

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

ORIGINAL APPLICATION NO. 66 OF 2014

IN THE MATTER OF:

COLVA CIVIC AND CONSUMER FORUM

...PETITIONER

VERSUS

GOA COASTAL ZONE MANAGEMENT
AUTHORITY & OTHERS

...RESPONDENTS

**COUNTER-AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 1
GOA COASTAL ZONE MANAGEMENT AUTHORITY**

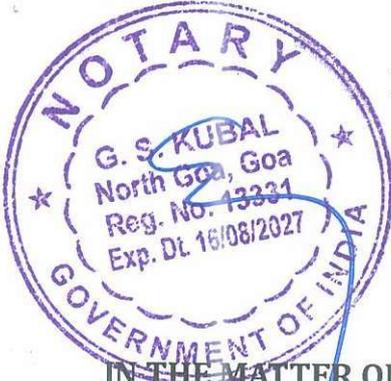
PAPER BOOK

ABHAY ANIL ANTURKAR

ADV FOR THE RESPONDENT

S. No.	Particulars of Document	Page No. of part to which Remarks it belongs	
		Part I (Contents of Paper Book)	Part II (Contents of file alone)
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COUNTER-AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 1

GOA COASTAL ZONE MANAGEMENT AUTHORITY

I, Johnson Bedy Fernandes, Member Secretary of the Respondent No. 1, Goa Coastal Zone Management Authority, having my office at 4th Floor, Dempo Tower, Patto Panaji Goa, do hereby solemnly affirm and state as under:

1. I am the Member Secretary of the Respondent No. 1, Goa Coastal Zone Management Authority [hereinafter "**GCZMA**"]. I have examined the relevant records available in my office apropos the above-captioned Original Application and I am thus aware of the facts and circumstances from which the above-captioned Original Application arises. I am competent to affirm the present Counter-Affidavit on behalf of the Respondent No. 1 GCZMA. Nothing in the present Counter-Affidavit may be deemed to be an admission of any of the contents of the memorandum of the above-captioned Original Affidavit for want of specific denial, unless the same is categorically admitted herein.

A handwritten signature in blue ink, appearing to be "Johnson Bedy Fernandes", written in a cursive style.

2. The Applicant above-named has filed the above-captioned Original Application seeking a direction to this Respondent to forthwith and immediately take action in accordance with law against the constructions of the Respondents No. 3 and 4 in survey no. 23/13 and 23/17 of village Colva, Taluka Salcete, District South Goa [hereinafter "**subject property**"].
3. In the present case, the records of the authorities indicate that 5 cottages, 1 house structure, 1 building, 1 swimming pool, and 1 open restaurant with 4 sit outs were existing in the subject property. The same was being operated in the name and style of Pent House Beach Resort. Since the subject property is within 200 meters of the High Tide Line (HTL), the same is to be earmarked as a No Development Zone (hereinafter "**NDZ**").
4. Clause 6(2)(i) of CRZ Notification, 1991 *inter alia* provides that the area upto 200 metres from the High Tide Line is to be earmarked as 'No Development Zone'. No construction is permitted within this zone except for repairs of existing structures not exceeding existing FSI, existing plinth area, and existing density. Clause 6(2)(iv) further provides that the reconstruction of an existing authorized building in the No Development Zone is permitted subject to clause (i) thereof. Thus, repairs and reconstruction, are permitted in the No Development Zone *vide* Clause 6(2) of the CRZ Notification, 1991. A similar provision is present in the CRZ Notification, 2011 as well *vide* Clause 8(III) A (CRZ III) (ii). This Respondent seeks leave of this Hon'ble Tribunal to refer to and rely upon the relevant provisions in the course of its submissions.
5. Respondent No. 4 Alexio Sequeira submitted an application dated 16.01.2006 to the GCZMA seeking its approval for the proposed repairs and renovation of an existing Beach Resort in the said property which was approved and constructed between 1986 and 1988. The following documents were submitted by the aforesaid Respondent along with the aforesaid application:

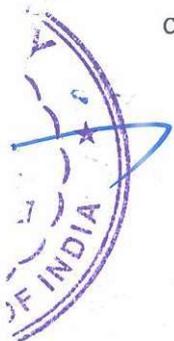


A handwritten signature in blue ink, appearing to be "Alexio Sequeira", written in a cursive style.

- a. Site Plan showing the existing structures for repairs counter signed by the owner and an architect.
- b. Details plans of existing structures counter signed by the owner and an architect.
- c. Photos of the structures from all sides showing the existing structures, landscape etc.

The Application was also accompanied by a report dated 05.09.2005 prepared by a Civil Engineer certifying that the beach resort was built in 1986 and that the structures, details of which were given in the report, are in a dilapidated condition due to lack of maintenance. The report further certified that the structures are totally damaged and need urgent repairs and reinforcement. It recommended that the foundation and the super structure conforming to specification, maintaining the existing plinth areas without affecting existing coverage and FAR. Pertinently, the area statement submitted *vide* form A stated that the existing covered area is 2032.32 sq. mtrs and existing first floor area is 1751.89 sq. mts. Thus, total floor area was stated to be 3784.21 sq. mts.

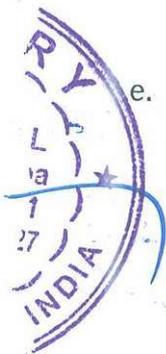
6. The GCZMA carried out the site inspection of the property and the said proposal was processed and placed for the consideration of the GCZMA in its 25th meeting dated 20.04.2006. After examining the site inspection report *vis-à-vis* the earlier approvals granted to the Resort, the GCZMA *inter alia* considered the following:
 - a. The 1st phase of the resort was originally approved on 05.05.1981 by the Village Panchayat.
 - b. The revised approved 1st phase plan was approved by the Town and Country Planning Department on 24.02.1986.
 - c. The erstwhile Eco-Development Council approved the swimming pool along with ancillary items.



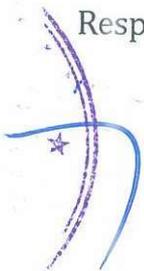
- d. The site inspection report which indicated that there are 8 existing structures on the site and one empty swimming pool structure, one open well, one generator room, and one guard room, and that the said structures were fully completed but in a highly dilapidated condition due to abandonment.

The existing structures were indicated by letters A, B, and C in the site plan submitted by the Respondent No. 4. Considering the aforesaid the GCZMA was pleased to grant its approval for the proposed repairs and renovation *vide* its letter dated 18.05.2006 for the structures indicated by letter B. As regards, structures indicated under A and C, the decision was deferred.

7. The records available with the office of the GCZMA indicated the following:
- a. Village Panchayat of Sernabatim, Vanelim, Colva and Gaundalim i.e. the Respondent No. 2 herein, had issued construction license dated 88/81-82 on 05.05.1981 for construction of a Tourist Resort on Colva beach to M/s Progressive Estate Developers.
 - b. The Collector (South Goa) had granted conversion sanad dated 01/06/1981 under Section 32(1) of the Goa Land Revenue Code, 1968 for conversion of an area of 2347 sq. mts. from Survey No. 23/13 and 23/17 for the purpose of tourist complex.
 - c. In the 12th meeting of the Eco-Coastal Committee held on 12.03.1985, the said Committee resolved to recommend the proposed hotel project of M/s Progressive Estate Developers to Eco-Development Council.
 - d. The Eco-Development Council in its meeting dated 30.08.1985 cleared the project of tourist beach resort by M/s Progressive Estate Developers.
 - e. The Town and Country Planning Department approved the revised plans *vide* NOC dated 24.02.1986.



- f. The Minutes of the 28th Meeting held on 28.04.1988 of the Eco Control Committee recommending Phase II of the hotel project to the Eco-Development Council for approval wherein it was noted that the consensus was that the plans were as per the norms of the EDC and PDA regulations and should be agreed to.
- g. A letter dated 29.01.1988 from the Directorate of Tourism to the Chief Town Planner, Chief Electrical Engineer, and Member Secretary of the South Goa Planning and Development Authority informing that the concerned Court has allowed the Civil Application No. 485 of 1987 filed by M/s Penthouse Builders *vide* its judgment dated 19.01.1988 and directed the Electricity Department to release electricity supply to the party within 15 days from the said date.
- h. Minutes of the 13th meeting of the Eco-Development Council held on 19.07.1988 approving the construction of recreation facilities along with swimming pool in the subject property.
8. Respondent No. 4 thereafter submitted another application *vide* application dated 14.11.2007 seeking approval of the GCZMA to carry out repairs and renovations of two existing structures for which approvals were not considered by the GCZMA earlier, as conveyed to and marked *vide* A and C in the plan attached with the letter dated 18.05.2006. The said proposal was examined by the GCZMA in its 38th meeting dated 12.12.2007. The GCZMA decided to grant approval for repairs and renovations of the aforesaid two structures *viz.* A and C in accordance with the provisions of the CRZ Notification 1991 subject to the condition that the repairs and renovations of the existing structures in subject property shall not exceed the existing FSI, existing plinth area and the existing density, and shall conform to the local building bye laws. The said approval was communicated by GCZMA to the Respondent No. 4 by its letter dated 30.01.2008.

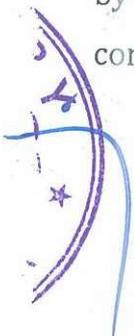


9. The permission dated 18.05.2006 as well as the permission dated 30.01.2008 were issued subject to the condition that the repair/renovation of the said existing structures shall not exceed the existing FSI, existing plinth area, and existing density, and that it shall conform with the local building bye-laws.
10. On 21.11.2011 Goa Foundation lodged a complaint with the GCZMA about the construction of "Tonia Resorts" on the subject property. Thus, by its letter dated 05.12.2011 GCZMA requested the Director of Settlement and Land Records (DSLRL) to verify whether the structures have been constructed as per plinth area originally existing and as per the DSLRL survey/mapping carried out, pursuant to the directions issued by the Hon'ble High Court of Bombay at Goa in Writ Petition No. 150 of 1998 and Writ Petition No. 02 of 2006. The DSLRL *vide* its letter dated 26.12.2011 informed the GCZMA that the total plinth area of the structures was found to be 2030 sq. mts. excluding the swimming pool of 115 sq. mts.

A true copy of the GCZMA's letter dated 05.12.2011 is annexed and is marked as **ANNEXURE R 1/1 [PAGE NO ___ TO PAGE NO. ___]**.

A true copy of the DSLRL's letter dated 26.12.2011 is annexed and is marked as **ANNEXURE R 1/2 PAGE NO ___ TO PAGE NO. ___]**.

11. On 20.06.2012 the Respondents No. 3 and 4 submitted revised plans to the GCZMA as according to them the existing structures were in a dilapidated condition, and the foundations of the building were severely damaged. The Respondents informed the GCZMA that a major part of the structures were beyond repair and hence, had to be reconstructed in order to strengthen the foundation. In view of the aforesaid request for revision of plans GCZMA *vide* its letter dated 23.07.2012 requested the DSLRL to verify whether the repairs, renovations, and reconstruction was in terms of the revised plans submitted by the project proponent. The DSLRL *vide* its report dated 30.07.2012 confirmed that the repairs, renovations, and reconstruction were in terms of



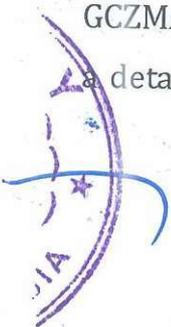
the revised plans submitted on 20.06.2012, and that the plinth size is as per the earlier approvals. GCZMA therefore granted approval to the revised plans of the Respondents No. 3 and 4 *vide* its letter dated 23.08.2012 in terms of Clause 8(i)(III)(CRZ-III)(A)(ii) of the CRZ Notification 2011. The total plinth area of the structures was once again found to be 2030 sq. mts. excluding the sqimming pool of 115 sq. mts.

A true copy of the GCZMA's letter to the DSLR dated 23.07.2012 is annexed and is marked as **ANNEXURE R 1/3 [PAGE NO ___ TO PAGE NO. ___]**.

A true copy of the DSLR's letter dated 30.07.2012 is annexed and is marked as **ANNEXURE R 1/4 [PAGE NO ___ TO PAGE NO. ___]**.

A true copy of GCZMA's letter dated 23.08.2012 is annexed and is marked as **ANNEXURE R 1/5 [PAGE NO ___ TO PAGE NO. ___]**.

12. In 2015, the Hon'ble High Court of Bombay at Goa passed an order dated 12.01.2015 in *Suo Motu Writ Petition No. 2 of 2006 inter alia* directing the GCZMA to conduct an enquiry with respect to the structures existing in the NDZ area. The aforesaid direction included the structures of the Respondent No. 3 and 4 also. The Inquiry into said structures was referred to Inquiry Committee of GCZMA. The said Inquiry Committee was constituted by GCZMA pursuant to various directions contained in orders dated 03/05/2013, 22/05/2013 and 06/06/2013 in Application No 63/2013 (M/s Bethy Alvares Vs State of Goa) by Hon'ble National Green Tribunal considering backlog of complaints/inquiries before GCZMA. The said Inquiry Committee of GCZMA was duly constituted of one Judicial Member (Ret. District Judge one Rtd Mamlatdar and one Rtd. Officer from Directorate of Land and Survey Records.) The Inquiry Committee of the GCZMA consisting of one Judicial Member and other two Members conducted a detailed enquiry and submitted a report dated 19.10.2015 wherein it was



observed by the Inquiry Committee that the repairs, renovations and reconstruction carried out by the Respondents was within the original plinth area and in accordance with law. The GCZMA deliberated upon the said report in its 177th, 178th, 179th, 180th, and 181st meetings. Ultimately, the report of the Inquiry Committee was accepted by the GCZMA in its 181st meeting dated 14.10.2018.

