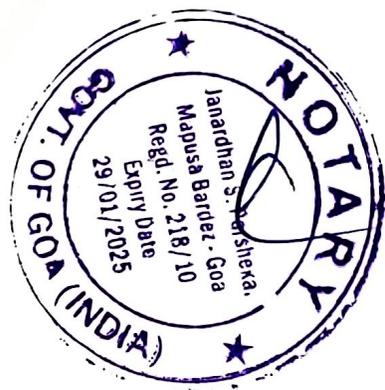


**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH AT PUNE**

APPEAL NO. 38 / 2021 [WZ]



BETWEEN:

The Goa River Sand Protectors Network **...APPELLANT**

AND

The Goa State Environment Impact
Assessment Authority and Others **...RESPONDENTS**

REJOINDER AFFIDAVIT OF THE APPELLANT

I, Dr. Claude Alvares, Indian national, member of the Appellant organization above named, do solemnly state on oath as under:

1. I am filing this affidavit in rejoinder to the affidavit-in-reply dated 11.08.2023 filed by the Member Secretary of GSEIAA, Respondent No. 1 in this Appeal.
2. At the outset, I state that I am not replying to each and every statement and averment made in the reply dt. 11.08.2023, and nothing may be deemed to be admitted unless the same is specifically admitted herein but should be treated as though the same has been set out seriatim and denied and disputed specifically.
3. With regards to the contents of Paragraph 3 of the Reply dt. 11.08.2023, the Notification dt. 02.12.2022 is a matter of record. No comment is warranted from the Appellant, as the R. 1 has not made any pleadings/submissions in relation to the Notification.

4. With regards to the contents of Paragraph 4 of the Reply, it is the case of the R. 1 that the CSIR NIO EIA/EMP Report covers the aspects which a District Survey Report is expected to deal with, and in support thereof, the R. 1 has enclosed a Table to this effect. The specific comments of the Appellant with respect to said table are enclosed herewith as **Annexure R-1**.
5. The Appellant reiterates that important mandatory parameters of a District Survey Report such as Mineable Mineral Potential and Replenishment/deposition of sand are not dealt with by the CSIR NIO Report. In any event, even assuming without admitting that the CSIR Report did cover the relevant parameters, the law does not permit the necessity of a District Survey Report to be waived in any circumstance. On the contrary, the EIA Notification mandates an EIA/EMP Report after a District Survey Report has been prepared and finalized.
6. With regards to the Contents of Paragraphs 5 and 6, the R. 1 places reliance on certain orders passed by the Hon'ble High Court of Gujarat in relation to a Notification dt. 03.03.2016 issued by the MOEF & CC. It is relevant to point out that this notification is not in issue in the case of the present Appeal, and is distinct and separate from the Notification dt. 15.01.2016 issued by the MOEF & CC, which the Appellant has relied upon. The R. 1 has not even bothered to enclose the Notification dt. 03.03.2016, or the petition in which the order of the Hon'ble Gujarat High Court was passed.
7. As such, the order of the Hon'ble High Court of Gujarat dt. 05.04.2016 has no bearing or connection with the questions raised in this Appeal, and therefore, the submissions of the R. 1 that the 'Notification was not binding on the Authorities' is wholly misconceived and extraneous to the subject matter of this Appeal. The fact that the R. 1 is taking recourse to new and ingenious methods to try and avoid compliance with the EIA



Notification 2006, first by trying to seek exemption for its operation for the State of Goa, and now, by placing reliance on an unconnected order, is a sign of desperation, knowing full well that it is bound to have had a District Survey Report with it before considering grant of ECs for sand mining in the Chapora River. On the contrary, the R. 1 ought to have strictly complied with its commitment to the Hon'ble High Court of Bombay at Goa in P.I.L. W.P. 14/2018 to follow the SSMG 2016 in order to properly regulate sand mining and ensure effective safeguards from the point of view of environmental protection.

8. With regards to the contents of paragraph 7 of the Reply, Applicant has enclosed in its affidavit dt. 23.12.2022 a copy of the judgement dt. 28.09.2022 in Appeal No. 24/2022 (P.B.), *inter alia* on the issue of the mandatory requirement of the preparation of a District Survey Report under the EIA Notification 2006 read with the Amendment dt. 15.01.2016, prior to grant of E.C for sand extraction/sand mining.

