

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

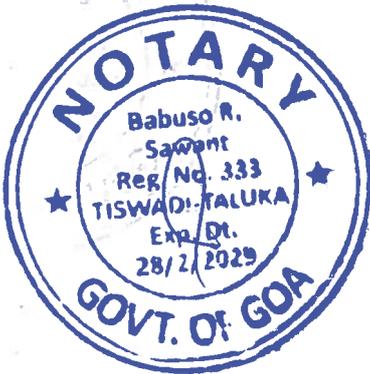
Appeal No.: 02/2024 (WZ)

Calangute Constituency Forum ...Appellants

Versus

State of Goa and others ...Respondents

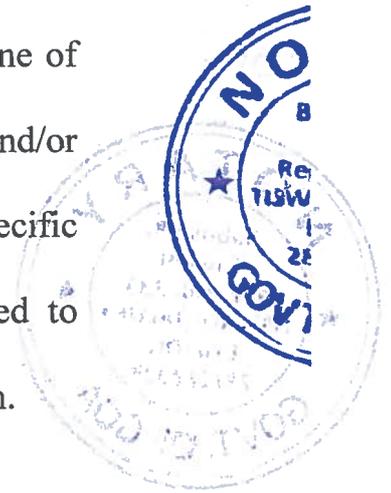
**AFFIDAVIT IN REJOINDER TO**  
**THE REPLY FILED BY**  
**RESPONDENT NO. 5 (VILLAGE**  
**PANCHAYAT OF CANDOLIM).**



I, Mr. Cruz Silveira, son of Francis Silveira, aged 48 years, resident of H. No. 3/63C Tivai Vaddo, Calangute, Bardez-Goa, Vice President of Calangute Constituency Forum, the Appellant above named do hereby on solemn oath and affirmation state and submit as under.

1. I say that I have read and understood the contents of the reply filed by the Respondent No. 5 dated 27/02/2024 and at the outset, I deny all and singular the contents of the reply filed by the Respondent No. 5, to the extent that they are contrary and/or repugnant to, and/or otherwise inconsistent with the contents of this reply/rejoinder. Though this rejoinder might not traverse each and every averment in the reply filed by Respondent No. 5, none of its contents not expressly denied, addressed and/or otherwise dealt with herein, may, only for want of specific traverse unless expressly admitted herein be deemed to have been admitted by the Appellant/ Deponent herein.

2. I say that the present Appeal has been preferred by the Appellant as the GCZMA (Goa Coastal Zone Management Authority) i.e. Respondent No. 3 has passed the Impugned Order dated 30/11/2023 which is contrary to the Report submitted by the Goa State Biodiversity Board and the Expert Committee Member of GCZMA.



3. I say that the Goa State Biodiversity Board i.e Respondent No. 4 by its letter dated 6.2.2019 with Ref No: 7/17/2018-19/GSBB/ISS/006/767 and its report dated 14/6/2023 bearing Ref No: 7-2-2023/GSBB/Legal/188 pursuant to the directions of the Honourable High Court in PIL Writ Petition No. 762 of 2023 (F) had reported that there were several illegalities including landfilling, cutting/uprooting of mangroves and deviation from the Approved Plans was observed.



4. I say that the Goa Coastal Zone Management Authority through its Expert Member also gave a Report detailing various illegalities by Respondent No.6 in execution of the works and the width of the bund which has exceeded at many locations.

5. I say that in the present Appeal there is a challenge to the Order dated 30/11/2023 made pursuant to the directions of

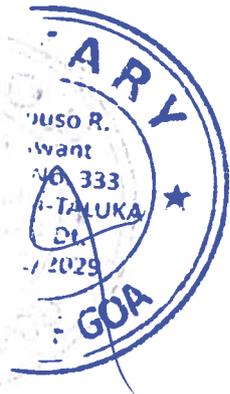
the Honourable High Court in PIL Writ Petition No. 762 of 2023(F). The Appellant states that it has been falsely stated by the Respondent No. 5 that the Appellants are seeking to challenge the order dated 26/8/2019.

