authorized shall constitute a breach of his authorization.
- (v) It is a duty of the authorized person to take permission of the Goa State Pollution Control Board to close down the facility.
- (vi) The inner bottom surfaces of the tank shall be impervious enough to prevent leakage or seepage of these wastes into the sub surface soil or ground water.
- (vii) The occupier shall maintain a manifest system as per Rule 21 (1) for disposal of hazardous wastes to ensure that these wastes are delivered to the designated facility preventing pilferage and clandestine disposal due to unforeseen events that may occur during transit.
- (viii) The manifest shall be endorsed by the dispatcher, transporter and receiver of hazardous wastes. The endorsed copy shall be furnished to the Goa State Pollution Control Board.
- (ix) Under no circumstances the hazardous waste shall be disposed to unauthorized facilities.
- (x) The occupier shall maintain the records for collection, storage and disposal of hazardous waste in Form 3 of as per Hazardous And Other Waste (Management & Transboundary Movement) Amended Rules 2018.
- (xi) The occupier shall furnish monthly returns for collection, storage and disposal of hazardous waste through online XGN system.
- (xii) The unit shall put up an online board (minimum size 6x4 Feet) at prominent location near the main gate providing details as follows in English and Konkani languages:-
- Hazardous Waste category number.
 - Hazardous Waste quantity number.
 - Treatment facility for each category.
 - Mode of disposal for each category.
 - Hazardous Waste Authorization number, date and validity period.
 - Water Consent number, date and validity period.
 - Air Consent number, date and validity period.
 - Quantity and Nature of Hazardous Chemicals being used.

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- (xiii) The occupier shall ensure that the Hazardous Wastes are not allowed to be stored for more than 90 days.
- (xiv) The unit shall submit annual returns in prescribed format to the Board for financial year by 30th June of every year.

6 GENERAL CONDITIONS:

- (i) The unit shall not change or alter the quantity, quality of discharge, temperature or the mode of the effluent/ emission or hazardous wastes or control equipments provided for without previous permission of the Board.
- (ii) The unit shall provide facility for collection of samples of effluent, air emissions and hazardous wastes to the Board staff.
- (iii) An application in prescribed form along with the prescribed fees for renewal of Consent shall be submitted at least 60 days before the expiry of validity of this Consent. An application for renewal of Consent submitted after expiry of the validity shall accompany with penalty of 50% of the Consent fees in addition to the prescribed consent fees.
- (iv) The Board shall be forthwith informed of any accident or unforeseen event involving discharge of any poisonous, noxious or polluting matter into a stream or well or on land or into the atmosphere, as result of such discharge water/ air is being polluted.
- (v) This Consent to Operate is granted without any prejudice to any of the permission(s) required under any law, by laws and regulations in force and this Consent to Operate is confined to matters arising out of the Air Act and Water Act only.
- (vi) The Board reserves the right to amend or add any conditions in this consent and the same shall be binding on the applicant.
- (vii) The unit shall submit to this office, the Environmental Statement Report in Form V for the Financial Year ending April to March by 30th September of the succeeding year as per the provisions of the rule 14 of the Environment (Protection) (Second Amendment) Rules, 1992.
- (viii) Reliable flow meter shall be installed to maintain record of water consumption/waste water generation per day. The records so maintained shall be made available to the Board officials whenever required.
- (ix) The industry shall bear the cost of analysis / monitoring in case of complaints received by the Board/ reinspections due to non compliances observed by the Board & monitoring carried by the Board

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- (x) The unit shall submit the details of the Public Liability Insurance Policy under the PLI Act 1991, to the Board office as applicable.
- (xi) The unit shall submit returns for disposal of batteries under the Batteries (Management & Handling) Rules 2011, if applicable.
- (xii) The unit shall submit returns for disposal of e - waste under the E- Waste Management Amended Rules 2018, if applicable.
- (xiii) The unit shall submit returns for disposal of plastic waste under the Plastic Waste Management Amended Rules 2018, if applicable.
- (xiv) The unit shall comply with the Guidelines and DUST Mitigation measures in handling Construction material and C & D waste issued by central Pollution Control Board and are placed on Board website goaspcb.gov.in.
- (xv) This consent is granted in lieu of order passed by Hon'ble District Judge-2, South Goa, Margao in Regular Civil Appeal No. 42/2011 and is subject to decision of the W. P. 47/2018 before the Hon'ble Court of Bombay at Goa.

To,

M/s MOBRAR FISHERIES
C/o Mr Miguel Rodrigues
H.no - 385, Mobor, Cavelossim,
Salcete Goa

Copy to:- 1 Accounts Section
 2 Concerned File
 3 Guard File

Received Consent fee of: **The capital Investment of the unit is Rs.1 lakh.**

Challan no.	Amount	Date
81800	Rs.13200/-	05/12/2018

SANJEEV Digitally signed by
SHASHIKAN SANJEEV SHASHIKANT
T JOGLEKAR JOGLEKAR
 Date: 2019.01.11
 16:38:43 +05'30'

(Sanjeev Joglekar)
Environmental Engineer
Goa State Pollution Control Board

Near Pilerne Industrial Estate, Opp - Saligao Seminary, Saligao-Bardez, Goa-403511

