

**BEFORE THE NATIONAL GREEN
TRIBUNAL (WESTERN ZONE) AT PUNE**

Appeal No. 6/2022 (WZ)

Miguel Caetano Rosario Vaz ... Appellant

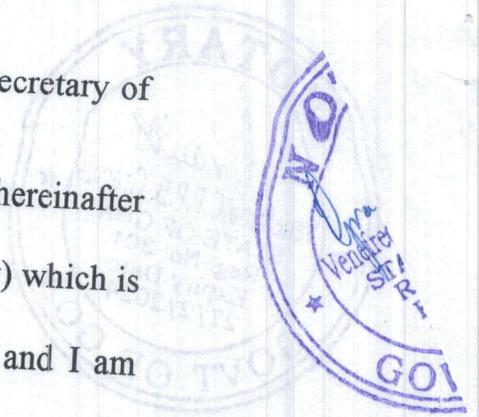
V/s

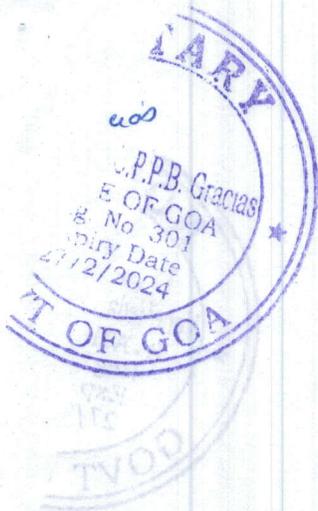
GCZMA & ors. ... Respondents

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

I, Shri. Dasharath M. Redkar, aged 55 years, S/o Shri. Mahadeo Redkar, Indian National, the Member Secretary of the Goa Coastal Zone Management Authority (GCZMA), the Respondent No. 1 herein having Office at 4th Floor, Dempo Towers, Patto-Panaji, Goa most respectfully state and submit as under: –

1. I say that I am presently working as a Member Secretary of Goa Coastal Zone Management Authority (hereinafter referred to as the 'GCZMA' for the sake of brevity) which is the Respondent No. 1 in the present Application and I am authorized to file the present Affidavit on behalf of the GCZMA pointing out the correct facts / position as regards the subject matter in the Appeal on behalf of the Respondent No. 1. I say that the contents herein are based on the records available in my Office and I am able to depose thereto.
2. I say that I have perused a copy of the captioned Appeal; and have read and understood the contents thereof. I say that the present Appeal lays a challenge therein to Order dated 12/11/2021 bearing No. GCZMA / H.C.M / W.P. No. 1105/ 2019/ 19-20/ 07/ 1322 discharging the Show Cause Notice bearing no. GCZMA/H.C.M/WP. NO. 1105/2019/19-20/07/2661 dated 11/03/2020 issued to Mr Nitin Kudav, as decided by the authority in its 277th GCZMA meeting held on 02/11/2021 (hereinafter referred to as the '*Impugned Order*').





3. I say at the outset, that I deny each and every allegation in the captioned Appeal in so far as the same is inconsistent with the records available in this Office. I say that any allegation and/or content and/or averment not specifically dealt with and/or denied by me hereinafter ought not to be construed as having been admitted for want of specific denials.

4. I say that the Appeal is untenable on facts and in law. I say that the Authority has discharged the Show Cause Notice referred above based on material documents and after conducting a detailed inquiry into the matter. I say that on the contrary the Appellant has not shown anything to prove the contrary. I say that the Appellant seems to have some dispute of ownership rights quo ad hoc the subject property viz-a-vis the Respondent which this Authority is not concerned with. I also say that the besides vague objections, there is nothing on record to rebut the Site Inspection Report conducted by the Authority in the presence of the Appellant's representatives. However, I also bring on record that the Appellants fail to remain present for the Site Inspection whenever notified.

5. I say that the Authority has passed the Impugned Order after detailed verification and site inspection dated 6/11/2020 and noted that with regards to (1) Shack "J"(Hangout) there is compliance. With regards to the Permanent structure with RCC the same belongs to one Mr. Edwin D'Souza and the Authority has decided to detach this violation against the Respondent No. 2 and issue a fresh SCN against Edwin D'Souza. (2) Shack "I" (Love temple) the Authority noted that the Respondent No. 2 has complied with the directions. With regards to the structure between "H" and "I" in Sy no 71/0 the same form part of the order for demolition dated 16/05/2017 issued by the GCZMA; (3) Shack "H" (Negi) the Authority noted due compliance; (4) Shack "G" (Basho); the Authority noted due compliance; (5) Shack "F" (unnamed) the Authority noted due compliance; (6) Shack "E" (Pacha de Arambol) the Authority noted due compliance; (7) Shack "D" (Unnamed) the Authority noted due compliance; (8) Shack "C" (Horizon) the Authority noted due compliance; (9) Shack B (Happiness) the Authority noted due compliance; (10) Shack "A" (Acuresta) the Authority noted due compliance.