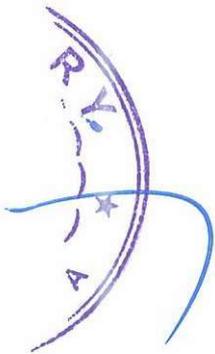
A true copy of the Inquiry Committee's Report dated 19.10.2015 is annexed and is marked as **ANNEXURE R 1/6 [PAGE NO. ___ TO PAGE NO. ___]**.

A true copy of the minutes of the GCZMA's 181st Meeting dated 14.10.2018 is annexed and is marked as **ANNEXURE R 1/7 [PAGE NO. ___ TO PAGE NO. ___]**.

13. At this stage it is also necessary to point out that an association *viz.* Goencarancho Vorixtte Awaz had filed Writ Petition No. 751 of 2008 before the Hon'ble High Court of Bombay at Goa against Respondent No. 1 GCZMA, Respondent No. 2 Panchayat, and Respondent No. 3 Tonia Estates Resorts Pvt. Ltd. seeking reliefs similar to those sought in the above-captioned Original Application. By the aforesaid Writ Petition, the said association prayed for a writ of mandamus for cancellation and revocation of various sanctions and permissions granted to the Respondents No. 3 and 4. This Respondent had filed affidavit in reply in the said writ petition pointing out the facts as above. A copy of affidavit in reply filed by this Respondent in Writ Petition no. 751/2008 is annexed and marked as **ANNEXURE R-1/8 [PAGE NO. ___ TO PAGE NO. ___]**.
14. The Hon'ble High Court of Bombay at Goa was pleased to dismiss the Writ Petition No. 751 of 2008 by its judgment and final order dated 19/20.06.2019.

A true copy of judgment and final order dated 19/20.06.2019 passed by the Hon'ble High Court of Bombay at Goa in Writ Petition No. 751 of 2008 is annexed and is marked as **ANNEXURE R -1/9 [PAGE NO. ___ TO PAGE NO. ___]**.

15. The aforementioned decision of the Hon'ble High Court was challenged by the Applicant above-named and is pending consideration before the Hon'ble Supreme Court of India *vide* SLP (C) No. 27545 of 2019 [Colva Civic and Consumer Forum v. Tonia Estates and Resorts Pvt. Ltd.]
16. This Respondent categorically denies the allegation that is has acted under the influence of the Respondent No. 4 or has in any manner sought to favour him. The proceedings conducted in respect of the subject property are in accordance with the relevant statutory provisions and principles of natural justice.
17. In view of the aforesaid, this Respondent most humbly submits that there is no cause made out by the applicant for the GCZMA to take action against the constructions of the Respondents No. 3 and 4 in survey no. 23/13 and 23/17 of village Colve, Taluka Salcete on the basis of the contentions specified in the memorandum of the above-captioned Original Application. It is therefore most humbly prayed that the above-captioned Original Application be dismissed.




DEPONENT

VERIFICATION

I, the Deponent above-named, do hereby solemnly affirm and state on oath that the facts stated hereinabove are true to the best of my knowledge and belief, based on the on records available in the office of the this Respondent.

Verified at Panaji Goa this 19th day of January, 2024.

[Signature]
DEPONENT

Solemnly affirmed before me by
Johny R. G. Pereira
Reg. No: 6/1080 Date: 19/1/24
known / identified to me by.

[Signature]
G. S. KUBAL
Notary (Govt. of India)
Panaji-Goa, India



GOA COASTAL ZONE MANAGEMENT AUTHORITY

C/o Department of Science, Technology & Environment, Govt. of Goa
Opp. Saligao Seminary, P.O. Saligao, Bardez, Goa - 403 511
Phone: (0832) 2407186, 2407187, 2407189 Fax: (0832) 2407186

Ref. No.: GCZMA / S / 311 / 999

Dated: 08 / 12 / 2011

To,
The Director,
Directorate of Settlement and Land Records,
Collectorate Bldg., Panaji-Goa.

Sub:- Construction in Survey No. 23/13 and 23/17 of Colva Village.

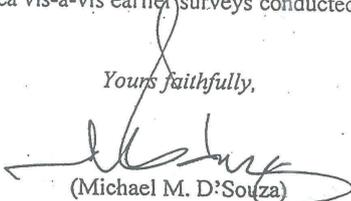
Sir,

A complaint dated 21/11/2011 has been received from Goa Foundation having its Office at G-8, St. Britto's Apartment, Feira Alta, Mapusa, in respect of construction namely "Tonia Resorts", which alleges that there are additional construction over and above existing plinth area being constructed at the said site (*copy enclosed*).

2. The said site was surveyed by Directorate of Settlement and Land Records (DSLRL) and structures were mapped on survey maps pursuant to the directions of the Hon'ble High Court of Bombay in Writ Petition No. 150 of 1998 and Suo Motu Writ Petition No. 2 of 2006. This survey was done sometime at the end of November, 2006. Further, site was surveyed some time in the year 2009

3. You are requested to conduct a survey and mapping of existing structures and identify if any of the structures have exceeded plinth area vis-à-vis earlier surveys conducted. Report in this respect may be submitted by 22/12/2011.

Yours faithfully,


(Michael M. D'Souza)
Member Secretary (GCZMA) &
Director/Ex-Officio, Joint Secretary (STE)

OK

Encl:- As above

P. A. to Principal Secretary (Environment) & Chairman (GCZMA), Secretariat, Porvorim-Goa..... for kind information.

Mc

No. 19/DSL/Resurvey Cell/CRZ-Survey/09/09/ 140203
Government of Goa,
Directorate of Settlement &
Land Records, Panaji-Goa.

Date: 26/12/2011.

To,
The Member Secretary,
Goa Coastal Zone Management Authority,
Saligao, Bardez - Goa.

Sub: Construction in Survey No. 23/13 & 23/17 of Colva village of
Salcete Taluka.

Sir,

I am directed to refer to your letter No.GCZMA/S/311/999 dated 05/12/2011 requesting to carry out resurvey of structures in CRZ area in respect of Survey No. 23/13 & 23/17 of Colva village of Salcete Taluka to verify the present plinth area vis-à-vis survey conducted earlier pursuant to directions of Hon'ble High Court in Writ Petition No. 150/1998 and Suo-Moto W.P. No. 2/2006. In this regard, please find enclosed herewith copy of plan showing structures resurveyed on 15/12/2011 alongwith plinth area of the structures.

Please note that the legality/ illegality of all structures shown on the plan enclosed herewith is not known to this Directorate and therefore the plan enclosed shall not be used for any purpose such as development of structures/ vacant areas shown on this plan, revenue survey matters, obtaining licenses, permissions, conversion of land, etc. and whatsoever other work relating to development of the area. The plan enclosed herewith is particularly issued only for reference and understanding purpose.

Further, it is also informed that this office does not have any information regarding year/duration of constructions of newly surveyed structures, i.e. whether constructed prior to 1991 or after 1991 and the structures shown on the plan are features existing during the period of CRZ survey.

LA
In Romig Katar
[Signature]

Yours faithfully,

(D.V.Pednekar)
Supdt. of Survey & Land Records
Panaji - Goa.

Encl: As above (4 copies)
B



GOVERNMENT OF GOA
Directorate of Settlement and Land Records

PANAJI - GOA

Plan showing structures re-surveyed during survey conducted as per the directions of Goa Coastal Zone Management Authority vide letter No. GCZMA/S/311/999 dtd. 05/12/2011 in Survey No. 23 / 13, 17 of Colva village of Salcete Taluka, falling within the distance of 200mts. from High Tide Line extracted from certified CRZ map of village Colva.

Scale 1:1000



NOTE:-

THE LEGALITY / ILLEGALITY OF STRUCTURES SHOWN ON THIS PLAN IS NOT KNOWN AND THEREFORE THIS PLAN SHALL NOT BE USED FOR ANY PURPOSE SUCH AS DEVELOPMENT OF STRUCTURES, REVENUE SURVEY MATTERS, OBTAINING LICENSES, PERMISSIONS, CONVERSION OF LAND, ETC. THIS PLAN SHALL BE USED FOR REFERENCE PURPOSE ONLY.



LEGEND:-

- STRUCTURES RE-SURVEYED DURING SURVEY IN THE MONTH OF DECEMBER, 2011.
- EXISTING SWIMMING POOL.
- POOL DECK
- EXISTING SECURITY CABIN.
- STP UNIT.
- COMPOUND WALL
- GATE



PLINTH AREA DETAILS

TOTAL PLINTH AREA OF ALL STRUCTURES AS PER SURVEY CONDUCTED ON 07/04/2009 = 2117 m ² .	TOTAL PLINTH AREA OF ALL STRUCTURES AS PER SURVEY CONDUCTED ON 15/12/2011 = 2030 m ² .
AREA OF SWIMMING POOL AS PER SURVEY CONDUCTED ON 07/04/2009 = 115 m ² .	AREA OF SWIMMING POOL AS PER SURVEY CONDUCTED ON 15/12/2011 = 115 m ² .

Note :-
This plan shall be read in conjunction with the letter No.19/DSL/Resurvey cell/CRZ-Survey/09/09/140203 dtd. 26/12/2011.

Surveyed on 15/12/2011 by :-
Shri Patrick Gonsalves (H.S.)

Shri Rajesh Harmalkar (F.S.)

Prepared by :- Clancy Fernandes (F.S.)

Computer Generated On 22-12-2011

Compared by :- K. Pangam (Supervisor)

GOA COASTAL ZONE MANAGEMENT AUTHORITY

C/o Department of Science, Technology & Environment, Govt. of Goa.
Opp. Saligao Seminary, P.O. Saligao, Bardez, Goa - 403 511
Phone: (0832) 2407186, 2407187, 2407189 Fax: (0832) 2407186, 2407176

Ref. No. GCZMA/S/311/482

Date: 23 /07/2012

To,
The Director,
Directorate of Settlement & Land Records,
Panaji-Goa.

Sub: Repairs & Renovation / Reconstruction of an existing beach Resort
in Sy. No. of Colva village Salcete Taluka.

- Ref: 1) Approval GCZMA / S / 311 / 1539 dt: 18/05/2006
2) Approval GCZMA / S / 3546 dt: 31/1/2008
3) This office letter no GCZMA/S/311/999 dated 05/12/2011.
4) Letter No.19/DSL/Resurvey Cell/CRZ-Survey/09/09/140203
dt:26/12/2011
5) Application made by the project proponent dated 20/06/2012.

Sir,

GCZMA had accorded approval to M/s. Tonia Estates & Resorts Pvt. Ltd vide approvals dated 18/05/2006 and 31/01/08 (Copies enclosed along with plan) for the purpose of Repairs & Renovation and Reconstruction of the existing beach resort in Sy.No.23/13 & 23/17 of Colva village, Salcete Taluka.

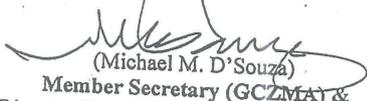
2. Further, pursuant to a compliant made by Goa Foundation, this office had requested yourself vide letter dated 05/12/2011 (*ref at 3 above*) to verify whether the structures have been constructed as per plinth area originally existing and as recorded in your survey / mapping carried out pursuant to direction in Writ Petition 150 of 98 and Sua Moto Writ Petition 02 of 2006. You have confirmed the same vide your letter dated 26/12/2011 (*ref at 4 above*).

3. The project proponent has now submitted the site plans with the request to verify the Repairs & Renovation / Reconstruction carried out and has sought for confirmation from GCZMA.

4. In this regard, it is requested that DSLR may kindly carry out the mapping of the said structures and confirm the details vis a vis your records and those submitted by the project proponent. The Plans submitted may kindly be returned with the report.

5. Report in this regard may kindly be submitted to this Authority.

Yours Faithfully,


(Michael M. D'Souza)
Member Secretary (GCZMA) &
Director/Ex-Officio, Joint Secretary (STE)

Copy to:
P.A to Principal Secretary (Environment), Secretariat Alto-Porvorim, Goa.....for kind
information.

OK

370

Exhibit "F"
ANNEXURE R-4/6

c/182
26
Annexure
R/4

Member Secretary
G.C.Z.M.A.
Inward No. 1027/L
Date 03.08.12

No. 19/DSLRL/Resurvey Cell/CRZ-Survey/09/09/2558
Government of Goa,
Directorate of Settlement &
Land Records, Panaji-Goa.

Date: 30/07/2012.

To,
The Member Secretary,
Goa Coastal Zone Management Authority,
Saligao, Bardez - Goa.

en file (Tania)
des

Sub: Repairs & Renovation /Reconstruction of an existing beach resort
in Survey No. 23/13 & 23/17 of Colva village of Salcete Taluka.