6. I say that the bund has been built in CRZ-1A area. I say that there is a dense mangrove vegetation in and around the bund area. I say that under the CRZ Regulations there had to be a 50 m Mangroves Buffer Zone as it is falling in CRZ 1A area.

7. I say that the Appellant has no objection to adding the Comunidade of Candolim to the proceedings if the same is directed by the Court. I say that it has been falsely stated by the Respondent No. 5 that the Comunidade of Candolim has not been made a party in the present proceedings with an malicious intention. I say that a bare perusal of Public Interest Litigation Writ Petition No. 762 of 2023(F) will also indicate that the Appellant in the



aforesaid proceedings have also not made the Comunidade of Candolim a party as the Appellant states that as the matter is pertaining to Ecological/Environmental issue, the joining of them i.e. Comunidade of Candolim was not necessary or in other words do not form necessary party for deciding the said environmental issue either in the PIL Writ Petition No. 762 of 2023(F) and/or the present Appeal.



8. With respect to the contents of paragraph 10 and 11 a bare perusal of the Resolution passed by Village Panchayat of Candolim dated 01/07/2017 clearly shows that the said resolution was proposed by Shri Salvador B. Fernandes alias Blaise Fernandes and the No Objection Certificate given by Comunidade of Candolim dated 01/09/2017 has also been signed by the same person i.e. Mr. Blaise Fernandes who was also Attorney of Comunidade of Candolim at the time. This is a clear case of Conflict of Interest as the same person has proposed the Panchayat

Resolution very well knowing that the NOC of Comunidade of Candolim will be signed and issued by himself. Incidentally the Reply on Affidavit filed on behalf of Respondent No. 5 i.e Village Panchayat of Candolim in the present Appeal is also by the same person as he is incumbent Sarpanch of Candolim.

(Annexed hereto as "ANNEXURE A" is the Resolution passed of Village Panchayat of Candolim dated 01/07/2017 and "ANNEXURE B" is the No Objection Certificate given by Comunidade of Candolim dated 01/09/2017.)



9. I say that the landfilling was done illegally by the WRD to increase the size from 3 meters to 10 meters. I say that it is absurd on the part of the Respondent No. 5 to even allege that the original comunidade land did not show the said bund of 3 meters. I say that the WRD has illegally increased the size from 3 meters to 10 meters and more. I say that the original Comunidade Plan does not show

anything of 10 meters. I say that the WRD has illegally reclaimed land that was formerly a creek. I say that the WRD plan does not correspond to the 1936 Comunidade plan.

10. I say that the WRD has reclaimed the major part of the creek and has converted it into a 10 meters road and proposed 2 islands much wider than 10 meters.



11. With respect to the contents of paragraph 13 of Affidavit of Respondent No. 5, I say that the WRD is not a Technical expert in tourism activities or for judging the Tourism potential of a place and for the same there is a separate Department i.e Tourism Department. The observation made by WRD as below:

*“Location was close to main road with good ambience, the WRD has proposed to beautify the bund area by putting paver-tiles over the bund with*

*sit-outs and lights for making it a touristic attraction”.*

This is a clear case of dereliction of duty by WRD which has been constituted to safeguard the water resources of the State of Goa and making any comment of Tourism Potential and beautification of any places falls beyond the scope and domain of the Water Resources Department. The said statement made by WRD on Tourism Potential and Beautification warrants that the role played by WRD in the present case has to be looked at with greater scrutiny as the WRD instead of protecting and preserving the water resources of the state is seeking to venture into Tourism activities.