Government of Goa
Primary Health Centre Chinchinim

6

No. PHC-Chin/NOC/18-19/1064

Dated: 29.12.2018

NO OBJECTION CERTIFICATE

This is to certify that this office has NO OBJECTION from the Sanitation point of view, to the running of an establishment carrying out the business of fish storage and other allied fishing related activities like boat pulling, boat repairing, boat building & net mending by M/s. Mobar Fisheries in the plot under Survey No. 107/1 of Cavelossim village, subject to the following conditions:-

1. A License shall be obtained from the Village Panchayat for operating the above business establishment.
2. NOC/ Consent to Establish & Operate issued by Goa State Pollution Control Board shall be obtained and a copy of the same shall be submitted at this office, failing which this Certificate shall cease to remain valid.
3. The management of the unit shall not cause any nuisance such as bad smell, noise, filth etc. to the surrounding areas.
4. Any waste/ effluents shall be disposed of in a proper manner, so as not to cause any health hazard or public nuisance.
5. The management shall ensure that a register is maintained wherein details of all vessels that are serviced / repaired are maintained. This shall include name of the vessel, name and address of the owner, contact number of owner, date and time from which and upto which the vessel was docked at the establishment.
6. The management shall ensure that no vessel docked at the establishment is having fenders/tyres in which water can collect. If so, the management shall proactively ensure that measures like boring holes at the dependent part of the fender/tyre shall be initiated to prevent mosquito breeding.
7. The management shall cooperate with the Health authorities whenever they visit for inspection.
8. The management shall be responsible to ensure that a list of the personnel working on the docked vessels is obtained from the owners and this list shall be made available to this office on demand.
9. The management shall ensure that in the interest of public health, the personnel working on the boats/vessels as well as those working at the establishment shall cooperate and submit themselves for examination/blood testing whenever directed by the Health Authorities.
10. The management shall ensure that adequate sanitary provision shall be made available for the personnel at the site. This shall also include sanitary provision for personnel/labourers who are temporarily putting up at the site.
11. The management shall spray appropriate anti mosquito-larval chemicals on the water accumulated in pits, receptacles etc. so as to avoid breeding of mosquitoes.
12. The issuance of this certificate shall not create any legal right of ownership in respect to the above mentioned premises, in case the applicant is not the legal owner of the same.

This N.O.C. is liable to be withdrawn if the above conditions and any new conditions imposed in future, by the Government as per the Goa Public Health Act 1985 are not complied with.



To,
M/s. Mobar Fisheries,
C/o Mr. Miguel Rodrigues (POA holder),
House No. 1170, Mazilwado, Benaulim, Salcete, Goa.

[Signature]
Dr. Nixon Martins Fernandes
MEDICAL OFFICER
PRIMARY HEALTH CENTRE
CHINCHINIM

Copy To:
The Secretary, Village Panchayat of Cavelossim, for information.



(102)
Ph : 2871521

Office of the Village Panchayat

CAVELOSSIM

Salcete - Goa,
Pin Code - 403 731

Ref. No. VP/CAV/1016 - 10/18

Date: 22/11/2018

To
M/s MOBRAR FISHERIES
C/o POA holder of Mobarar Fisheries
H.No. 1170. Mazilwado
Benaolim - Salcete Goa.

Sub: - NOC/Permission to continue business of Fish store and to do other allied fish and all fishing related activities.

Sir

With reference to your application dated 5/11/2018, regarding the above cited subject, this is to inform you that this panchayat hereby grants you permission to continue business of **Fish store and to do other allied fish and all fishing related activities** on land surveyed under No. 107/1 of Cavelossim Village. The NOC/permission is subject to the below conditions:-

1. This licence does not absolve the licensee Obligations of obtaining other N.O.C's arising out of any other provisions of the law for the time being in force.
2. This licence is not transferable either as regards the person to whom or the premises for which it is granted without the written permission of the Panchayat Authority.
3. The permission holder shall not cause any nuisance to the surrounding areas arising from bad smell gaseous or particulates omission, discharge of influents, filth, chemical or hazardous material etc.
4. The Solid/Liquid waste produced in the course of such trade process or operation shall be disposed off in a proper manner so as not to cause any health hazard to the neighbouring establishment.
5. The permission holder shall obtain/renew his business in the labour dept., G.S.P.C.B., Food and Drug, G.C.Z.M.A, Health Authorities and other relevant authorities etc. Whichever is applicable from time to time and submit to this office prior to starting the trade/business activity.
6. No part of the area shall be used for storing or keeping any hazardous materials.
7. The licensee shall, at all times, adopt and cause to be maintained in working order all fire fighting equipments and take all fire precautionary measures.

.....Cont. on Pg. No .2.....