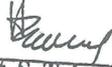
Sir,

I am directed to refer to your letter No.GCZMA/S/311/482 dated 23/07/2012 requesting to carry out mapping of structures in respect of Survey No. 23/13 & 23/17 of Colva village of Salcete Taluka to compare earlier details maintained by this office vis-à-vis maps submitted by project proponent. In this regard, please find enclosed herewith copy of plan showing structures verified and resurveyed on 25/07/2012 alongwith plinth area details given in the tabular column which is self explanatory.

Please note that the legality/ illegality of all structures shown on the plan enclosed herewith is not known to this Directorate and therefore the plan enclosed shall not be used for any purpose such as development of structures/ vacant areas shown on this plan, revenue survey matters, obtaining licenses, permissions, conversion of land, etc. and whatsoever other work relating to development of the area. The plan enclosed herewith is particularly issued only for reference and understanding purpose.

Further, it is also informed that this office does not have any information regarding year/duration of construction of surveyed structures, i.e. whether constructed prior to 1991 or after 1991 and the structures shown on the plan are features existing during the period of present survey.

Yours faithfully,


(Ajit S. Talaulikar)
Supdt. of Survey & Land Records
Panaji - Goa.

Encl: As above(two copies)



GOVERNMENT OF GOA
Directorate of Settlement and Land Records

PANA II - GOA

Plan showing structures existing during verification survey conducted as per the directions of Goa Coastal Zone Management Authority vide letter No. GCZM/AS/11482 dtd. 23/07/2012 in Survey No. 23 / 13-17 of Colva village of Salcete Taluka, falling within the distance of 200mts. from High Tide Line extracted from certified CRZ map of village Colva.

Scale 1:1000



NOTE:
 THE LEGALITY / ILLEGALITY OF STRUCTURES SHOWN ON THIS PLAN IS NOT KNOWN AND THEREFORE THIS PLAN SHALL NOT BE USED FOR ANY PURPOSE SUCH AS DEVELOPMENT OF STRUCTURES, REVENUE SURVEY MATTERS, OBTAINING LICENSES, PERMISSIONS, CONVERSION OF LAND, ETC. THIS PLAN SHALL BE USED FOR REFERENCE PURPOSE ONLY.



LEGEND:

- STRUCTURES VERIFIED DURING SURVEY ON 25/07/2012.
- EXISTING SWIMMING POOL.
- POOL DECK.
- STP UNIT.
- COMPOUND WALL.
- GATE.

PLAN AREA DETAILS

TOTAL PLAN AREA OF ALL STRUCTURES AS PER SURVEY CONDUCTED ON 25/07/2012 - 2117 m ² .	TOTAL PLAN AREA OF ALL STRUCTURES AS PER SURVEY CONDUCTED ON 15/02/2011 - 2059 m ² .	PLAN AREA OF ALL STRUCTURES AS PER VERIFICATION SURVEY CONDUCTED ON 25/07/2012 - 2059 m ² .
AREA OF SWIMMING POOL AS PER SURVEY CONDUCTED ON 25/07/2012 - 115 m ² .	AREA OF SWIMMING POOL AS PER SURVEY CONDUCTED ON 15/02/2011 - 115 m ² .	AREA OF SWIMMING POOL AS PER VERIFICATION SURVEY CONDUCTED ON 25/07/2012 - 115 m ² .

Note :-
 This plan shall be read in conjunction with the letter No. 19/DSL/R/Resurvey call/CRZ-Survey/09/09/2012 dtd. 29/07/2012.

Surveyed on 25/07/2012 by :-

Sr. Patrick Goncalves (H.S.)

Sr. Rajesh Marmalkar (F.S.)

Prepared by :- Clancy Fernandes (F.S.)

Computer Generated On 30-07-2012.



Compared by :- K.P. [Signature]

File No. 19/DSL/R/Resurvey/CRZ-Survey/09/09

MEMBER SECRETARY
 COASTAL ZONE MANAGEMENT AUTHORITY
 Salgao - Goa



GOA COASTAL ZONE MANAGEMENT AUTHORITY

C/o Department of Science, Technology & Environment, Govt. of Goa.

Opp. Saligao Seminary, P.O. Saligao, Bardez, Goa - 403 511

Phone: (0832) 2407186, 2407187. 2407189 Fax: (0832) 2407186, 2407176

Ref. No. GCZMA / S / 311 / 583

Date: 23/08/2012

To,
Shri Aleixo Sequeira
C/o Tonia Estates & Resorts,
Raicho Ambo, Raia,
Salcete, Goa.

Sub: Repairs & Renovation / Reconstruction of an existing beach Resort in Sy. No. 23/13 & 23/17 of Colva village Salcete Taluka.

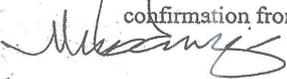
- Ref: 1) Approval of GCZMA / S / 311 / 1539 dated 15/05/2006
2) Approval of GCZMA / S / 3545 dated 31/1/2008
3) This Office Letter No. GCZMA/S/311/999 dated 05/12/2011.
4) Letter No.19/DSLRL/Resurvey Cell/CRZ-Survey/09/09/140203 dt:26/12/2011
5) Your Letter No. NIL dated 20/06/2012
6) Letter No. 19/DSLRL/Resurvey Cell/CRZ-Survey/09/09/2558 dated 30/07/2012.

Sir,

GCZMA had accorded approval to M/s. Tonia Estates & Resorts Pvt. Ltd vide approvals dated 18/05/2006 and 31/01/08 (*referred at (1) & (2) above*) for the purpose of Repairs & Renovation / Reconstruction of the existing beach resort in Sy. No. 23/13 & 23/17 of Colva Village, Salcete Taluka.

2. Further, pursuant to a complainant made by Goa Foundation, this Office had requested DSLR vide letter dated 05/12/2011 (*referred at (3) above*) to verify whether the structures have been constructed as per plinth area originally existing and as recorded in DSLR survey / mapping carried out pursuant to direction in Writ Petition No. 150 of 1998 and Suo Moto Writ Petition No. 02 of 2006. The same has been confirmed vide letter dated 26/12/2011 (*referred at (4) above*).

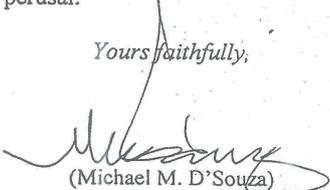
3. Vide your Letter dated 20/06/2012 (*referred at (5) above*) it was requested to verify that the Repairs & Renovation / Reconstruction carried out is as per the plans and has sought for confirmation from this Authority.



4. In this regard, DSLR was requested to carry out the mapping of the said structures and confirm the details vis-a-vis the records available and those submitted by the project proponent vide letter dated 20/06/2012. A report in this respect has been received, which confirm that the construction is as per the plans and plinth size submitted to the Authority while obtaining approvals and as per plans submitted vide letter dated 20/06/2012. The approvals conveyed by GCZMA is in terms of Clause 8 (i)(III)(CRZ-III)(A)(ii) of the CRZ Notification, 2011 (earlier CRZ Notification, 1991).

A copy of the Letter and plan is enclosed for your perusal.

Yours faithfully,


(Michael M. D'Souza)
Member Secretary GCZMA) &
Director/Ex-Officio, Joint Secretary (STE)

Encl:- As above.

Copy to:

1. The Secretary, Village Panchayat of Colva, Salcete, Goa.
2. The Senior Town Planner, Town & Country Planning Department, Margao-Goa.
3. P.A to Principal Secretary (Environment) / Chairman (GCZMA), Secretariat Alto-Porvorim, Goa.....for kind information.

BEFORE THE INQUIRY COMMITTEE

GCZMA

Case No. GCZMA/GEN/MISC/13-14/

In the matter of Order dated 15-01-2015 of the Hon'ble High Court in *Suo Moto W.P. No.2/2006* directing GCZMA to examine the documents relied by the Village Panchayat of Colva in respect of structures existing in No Development Zone of CRZ-III.

REPORT

1. As the direction was to examine the documents only personal hearing was given to the concerned parties. This case pertains to M/s Tonia Estates and Resorts Pvt.Ltd (to be referred as "the affected party") situated in the property surveyed under Sy.No. 23/13 and 23/17 of Village Colva. Mrs. Judith Almeida appeared for Colva Civic and Consumer Forum. Adv. Sahish Mahambrey for the affected party submitted the reply and documents.
2. In the reply the affected party states that the affected party is not a party in *Suo Moto W.P. No.2/2006*, that the GCZMA has itself come to the conclusion that the existing structure in survey no.23/13 and 23/17 of Colva Village were prior to 19-02-1991 that the GCZMA has granted approval for repairs/reconstruction of the existing structure by permission dated 18-05-2006 and 31-01-2006 that the permission granted by GCZMA has been questioned by one Theodore Fernandes in W.P.No.751/2008 filed before the Hon'ble High Court in which there is also a challenge to repairs/reconstruction carried out by the affected party; that there is another W.P.No.469/2014 pending before the Hon'ble High Court wherein the proceeding filed by Colva Civic and Consumer Forum before the National Green

②

Tribunal against the affected party in respect of same subject matter are stayed and that Colva Civic and Consumer Forum is a party in the said Writ Petition.

3. The letter dated 18-05-2006 of GCZMA is in respect of approval of proposed repairs and renovation of an existing Beach Resort in survey no.23/13 and 23/17 of Village Colva. The letter dated 18-05-2006 along with approved plan are marked as Annexure A (Colly). As GCZMA did not consider the approval for repairs and reconstruction of two existing structures marked Block A & C in the plan attached to letter dated 18-05-2006 Annexure A (Colly), by letter dated 30-01-2008, GCZMA granted approval for repairs and reconstruction of two structures Block A and Block C in survey no.23/13 and 23/17 of Village Colva. The letter dated 30-01-2008 is marked as Annexure B.
4. The affected party produced extracts of the Minutes of the 25th GCZMA meeting held on 20-04-2006 and the Case no.3 is in respect of proposed repairs and renovation of an existing Beach Resort in survey no.23/13 & 17 of Colva Village. The extracts of 25th meeting are marked as Annexure C (Colly). There is reference to the decision on the Case no.3 stating that the proposed repairs and renovations of the 1st phase of the existing resort which is in a dilapidated condition was approved by examining the original approvals granted in the year 1981, 1986 and 1988 i.e. prior to the enforcement of the CRZ Notification of 1991. In the extracts at Annexure 'C colly' there is reference to the background of the proposed repairs and renovations stating that the first phase of the Resort was originally approved on 05-05-1981 by the Colva Panchayat. The Town and Country Planning Department subsequently approved the revised first phase plan on 24-02-1986 and that the erstwhile Ecological Development Council (EDC) in its 13th Meeting approved the swimming pool alongwith ancillary items on 19-07-1988.
- 5/10/2010

- 40
32/12
5. The affected party produced letter dated 23-08-2012 of GCZMA and letter dated 30-07-2012 alongwith survey plan of DSLR which are marked as Annexure D (Colly). The letters and plan at Annexure D (Colly) confirms that repairs and renovation were carried as per approved plan and within the plinth area. The affected party produced the Technical Clearance Order dated 15-04-2013 by which revised Technical Clearance is granted by the Town and Country Planning Department for carrying out the work of repairs and renovation/reconstruction of existing resorts Block A, Block B (6 nos.) and Block C in survey no.23/13 and 23/17. The Technical Clearance Order dated 15-04-2013 along with approved plans are marked as Annexure E (Colly).
6. The affected party produced the Completion Order dated 16-04-2013 of Town and Country Planning Department certifying the completion of repairs, renovation/reconstruction of existing resort (Block A, Block B (6 units) and Block C. The completion order dated 16-04-2013 is marked as Annexure F. The Village Panhayat of Colva granted Occupancy Certificate to the Construction of Renewal and Revised approval for repairs and renovation/reconstruction of existing Resort (Block A, Block B (6 units) and Block C of premises bearing H.No.424 and H.No.424/1. The occupancy certificate dated 13-02-2014 is marked as Annexure G.
7. The existing Beach Resort at Colva falls within the area of 200 mtrs from the HTL in the No Development Zone of CRZ-III. By taking into considerations that within the area of 200 mtrs from HTL in No Development Zone, repairs and reconstruction of existing structure is permissible but without exceeding the plinth area; that the repairs and renovation/reconstruction were carried in the existing Beach Resort and within the plinth area; that the affected party obtained approvals from GCZMA at Annexure B (Colly), Minutes of GCZMA Meeting Annexure C
- CD
VAD

(Colly), survey plan of DSLR at Annexure D (Colly), Technical Clearance Order of Town and Country Planning Department at Annexure E (Colly), Completion order of Town and Country Planning Department at Annexure F and Occupancy Certificate of Village Panchayat of Colva at Annexure G, the repairs and renovation/reconstruction of existing Resort Block A, Block B (6 units) and Block C in survey no.23/13 and 23/17 of Village Colva and having H.No.424 and H.No.424/1 were carried within the plinth area and in accordance with law.

Dated: 19 /10/2015



(Afonso Araujo)
CHAIRMAN



(Kanchan M. Lotlikar)
MEMBER



(Caetano Joaquim de Braganza)
MEMBER

MINUTES OF THE 181st MEETING OF THE GOA COASTAL ZONE MANAGEMENT AUTHORITY (GCZMA) HELD ON 14/08/2018 (TUESDAY) AT 3:30 P.M. IN THE CONFERENCE HALL, 2ND FLOOR, SECRETARIAT, PORVORIM – GOA.