12. I say that the Appellants are not against repairing of the bund but are against the bund being transformed into a Public Road under the garb and disguise of renovating the bund. I say that the said bund is being transformed into a road of 10 meters width with the sole intention of catering

to the landlocked property that is in Survey No. 12 of Candolim Village. I say that in the Affidavit of Respondent No. 9 there is a tacit admission that in fact the said transformation of the bund from 3 meters to 10 meters built in fact provide an access to many residents in the locality.



13. I say that in the report prepared by the GCZMA as well as the Goa State Biodiversity Board there has been an acknowledgement that vast mangroves existing on the site of the Nerul bund had been destroyed by the WRD.
14. With respect to the allegation of Respondent No. 5 at para 20 of the Reply that the 1936 Plan of Comunidade nowhere indicates that the width of the bund (prior to undertaking of the subject work) was only 3 meters, I say that the same is false and baseless as the plan of the Comunidade of the year 1936 is as per scale mentioned

and width of the bund can be easily arrived at using the same.

15. I say that the WRD has converted and transformed the 3 m of Nerul bund into a 10 meters access/road by doing illegal landfilling.
16. I deny that the Appeal filed by me is barred by law of limitation. I say that in the present Appeal have challenged the Order dated 30/11/2023.
17. I deny that the Present Appeal is not maintainable on the ground of non-joinder of necessary parties that is the Comunidade of Candolim. I say that the Comunidade of Candolim is not a necessary party as the Environment/Ecological issue raised by the Appellant is raised in public interest.
18. I say that the Nerul bund which has been existing for several decades/centuries has been erected not for tourism



purpose as sought to be indicated by the affidavit filed by the Village Panchayat of Candolim. I say that it is absurd for the Village Panchayat of Candolim to even call for the improvement and beautification of the bund by having it transformed from 3 Meters bund into a public access of 10 meters so that it could be used as a tourist attraction. I say that the said paragraph in the reply of the Respondent No. 5 clearly indicates that the Village Panchayat of Candolim has not considered the report prepared by the Goa State Biodiversity Board as well as the Expert Committee Member of the Goa Coastal Zone Management Authority.



19. I say that the so-called beautification work to be undertaken by WRD by putting up paver tiles over the bund with sit outs and lights for making it a tourist attraction runs contrary to the Report prepared by the Goa State Biodiversity Board as well as the Expert Committee recommendations of the Goa Coastal Zone Management Authority. The Appellants crave leave to rely and refer upon the same which have been produced on record in the

present Appeal to rebut the allegations made in the affidavit.

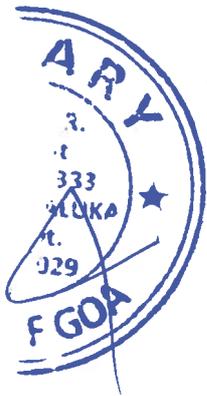
20. I say that the allegation made in paragraph 27 that the Village Panchayat of Candolim has taken appropriate measures to see that the widened bund would not be used, as the access road for the building project of Respondent No. 9 and to that extent incorporating specific safeguards that no road access would be provided thereon is in fact an admission on the part of Respondent No. 5 that there is a motorable/access available now to the landlocked property of Respondent No. 9 i.e. Survey No. 12 of Candolim Village. I say that the so-called safeguards mentioned by the Village Panchayat of Candolim at paragraph 27 are false and pretentious and therefore this Court has to take serious note of the same whilst deciding the present Appeal.

21. I say that at paragraph 28 of the Affidavit filed by the Respondent No. 5 the Village Panchayat of Candolim



*[Handwritten signature]*

where they have stated that they have put gates on the bund so that the same cannot be used as an access road by any private parties in facts corroborates the case of the appellant that in fact the same is an access which can be used by Respondent No. 9 to his landlocked property i.e Survey No. 12 of Candolim Village.



22. I say that the contents of paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 are true and correct to the best of my knowledge.