MB

6. I say that a fresh Show Cause Notice is issued to Mr Edwin D'Souza and the matter is posted for personal hearing on the 07/04/2022



7. Annexed herewith a copy of the Show Cause Notice and the same is marked as ANNEXURE "A"

8. I say that with respect to other structures mentioned in the Show Cause Notice, the Authority noted when it visited the site on 6/11/2020 that the Shack named 'My Space' (Chandra) between Love Temple and Hangout was still in operation; however, the same did not belong to Respondent No. 2 and issued demolition order dated 16/05/2017 bearing Ref No GCZMA/Appln No.180/2016/WZ/NGT/49/383; and further issued directions to the Dy Collector for execution of the demolition order dated 16/05/2017.

9. I say that the Authority also noted that the Violation with regards to Coco Loco which lies in between the two approved shacks of this Respondent has been erected by one Mr. Suhas Prabhu and the matter is pending before the GCZMA for which SCN is issued and inquiry is in process.

10. I say that a fresh Show Cause Notice is issued to Mr Suhas Prabhu and the matter is posted for personal hearing on the 07/04/2022

11. Annexed herewith a copy of the Show Cause Notice and the same is marked as ANNEXURE "B"

12. I say that in the circumstances foretasted the GCZMA has been pleased to pass the Impugned. I say that the GCZMA is conscious of the objectives with which it has been constituted, which includes the enforcement, proper implementation, regulation of the CRZ Notification. I say that the Impugned Order has been passed in in consonance with these objectives, environmental concerns being of paramount importance.

13. With respect to Paras 1 and 2 of the Memorandum of Appeal - the same pertains to the particulars of the parties herein.

14. With respect to Para 3 of the Memorandum of Appeal there is no question of this Respondent admitting to any violations as the same have not been carried out by this Authority. This



(Handwritten signature)

Authority is a fact finding authority that has been vested with powers to inquire into violations and render a finding thereon. Further, it is denied that this Authority has taken no action against the violations found. I say that the action and/or proposed to be taken against the violations found have been well articulated pointwise in the Impugned Order and in so far as the Respondent No. 2 is concerned discharged having find no violations and/or compliance.

15. With respect to the contents of Para 4 the same are denied.

16. With respect to the contents of Para 5 is a description of the parties and warrant no reply.

17. With reference to the Contents of para 6 to 9 are disputed facts pertaining to ownership and do not concern this Authority.

18. With respect to the Contents of para 10 are a matter of records and the Respondent No.1 seeks to rely on the order dated 12/11/2021 in order to avoid repetition.



19. With respect to the Contents/Allegation of para 11, of the Appeal against this Authority are denied. The Respondent No.1 states that they are frivolous and baseless allegations as the Appellants could not prove /show the location of the illegalities at the time when the Authority carried out the Site Inspection.

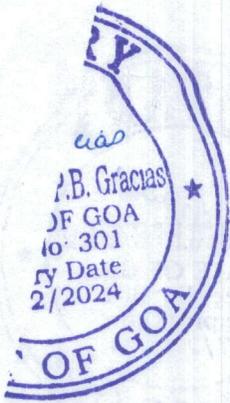


20. With respect to the Contents of paras 12 to 25 are a matter of record.

21. With respect to the Contents of para 26 are not admitted.

22. Contents of paras 27 to 30 are a matter of record. I say that the Respondent No. 2 has valid permission to erect the shack and where there were deviations noticed corrective measures have been carried out. Furthermore, the other illegalities which are existing on site is carried out by two other individuals for which Show Cause Notice is issued and the matter is heard independently. In view of the above nothing survives in this appeal.

A handwritten signature in blue ink, consisting of stylized initials.



23. With reference to the Contents of para 31 are a matter of record.

24. With respect to the contents of para 32, any delay in passing the Impugned Order is attributable to the Covid 19 Pandemic which had brought the entire administration to a standstill in between the years 2020 and 2021. I say that the Hon'ble Supreme Court has also waived off the limitation period during the Pandemic.

