

BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT**PUNE****ORIGINAL APPLICATION NO. 10 OF 2023**

(Under Section 18(1) read with Sections 14 and 20 of the National
Green Tribunal Act, 2010)

BETWEEN :

Federation of Rainbow Warriors and Anr) ...Applicants

Versus

Union of India and Ors) ...Respondents

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The index is filed on the 7th day of August at Goa

Through

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Applicant

**BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT
PUNE**

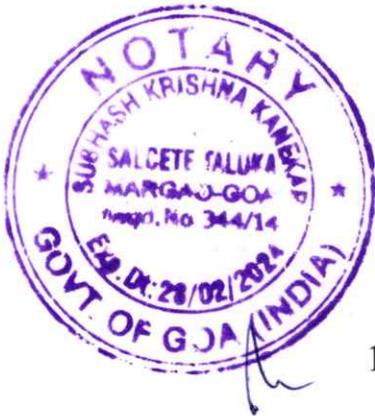
ORIGINAL APPLICATION NO. 10 OF 2023

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**AFFIDAVIT IN REJOINDER ON BEHALF OF THE
APPLICANTS**

1. I, David Rodrigues, the authorised signatory of the Applicant No. 1 above named, age 56 years, r/o House No 1053/B/4, Ulandi, Gandhi Road, Bacbhat, Raia, Salcete, Goa, 403720 being authorised signatory of the Applicant No.1 herein, do hereby state on solemn affirmation.

2. I say that I have read the above captioned Application as well as the affidavit filed by the Respondent No. 1 in OA 106/2022 and am familiar with their contents. Thus I am competent to depose

David Rodrigues

on behalf of the Applicants in the captioned Original Application No. 10/2023.

3. At the outset I say that vide the order dated 10.05.2023, it was recorded by this Hon'ble Tribunal that the Respondent No. 1 MoEF & CC would be filing an affidavit in reply in the present Application within a period of two weeks. Similarly, the Respondent No. 2 and 3 had also sought time to file a reply. However, till date no affidavit has been filed by the Respondents in the present Application.

4. At the further outset, I deny each and every averment, contention, allegation and/or submission made by the Respondent No.1 in their Affidavit in Reply in OA 106/2022 (hereinafter referred to as the "Affidavit"). Nothing should be deemed to have been admitted by me for lack of specific denial unless the same is specifically admitted by me hereinafter.

5. I say that the Respondent No. 1 has only served the Applicants with a copy of the affidavit in Reply filed by it in another connected matter challenging the impugned CRZ Notification of 2019 [OA 106/2022 *Vanashakti and Ors v Union of India*]. It is pertinent to note that the said OA 106 of 2022 has been filed



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by an organization based in Maharashtra, and many of the averments, pleadings, contentions and grievances of the present Applicants, who are based in Goa have not only been unaddressed by the Respondent No. 1 in its affidavit filed in OA 106 of 2022, but also, the contents of the said affidavit filed by the Respondent No. 1 in OA 106 of 2022 pertain majorly to facts and events that have transpired in relation to the implementation of the impugned notification in Maharashtra, and are not relevant to the cause of action as raised by the present Applicants in Goa.

- 6. At the further outset, I say that it is extremely reprehensible for the Respondents to have refrained from filing any affidavits in reply to the present Application, almost 8 months since the present Application was filed and notice was issued by this Hon'ble Tribunal. I say that due to the failure of the Respondents to file affidavits in the present matter, there has been no effective hearing of the Application till date. I say the dilatory tactics of the Respondent in failing to file Affidavits in Reply with a view to delay and frustrate the hearing of the present Application should be severely condemned by this Hon'ble Tribunal and heavy costs should be imposed on the



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Respondents, considering the seriousness and gravity of the present Application and the issues raised therein.

7. I say that with a view to facilitating effective hearings of the present Application, I am hereby filing a brief affidavit in Rejoinder to the Affidavit of the Respondent No. 1 in OA 106 of 2022. I say that I am filing an affidavit in rejoinder to the Affidavit of the Respondent No. 1 in OA 106 of 2022 only because the Respondent No 1 made a statement before this Hon'ble Court that the affidavit it intends to file in the present Application would be similar to its Affidavit in OA 106 of 2022.

8. I say with regards to the contents of paragraphs 1-4 of the Affidavit of the Respondent No.1, the said statements and averments form part of the record in relation to the said matter hence do not warrant any specific comment from me.