The 181st meeting of the Goa Coastal Zone Management Authority (GCZMA) was held under the Chairmanship of the Secretary (Environment), on 14/08/2018 (Tuesday) at 3:30 p.m. in the conference hall, 2nd floor, Secretariat, Porvorim – Goa.

The following members were present for the meeting:

1. Principal Secretary (Environment) / Chairman (GCZMA).
2. Director, Directorate of Tourism, Government of Goa.
3. Representative on behalf of Director, Directorate of Fisheries Government of Goa.
4. Representative on behalf of Deputy Conservator of Forests, Department of Forests, Government of Goa.
5. Representative on behalf of Director, Directorate of Settlement & Land Records, Panaji, Goa.
6. Representative on behalf of Director, Water Resources Department
7. Shri. Audhut J. Bhounsule, Expert Member (GCZMA).
8. Shri. Suhas Godse, Expert Member (GCZMA)
9. Shri. Srirang Jambhale, Expert Member (GCZMA)
10. Dr. Prabhakar Shirodkar Expert Member (GCZMA)
11. Dr. Nandkumar Sawant Expert Member (GCZMA)
12. Member Secretary (GCZMA).

Item No. 1:

Case No. 1.1

To discuss and decide on the reports submitted by the Inquiry committee of the GCZMA after completing its inquiry and has submitted 18 reports interalia stating its recommendations.

Background: The present matter is part of Suo moto WP No. 02/2006 of Hon'ble High Court of Bombay at Goa. The matter was earlier placed in 115th GCZMA meeting held on 04/04/2015 wherein, the case was referred to Inquiry committee of GCZMA for detailed report.

The said matter was deliberated in 179th GCZMA meeting held on 19/07/2018 for grant of personal hearing to the all concerned parties.

Accordingly personal hearing notices issued to all the parties including complainant to appear before it on 31/07/2018. Accordingly the said matter was placed during 180th GCZMA meeting held on 31/07/2018 for grant of personal hearing, wherein the authority

heard the parties and directed all the parties to file written submissions on or before 14/08/2018 and matter reserved for hearing on 14/08/2018..

The proceedings of each case in the meeting held on 14/08/2018 are as follows:-

1. Proceeding in Mr. Ashok Kumar Vaid

The complainant Mrs. Judith Almeida remained present in person and respondent remained absent for the hearing.. The complainant submitted that that there exists huge structure; the said structure is in NDZ surrounded by paddy field.

The Authority decided to verify from records whether the notice has been received by the respondent and thereafter issue fresh notice for personal hearing.

2. Proceeding in Captain J.P.Dias

The complainant Mrs. Judith Almeida remained present in person. Respondent remained absent. The Authority decided to verify from records whether the notice has been received by the respondent and thereafter issue fresh notice for personal hearing

3. Proceeding in Ashok VikhePatil

The complainant Mrs. Judith Almeida remained present in person and Advocate represented the respondent. Complainant filed written submission enclosing copies of letters dated 03/08/2007 and Stay order before Deputy Collector dated 11/06/2001.and provided copies to the respondent as well as the Authority .The Advocate present for the hearing on behalf of the respondent sought time till 27th August to file a reply to the submissions made by the complainant. The Authority granted time to the respondent upto 27 th August to file reply.

4. Proceeding in M/s Crasto Guest House

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his Advocate. Complainant provided additional documents on which she is proposed to be rely upon to the Authority and a copy to the respondent. Further the respondent sought time to file a reply by 28/08/2017.Accordingly Authority took a note of the written submission made by the complainant and directed respondent to file reply by 28/08/2018.

5. Proceeding in M/s J.B.Guest House

The complainant Mrs. Judith Almeida remained present in person and Advocate remained present on behalf of the respondent. Complainant produced additional documents on which she proposed to rely upon to the Authority and a copy to the respondent. Further complainant submitted that the said structure falls in survey no. 12/3 of Colva village. The respondent sought time to file a reply

by 27/08/2017. Accordingly, Authority took a note of the written submission made by the complainant and directed respondent to file reply by 27/08/2018.

6. Proceeding in M/s Shamirai Hotels

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his Advocate. Complainant produced additional documents on which she proposed to rely upon to the Authority and a copy to the respondent. Further the respondent stated that he has applied for certified copies of documents before the GCZMA and further sought time to file a reply by 28/09/2017. Accordingly Authority took a note of the written submission made by the complainant and directed respondent to file reply by 28/09/2018.

7. Proceeding in Colva Residency Goa Tourism Development Corporation (GTDC).

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through their Advocate Shri Shivan Desai. The Advocate for the Respondent stated that the said structures are prior to 1991 and filed written submissions with copy to the complainant. Complainant inter alia submitted that the mapping is required to ascertain whether extension if any is carried out by the respondents. The Authority decided to carry out mapping through DSLR to verify whether any extensions beyond the plans submitted by the respondent have been carried out at the site.

8. Proceeding in Hotel Baywatch

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his Advocate. Complainant produced additional documents on which she proposed to rely upon to the Authority and a copy to the respondent. Further complainant requested to the authority to carry DSLR mapping of the structure. The respondent sought time till 28/09/2018 to file a reply. Accordingly, Authority took a note of the written submission made by the complainant and directed respondent to file reply by 28/09/2018.

9. Proceeding in Soul Vacations-Colmar Condominium

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his Advocate. Complainant produced additional documents which she proposed to rely upon to the Authority and a copy to the respondent. Further the respondent stated that he has applied for certified copies of documents before the GCZMA and further sought time to file a reply by 28/08/2017. Accordingly, Authority took a note of the written submission made by the complainant and directed respondent to file reply by 28/09/2018.

10. Proceeding in Hotel Silver Sands

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his Advocate. Complainant produced additional documents on which she proposed to rely upon to the Authority and a copy to the respondent. Further the respondent sought time to file a reply by 28/09/2017. Accordingly Authority took a note of the written submission made by the complainant and directed respondent to file reply by 28/09/2018.

11. Proceeding in Tonia Estates and Resorts Pvt. Ltd.

The complainant Mrs. Judith Almeida remained present in person and the respondent remained present through his representative. Complainant produced written submission before the Authority. Further the complainant submitted that they have filed an application before the Hon'ble NGT on 28/05/2014. The respondent 3 & 4 approached to the Hon'ble high court of Bombay at Goa in WP 469/2014, for stay which was granted by the Order dated 28/07/2014. The Complainant submitted as under:-

1. The respondent has carried out further extensions and undertaken construction of new structures without permission hence a complaint was filed on 15.12.2014.
2. The entire construction is on the border of the Colva Creek which is affected by the tidal effect.
3. The 2006 DSLR maps available with GCZMA show all the buildings as new and in excess of authorised FAR..
4. Fresh mapping of structures is required to identify new extensions and structures which are post 2014.

The Advocate for the respondent filed a written submission the brief summary which is as follows:-

1. The GCZMA has a filed an affidavit before the Hon High Court in W.P No 751/2008 dated 02/03/2009 wherein the GCZMA has referred to all the facts which were considered before granting the permission and GCZMA has submitted before the Hon'ble High Court that there is no illegality or irregularity in the grant of these permissions.
2. The Village Panchayat of Colva also in their affidavit dated 29/06/2009 and 02/03/2009 have categorically submitted that structures in question existed prior to 1991.
3. The matter is pending before the Hon'ble High Court where in the permissions have been challenged and hence no inquiry can be undertaken.
4. In spite of this submissions made before the Inquiry Committee of the Authority, the Inquiry Committee proceeded with the inquiry and hearing.
5. Pursuant to the directions of the Hon'ble High Court in W.P.No 150/1998, DSLR has carried out Survey and mapping of Structures and vide their letter dated 26/12/2011 have confirmed that the structures have been constructed

within the plinth area originally existing.. Further survey was carried out on 25.07.2012 and based on the report of the DSLR the GCZMA granted permission dated 23.08.2012.

6. That pursuant to the direction of the authority in view of the complaint filed by Goa Foundation, the GCZMA had directed DSLR to verify whether the structures have been constructed as per plinth area originally existed and as recorded in the DSLR survey mapping carried out as per the direction of the Hon'ble High Court in W.P. No 150/198 and Suo Motu W.P No 2 of 2006. The respondent also vide their letter dated 20/06/2012 requested to verify that the repair / renovation / reconstruction carried out as per the plan and sought confirmation from the Authority.
7. That the DSLR was than directed to carry out the mapping of the said structures and confirm the details vis a vis the records available and those submitted by the Project proponent.
8. That as per the report submitted by the DSLR , it is confirmed that the construction is as per the plans and plinth size submitted to the Authority while obtaining approvals and as per the plan submitted vide letter dated 20/06/2012 by the respondent and accordingly approval was conveyed on 23/08/2012
9. All this aspects have been considered by the Inquiry Committee in its report and the inquiry committee examined the documents and permissions on merit and concluded that the structures are within the plinth area and constructed in accordance with law.
10. The Advocate for the respondent and the complainant stated that they have no further submissions to make.

The Authority decided to accept the findings in the Inquiry Committee Report and noted that it is reconstruction /repairs of all the authorised structures existing prior to 1991 within the area of 200 meters from the HTL in the No Development Zone of CRZ III area and has been carried out within the same plinth area. Further, it also noted that a case with the similar pleadings is pending before Hon'ble High Court of Bombay at Goa and thus decided to drop the proceedings in this case.

12. Proceeding in M/s Boomerang Bar Restaurant

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his Advocate. Complainant produced additional documents on which she proposed to rely upon to the Authority and a copy to the respondent. Further the respondent filed a preliminary reply and further sought additional time to file a reply by 28/09/2018. Accordingly Authority took a note of the written submission made by the complainant and the

preliminary reply filed by the respondent and directed respondent to file a further reply by 28/09/2018.

13. Proceeding in Colmar Beach Resort

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his Advocate. Complainant produced additional documents on which she proposed to rely upon to the Authority and a copy to the respondent. Further the respondent sought time to file a reply by 28/09/2018. Accordingly, Authority took a note of the written submission made by the complainant and directed respondent to file reply by 28/09/2018.

14. Proceeding in M/s Quinsan Cottages

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his Advocate. Complainant produced additional documents on which she proposed to rely upon to the Authority and a copy to the respondent. Further the respondent sought time to file a reply by 28/09/2018. Accordingly, Authority took a note of the written submission made by the complainant and directed respondent to file reply by 28/09/2018.

15. Proceeding in M/s Longuinhas Beach Resorts

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his Advocate. Complainant produced additional documents on which she proposed to rely upon to the Authority and a copy to the respondent. Further the respondent sought time to file a reply by 28/09/2018. Accordingly Authority took a note of the written submission made by the complainant and directed respondent to file reply by 28/09/2018.

16. Proceeding in Department of Tourism

The complainant Mrs. Judith Almeida remained present in person. The Deputy Director Tourism, Shri Brijesh Manerikar remained present on behalf of the respondent.

The complainant produced written submission and stated that the stalls have carried out extensions and also carrying out activities beyond the purpose for which it was originally allotted by the Department of Tourism.

The respondent interalia submitted a copy of a plan and stated that the structures are prior to 1991. Further the respondent submitted that department will carry inspection at the proposed site and necessary action will be taken against the occupier in case any violations are observed.

The Authority decided to direct the Department of Tourism to carry out mapping of structures through DSLR and superimpose the same on the original approved plans and ensure that all the extensions carried out beyond the original approved plans are demolished.

17. Proceeding in M/s Lucky Star Ventura Fernandes

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his Advocate. Complainant produced additional documents on which she proposed to rely upon to the Authority and a copy to the respondent. Further the respondent sought time to file a reply by 28/09/2018. Accordingly, Authority took a note of the written submission made by the complainant and directed respondent to file reply by 28/09/2018.

18. Proceeding in M/s Mickey Bar and Restaurant

The complainant Mrs. Judith Almeida and Adv. Jowett Dsouza remained present in person and respondent remained present along with authorized representative. Complainant filed written submission and produced additional documents with a copy of the same to the respondent. Further the respondent sought time to file a reply by 28/09/2017. Accordingly Authority took a note of the written submission made by the complainant and directed respondent to file reply by 07/09/2018.

Case No. 1.2

To discuss and deliberate on alleged illegal development of plots in Property Bearing Sy. Nos. 275/1, 1-B and 1-C in Paddy Field at Morambi-O-Grande, Village Mercas, Tiswadi, Goa.

Background

GCZMA received three complaints, one from the Village Panchayat of Mercas, dated 29/03/2016, regarding alleged illegal development of plots in property bearing Sy. Nos. 275/1, 1-B and 1-C; second from Mr. Jose Oliveira from Mercas dated 06/04/2016 regarding the said illegal development. The third complaint was from Mr. Sudesh Kalangutkar, President of Mercas Welfare Association dated 18/04/2017 with regard to alleged illegal conversion of land, filling of mud and construction of houses and also cutting of mangroves in property bearing Sy. Nos., 275/1, 257/1-B and 275/1-C, 274/1 and 274/2 of village Morambi-O-Grande, Tiswadi within CRZ area by Mr. Johnny Fernandes and Mr. Shane Fernandes. A site inspection was therefore fixed to see the site, verify the CRZ zoning of the area, the constructions done and to take the stock of the situation.