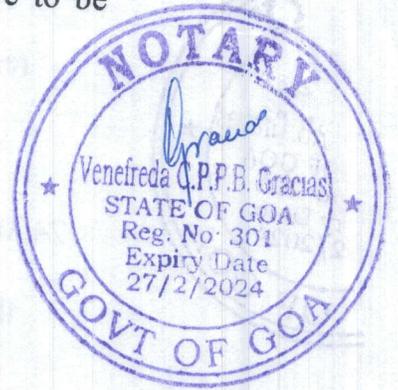
25. With respect to the Contents of paras 33 to 50 are denied.

26. The contents of paragraphs pertaining to Jurisdiction, Limitation and Prayers do not warrant any comments.

27. I state that in view of whatever is stated hereinabove, no relief whatsoever can be granted in favor of the Appellant and the matter may be dismissed.

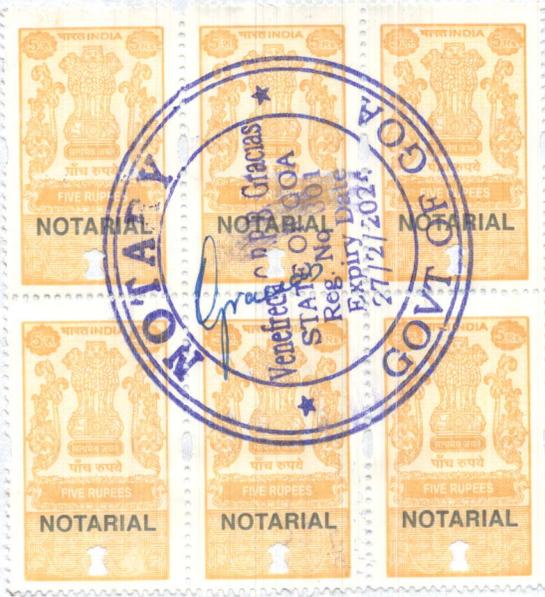
28. I state that whatever has been stated herein above is true to my own knowledge and based on the documents/records available with the office of this respondent to which I have

access and the contents of the same which I believe to be true and correct.



Solemnly affirmed at Panaji - Goa

This 06th day of April 2022



[Signature]
06/04/2022

DEPONENT

Solemnly affirmed before me
Dasharath M. Redkar

Who is identified before me by

_____ At Calangute - Goa

Sr. No. 63/04/2022/P
Date. 06/04/2022

[Signature]
Venefreda C.P.P.B. Gracias
Advocate & Notary Goa State

GOA COASTAL ZONE MANAGEMENT AUTHORITY

C/o Department of Science, Technology and Environment (Govt. of Goa)
4th floor, Dempo Towers, Patto, Panaji Goa,
www.czma.goa.gov.in

Ref.No. GCZMA/N | EIL E-Compl | 22-23/02/15 Dated: 01/04/2022

SHOW CAUSE CUM HEARING NOTICE ISSUED UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION) ACT, 1986, READ WITH RULE 4 OF THE ENVIRONMENT (PROTECTION) RULES, 1986.

WHEREAS, the Goa Coastal Zone Management Authority (hereinafter referred to as 'the GCZMA' in short) has been constituted by the Ministry of Environment & Forests (MoEF), Government of India pursuant to the directions of the Hon'ble Supreme Court of India to deal, inter alia, with violation of the Coastal Regulation Zone (CRZ) Notification 2011 and implementation of the CRZ Notification.

AND WHEREAS, the GCZMA earlier was in receipt of various complaints dated 01/10/2019 and 24/10/2019 filed by Mr. Morgan Travasso P.O.A of Mr. Minguel Caetano Da Rosario Vaz inter alia alleging that there is illegal construction and land filling of nullah and low lying area in Syno.71/0 and 72/1 of Arambol village, Pernem Taluka by Mr. Nitin Kudav, Manuel D'souza, Edwin D'souza, Vinayak Kudav, Anthony Fernandes. The complainant also complained of violation of N.O.C /Permission dated 6/2/2018 for shacks and huts granted to Mr. Nitin Kudav.

AND WHEREAS, a Writ Petition bearing no.1105/2019 was filed by Mr. Minguel Caetano Da Rosario Vaz through P.O.A Mr. Morgan Travasso inter alia being aggrieved by inaction on the complainant filed him..

AND WHEREAS, The Hon'ble High Court of Bombay at Goa vide order dated 08/01/2019 in the said matter directed site inspection.

AND WHEREAS, the Expert Members of GCZMA conducted the site inspection on 09/01/2020. The report has recorded observation depicting violation of CRZ violation of CRZ Notification. The said report was filed before the Hon'ble High Court of Bombay at Goa.