Solemnly affirmed at Panaji on this 27<sup>th</sup> date of March 2024

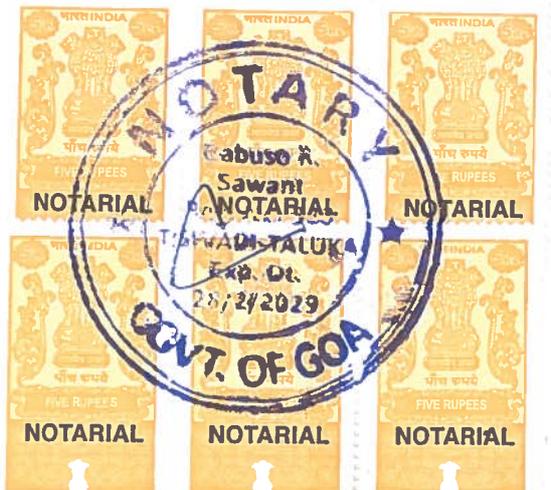
  
THE DEPONENT

Identified by:  
  
Adv. For the Appellants

SOLEMNLY AFFIRMED AND VERIFIED BEFORE/ ME BY 

WHO IS IDENTIFIED BEFORE / ME BY 

REG. No. 5137/2024  
DATED 27/3/2024



  
BABUSO R. SAWANT  
NOTARY PUBLIC  
PANAJI-GOA  
INDIA



Ref. No.: VPC/

Ph: 2489061

**Village Panchayat Candolim**Bardez - Goa  
403 515

Date :

**TRUE COPY OF RESOLUTION NO. 9 (1) PASSED IN THE MONTHLY  
MEETING HELD ON 01/07/2017**

**Sub: Improvement and Beautification of Bandh at Candolim**

**Proposed by: Shri. Salvador B. Fernandes**

**Seconded by: Shri. Fermino Fernanses**

**Resolution No. 9(1)** :- It is unanimously resolved by the panchayat body to request the principal engineer / chief engineer W.R.D to take up the work of improvement and beautification of Bandh from Nerul bridge upo Caculo house at Confraria Vaddo at Candolim side as this bandh was earlier re-constructed by the W.R.D and now the same bandh requires urgent improvement and beautification as the same will be a major tourist destination/attraction and also for the villagers and the tourists. Also the local villagers can take up boating and other activities. And after construction of the same, the village panchayat of Candolim undertakes to maintain the same and the expenditure to be incurred from the panchayat funds.

Approved and passed unanimously by the panchayat body.

Date: 01/07/2017

Place: V.P Candolim



*J. A. S.*  
VILLAGE PANCHAYAT CANDOLIM  
BARDEZ - GOA

# COMMUNIDADE OF CANDOLIM

Opposite Church, Candolim - Goa

Ref: \_\_\_\_\_

Date :- 01/09/2017

## NO OBJECTION CERTIFICATE

This is to certify that the land bearing Sy. No. 13, 241 and 239 of Village candolim is under ownership of Comunidade of Candolim and as such this Comunidade have No Objection to the Concerned Government Authority i.e E.E, WD-I, WRD to take up the work of Improvement and Beautification of existing bund from Nerul bridge to Caculo house at Candolim Bardez, Goa and also any other civil work on the property as mentioned above.

Office of the Comunidade of Candolim.

Date:- 01/09/2017



### CERTIFICATE

No. 13, 241 and 239 of Village  
and of Candolim and as such this  
Communitade of Candolim  
have No Objection to the  
Concerned Government Authority i.e  
Improvement and Beautification of  
existing bund from Nerul bridge to  
Caculo house at Candolim Bardez, Goa  
(Comunidade of Candolim) and  
mentioned above.

*Blaise Fernandes*  
(Blaise Fernandes)  
Attorney

*Blaise Fernandes*  
(Blaise Fernandes)  
Attorney

Comunidade of Candolim

Certified under R.T.I. 2005

*Silva*

Assistant Engineer,  
Sub. Div. II Works Div. I  
Water Resources Department,  
Mapusa - Goa.