Proceeding: The complainants' along with the representatives from the village panchayat of Morambi -o-Grande remained present. The respondents Mr. Johnny Fernandes and Mr. Shane Fernandes were also present.

The Advocate on behalf of village panchayat submitted that there are no permissions issued by the Village Panchayat for the said construction.. The respondent sought time before the authority to file submission to the Authority.

Decision: The authority after hearing both parties and considering written and oral submissions made by both the parties directed the respondent to file any submission if to the office of GCZMA before 28/08/2018 with a copy of the same to the respondent.

Case No. 1.3:

To discuss and decide on the complaint with regard to alleged illegal construction in the property bearing Sv. No. 136/4, 136/10, 136/13, 136/16 at Wadi, Candolim, Bardez - Goa and to comply with the Order dated 06/07/2017 passed by the Hon'ble NGT, Pune in Application No. 88/2016

The said matter was placed for discussion and deliberation during 166th GCZMA Meeting held on 27/12/2017, wherein the authority decided to carry out joint site inspection and survey along with surveyor of DSLR on 10/01/2018. However, the survey exercise could not be completed.

Subsequently, vide order dated 06/07/2018 the Honble NGT interalia directed to carry out the survey and mapping work on 18/07/2018 and 19/07/2018. In this regard, the office of DSLR has vide letter dated 31/07/2018 received on 02/08/2018 have forwarded mapped survey plan.

Proceeding: Advocate Winson Braganza and Mr. James Mathew on behalf of the complainant Mr. Nandalal Khemkha was present. Respondents along with their respective advocates Nitin Sawant, Adv. A Sawant were remained present.

Advocate on behalf of the complainant submitted that he has not received the DSLR plan and requested the Authority for a copy of same. The Authority noted the submissions and directed the complainant to collect the necessary documents and plans from the GCZMA office for which both the parties agreed.

Decision: The Authority after hearing both the parties and taking into considering the oral submissions made by the parties, Authority directed the complainant as well as respondent to collect the necessary copies of any documents or plans from the office of the GCZMA and further decided to hear both the parties on 31/08/2018. Personal hearing notices were waived off by the complainants as well as the respondents.

Case No. 1.4:

To comply with the Order dated 28/09/2016 passed by the Hon'ble NGT in Application bearing No. 181/2015 in the matter of Mr. Anthony D'Souza and Teso Waterfront

Brief Summary:

A complaint letter dated 16/01/2015 was received from Siolim Vaddy Nagarik Samittee with respect to the alleged illegal construction of a night club (Teso Waterfront) carried out by Mrs. Telma Desa Pinto in the property bearing Sy. No. 305 and in adjacent properties bearing Sy. No. 301 and 304 at Vaddy Siolim, Bardez - Goa.

The said matter was placed in the 156th GCZMA meeting held on 22/08/2017 wherein the Authority noted that the Respondent is absent as such in terms of natural justice decided to grant a final opportunity of hearing in the matter to both the parties on 12/09/2017 and accordingly, to communicate the date of hearing to the parties well in advance. The complainants present for the hearing took note of the same. The said matter was placed before the Authority for grant of personal hearing to the parties.

Proceedings: Adv. S. Desai was present on behalf of Teso Water front, he submitted that the structure are reflected in cadastral maps hence it is present prior to 1991. Further temporary structures are erected pursuant to provision and permission by GCZMA authority and continues to be existing on the side. An application for permission has now been submitted to GCZMA for the present year as MoEF Notification dated 3/05/2017 permits continuous of structure (temporary) during the monsoon, the temporary structure need not be demolished. He further submits that vide his representation in March has objected to earlier inspections report of expert members and submits that GCZMA should grant permission and withdraw demolition. Mr. Joseph Noronha appeared in person and submitted written submission and relied on his written submission.

Decision: The Authority noted that both the parties have been heard and there is not additional evidence placed on record by the respondent and therefore decided to issue demolition orders for all the illegal constructions carried out in Survey No 301/1 in Village Panchayat, Siolim, Bardez, Goa including the concreted flooring, jetty and swimming pool and restore the land to its original within 15 days, failing which the SDM to demolish the aforementioned structures and restore the land to the original

Case No. 1.5

To discuss and decide on the Application dated 14/02/2017 received from the Goa Tourism Development Corporation Ltd. for Review / Recall Of the order dated 30/10/2015 and Memorandum dated 19/08/2016 issued to M/s Mabarest Hotels Pvt. Ltd. in respect of demolition of the illegal construction of the structures carried out by in the property bearing Sy. No. 212/5, 6 and 7 of Village Anjuna, Bardez-Goa

The GCZMA vide an Order of demolition bearing No. GCZMA/ILLE-COMPL/14-15/159/1846 dated 30/10/2015 directed M/s Mabarest Hotels Pvt. Ltd. to demolish the

illegal construction of structures in the property bearing Sy. No. 212/5, 6 & 7 of Village Anjuna, Bardez – Goa and to restore the land to its original condition within a period of 15 days and to file a compliance report within a period of 3 days failing which directions will be issued to the Deputy Collector & S.D.O. Bardez to verify if the structures are removed and in the event the same are not removed / demolished the Deputy Collector shall remove the said structures within a period of 2 weeks thereafter and recover the expenses from M/s Mabarest Hotels Pvt. Ltd.

The said matter was placed before the authority during its 171st GCZMA meeting held on 10/04/2018 wherein Authority after perusing the communication dated 07/12/2017 from GTDC enclosing the report submitted by DSLR.-Panaji, Goa and further after detailed discussion and deliberation decided to direct the surveyor of DSLR to carry re survey of the proposed site.

The representative of DSLR present for the meeting informed that the exercise for mapping has been completed and the plans will be submitted to the Authority shortly.

Decision: The Authority decided to await the submission of map by the DSLR.

Case No. 1.6

To discuss on a Complaint from Mr. Kashinath Shetye & others alleging illegal construction of new house by cutting Mangroves and filling of Creek within CRZ area in the Property bearing Sy. Nos. 3/1, 3/2 and 3/3 of Adcolna Village in Ponda Taluka.

Background

GCZMA received a complaint letter dated 23/05/2016 from Mr. Kashinath Shetye & others alleging illegal construction of new house by cutting Mangroves and filling of Creek within CRZ area in the property bearing Sy. nos. 3/1, 2 and 3 carried out by Mr. Jairam Govind Kholkar, Mr. Keshavnath Shantaram Naik and Mrs. Kavita S. Naik at Adcolna, Ponda-Goa.

Decision: The Authority after perusing the agenda note and the site inspection report submitted by the expert member (GCZMA) and after detailed deliberation decided to issue show cause notice to the Mr. Jairam Govind Kholkar, Mr. Keshavnath Shantaram Naik and Mrs. Kavita S. Naik for carrying out illegal construction of new house by cutting Mangroves and filling of Creek within CRZ area in the property bearing Sy. nos. 3/1, 2 and 3 of Adcolna, Ponda-Goa and further decided to carry out a survey through DSLR to verify whether the structures in question are within NDZ of the river and call the parties for personal hearing before the Authority.

Case No. 1.7

To decide on a Complaint Regarding Alleged Violation by Panaji Community Centre and M/s Albuquerque & Noronha in Property bearing PT Sheet No. 106 and Chalta No. 37 and 37-A of Mala, Panaji, Goa.

Background

GCZMA received a complaint letter dated 07/03/2016 from Mr. Kashinath Shetye & others alleging CRZ violation carried out by Panaji Community Centre and M/s Albuquerque & Noronha in property bearing P T Sheet no. 106 of Chalta no. 37 and 37-A of Mala, Panaji.

Decision: The Authority after perusing the agenda note and the site inspection report submitted by the expert member (GCZMA) and after detailed deliberation decided to issue show cause notice to the Panaji Community Centre and M/s Albuquerque & Noronha for carrying out alleging CRZ violation in Property bearing PT Sheet No. 106 and Chalta No. 37 and 37-A of Mala, Panaji, Goa and further decided to call the parties for personal hearing before the Authority.

Item No.2**Case no.2.1**

To discuss on an application letter dated 09/08/2018 regarding revised NOC for proposed reconstruction and development of existing indoor stadium in land bearing indoor stadium in land bearing PT sheet No.97/chalta Nos 2,7 , PT sheet No.98/Chalta Nos 13 and PT sheet no. 79/Chalta No.1 (confirm) .P.t. sheet no.97 chalta Nos 01 (provisional) situated at Campal , Panaji city, Tiswadi taluka., Goa.

Background: This office this office had earlier issued NOC vide letter No. GCZMA/N/16-17/57/2147 dated 10/02/2017 to Sports Authority of Goa, for proposed reconstruction of existing indoor stadium and proposed office building in land bearing PT sheet No.97/chalta Nos 2, 7, PT sheet No.98/Chalta Nos 13 and PT sheet no. 79/Chalta No.1.P.t. sheet no.97 chalta Nos 01 situated at Campal , Panaji city, Tiswadi taluka., Goa. The said NOC has been submitted by the applicant to NGPDA for technical clearance.

Decision: The Authority after perusing the agenda note and the revised plan submitted by the applicant decided to approve and issue the revised plan as sought by the NGPDA to the extent of the area statement and road widening for the proposed reconstruction and development of existing indoor stadium in land bearing PT sheet No.97/chalta Nos 2,7 , PT sheet No.98/Chalta Nos 13 and PT sheet no. 79/Chalta No.1 (confirm) .P.t. sheet no.97 chalta Nos 01 (provisional) situated at Campal, Panaji city, Tiswadi taluka., Goa.

Case no.2.2

To decided on a NOC for the Proposed Construction of Residential Bungalow in Sy. No. 206/1-B of Calangute Village, Bardez, Goa.

Background

Mr. Ashok Meher from Palghar, Maharashtra submitted an application to GCZMA on 12/12/2017 requesting for a NOC for the construction of a residential bungalow in Sy. No. 206/1-B of Calangute Village. So, a site inspection was fixed to see the site, verify its CRZ zoning and the documents.

Decision: The Authority noted the agenda note and site inspection report by the expert member (GCZMA) the Authority noted that the said proposal is for construction of residential bungalow which is permissible activity as per CRZ. However in view of the order of Hon'ble National Green Tribunal dated 22/11/2017 passed by Hon'ble NGT, Delhi in the matter filed by M/ Mehdad & anr V/s Ministry of Environment, Forests & Climate Change & ors, the Authority concluded that NOC for new construction cannot be granted at this stage and to intimate the applicant accordingly.

Case no.2.3

To decide on a NOC for Repair/ Renovation of Existing House no. 9/135 at Maleliwada, Palolem, Canacona, Goa.

Background

An application dated 09/5/2017 has been submitted by Mr. Premanand Poko Naik which reached the GCZMA office on 10/05/2017 for a NOC for repair / renovation to the existing house in Sy. No. 116/2 of Palolem at Canacona. So, a site inspection was fixed to see the site and the existing old house, verify the CRZ zoning of the site and the documents.

Decision: The members perused the agenda note, inspection report by the Expert Members (GCZMA) and noted that the proposal is for repair and renovation of existing residential house bearing H. No. 9/135 at Maleliwada, Palolem, Canacona, Goa. The area lies in 200 - 500m of CRZ III area wherein repair and renovation of existing structure is permissible as per Para 8 III B (vii) of the CRZ Notification, 2011, (as amended) from time to time. As such, the Authority resolved to grant permission for the proposed repair and renovation.

Case no.2.4

To decide on delineation of NDZ Line in respect of Plots bearing Sy.Nos. 11/10-A and 14 of Moira Village, Bardez, Goa.

Background

Mr. Tulio D'Souza from Panaji submitted a letter dated 04/07/2018 to GCZMA requesting for a delineation of CRZ/NDZ line in respect of his plots bearing Sy. Nos. 11/10-A and 14 of Moira Village, Bardez, Goa. So a site inspection was fixed to see the site and verify the extent of NDZ area within the plots due to the presence of Creek abutting the plot with expert member of the Authority and the DSLR. The DSLR has now submitted the maps indicating the NDZ.

Decision: The authority after perusing agenda note and site inspection report by the expert member GCZMA and the map submitted by the DSLR decided to issue a letter along with the map of delineation of NDZ submitted by the DSLR..

Case no.2.5

To discuss and decide on a Delineation of CRZ Line in SY. No. 97/1-J of Reis Magos Village in Bardez Taluka, Goa.

Background

The Office of GCZMA received a letter dated 23/07/2018 from the Office of the Directorate of Settlement and Land Records, Panaji, Goa with regard to delineation of

CRZ line in Sy. No. 97/1-J of Reis Magos village, informing that they do not have maps indicating HTL and NDZ of Reis Magos village. So, a site inspection was fixed to see the site and verify the CRZ zoning for demarcation of CRZ – NDZ line at Reis Magos.

Decision: The authority after perusing agenda note and site inspection report by the expert member GCZMA noted that the width of the river at site is more than 100mt accordingly the authority decided to request DSLR to carry out demarcation of NDZ Line in SY. No. 97/1-J of Reis Magos Village in Bardez Taluka, Goa.

Case no.2.6

Incorporation of Missing Sy. Nos. 146/1, 146/2, 146/3-A, 146/3-B, 146/4-A, 146/4-B, 148/5, 148/5-A of Candolim Village for Proposed Construction of Parking Facilities at Candolim, Bardez, Goa.