Ref. No. VP/CAV/

Ph. 2871521

Office of the Village Panchayat

CAVELOSSIM

Salcete - Goa,
Pin Code - 403 731

Date : _____

Pg. No. 2

8. The Licensee shall exhibit this license in a conspicuous part of the area & shall produce the same for inspection whenever demanded by the Panchayat authority.
9. The licensee shall exhibit "NO SMOKING AREA" and "NO SPITTING" signboard in a conspicuous part of the licensed premises.
10. A board mentioning your Name, N.O.C. No. and Validity, should be displayed in your premises.
11. The licensee shall, at all times, adopt and cause to be maintained in working order all fire fighting equipments and take all fire precautionary measures as required.
12. It shall be lawful to the Sarpanch or any person authorized by him to enter the area for the purpose of Checking or preventing any mal or illegal trade.
13. A register of all trawlers/fishing vessels pulled on shore is to be maintained giving details of vessel/owner and names of labourer employed whose Photo identity cards are to be made compulsory & maintained.
14. All waste/refuse material from the workshop to be stored separately as per guidelines of Goa pollution Control Board.
15. Maintain the area in clean and hygienic condition.
16. Make provision for portable bathing and toilet facility to labourers/workers.
17. Take necessary steps to stop open defecation by labourers employed and residing in your property.
18. Erect boards for information of the above direction to your labourers/workers.
19. The permission will be revoked if any valid complaint regarding the business is received by this office.
20. Licence issued may be withdrawn by the Panchayat for the breach of any of the conditions stipulated herein above or it is displayed so by the higher authorities or decide so by this Panchayat in public interest.

This was approved at the Panchayat body meeting dated 5(20) vide resolution No. 21/11/2018.

(Dionizio Dias)

CAVELOSSIM



Captain of Ports Department

Government of Goa

Dayanand Bandodkar Road,
Panaji - Goa - 403001, India.

Phone Nos: +91(0832) 2225070/2426109
Website: www.ports.goa.gov.in

Fax: +91(0832) 2421483
E-mail: cpt-port.goa@nic.in

Shipping - Phone Nos.: +91(0832) 2420579/2420580 Fax: +91(0832) 2420582 E-mail: captainofports@eth.net

No. I-11017/Mobrar Fisheries/318

Dated: - 24/01/2019

To,
M/s. Mobrar Fisheries,
C/o. Shri Miguel Rodrigues,
H.No.386, Mobor, Cavelossim,
Salcete - Goa.

Sub: NOC for usage of waterfrontage at Mobor/Cavelossim under survey No.107/1 for repairs of boats and fishing trawlers in river Sal.

Sir,

With reference to your letter dated 27/12/2018 on the above subject and on the basis of NOC issued by Village Panchayat Cavelossim and Goa State Pollution Control Board, this department is hereby granted to Shri Miguel Rodrigues of M/s. Mobrar Fisheries for the usage of waterfrontage of riverine area admeasuring 15.00 x 10.00 = 150.00 Sq.mtrs. adjacent to survey No.107/1 to dock crafts along the river Sal at Cavelossim Village in Salcete Taluka as shown in the approved sketch submitted by you, subject to the following terms and conditions:-

1. That Shri Miguel Rodrigues shall not encroach upon the port area beyond the above portion of the riverine area of the Government Riverine Land in river Sal, Mobor, Cavelossim.
2. That Shri Miguel Rodrigues shall pay in advance the prescribed port dues charges to the captain of Ports Department @ Rs.10/- per month Sq.mts. in advance and any further increase in the Port dues as and when is notified by the Government.
3. That Shri Miguel Rodrigues shall not erect any structure in the above area allotted to them, without prior written permission and approval of Captain of Ports Department.
4. Shri Miguel Rodrigues shall ensure that no damage to the bank of the river Sal is caused by the vessels whilst pulling alongside in the property or casting off from the property or otherwise.
5. Shri Miguel Rodrigues shall ensure that the aforesaid area allotted to him is kept clean and free from pollution at all times.
6. Shri Miguel Rodrigues shall ensure that no dirt or any waste material is thrown into the River.

Count...2/-

-2-

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7. That Shri Miguel Rodrigues shall ensure that all required NOC's are obtained from the other Authorities concerned.
8. This NOC shall be valid for a period of one year from the date of issue and the same should be renewed by putting written request at least one month in advance before the expiry of NOC.
9. The Captain of Ports reserves his right to withdraw or cancel this NOC if any of the above conditions are found violated or when the above area is required by the Government or Port Authority.
10. Violation of any or all conditions of the NOC shall render this NOC automatically cancelled.
11. Shri Miguel Rodrigues shall not cause navigational hazards/ obstruction in that area.
12. Shri Miguel Rodrigues shall give an undertaking within 7 days from the date of receipt of this NOC/letter stating therein clearly that they agree to abide by all the conditions imposed upon in this NOC on a non judicial stamp paper of Rs.50/-.
13. By virtue of issue of this NOC Captain of Ports reserve the right to use waterfrontage for Departmental works if required.
14. That Shri Miguel Rodrigues shall not sub-let the waterfrontage to any other person/institution for use of some other work without prior permission of the Captain of Ports.
15. Shri Miguel Rodrigues shall not raise any objection during the inspection of the said waterfrontage by the departments officials in the future.
16. The Captain of Ports shall not undertake any responsibility and shall not pay any compensation on any ground to Shri Miguel Rodrigues or any other party.
17. That Shri Miguel Rodrigues shall not create any obstruction for local fishing community for their traditional fishing activities.
18. Shri Miguel Rodrigues shall see that in case there is any legal impediment in your title/transfer/lease/sale deed this permission stands null and void. Any consequences arising thereafter will be at his risk & cost and this department should be held responsible.
19. This NOC is issued with the approval of Government.