AND WHEREAS, the said matter came up for hearing before the Hon'ble High Court of Bombay at Goa on 14/01/2020 disposed of the matter directing it hear the concerned parties and take decision in accordance with law.

AND WHEREAS, the Inspecting team of the GCZMA noted that One Mr. Nitin Kudav had carried out violation and so a SCN was issued to Mr Nitin Kudav. However,

(L)

Mr Nitin Kudav in his reply to the SCN has categorically stated that the violation at page 4, 3rd para of the report dated 10/01/2020 has spelt out this violation as mentioned below.

AND WHEREAS, upon close perusal of the complaints and findings in the report submitted by the Expert Members of GCZMA and the reply of Mr Nitin Kudav, the following alleged illegal construction resulting violation of CRZ Notification 2011 is noticed:

Sr. No.	Name of the Party/alleged violator	Sy. No. Coordinates. / Village	Type of Construction	Distance from HTL
1.	Edwin D'Souza	Sy. Nos. 71/0 Arambol, Pernem, Goa 15°41'2.48" N and 73°42'17.68"E	Illegal permanent structure with RCC frame, slab and laterite masonry walls having area of 16.00 m ²	No Development Zone (NDZ)

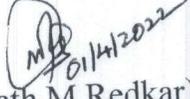
AND WHEREAS, as per the CRZ Notification, 2011; the entire belt of 100 mts. from the High Tide Line (HTL) of river and 200mts. from the HTL from the sea is designated as the No Development Zone(NDZ) and hence no construction/development whatsoever are permissible in the said belt;

ANDWHEREAS, the alleged illegal construction is highly detrimental to the Coastal ecosystem / riverine ecosystem. Further it is observed that you have not obtained any prior approval of the GCZMA for the purpose of alleged construction as required under the CRZ Notification 1991/2011.

NOW THEREFORE, in exercise of the powers conferred by section 5 of the Environment (Protection) Act, 1986 read with sub-rule (3) (a) of rule 4 of the Environment (Protection) Rules, 1986, delegated to the GCZMA, the GCZMA hereby directs you to **SHOW CAUSE** as to why a direction to demolish the structures and to restore the land to its original condition should not be issued to you. Further, you are directed to ensure that no civil work of whatsoever kind and nature is carried out at said site.

FURTHER TAKE NOTE THAT, you are required to file your reply on alongwith compliance report and produce construction/reconstruction/repair licence/approvals, if any, issued by the concerned Authorities including GCZMA along

with approved plan, as also documents to show the title to the Office of the GCZMA, having its Office at 4th Floor, Dempo Towers, Patto, Panaji - Goa on or before **05/04/2022 and remain present for a personal hearing on the 07/04/2022 at 03.30p.m at the 4th Floor, Conference Hall, Dempo Towers, Patto, Panaji, Goa** Take note that if you fail to submit your reply along with the required documents, the GCZMA will come to the conclusion that you have no justification to carry out its activities as above stated and the Authority shall proceed to issue final directions to you in this regard without any further notice which inter alia includes order of demolition of structures, disconnection of water / power supply etc.


 (Dasharath M Redkar)
Member Secretary (GCZMA)
 o/c

Encl: As above

To,
 1. **Mr Edwin Manuel D'Souza**, resident of H.No. 142, Girkarwaddo, Arambol, Pernem
 Goa 403524

Copy to:

1. **The Collector & District Magistrate (North), Office of the Collector (North), Collectorate Building, Panaji-Goa...** for information and necessary action.
2. **The Dy.Collector & SDO of Pernem, Goa.....** who is required to take action under LRC in accordance with law.
3. **The Secretary, Village Panchayat of Arambol, Pernem-Goa.....**who is required to initiate action under the Goa Panchayat Raj Act, 1994 and to report the compliance to the GCZMA.
4. **Mr.Morgan Travasso P.O.A of Mr.Minguel Caetano Do Rosarion Vaz, C/O**
 Royal Phoenix Inn, 6/93, Below Maruti Temple, Mala Fontainhas, Panaji Goa.

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Ref.No. GCZMA/N | ILE-Comp2/22-23/03/17 Dated: 01/04/2022

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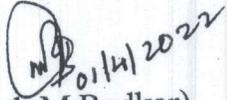
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 (Dasharath M Redkar)
 Member Secretary (GCZMA)

Encl: As above

To,
Mr. Suhas Prabhu, resident of House No 172, Khalchawada, Arambol Pernem Goa 403524

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