Background

GTDC had applied to GCZMA for permission for the proposed parking facility at Candolim on 08/10/2015 and the permission was granted by the Authority to this on 30/08/2017. However, only two Sy. nos. were shown in the NOC issued by GCZMA. To rectify the same, now they have put up the proposal which is received by GCZMA on 25/07/2018.

The site was re inspected by the expert members and the members have noted in their inspection report that the request of the GTDC for inclusion of the Survey Numbers is correct and the same was shown to them during the earlier inspection, however all survey numbers were not mentioned in the application revised. NOC needs to be issued by the Authority for inclusion of the missing Survey Numbers i.e 146/1, 146/2, 146/3-A, 146/3-B, 146/4-A, 146/4-B, 148/5, 148/5-A of Candolim Village.

Decision: The Authority perused the agenda note and site inspection report by the expert member (GCZMA). The Authority after detailed discussion and deliberation decided to verify the presence of sand dunes if as per the sand dune mapping report submitted by NCSCM (Chennai).

Additional Agenda Items

Case no.2.7

To decide on an application received from Goa-IPB regarding proposed setting up of a 5 star hotel project with a conference facility in survey no. 371/1 to 371/26 of Benaulim village of Salcete aluka, south Goa by M/s Devon Real Estate and construction Private Ltd.

Background:

This office is in receipt of a proposal from IPB- Goa regarding proposed setting up of a 5 star hotel project with a conference facility in survey no. 371/1 to 371/26 of benaulim village of salcete aluka, south Goa by M/s Devon Real Estate and construction Private Ltd. The project proponent has submitted survey plan issued by DSLR indicating HTL and 200 mt line superimposed by it. The proposed project is only in the area between 200mt to 500mt.

Decision: The Authority after detailed discussion and deliberation decided to forward the said proposal to Goa-SEAC as per the guidelines laid in Hotel policy.

Case no.2.8

To decide on an application received from Goa-IPB regarding proposed setting up of a hotel project consisting of 166 rooms in sy. Nos 160/1, 159/25 to 30,39,40,41,49,50,51,66,67,68, 76, 77, 78, 94,118 to 137 at Varca, Salcete Goaby Matrix Beach Ventures

Background:

This office is in receipt of a proposal from IPB- Goa regarding proposed setting up of a hotel project consisting of 166 rooms in sy. Nos 160/1, 159/25 to 30,39,40,41,49,50,51,66,67,68, 76, 77, 78, 94,118 to 137 at Varca, Salcete Goaby Matrix Beach Ventures. The project proponent has submitted survey plan issued by DSLR indicating HTL and 200 mt line superimposed by it. The proposed project is only in the area between 200mt to 500mt.

Decision: The Authority after detailed discussion and deliberation decided to forward the said proposal to Goa-SEAC as per the guidelines laid in Hotel policy.

Case no.2.9

To discuss and decide on appointment of Legal retainer in the office of GCZMA on full time basis.

Background: Authority is facing acute shortage of staff especially on legal front to deal with various matters coming up in courts. The Authority in its 175th meeting held on 22/05/2018 decided to appoint 2 legal retainers in the office of GCZMA on full time basis with a consolidated salary of 50,000/- per month. The state government has given approval for the same. Mrs. Venefreda Gracies e Braganza was earlier working in the office of GCZMA as a legal assistant from a period from a period from 2007 to 2013. Hence, it is proposed to appoint Mrs. Venefrieda for period of 1 year initially with a consolidated salary of 50,000/- per month with a terms and conditions as laid down in office work order.

Decision: The Authority after considering the extra-ordinary situation of shortage of staff and the time bound nature of the court matters considered this as an urgent need. It also took note of the earlier work experience of Ms. Braganza in GCZMA and thus decided to approve the appointment of Mrs. Venefreda Gracies e Braganza as a legal retainer initially for a period of one year on full time basis with a consolidated salary of 50,000/- per month.

Case no.2.10

To discuss and deliberate upon complaint, report of the Deputy collector & S.D.O. Canacona and subsequent matter filed by Francisca Fernandes v/s State of Goa.

Brief background: The petitioner (original complainant) filed an complaint dated 29/08/2016 before the Dy. Collector & S.D.O Canacona interalia stating that Mr. Vancy Pereira R/o Ourem, palolem, Canacona-Goa is running a bar and restaurant in the name "Moonlight Restuarant" in Syno.102/3 Nagorcem Palolem. The Deputy collector & S.D.O, Canacona after holding inquiry submitted report to the additional collector vide letter dated 27/02/2016. The Additional collector II South, Margao vide letter dated 06/08/2017 further submitted the report to the office of GCZMA.

The Inquiry Report of the Deputy collector & S.D.O, Canacona has interalia noted that concerned respondent/alleged violator has not submitted any license issued by GCZMA hence appropriate action may be taken as per CRZ norms.

The said original complainant has approached Hon'ble High Court of Bombay at Goa Interalia aggrieved by inaction on part of authorities. The matter came up for hearing today for the first time (14/08/2018) and now fixed after 2 weeks.

Decision: The authority decided to issue Show Cause Notice to Mr.Vancy Pereira R/o Ourem, palolem, Canacona-Goa for running a bar and restaurant in the name "Moonlight Restuarant" in Syno.102/3 Nagorcem Palolem.

Meeting ended with a vote of thanks to the chair.

Sd/-

(Member Secretary)

Goa Coastal Zone Management Authority



IN THE HIGH COURT OF BOMBAY AT GOA

Writ Petition No. 751 of 2008

Entire no
1176/2019

Theodore Fernandes
and anr

... Petitioners

Versus

State of Goa and ors

... Respondents

AFFIDAVIT IN COMPLIANCE ON BEHALF OF GOA
COASTAL ZONE MANAGEMENT AUTHORITY

I, SHRI RAVI JHA, Son of Suman Jha, aged about 32 years, Indian National, presently residing at Altinho, Panaji-Goa, do hereby on solemn affirmation, state and submit as under:

1. I state that I am presently working as the Member Secretary of Goa Coastal Zone Management Authority, having office on First floor, Pt. Deendayal Upadhyay Bhavan, Pundalik Nagar, Alto Provorim, Bardez, Goa 403521. I state that I have been authorised to file the present Affidavit in Reply on behalf of the Goa Coastal Zone Management Authority.
2. I say that the present affidavit is filed in compliance of Order dated 11.12.2018 passed by this Hon'ble Court wherein directions were given to Respondent No. 5 to place on record, the Inquiry Committee Report dated 19/10/2015.

↓



Annexed hereto and Marked as "Annexure - A" is a copy of the Inquiry Committee Report dated 19/10/2015.

3. I state that whatever has been stated herein above is true to my own knowledge and based on the documents with 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 08th day of February, 2019


DEPONENT

Identified by me:-

Solemnly Affirmed Before Me by
Rare Sha
Who is identified before me by

at Calangute, Goa
Ser No: 313 / 02 / 2019
Date: 12/02/2019




Venerfeda C.P.P.B. Gracias
Advocate & Notary
Bardez-Goa

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NOS. 751 OF 2008 & 469 OF 2014
WRIT PETITION NO. 751 OF 2008

1. Theodore Fernandes,
major, r/o. Adsulim, Benaullim,
Salcete, Goa,
Secretary of Goencarancho Vorixtte Awaz,
an Association with office at
Casa dos Aliados,
Abade Faria Road, behind
Gomantak Vidya Niketan,
Margao, Goa.

2. Goencarancho Vorixtte Awaz,
Registered Association with office at
Casa dos Aliados,
Abade Faria Road, behind
Gomantak Vidya Niketan,
Margao, Goa, through its
Secretary, Petitioner No.1.

.... Petitioners.

Versus

1. State of Goa,
through its Chief Secretary,
Secretariat, Alto Porvorim, Goa.

2. The Member Secretary,
Goa Coastal Zone Management Authority,
Saligao, Goa.

3. The Senior Town Planner,
Town & Country Planning Department,
South Goa District Office,

D-Wing, 4th Floor,
Osia Commercial Arcade,
Margao, Goa.

4. Village Panchayat of Colva-
Sernabatim-Vanelim-Gandaulim,
through its Sarpach,
Colva, Salcete, Goa.

5. Tonia Estates Resorts Pvt. Ltd.,
through Aleixo Sequeira,
Raicho Ambo, Rai, Salcete, Goa.

..... Respondents.

Mr. Rayan Menezes with Ms. Gina Almeida and Mr. N. Fernandes,
Advocates for the Petitioners.

Mr. Pravin Faldessai, Addl. Govt. Advocate for Respondents No.1, 2
and 3.

Mr. G. Teles, Advocate for Respondent No.4.

Mr. Rafiq Dada, Senior Advocate with Mr. Preetam Talaulikar, Mr.
Bernard Reis & Ms. Olga Pereira, Advocates for Respondent No.5.

WRIT PETITION NO. 469 OF 2014

1. Tonia Estates and Resorts Pvt. Ltd.,
A company registered under the
provisions of the Companies Act,
represented by its Managing Director
Shri Aleixo A. da Piedade Sequeira,
having office at
Raicho Ambo, Rai, Salcete, Goa.

2. Shri Aleixo A. da Piedade Sequeira,
major of age, Managing Director of
Petitioner No.1 Resident of

Raicho Ambo, Rai, Salcete, Goa.

.... Petitioners.

Versus

1. State of Goa,
through its Chief Secretary,
Secretariat, Alto Porvorim, Goa.
2. National Green Tribunal,
Western Zone,
New Administrative Building,
D Wing. Opp. Council Hall,
Camp, Pune, Maharashtra.
3. Colva Civic and Consumer Forum,
having registered office at
H.No.257/1, Bagdem, Ward 3,
Colva, Salcete, Goa.
4. The Goa Coastal Zone Management
Authority, through its
Member Secretary, Department of Science
Technology and Environment,
Government of Goa,
3rd Floor, Dempo Towers,
Patto, Panaji, Goa.
5. Village Panchayat of
Sernabatim-Vanelim, Colva & Gandaulim,
through its Sarpanch/Secretary,
Colva, Salcete, Goa.

Mr. Rafiq Dada, Senior Advocate with Mr. Preetam Talaulikar, Mr. Bernard Reis & Ms. Olga Pereira, Advocates for the Petitioners.

Mr. Gaurish Agni, with Mr. Tanmai Gawas, Advocates for Respondent No.3.

Mr. C. A. Pereira, Advocate for Respondent No.5

*Coram : S.C. Gupte &
Prithviraj K. Chavan, JJ.*

Date : 19th/20th June, 2019.

ORAL JUDGMENT : (Per S.C. Gupte, J.)

In this Writ Petition (Writ Petition No.751/2008), the Petitioners pray for a writ of mandamus for cancellation and revocation of various sanctions and permissions granted in the matter of repairs, renovations and alternations carried out to a beach resort at Colva, Salcete Taluka in the State of Goa. These sanctions and permissions have been granted under various statutory instruments, including CRZ Notifications, 1991 and 2011, Goa, Daman and Diu Town and Country Planning Act, 1974 and the Rules and Regulations framed thereunder, and the Goa Panchayat Raj Act, 1994 and the Rules framed thereunder.

2. The Petitioners claim to be espousing public interest in seeking quashing of these permissions and sanctions. Petitioner No.2 claims to be an association of like minded citizens from South Goa, who are particularly residing in coastal areas of Colva, Sernabatim, and other places, and who have formed it, for the purpose of espousing public causes. Petitioner No.1 claims to be the Secretary of Petitioner No.2-Association.

3. The Petitioners have come to the Court with a case that in the property surveyed under Nos.23/13 and 23/17, there existed five cottages, one house structure, one building, one swimming pool, one open restaurant with four sit-outs. These were used as a beach resort under the name and style of Penthouse Beach Resort. The resort was lying in an abandoned condition for the last several years. In or around the first week of September 2008, the Petitioners noticed survey operations being carried out in the property. Upon inquiries made and information sought from authorities, including the Panchayat of Colva, Goa Coastal Zone Management Authority (GCZMA), and Town and Country Planning Department of the State, the Petitioners claim to have learnt that in the guise of sanctions obtained from the authorities for repairs/alterations/renovations, Respondent No.5 (who had in or about 2008 acquired rights to the property) was reconstructing or newly constructing a beach resort at site; the plans of such construction showed total deviation from the plinth of existing structures. Whereas the existing covered area of five cottages and one house was 843.76 sq. metres, the six buildings proposed in their place would have a covered area of 1324.86 sq. metres. So also, the floor area of 1822.08 sq. metres of the existing structures was being increased to 2537.22 sq. metres. It is the Petitioners' case that even the existing structures, which were purportedly being repaired/alterated/renovated, were unauthorised and

did not have the requisite approvals from the authorities. The Petitioners claim to have applied to the concerned statutory authorities (Respondent Nos. 2, 3 and 4) for revoking and withdrawing the permissions and since they did not receive positive response, filed the present Petition.