Yours faithfully,

(Capt. James Braganza)
Captain of Ports)

Annexure R-3

106

BEFORE THE ADUL. DIRECTOR OF PANCHAYATS-I.MARGAO-GOA.

P.A.No.ADPI/ 54/15

M/s Mobrar Fisheries
 A Proprietorship Concern
 Of Mr. Ulial M. Mohammad alias Monnu
 Represented by
 His duly constituted
 Attorney Mr. Miguel Rodrigues,
 Residing at H.No. 1170,
 Mazilwadd: Benaulim,
 Salcete-Goa.

.... Appellant

V/s

7/81age Panchayat of
 Cavelosim,,
 Through its Secretary,
 Cavelosur, Salcete- Goa.

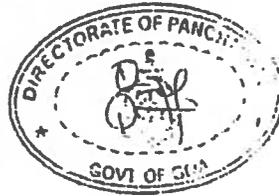
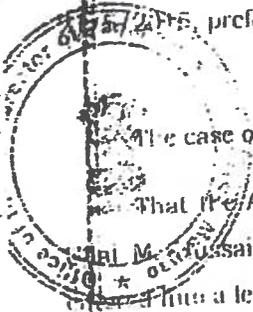
.... Respondent

J U D G M E N T

By this Judgment and Order I shall disposed of the Appeal dated 01/05/2015, preferred u/s 6(7) of the Goa Panchayat Raj Act, 1994.

The case of the Appellant in brief is as under:

That the Appellant states that the late father of the Appellant namely Mr. ... was the sole proprietor of the M/s Mobrar Fisheries and he ... a lease agreement with late Fr. Bernardo Silva Rodrigues who was the ... of late Ricardo Jose Xavier Rodrigues and Mrs. Herminia Silva



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Issued Under Right to Information Act, 2005

2

Rodriguez Lease agreement was executed on 3/3/1978 granting an area of 7500 sqmtrs of the property surveyed under No. 107/0 of village Cavlossim for purpose of construction of office premises godowns for storage of fish, for construction of tanks for processing and storing fish and for construction of sheds for residence of the laborers employed by the Appellant. Pursuant to the said lease agreement the Appellant constructed office premises, godowns, fish processing and storing tanks, structures for the residence of the labourers employed by the Appellant and the said structures are constructed in the said property in the year 1978 with the permission of the owner of the said property and is registered with the Respondent for purpose of house tax bearing H.N. 11, 11/A, 11/B, 11/C, 11/D, 384,367,386,368/1,385 and 366. That the said structures are electrified.

That the Appellant states that the initial lease agreement was for the period of five years and the said lease agreement was renewed for two consecutive period of five years. That the Appellant carried out the business in the said leased portion of the said property and structure constructed therein till his death and upon the death it is continued by his son namely U.M. Mohammad. That the owner of the said property in a futile attempt to evict and demolish the structures existing therein filed a civil suit No.257/10(new)/Spl.Civil Suit No. 67/001(old) against the Appellant. The Hon'ble Civil Court by its judgment and Decree dated 20/11/2010 dismissed the said Civil Suit. That the owner of the said property filed an appeal before the Hon'ble District Court bearing regular Civil Appeal No. 402/11, the Hon'ble District Judge by its judgment and Decree dated 28/8/2012 dismissed the said appeal. The owner of the said property preferred a second appeal before the Hon'ble High Court and the said appeal is pending before the Hon'ble High Court for hearing and disposal.

That the Respondent issued a show cause notice to the Appellant dated 3/27/2015 alleging construction of illegal huts/structures 14 in number and installation of heavy electrical connection by means of tapping electricity. That the Appellant replied to the said show cause notice giving all the details of the said



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Right to Information Act, 2005 3

structures with documentary evidence that conclusively proves that the said structures are legal and assessed for house tax in the office of the Respondent. Despite of giving reply to the show cause notice with documentary evidence Appellant received an order of the Respondent dated 13/5/2015 alleging construction of 14 illegal structures with heavy electrical connection by means of ripping and demolition of the said illegal construction.

That the Appellant further states that the impugned order is nothing but a ploy to evict the Appellant from the said property at the instance of the owner of the land.

This court directed the Block Development Officer, Salcete through the Extension Officer (RE) to prepare the sketch of alleged illegal construction and the same was submitted on records. After perusal of the report, it is seen that the structures at Sr. No. 1, 2, 4, 8, 9, 11 and 14 are having house number and house Tax receipts of the year 1984-85. Appellant also produced Xerox copies of Demand and Collection Register to prove that structures are existing in Panchayat records of 1984.

The structures at Sr. No. 3, 5, 6, 7, 10, 12 and 13 are temporary structure made of bamboo and Palm trees.

The Appellant agrees with the inspection report prepared by E.O.R.E of Block Development Office.

Based on the above discussion, I pass the following order:

O R D E R

Appeal is partly allowed.

Appellant is directed to remove the structure at Sr. No. 3, 5, 6, 7, 10, 12 and 13 within 30 days. Failing which Respondent Panchayat to remove the same and recover the expenses as arrears of Revenue Tax.

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Pronounced in the open Court.

Issued Under Right to Information Act 2005

Proceeding closed

Given under my hand and seal of this authority on 2nd day of December, 2015



Gopal A. Parsekar

(GOPAL A. PARSEKAR)
Addl. Director of Panchayat -I,
Margao-Goa.