9. I verify that the contents of paras 1, 2(p),3(p), 4(p), 5(p), 6(p), 7(p), and 8(p) of this affidavit are in the nature of facts which are true to my own knowledge and official documents/records, and that the contents of paras 2(p),3(p), 4(p), 5(p), 6(p), 7(p), and 8(p) are my submissions based on legal advice which I believe to be true and correct. No part of it is false and nothing material has been concealed therefrom. I further state that the Annexure/s enclosed are true and correct copies of their respective originals, and have been attested by me as such.

Solemnly affirmed at Mapusa, Goa,
This the 22nd Day of August 2023

APPELLANT/DEPONENT

[Signature]
 BY *DR Claude Alvares*
 22/08/2023

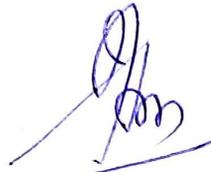
[Signature]
 ANANDHAN PARSHEKAR
 TARYAT MAPUSA, BARDEZ - GOA
 STATE OF GOA INDIA



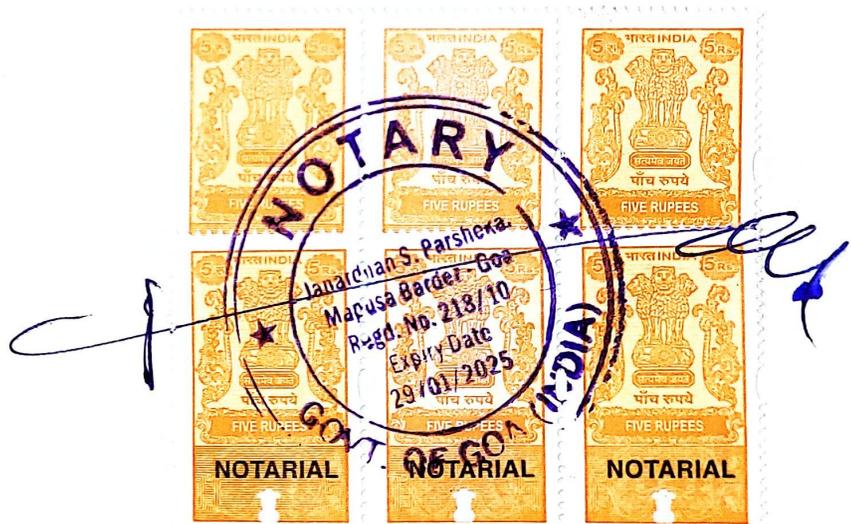
VERIFICATION

I, Dr. Claude Alvares, Indian national, member of the Appellant organization above named, do hereby verify that the contents of paras 1 - 9 of my above affidavit are true to my knowledge and belief, and that no part of it is false and nothing material has been concealed therefrom.

Verified on this the 22nd day of August 2023 at Mapusa, Goa.

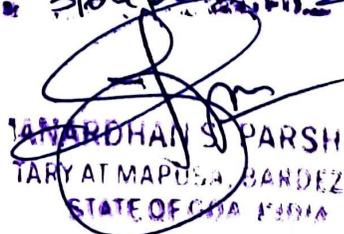


APPELLANT/ DEPONENT



DECLARATION MADE AND VERIFIED
BY DR. Claude Alvares
BEFORE ME

3/6/2023 22/08/2023


JANARDHAN S. PARSHEKA
NOTARY AT MAPUSA BARDEZ - GOA
STATE OF GOA INDIA

<u>Parameters required to be included in a District Survey Report, which have not been specified in NIO EIA/EMP Report</u> <i>[As enclosed with Appellants rejoinder dt. 20.08.2022)</i>						
Sr. No.	Parameter description	Relevant law	Relevant section	Specified by EIA/EMP Report?	<u>Comments of R. 1 as per its affidavit dt. 11.08.2023</u>	<u>Response of Appellant to comments of R. 1, dt. 22.08.2023</u>
i.	Details of sand production in past 3 years	EIA Notif. SSMG 2016	Appendix X	NO		
ii.	District wise details of availability of gravel or aggregate resources	EIA Notif. SSMG 2016	Appendix X	NO		
iii.	District wise details of existing mining leases of sand and aggregates	EIA Notif. SSMG 2016	Appendix X	NO		