4. The main grievance of the Petitioners is, thus, violation of CRZ Notification, 1991 in the matter of permissions accorded to Respondent No.5 for repairs/renovations/alterations to the beach resort. It is submitted that the resort comes within 200 meters from the High Tide Line, that is to say, within CRZ-III. It is submitted that CRZ-III is earmarked as 'no development zone' under Annexure I to the CRZ Notification, 1991, entitled 'Coastal Area Classification and Development Regulations'. No construction can be permitted on CRZ-III, except for repairs of existing authorised structures and that too without exceeding existing FSI, existing plinth area and existing density. It is submitted that though the original permission applied for was for repairs/renovations of existing authorised structures, the final permission granted by GCZMA, followed by permissions of the planning authority and Panchayat, and the actual construction carried out by Respondent No.5 in pursuance thereof, make it clear that the construction was different from and outside the existing plinth used by the hotel of Respondent No.5. It is submitted that the authorities, whilst granting the impugned permissions, appear to

have merely considered the sanctions/authorisations for the construction existing as of the date of CRZ Notification, 1991, but without reference to any particular plan. It is submitted that if the plans which have been brought out on record by the Petitioners were to be considered, it would clearly appear that the structures, claimed by Respondent No. 5 as existing structures, did not have a proper authorisation and thus would not qualify as 'existing authorised structures' within the meaning of the CRZ Notification.

5. Learned Counsel for the Petitioners has taken us through the plans submitted by Respondent No.5 to GCZMA of the existing structures whilst seeking its permission for repairs/renovation in 2006 and 2008 and contrasted them with the plan approved by the Planning and Development Authority in 1986 in respect of the beach resort. Learned Counsel has also taken us through the report of the Surveyor appointed by the Petitioners to indicate the existing areas, that is to say, the areas of the structures existing as on the date of the first application, i.e. the application for the first phase development of 2006. Learned Counsel has placed strong reliance on the superimposition of the three sets of plans, i.e. approved plan of 1986, approved plans of 2006 and 2008, and finally approved plan of 2012, carried out by an Architect appointed by the Panchayat. Learned Counsel submits that the superimposition shows that the footprints as well as alignments of various structures forming part of

the resort have been materially altered by Respondent No.5 and this aspect was completely lost sight of by the authorities all throughout.

6. Mr. Dada, learned Senior Counsel appearing for Respondent No.5, on the other hand, has taken us through various dates and events, firstly, to allege that the Petitioners are not espousing any public interest, but are in fact seeking to redress their private grievances. Learned Senior Counsel has also taken us through various events both prior to 2005 and post-2005 when the present owners, i.e. Respondent No.5, stepped into the shoes of the erstwhile owners of the beach resort, to indicate that at all stages the statutory authorities had duly applied their mind to the conditions existing at site and invoked correctly the applicable provisions of law for granting statutory permissions/authorisations to Respondent No.5 for its project of repairs/ renovations/alterations of the beach resort.

7. In support of his case of the Petitioners seeking to redress their private grievances under the guise of a PIL, Mr. Dada relied on the history for the suit property and litigation over it. The suit property was once owned by Pent House Builders Pvt. Ltd. In or about January 2001, the property was taken over by Economic Development Corporation ('EDC'), a deemed state financial corporation, under Section 29 of State Financial Corporation, 1951,

and put to auction. It was purchased in auction by one R.G. Bakhle and others. Around that time, the attachment and taking over of the property was challenged by Pent House Builders by filing a writ petition (Writ Petition No.311 of 2001). This was followed by a suit for declaration and perpetual injunction filed by Pent House Builders against M/s. R.G. Bakhle, challenging the auction sale. The application of Pent House Builders for temporary injunction concerning transfer of title to M/s. R.G. Bakhle came to be dismissed. After the present work of repairs/renovations/alterations was undertaken by Respondent No.5 herein, after taking over the property from M/s. R.G. Bakhle, a fresh application for temporary injunction was filed, seeking to restrain Respondent No.5 from undertaking any demolition work or new construction on the property. A status quo order was passed by the Civil Court on that application. Around the time that order was vacated by the Court, Petitioner No.2 Society was registered by Petitioner No.1 and others. Petitioner No.1, who is the President of the Society, was the advocate of Pent House Builders in the aforesaid litigation. Within a few days of the Civil Court vacating the status quo orders, the present Petition, challenging the construction work in the property, was filed by the Petitioners.

8. These facts do suggest a private interest element in the matter. We, however, do not propose to go further into these and

other circumstances which bear on the Petitioners' locus and interest. Considering that the Petition raises substantial questions arising under CRZ law, and considering that the matter has travelled this far resulting into several orders and exercises undertaken by authorities pursuant to these orders, we would rather consider the merits of the controversy and rule on them.

9. On merits, at the very outset, it is important to consider two crucial aspects of the matter. Firstly, it is necessary to consider the mandate of CRZ Notification, 1991, as also of 2011 (the final permission to the project having been accorded by GCZMA under the Regulations of 2011) so far as the permissible activity thereunder is concerned - Whether it is permissible merely to repair an existing authorised structure or is it permissible to renovate the structure, if necessary by alternation and even reconstruct the same and what are the conditions to be observed for such permissible activity. Secondly, it is necessary to consider what is meant by the expression 'not exceeding existing plinth area' used in CRZ Notifications of 1991 and 2011- Whether it means area exceeding the total plinth area of an existing authorised structure or area outside the existing plinth area, that is to say, outside the existing foot print of the plinth.

10. Mr. Menezes, learned Counsel appearing for the Petitioners, contends that what is permissible is merely repairs to an existing

authorised structure. Learned Counsel submits that at the most one may make an allowance for renovation, but only so long as the same is within the footprint of the existing structure. In particular, learned Counsel insists on the existing plinth area being reckoned with reference to the location and alignment of the area and not necessarily only to its area in quantity.

11. On the other hand, Mr. Dada, learned Senior Counsel appearing for Respondent No.5 contends that not only the repairs or renovations, for that matter, which are permissible under the Notifications, but even reconstruction or alteration of an existing authorised structure, is perfectly permissible; the only caveat being that even in that case the conditions prescribed for repairs of an existing structure in Clauses (i), (ii) and (iii) of CRZ Regulation in respect of CRZ-III have to be satisfied.

12. Annexure – 1 to CRZ Notification, 1991, containing coastal area classification and development regulations, make the following provisions for CRZ – III :

“CRZ-III

i) The area upto 200 metres from the HTL is to be earmarked as 'No Development Zone'. [No construction shall be permitted within this zone except for repairs of existing authorised structures not exceeding existing FS1, existing plinth area and existing density, and for permissible activities under the notification including facilities essential

for such activities. A authority designated by the State Government/Union Territory Administration may permit construction of facilities for water supply, drainage and sewerage for requirements of local inhabitants]. However, the following uses may be permissible in this zone- - agriculture, horticulture, gardens, pastures, parks, play fields, forestry and salt manufacture from sea water.

(ii) Development of vacant plots between 200 and 500 metres of High Tide Line in designated areas of CRZ-III with prior approval of Ministry of Environment and Forests (MEF) permitted for construction of hotels/beach resorts for temporary occupation of tourists/visitors subject to the conditions as stipulated in the guidelines at Annexure-II.

(iii) Construction/reconstruction of dwelling units between 200 and 500 metres of the HTL permitted so long it is within the ambit of traditional rights and customary uses such as existing fishing villages and gaothans. Building permission for such construction/reconstruction will be subject to the conditions that the total number of dwelling units shall not be more than twice the number of existing units; total covered area on all floors shall not exceed 33 per cent of the plot size ; the overall height of construction shall not exceed 9 metres and construction shall not be more than 2 floors (ground floor plus one floor).

[Construction is allowed for permissible activities under the notification including facilities essential for such activities. An authority designated by State Government/Union Territory Administration may permit Constitution of public rain shelters, community toilets, water supply, drainage, sewerage, roads and bridges. The said authority may also permit construction of schools and dispensaries, for local inhabitants of the area, for those panchayats the

major part of which falls within CRZ if no other area is available for construction of such faculties].

(iv) Re construction/alterations of an existing authorised building permitted subject to (i) to (iii) above.”

13. On its plain terms, the Regulation makes it clear that what is permissible under CRZ III is not merely repairs or renovation of an existing authorised structure or building, but even reconstruction or alteration of an existing authorised structure or building. In either case, be it a proposal for repairs or renovation or a proposal for reconstruction or alteration, what is necessary is to maintain, that is to say, not to exceed “existing FSI”, “existing plinth area” and “existing density”. There is nothing in the Regulation to suggest that exceeding of plinth area within the meaning of the relevant stipulation, implies either alteration of the plinth or its location or orientation. Learned Counsel for the Petitioners implores us to construe the expression 'not to exceed the existing plinth area', as not to alter the contours of the plinth or change the footprint of the structure in terms of contours or orientation. That, we are afraid, would amount to reading of words into the statute, which is clearly impermissible. When the words used in the statute are clear in themselves, it is not permissible to read words into it and construe the same differently. “Plinth area” is always measured in square feet or square metres and exceeding the existing plinth area would, by a plain grammatical meaning, imply exceeding the total quantity of

plinth area in terms of square feet or square metres, as the case may be. There is no scope to construe this expression as meaning a restriction on change of contours of the plinth or its location or orientation.

14. It may not be out of place to mention here that the National Green Tribunal, concerning itself with environmental laws and, in particular, the coastal zone regulations, has taken a similar view consistently in a couple of matters. In *Pritidas M. Sawant vs. Goa Coastal Zone Management Authority and ors.* (Appeal No.67/2016(WZ)), the National Green Tribunal has observed as follows :

“15. The Respondent No.1-GCZMA while applying the said provision to the facts and circumstances in the present case ought to have considered whether the permission sought by the Appellant for the proposed development or reconstruction of existing authorised structure exceeded existing FSI, existing plinth area and existing density keeping in mind that nowhere this provision made any utterance about the location save only “within NDZ area in CRZ-III”. Pertinently, restrictive term used in the said provision is “not exceeding” but not the term “not beyond”. Use of term “not exceeding” restricts quantity of existing FSI, existing plinth area and existing density but not as it would have restricted spatial limit with the use of term “not beyond” - the location in reference to the said phrase. The Respondent No.1 – GCZMA was also expected to consider whether shifting of the location is within NDZ area and such shifting would in any way

be invitation to dangers of natural hazards in coastal area or promote sea level rise due to global warming, and further ought to have analysed the entire issue on scientific principles governing the same.”

This statement of law to be found in *Pritidas M. Sawant vs. Goa Coastal Zone Management Authority and ors.* (supra) has been reiterated by the National Green Tribunal in the case of *Cedric Bosco Savio Lobo vs. State of Goa and ors.* (Application No.27/2014). The complaint before the National Green Tribunal in *Cedric Bosco Savio Lobo* (supra) was about the shape of the structure being changed in the course of reconstruction. Whereas the original structure had stepped shape, the reconstructed structure had a rectangular shape meaning thereby that there had been change in the shape of the plinth and shifting in its location. This change was countenanced by the National Green Tribunal as within the law, relying on its own observations in the case of *Pritidas M. Sawant* (supra).

15. In the present case, the record of the case clearly bears out that the plinth area of the new construction does not exceed the plinth area of the originally authorised existing structures. The plan submitted by Respondent No.5 for repairs/renovations/alterations of the existing structures and which was approved by GCZMA in August 2006, shows six cottages of type B admeasuring a total plinth area of 1324.86 sq. metres. In addition to these cottages, there were

two more structures referred to as type A and type C, respectively, admeasuring 605 sq. metres and 102.46 sq. metres, making the total existing plinth area as 2032.32 sq. mtres. There is substantial material on record, and which appears to have been considered by the authorities whilst approving the subject plan, putting the total plinth area at 2032.32 sq. metres. When the initial construction plan (Phase-I) was before the authorities for consideration around the year 1986, the Eco Control Committee (ECC) of the State had scrutinized the plan and observed that the project was fulfilling the guidelines and norms prescribed by Eco Development Council (EDC) and decided to recommend the project for final decision. There is also on record a letter addressed by the Chief Town Planner to the Member Secretary of EDC, confirming that the project fulfilled the guidelines and norms specified by EDC and forwarding the file containing construction plans for the latter's approval. It is also on record that the original Phase I development was approved subject to the condition that the remaining land in the northern part of the plot shall be ceded to the Government. On that condition, the approval was conveyed to the predecessor of Respondent No.5 in 1986. The predecessor of Respondent No.5, thereafter, submitted plans for Phase II development, which was proposed within that part which was required to be ceded to the Government according to the original sanction. An in-principle approval was granted by EDC/ECC to this proposal, which was conveyed to the applicant

sometime in 1988-1989. The minutes of meeting of EDC in this behalf (minutes of 28th ECC meeting held on 28th April, 1988) are on record. So also, is on record a communication of the Senior Town Planner, communicating such in-principle approval to the predecessor of Respondent No.5. Also on record is a letter of the Under Secretary to the Government of Goa (Tourism Department) informing the Chief Town Planner that the Government had decided to withdraw the condition regarding ceding of land (originally made part of the sanction for Phase I development). There is a communication from the Chief Town Planner, in turn, to Respondent No.4 about the Government decision to withdraw the condition regarding ceding of land. All this does show that further construction of Phase II development in respect of the areas denoted as A and C types was sanctioned by the authorities. In other words, there is ample material on record to show that these two types of structures, which were claimed as existing authorised structures, in fact did have authorisation.