Gopal A. Parsekar
6/11/15
1 Clerk

Annexure 'R-4'

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EXTRACT OF MINUTES FOR THE 215th MEETING OF THE GOA COASTAL ZONE MANAGEMENT AUTHORITY (GCZMA) TO BE HELD ON 22/10/2019 (THURSDAY) at 03.30 PM. IN THE CONFERENCE HALL, 2ND FLOOR, MINI CONFERENCE HALL, SECRETARIAT, PORVORIM - GOA.

Case No. 1.7

To decide on Illegal Construction of house, jetties, destruction of sand dunes and illegal commercial activities by Mobor Fisheries in Sy. No. 107/1 of NDZ of CRZ area at bank of river Sal in Mobor ward of village Cavelossim in Salcete Taluka.

Background

This office is in receipt of application dated 10/12/2018 from the Office of the District Collector South Goa with regards to Illegal Construction of house, jetties, destruction of sand dunes and illegal commercial activities by Mr Kashinath Shetye & others R/O A-102 Raj Excellency in Sy No 107/1 of Village Cavelossim in Salcete Taluka. This office is in receipt of the Proposal along with the Site Inspection report from the Chairman District Level Committee Office of the Collector (South) Margao Goa.

With reference to the above referred Memorandum, it is to inform that inspection of the Illegal construction of house, jetties, destruction of sand dunes and illegal commercial activities in Sy No 107/1 of village Cavelossim in Salcete Taluka has been carried out through The Taluka Level Coastal Monitoring Committee for Salcete Taluka and the report is hereby submitted in the prescribed proforma to the District Level Committee South Margao Goa for necessary action and direction.

Further this office is in receipt of application dated 10/12/2018 from the Office of the District Collector South Goa with regards to Illegal activities on our property by Mr Ivan Gerrard Rodrigues (M/s Mobor Fisheries) in Sy No 107/1 of Village Cavelossim in Salcete Taluka. This office is in receipt of the Proposal along with the Site Inspection report from the Chairman District Level Committee Office of the Collector (South) Margao Goa.

With reference to the above referred Memorandum, it is to inform that inspection of the Illegal activities being conducted on our property under Sy No 107/1 of village Cavelossim in Salcete Taluka has been carried out through The Taluka Level Coastal Monitoring Committee for Salcete Taluka and the report is hereby submitted in the prescribed proforma to the District Level Committee South Margao Goa for necessary action and direction.

Further, this office is in receipt of application dated 10/12/2018 from the Office of the District Collector South Goa with regards to Illegal business activities by Mobor Fisheries in NDZ of CRZ area at bank of river Sal in Mobor ward of village Cavelossim in Sy No 107/1 of Village Cavelossim in Salcete Taluka. This office is in receipt of the

Proposal along with the Site Inspection report from the Chairman District Level Committee Office of the Collector (South Margao Goa).

With reference to the above referred Memorandum it is to inform that inspection of the illegal business activities by Mobor Fisheries in NDZ of CRZ area at bank of river Sai in Mobor ward of village Cavellossim in Salcate Taluka has been carried out through The Taluka Level Coastal Monitoring Committee for Salcate Taluka and the report is hereby submitted in the prescribed Performa to the District Level Committee South Margao Goa for necessary action and direction.

The said matter was deliberated during 190th GCZMA meeting held on 18/12/2018 wherein the authority perused the numerous complaints filed by Villagers of Cavellossim Cavellossim Villagers Forum Mr. Kashinath Shetye and 7 ors and Gerrald Rodrigues and report submitted by Taluka level Coastal Monitoring Committee for Salcate Taluka. The authority noted that there is construction of two structures and 4 sheds within CRZ area as per schedule in the report of Taluka level Coastal Monitoring Committee for Salcate Taluka and decided to issue a show cause notice to Mr. Minguel Rodrigues and Mr. Ullal M. Mohammad alias Monnu (Proprietorship concern) M/s Mobor Fisheries. Further authority decided to call the parties for personal hearing on 04/01/2019.

The said matter was placed during 191st GCZMA meeting held on 04/01/2019 for grant of personal hearing to the parties. Further Authority directed the respondent to file a reply to the show cause notice within a week to this office along with a copy to the complainants. During 192nd meeting held on 29/01/2019 the matter was placed for personal hearing to the parties. The authority noted the objections raised by the complainants. In view of the objections raised by complainants decided to defer the matter for further hearing in the matter. The said matter was placed during 193rd GCZMA meeting held on 21/02/2019 wherein the Authority giving final opportunity to the complainant adjourned the matter to 15/03/2019 for final decision.

The said matter was deliberated during 194th GCZMA meeting held on 15/03/2019 for grant of personal hearing to the parties wherein the authority heard all the concerned parties. The authority noted that respondent has relied upon various house tax receipts of the year 1985-86. The authority noted that in the judgement order dated 02/12/2015 passed by Additional Director of Panchayat-I in appeal bearing no ADPI/54/15 has specifically recorded that the Block Development Officer, Salcate through Extension Officer (RE) was directed to prepare a sketch of alleged illegal construction of certain structures. The Additional Director of Panchayat-I has vide said judgement order 02/12/2015 has agreed to the report of Engineer from B D O office.