Sr. No.	Parameter description	Relevant law	Relevant section	Specified by EIA/EMP Report?	Comments of R. 1 as per its affidavit <u>dt. 11.08.2023</u>	<u>Response of Appellant to comments of R. 1, dt. 22.08.2023</u>
iv.	Mineable mineral potential	EIA Notif. SSMG 2016	Appendix X	NO	Only about sand	Mineable mineral potential [M.M.P.] is required to calculate total potential of minor minerals in the River bed. After this is calculated, only then can safe limits for annual extraction be calculated, taking into account annual replenishment/ deposition. [SSMG 2016, pgs. 121-125]
v.	Annual deposition of sand	EIA Notif. SSMG 2016	Appendix X	NO	Geo-morphology studies and EIA/EMP for the sand mining clusters of River in Goa (Chapora River, Pre- and Post- Monsoon Report) - Replenishment of 30-40 cm of sand, for more details refer chapter 6. (Pg No: 71-79) Also in Chapter 7: Conclusion: Under Heading Pre- and Post-Monsoon Comparative executive Summary (Pg No: 83.	Difference of depth of deposition of 30-40 cms does not show/reflect annual rate of deposition of sand. Report does not state that this difference is replenishment. Quoted figures are with reference to deposition of sand in entire River Chapora, and not zone/region-wise. The figures also do not indicate whether deposition is more or less post monsoon.

Sr. No.	Parameter description	Relevant law	Relevant section	Specified by EIA/EMP Report?	Comments of R. 1 as per its affidavit dt. 11.08.2023	Response of Appellant to comments of R. 1, dt. 22.08.2023
vi.	Carrying capacity of cluster	EIA Notif. SSMG 2016	Appendix XI	NO	Sand availability as per Table 10 (Report Geo-morphology studies and EIA/EMP for the sand mining clusters of River in Goa (Chapora River, Pre- and Post-Monsoon Report))	Table 10 referred to [pg. 883] gives figures for available volume of sand at different regions. However, without knowing source of sand, replenishment rate; mineral potential et al., it is not possible to determine carrying capacity of the cluster i.e max quantity of sand which can be safely/sustainably removed each year.
vii.	Replenishment and recharge related issues	EIA Notif. SSMG 2016	Appendix XI	NO	Geo-morphology studies and EIA/EMP for the sand mining clusters of River in Goa (Chapora River, Pre- and Post-Monsoon Report) - Chapter 6 (Pg No.s 71-79 and 7 (Pg. No:80-83) explains the pre and post monsoon studies of sediment replenishment. Recharge related issues not in the report.	Difference of depth of deposition of 30-40 cms does not show/reflect annual rate of deposition of sand. Report does not state that this difference is replenishment. Quoted figures are with reference to deposition of sand in entire River Chapora, and not zone/region-wise. The figures also do not indicate whether deposition is more or less post monsoon.

Sr. No.	Parameter description	Relevant law	Relevant section	Specified by EIA/EMP Report?	Comments of R. 1 as per its affidavit dt. 11.08.2023	Response of Appellant to comments of R. 1, dt. 22.08.2023
viii.	Identification of sources of sand, M-Sand	SSMG 2020	4.1.1. (d), (e)	NO		
ix.	Demarcation of no mining zone	SSMG 2020	4.1.1. (e)	NO	Stretches of river other than cluster mentioned in Table 10 are no mining zone (Report Geomorphology studies and EIA/EMP for the sand mining clusters of River in Goa (Chapora River, Pre- and Post-Monsoon Report))	A general vague statement is not enough. No mining zones are required to be specifically identified and declared with buffer zone. [<i>SSMG 2020, pgs. 215-216, 252</i>)
x.	Demarcation of mining zones into mining leases	SSMG 2020	4.1.1. (j), (p)	NO	The mining zones are demarcated based on the Geophysical, Numerical simulation and EIA studies. Table 10 (Report Geomorphology studies and EIA/EMP for the sand mining clusters of River in Goa (Chapora River, Pre - and Post-Monsoon Report))	Broad zones for mining are identified in Table 10, titled 'Possible Sand Mining Regions' [<i>pg. 883</i>]. No demarcation of these zones into Mining Leases is done as required.

Sr. No.	Parameter description	Relevant law	Relevant section	Specified by EIA/EMP Report?	<u>Comments of R. 1 as per its affidavit dt. 11.08.2023</u>	<u>Response of Appellant to comments of R. 1, dt. 22.08.2023</u>
xi.	Replenishment study regarding sand in the river bed	SSMG 2020	5.0; 5.1; 5.2	NO	Geo-morphology studies and EIA/EMP for the sand mining clusters of River in Goa (Chapora River, Pre- and Post-Monsoon Report) - Chapter 6 (Pg No: 71-79 and 7 (Pg No:80-83) explains the pre and post monsoon studies of sediment replenishment .	Difference of depth of deposition of 30-40 cms does not show/reflect annual rate of deposition of sand. Report does not state that this difference is replenishment. Quoted figures are with reference to deposition of sand in entire River Chapora, and not zone/region-wise. The figures also do not indicate whether deposition is more or less post monsoon.