16. Apart from this authorisation, there is also evidence of lawful existence of the structures acknowledged by statutory authorities and, in fact, the structures being assessed to Panchayat tax on that basis. There is on record a house tax assessment on the part of Respondent No.4-Panchayat, showing construction of House No.424 in 1986 and House No.424(1) later, clearly suggesting that

not only were B type structures existing as authorised structures, but even the structures designated as A and C types had always existed, as authorised structures, much prior to 1991. There are on record aerial photographs of Colva village in respect of the particular area where the beach resort was situate, showing all these structures as of 1991 and 1993. The existing structures find an endorsement on the part of GSCCE in its meeting (8th Meeting) dated 30.6.1995. Then there is a letter addressed to the Chief Engineer, Irrigation Department, by the Chief Town Planner on 12th March, 1996 indicating that the resort had been in existence since 1987 along with the site plan showing all structures. This communication was followed by a communication from the Director of Tourism to the Chief Town Planner conveying compliance of environmental guidelines by the beach resort and its construction in accordance with the permissions obtained from EDC/ECC from time to time. There is, accordingly, preponderance of evidence to suggest that not only were all structures, claimed in the plans submitted by Respondent No.5 in 2006, in existence, but they were also authorised.

17. As regards the plinth area of the existing authorised structures, there is once again abundance of material to show that the area was at least 2030 sq. metres plus swimming pool of 115 sq. metres. There is a survey report by Government of Goa, Directorate of Settlement and Land Records, (DSLRL) Panaji, Goa giving plinth

area details according to (i) the survey conducted on 4th July, 2009 (stating the area to be 2117 sq. metres), (ii) as per the survey conducted on 15th December, 2011 (as 2030 sq. metres) and (iii) as per verification survey conducted on 25th July, 2012 (as 2030 sq. metres.). Even the Petitioners' own surveyor's report shows that buildings A and C and the swimming pool in the construction licence were substantially in conformity with the existing structures. All this material shows not only authorisation of B type structures, which is a matter of admission on the part of the Petitioners (in para 18 of the rejoinder, the Petitioners have accepted this), but even the other structures designated as A and C and the swimming pool were also existing at site and were duly sanctioned by the concerned authorities and that the plinth area of the structures in all was 2030 sq. metres.

18. It is nobody's case that the plinth of the new structures, which are finally sanctioned by the Chief Town Planner in 2012, exceeds 2030 sq. metres. In other words, the work of repairs/renovations/alterations carried out by Respondent No.5 at site, does not exceed the plinth area of the existing authorised structures. The only real grievance, if at all, in this behalf, as noted above, is that the location of the plinth and in particular, its orientation *vis-a-vis* the plot has been changed. That, as we have noted above, does not amount to any breach or violation of either of the two CRZ

Notifications of 1991 and 2011.

19. The other submission of learned Counsel for the Petitioners is that there is no authorisation of GCZMA so far as the plans submitted by Respondent No.5 in 2012, based on actual construction carried out at site, are concerned. It is submitted that GCZMA, in its communication dated 23 August 2012, had simply considered a DSLR report of mapping of the existing structures, i.e. the structures actually constructed at site and existing in 2012. It is submitted that the DSLR Report merely confirms what was actually repaired/renovated/altered and was existing at site. The submission is that there is no reference to the decision taken by the body on whether or not to allow revision of plans, that is to say, the alteration between sanctioned plans of 2006 and 2008, on the one hand, and those submitted in 2012 in accordance with the actual construction, on the other. A letter addressed by GCZMA to Respondent No.5 on 23rd August, 2012 clearly belies this submission. The letter explicitly states that the project has been approved by GCZMA in terms of clause (8)(i),(iii)(CRZ-III)(A)(ii) of the CRZ Notification, 2011, (earlier Notification, 1991). In other words, not only has GCZMA considered the report of DSLR showing actually constructed structures at site to be in accordance with the plan of 2012, but that there was a consideration of whether the plans should be approved and that approval was duly accorded by GCZMA in terms of the

applicable notification.

20. The correctness and propriety of the plans submitted by Respondent No.5 have been scrutinized by the authorities on a number of occasions and found to be in order. The plans were first approved for structures B and swimming pool by GCZMA on 18th May, 2006. This was after the decisions were duly taken in the meeting of GCZMA, minutes of which are on record. In its 38th meeting held on 12.12.2007, GCZMA granted approval for repairs and renovation of the structures marked as blocks A and C. Communication of such grant of approval by GCZMA to Respondent No. 5 is of 30-31st January, 2008. A saga of show cause notices/demolition notices, appears to have followed thereafter, presumably at the instance of the Petitioners herein and other interested parties. Respondent No.4-Panchayat issued show cause notices and even passed demolition orders. Whilst all this was being debated and the matter was already in Court, Respondent No.5 had proceeded to obtain a technical approval from PWD (15.5.2009), inspection report by the Senior Town Planner (15.5.2008), NOC of the Town Planner (19.5.2009), licence for repairs/alterations/renovations granted by the Panchayat (11.06.2008). Notices issued by Respondent No.4-Panchayat were withdrawn on 15 June 2009. This was followed by a complaint made by Goa Foundation to GCZMA, alleging that the construction was being carried out

without environmental clearance. At that stage, GCZMA directed DSLR to conduct an inspection of the site and verify whether the structures were being constructed as per the plinth area originally in existence. This was by a communication dated 5.12.2011. The DSLR appears to have conducted the survey of the structures and the plinth area was found to be 2030 sq. metres. The DSLR, by its communication dated 26th December, 2011, confirmed, based on its survey, that the construction was within the plinth area originally existing. It was after all these considerations that GCZMA granted its final approval to revised plan as of 30th August, 2012. There is nothing to suggest that all this was done without following due process of law.

21. Even after this, there was a further show cause notice issued by the Respondent Panchayat, on the basis of a complaint by Respondent No.3 in the companion petition (Writ Petition No.469/2014). A reply was filed to that show cause notice by Responded No.5. This was followed by a Misc. Civil Application in Suo Motu Writ Petition No.2/2006 by Respondent No.3-Colva Civic and Consumer Forum. Once again, in response, a show cause notice was issued by the Panchayat to Respondent No.5, which led to rejection of the construction licence and its renewal by Respondent No.4 Panchayat and a demolition order in pursuance thereof. This was challenged by Respondent No.5 before the Additional Director

of Panchayats, who directed Respondent No.4 Panchayat to maintain status quo at site. The matter was once again heard at length by the Additional Director, who, by his order dated 29th August, 2013, passed an order quashing the show cause notices and demolition orders issued by Respondent No.4-Panchayat.

22. In the meantime, there were (i) technical clearance order by the Department of Town and Country Planning (15.4.2013) and (ii) completion order by the Department of Town and Country Planning (16.4.2013).

23. Even thereafter, the matter was carried by Respondent No.3 to the companion Petition before the National Green Tribunal. The National Green Tribunal, by its order dated 3rd May, 2013, directed the Ministry of Environment and Forests to constitute an inquiry committee. The committee was duly constituted. It heard the parties at length, allowing them to produce material before it, and finally, by its report dated 19th October, 2015, observed that the approvals were in order; that the construction was carried out in accordance with the approvals; and that the structures were existing and in accordance with law. The inquiry committee's report was considered by GCZMA. Once again, at that stage, all stakeholders were heard at length by GCZMA. (The Petitioners in Writ Petition No.751/2008 were not parties before the Authority, at that stage).

In its 181st Meeting, GCZMA accepted the inquiry committee report and noted that the reconstruction/repairs were duly carried out of authorised structures existing prior to 1991 within the area of 200 metres from the High Tide Line in CRZ III area and the plinth area was within the existing plinth area. The Petitioners submit that the inquiry committee did not go back to 1986, or before 1991 and concerned itself merely with what happened after 2006. We are not impressed by this argument. The matters of sanction of B type structures in Phase I and of A and C type structures in Phase II prior to 1991, were debated before the committee and were taken into account by it whilst preparing its report.

24. An upshot of the above discussion is that matters such as (i) character of the existing structures as of the date of CRZ Notification, 1991 – whether in existence and whether authorised or unauthorised, (ii) compliance by the owner in the work of repairs/renovations/alterations with the CRZ Notifications, 1991 and 2011 and, in particular, the restriction of the renovated/altered structures having to be within the existing plinth area; (iii) change of the footprint or alignment or orientation of the original plinth – whether it made any difference in the matter, were all considered by the concerned authorities from time to time and after hearing all concerned parties and assessing relative merits of the rival cases at length.

25. As a writ Court, we are not expected to minutely scrutinize the rival contentions of the parties on merits of the decision as a civil Court would normally be expected to do. The Petitioners herein make allegations regarding authenticity of plans relied upon by Respondent No.5 for the work of repairs/renovations/alterations. For example, they submit that the plan relied upon for Phase II development (structures of A and C types) does not bear the stamp of the authority approving it or reference number. We are not going to make this type of inquiry; that really would entail taking of evidence. For our purposes, it is sufficient that there is abundance of material to show, even otherwise, that 'A' and 'C' type of structures were authorised and were in existence, as we have indicated above. This material clearly suggests that the conclusion of the authorities is fair and reasonable, capable of being sustained in any judicial review by the writ court. We have to merely apply Wednesbury principles to the decisions of the authorities. We have to simply see if the authorities have duly considered all relevant and germane materials and circumstances, whether any irrelevant or non-germane material or circumstance has been considered and whether the view taken by the authorities can be termed as perverse or whether it is a possible view. By all these yardsticks, we do not find any infirmity in the orders impugned before us. All relevant and germane materials and circumstances appear to have been duly considered and no irrelevant

or non-germane material or circumstance appears to have been taken into account whilst deciding the matters and the decisions themselves are perfectly possible views and do not suggest any perversity.

26. Before we close this order, we must note one more important aspect of the matter. The Petition is claimed to have been filed in *bona fide* public interest. As a writ court, as we have noted above, our mandate is to scrutinize if the authorities have acted within the bounds of their jurisdiction and not rendered a perverse decision whilst so acting. Additionally, as a constitutional Court considering a PIL, our attention must be focused on the public interest aspect urged before us. The Supreme Court in its felicitous judgment in *State of Uttaranchal vs. Balwant Singh Chauhal*, reported in (2010) 3 SCC 402, has held that the Courts, before entertaining a PIL, should ensure that the PIL is aimed at redressal of genuine public harm or injury. As our Court observed in *Sadanand s. Varde vs. State of Maharashtra*, reported in 2001 (1) Bom. C.R. 261; 2000 (4) ALL M.R. 510, a Public Interest Litigation is not adversary in nature, but is intended to focus on the public interest aspect before the Court; if the Court is apprised of substantial injury to public interest, the Court is empowered and duty bound to interfere to do justice to the inarticulate public whose interest is projected as affected. Let us guide our gaze to this particular aspect

of the matter. As noted above, the long and short of the Petitioners' objection seems to be nothing but a slight changing of the location and alignment of the originally existing plinth of structures authorised and existing since before 1991, i.e. the date when the first CRZ Notification came into force. As we have shown above, the constructed area is within the total area occupied by the earlier plinth. The structures have now been fully constructed and the resort has been operating. (No doubt, the petition was filed when the construction was on-going, but, anyway, the Court did not deem it fit to stop it and instead allowed it to proceed, but subject to final orders in the Petition.) We wonder what public interest would be served to now order demolition of the resort on the mere ground that its plinth is slightly relocated and differently oriented to the plot than what was earlier existing at site, though within the overall area in terms of square metres. The construction now existing at site does not fall foul of either of the three requirements of CRZ Notification; it does not exceed the existing plinth area or existing FSI or the existing density. Is there any adverse effect on public interest or genuine public harm or injury, then, if the resort is allowed to function on the basis of all sanctions and permissions obtained so far. We find none and that is one more reason why we ought not to interfere with the sanctions and permissions.

27. In the premises, we do not find any merit in the challenge

to the various decisions of the authorities impugned before us. No interference is, accordingly, warranted.

28. The companion Petition (Writ Petition No.469/2014) is filed by Respondent No.5 to the main Petition discussed above. It seeks to challenge basically continuation of the appeal filed by Respondent No.3 to the Petition before the National Green Tribunal. The challenge is, *inter alia*, on the basis that the National Green Tribunal has no jurisdiction to rule on matters other than environmental issues, *i.e.* only those matters which are covered under Schedule I of the National Green Tribunal Act, 2010. Mr. Dada, learned Senior Counsel appearing for Respondent No.5 (in the companion petition) relies on a judgment of a Division Bench of our Court in the case of ***Parshuram Uparkar vs. Union of India and ors.*** (Public Interest Litigation No.49/2013) in support of his submission.

29. Since we have examined the merits of the controversy and have ruled on the entire controversy involved in the present petition (Writ Petition No. 751/2008), we do not deem it fit to pass any order in the companion petition (Writ Petition No.469/2014) filed by Respondent No.5. It will be for Respondent No.5 to now approach the National Green Tribunal and seek disposal of the appeal based on the observations of this Court above. The Petition may be disposed

of by reserving such liberty.

30. In the premises, Writ Petition No.751/2008 is dismissed. *Ad hoc* deposit of costs, made by the Petitioners in terms of the order passed by this Court on 11th August, 2009, shall be appropriated as costs and made over to the Goa State Legal Services Authority.

31. The companion Petition (Writ Petition No.469/2014) is disposed of, by reserving liberty to the Petitioners to seek disposal of the pending appeal from the National Green Tribunal on the basis of the order passed herein, as noted above.

Prithviraj K. Chavan, J.

S.C. Gupte, J.