The authority observed that the said structures having house numbers have been identified and shown to be of the year 1984-1986 in the said report. The authority decided to seek comments and check the veracity of the said sketch/plan dated

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20/12/2015 prepared by Extension officer (R E) Block Development Officer Salcete from the Office of Block Development Officer Salcete and Directorate of Panchayat. The authority decided to take up the matter upon receipt of the comments from the Block Development Officer Salcete and Directorate of Panchayat. Now this office is in receipt of letter along with report from Block Development Officer Margao, Salcete.

The said matter was deliberated during 211th GCZMA meeting held on 24/08/2019 wherein the Authority took record of the report from the Block Development Officer Margao Salcete. Further the Authority decided to call both the parties for personal hearing in its next meeting.

the matter was placed for further hearing in the 214th GCZMA meeting held on 03/10/2019 wherein the authority after hearing the parties decided to conduct inspection of site through expert member GCZMA. A site inspection is conducted on 15/10/2019 and submitted report.

Proceedings: These proceedings are subject matter of PIL Writ Petition No. 47/2018 pending in the High Court of Bombay at Goa and from time to time statements are made on behalf of GCZMA that the present enquiry shall be completed at the earliest. The parties concerned are aware about the pendency of the High Court petition and the requirement of the GCZMA to conclude the petition at the earliest. During the 214th meeting held on 3/10/2019 the Complainant Gerald Rodrigues was present and so too was Aires Passanha of the Cavlossim Villagers Forum. The third complainant Mr. Kashinath Shetye was absent and the person representing CVF had sought for his exemption. The matter was fixed for hearing. The report of the BDO Salcete which was called for through the 194th meeting held on 15/3/2019 was received and when it was shown to the litigating parties on 3/10/2019 they demanded that a copy of the same be given to them which was immediately handed over and the Authority also decided to have its own inspection through the Expert Members.

The Expert Member conducted the inspection on 17/10/2019 and the report was sent across to all the three complainants by mail, along with the notice of hearing/arguments. The President of CVF took strong exception to the fact that he stated that they were not called for and neither they were present for the said inspection. The counsel for the other complainant namely for Gerard Rodrigues was seeking time. However no substantial objections are filed to the conclusions and findings arrived at the said inspection report.

The Authority took stock of the state of affairs because the Honble High Court was seized of the matter and was consistently seeking to know what is the progress made in the case at hand and despite being aware of the same, the Complainant Mr. Kashinath Shetye has remained absent today and was also absent in the previous meeting. The President of CVF attempted to make allegations against the members which practice needs to be deprecated.

Apart from the above observations, the need to send intimations or for that matter the presence of the complainant during site inspection is not essential because the said inspection was for the benefit of members of this Authority and for independent assessment of the situation at loco. It bears mentioning that prior to that inspection was done by the BDO of Salcete, a confirmation report has been received from the BDO stating that it is indeed their true and authenticated report and this inspection was primarily for the satisfaction of the members. No prejudice is caused to the Complainant since it is open to the Complainants to raise their objections. Hence the objections raised by the CVF were not entertained and this Authority also decided not to give any opportunity to Gerald Rodrigues as prayed for. The parties are very well aware that the matter was to be disposed of expeditiously and sufficient opportunity was granted to the Complainants and to the parties. Even on the last date, indulgence was granted to the said parties. A specific notice of hearing was given to the parties and even the inspection report was given in advance so that the parties can give their say. However, despite being aware about the background, the Complainant Kashinath Shetye has remained absent and the other Complainant Aires Passanha on behalf of CVC was seeking to raise objections for the hearing to go ahead. This Authority has granted enough opportunities to the parties and no further request for adjournment can be granted and the Authority has decided to reject the same. However, this Authority decided to make sure that the Complaints filed by the parties and the allegations made therein are duly considered along with the oral clarifications, if any, given by the parties so that no prejudice is caused to the parties.

The Complainants Aires Passanha of Cavelossim Villagers Forum and the Counsel of Gerard Rodrigues were present. The Respondent, M/s. Mobar Fisheries was represented through Advocate S. Desai. The advocate of Gerald Rodrigues, when questioned, stated that he wants fresh inspection and did not render any clarifications in the matter despite an opportunity being afforded.

The Complainants through their written complaints have stated that the said M/s. Mobar Fisheries Respondent has carried out illegal construction of houses, jetties, destruction of sand dunes and is carrying out illegal commercial activities in survey no. 107/1 of Cavelossim Village. The complaint of Cavelossim Villagers Forum dated 26/03/2014 represented by Aires Passanha is that M/s. Mobar Fisheries is carrying out illegal activity of boat repair and is acting in violation of the environmental laws. The said Mr. Aires Passanha supported the said complaint and contended that illegal activities are being carried out by M/s. Mobar Fisheries and that there are illegal structures in the said property which are required to be demolished. The complaint dated 26/03/2014 of the Villagers of Cavelossim is in respect of illegal business activity within the No-Development Zone, which is without obtaining necessary permissions. He relies upon Google images of the year 2002 as well as the plan of Remote Sensing Institute which clearly indicate that the suit structures never existed on loco.

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Kashinath Shetve who isn't present through his complaint dated 01/11/2018 alleged that the said M/s Mobarar Fisheries has undertaken construction of illegal houses, jetties, destruction of sand dunes and illegal commercial activities in survey no. 107/1 of Village Cavelossim. He has further stated that different house numbers are illegally applied to structures which structures are actually located in different survey numbers. In his complaint, he has submitted that Mr. Miguel Rodrigues has illegally taken Power of Attorney of Muhammad alias Monu and his wife Mrs. Mumtaz Begum and is doing illegal business in the name of M/s Mobarar Fisheries. That the structures existing in the said property are illegal and they are not reflected in the survey plan. That the fishing activity and business of boat repairs is undertaken by the said M/s Mobarar Fisheries without obtaining approval from CRZ authorities under the CRZ Regulations. That there is no permission taken by Mobarar Fisheries for conduct of business of boat repairs, boat pulling and other fishing activities. That in the absence of further CRZ permissions under the 1991 Regulations or the 2011 Regulations all the activities in the said survey numbers should be stopped forthwith and the illegal structures should be ordered to be demolished. That there is no approval for the existing structures from GCZMA nor is there any document to establish that the structures are existing prior to 1991.

Gerald Rodrigues had filed a complaint dated 23/10/2018 stating that fraudulent documents have been submitted by the said Mr. Miguel Rodrigues during the inspection held on 18/08/2015. He submitted that the house numbers 384, 385 and 386 are fictitious and house numbers 366, 367 and 368 have been fraudulently misused.

The Respondent Mobarar Fisheries was represented by Advocate S. Desai. He submitted that the Respondent (M/s Mobarar Fisheries) has filed a reply dated 07/01/2019 and an additional reply dated 29/01/2019 and he seeks to place reliance on the same. He submits that M/s Mobarar Fisheries is a tenant of the said property bearing No. 107/1 of Village Cavelossim. He submits that there were civil suit proceedings filed by the original owners namely Mr. Raul Rodrigues for eviction which is pending in the High Court and the complaints are filed at the instance of the said Raul Rodrigues who has till date not succeeded in courts. He submits that the said replies are filed by the Power of Attorney holder Mr. Miguel Rodrigues. He submits that all 6 structures in the said property were constructed prior to 1991 and the same is clear from the proceeding before the Addl. Director of Panchayat bearing No. 54/2015. He submits that in the said proceeding, a report was called for from the BDO (Block Development Officer) to ascertain the legality of structures in the said property. He submits that by order dated 13/08/2015, the BDO confirmed and identified the existence of structures bearing H. Nos. 384, 385, 386, 366, 367 and 368 and after relying on the said report, the Addl. Director of Panchayat has held that the said 6 structures are in existence prior to 1991. He submitted that the said order completely supports the case of the Respondent that the existing 6 structures are in existence prior to 1991. He further submitted that the identification of the said structures is confirmed by the BDO Salcete after clarification was sought by the authority. He submitted that in Para 3(iv) of

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The reply dated 07/01/2019 the details of the structure and user are mentioned. He submitted that house tax records of the year 1985 pertaining to house Nos 384, 385, 386, 387, 387 and 388 clearly establish that the structures were existing prior to 1991 and were in the name of Mobar Fisheries. He submitted that the transfer of H No 386, 387 and 388 in favour of Mr. Garth D Souza does not change the fact of existence of the said structures.

That in the minutes of the meeting held on 10/07/2018 in the case of M/s Silva Fisheries CRZ permission was given by relying on only house tax receipts prior to 1991 and therefore the Respondent cannot be treated differently. He further submitted that Mr. Minguet Rodrigues belongs to the fisherman community which needs to be seriously considered.

He further submitted that all the activities conducted in the said property pertained to fishing activity, which is permissible under CRZ Regulations, and these activities were being carried out even prior to 1991. He submitted that in the additional reply he has relied upon lease agreement dated 03/03/1978 and clause 2 of the said agreement clearly establishes that the original owners had given the said property on lease to Mr. U.M. Hussain (predecessor in title of the Respondent) to construct fish tanks, storage of fish, sheds, etc which is necessary in fish trade. He submitted that the lease agreement dated 29/03/1983 continued the lease of 1978 and Clause 2(c) specifically authorizes the lessee, U.M. Hussain to carry on business of fish. He submits that there is another agreement dated 25/04/1988 wherein the previous agreement is continued and Clause 2(c) also refers to carrying on the fish business by the said U.M. Hussain. He submitted that the above documents establish that the fishing activity of construction of fish tanks, storage of fish, sheds and all fishing related activities were carried prior to 1981. He further relied upon the Judgment dated 20/12/2010 passed in Special Civil Suit No 67/2000/1 passed by Civil Judge Senior Division at Margao and referred to Issue No. 4 and also referred to the findings of the Civil Court at para 18 wherein the existence of structures since 1978 is established. He also referred to paras 23, 24 and 26 of the Judgment wherein it was held that activity of dumping of fish, drying of fish and parking of fishing boats and carrying out fishing business was going on much prior to 1991. He also referred to the Judgment of the Appellate Court dated 22/08/2012 wherein the Judgment of the Trial Court was confirmed.

He further submitted that M/s Mobar Fisheries has consent to operate dated 11/01/2019 under the Water Act and Air Act, NOC from the Health Department, NOC from Village Panchayat of Cavelossim to continue the fish business and NOC dated 24/01/2019 from Captain of Ports for usage of water frontage. He therefore submitted that he has the necessary permissions and the constructions are legal and much prior to 1991.

Decision:

The authority has perused the complaints. The authority noted that the complaints essentially pertain to 6 alleged illegal structures in property bearing survey no 107/1 of Village Cavelossim and with regard to illegal fishing activities, boat repair, boat-pulling, fish storage, jetty by the said M/s Mobar Fisheries.

The authority has considered the written complaints as part of the arguments of the Complainants. The authority has noted that in the replies filed by the Respondent, he has relied upon the house tax receipts of the year 1985 in respect of the structures bearing H Nos 384, 385, 386, 366, 367 and 368 which confirms the existence of 6 structures prior to 1991. The authority noted the existence of the said structures prior to 1991 was also established by the Order of the Additional Director of Panchayat dated 02/12/2015 read with the report of the BDO. The Authority noted that in the site inspection report of the BDO, there were various structures, temporary and permanent that were identified and the said 6 structures bearing Nos 384, 385, 386, 366, 367 and 368 were identified in the sketch. The Authority noted that upon considering the sketch and the material on record, the Addl. Director of Panchayat passed a Judgment holding that the said 6 structures are existing since 1984 based on the house tax records and the said structures stood protected and the Respondent was directed to demolish the other structures mentioned in the sketch. The Authority has noted that the Respondent in the reply has stated that the user of the structures was only for fishing related activities. The Authority noted that in pursuance to the query raised by the Authority, the BDO by letter dated 23/08/2019 has confirmed that the said sketch which forms a part of the BDO report is prepared by the concerned engineer. The Authority noted that the said order and the report also substantiates the existence of the said 6 structures prior to 1991.

This Authority also noted that the lease agreements dated 03/03/1978, 29/03/1983 and 25/04/1988 specifically authorized the lessee to construct structures like fish tanks, sheds, storage of fish, etc which is necessary for fish trade and further authorized the lessee to carry out the business of fishing. The lessee was U M Hussain, the predecessor of the Respondent.

This Authority also noted the Judgment dated 20/12/2012 passed by the 2nd Addl. Senior Judge Civil Division at Margao in R C S 257/2010 (new) S C S 67/2000/1 (old). This Authority noted that the said case was filed by the owners against the Respondent seeking for eviction from the very same property and an issue was specifically framed by the court whether the Respondent proves that in the year 1978, the property was leased for construction and installing of office premises, godowns, storage of fish, tanks for the purpose of processing fish and sheds for labourers. This Authority noted that in the said Judgment, the court has at Para 23, 24, 25 and 26 specifically concluded that the said Mr. U M Hussain, predecessor of the Respondent, had constructed structures, storage tanks, sheds for carrying on fishing business of processing, preserving and

drying fish and parking of boats, platforms for lifting and repair of boats etc. The Authority also noted that the said Judgment was also confirmed by the District Court in R C A No 42/2011 by Judgment and Order dated 28/08/2012. The Authority noted that there is a specific finding of the courts on the existence of structures much prior to 1991 by the predecessor of the Respondent which structures were used for fishing related activities.

The Authority noted that the above lease agreements and the Judgments also indicate the existence of the structures prior to 1991 and establish that the Respondent was authorized to carry out fishing activity in the said property from 1978 which included activity of parking of boats, platform for lifting of boats. The Appeal is pending before the High Court, however there is no interim order produced before this Authority. The Authority also further noted that its conclusion is not solely based on the said Judgments and all the documents are being considered.

The Authority noted that the above documents and circumstances establish that the 6 structures bearing H Nos 384, 385, 386, 366, 367 and 368 have been in existence prior to 1991. Therefore, the CRZ Notification would not apply to them.

The Authority also noted that the documents establish that the Respondent or his predecessor have been carrying out business of fishing which includes storage of fish, drying of fish, construction of fish tanks, parking of boats, platforms for lifting of boats etc from the year 1978 and much prior to 1991. The Authority therefore noted that the said business cannot be said to be illegal under the CRZ Notification. The Authority also noted that fishing activity is a permissible activity under the CRZ Regulations and in the present case, it had commenced much prior to 1991.

Apart from the fact of having received confirmation reports from the Directorate of Panchayats, when this Authority itself undertook an inspection through the Expert Members, it also got the facts re-affirmed and hence the conformity of facts clearly establishes that the suit structures were of the period prior to 1991. No substantial objections are raised to the findings of the report apart from stating that no notice was given to the Complainant and the said Gerald Rodrigues of the inspection. The report substantiates the existence of the structures prior to 1991. It is made clear that this decision is taken not solely relying on the inspection carried out by the expert Member but by conserving all other documents in relation to the suit structures.

The Authority has also noted that the Respondent has obtained permissions of consent to operate dated 11/01/2019 for repairing of boats, NOC from health department from sanitation point of view for running an establishment for carrying out business of fish storage and other allied fishing related activities like boat pulling, boat repairing, boat building and net mending, NOC from Village Panchayat for business of fish storage and other allied fish activities, and NOC from Captain of Ports for usage of water frontage at Mobar/Cavelossim. The Authority noted that there is no document or material produced

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before the Authority to establish that there is a jetty constructed in the said property and hence it deemed fit to discharge the Respondent