9. In relation to paragraph 5 of the Affidavit of the Respondent No. 1, I deny that the impugned CRZ Notification of 2019 is a reflection of the representations from stakeholders such as indigenous coastal communities, fisherfolk, environmentalists and public spirited citizens. I repeat and reiterate my



[Handwritten Signature]

submissions in the present Application that the CRZ Notification of 2019 completely undoes and dilutes the existing protections granted to CRZ areas under the CRZ Notification of 2011. I say that the impugned CRZ Notification of 2019 is contrary to the principle of non-regression and none of its provisions in any reflect the interests of the persons most vulnerable to the consequences of coastal environmental destruction, namely coastal communities of fisherfolk and other residents of coastal areas. I say that a perusal of the impugned CRZ notification makes it evidently clear that the impugned notification has been enacted only with a view to ensure the financial enrichment of builders, developers, industrialists and local governments and their corresponding middlemen and lobbyists.



10. I say that the contents of paragraph 6 and 7 is a matter of record and I do not have any comment on the said paragraph beyond stating that the Shailesh Nayak Committee report was severely flawed, capriciously prepared and ignored and misrepresented the ground reality of the environmental fragility of CRZ areas.

11. I say that I strongly deny the contents of paragraph 8 of the affidavit in as much as the thousands of objections and

suggestions submitted to the draft CRZ Notification published on 18.04.2018 were blatantly ignored by the Respondent No. 1. I say that even the Applicants objections and suggestions at pages 814-867 of the Application was completely ignored and the impugned CRZ Notification of 2019 was not at all prepared after taking the objections and suggestions of the Applicants and similarly aggrieved individuals "into consideration".

12. With regards to the contents of para 9, I say the said "*final Note for approval of CRZ Notification submitted to the Union Cabinet on 10.12.2018*" which was allegedly prepared based on the comments of the 11 Ministries/Department of the Government of India is not in the public domain and the Applicants have no knowledge of its contents. I say that the Respondent No. 1 should be made to produce the said note before this Hon'ble Tribunal. I say that undoubtedly producing the said note would result in some transparency before this Hon'ble Tribunal as to what the real agenda and motivation of the Central Government, particularly the Respondent No. 1 was in relation to enacting the impugned CRZ Notification of 2019.

13. In relation to the contents of paragraph 10, 15 and 16, 21 I say that the said paragraphs are a matter of record and do not




require any specific comment from me beyond the fact that the Respondent no. 1 has conveniently omitted that it is incumbent upon State and UT governments to prepare CZMP maps on the scale 1: 4000 as well as per the Guidelines annexed at Annexure IV of the impugned notification.

14. In relation to the contents of paragraphs 11, 12, 13, 14 and 17 of the Affidavit, I categorically deny the contents of the said paragraphs. I say that contrary to what is stipulated in the said paragraphs, the CRZ Notification of 2019:

- a. Has not been prepared with due consideration of the *“overall imperative of sustainable development of coastal areas and need for conserving coastal environment.”*
- b. Does not *“go a long way in meeting the aspirations of coastal communities and vulnerable populations in the coastal areas at large”*
- c. Has not been framed by following due procedures
- d. Has not been finalized after due diligence involving consultations at various levels and following due procedures.



Subhashi Kulkarni

In fact I say the CRZ Notification of 2019 opens up hitherto preserved coastal regions to unwarranted and environmentally destructive development and has not been prepared in keeping with the goals of sustainable development. I say that the features/provisions of the impugned CRZ Notification of 2019 cited at para 12 of the Affidavit are in fact provisions of the Notification that the Applicants are aggrieved by, as explained in detail in the present Application. I further categorically reject and deny the blatant falsehood in paras 13 and 14 that all Ecologically Sensitive Areas in coastal areas have been mapped and that the *"most sensitive and vulnerable areas in the coastal regions viz CRZ-1 and CRZ-IV have been accorded due importance in coastal environment regulations under the new notification"*. I say that in fact the ecologically sensitive areas of low-lying khazan lands and islands of Goa which were protected as no-development zones under the CRZ Notification of 2011 have been purposefully omitted from the CRZ Notification of 2019.



15. In relation to the contents of para 18 and 19 of the present Application, I say that the contents of the said paragraphs pertain to issues raised in relation to the *Vanshakti* Organisation, particularly its previous litigation in the Hon'ble Bombay High Court and the Hon'ble Supreme Court of India. I

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therefore say that I have no comment in relation to the said paragraphs.

16. In relation to the contents of para 20 of the Affidavit, I deny that the order of the Southern Zone Bench/Principal Bench of this Hon'ble Tribunal dated 11.04.2022 in any way amounts to a condonation or finding of approval of the CRZ Notification of 2019 by this Hon'ble Tribunal or its zonal benches. I say that the issues considered by the Southern Zone/Principal Bench of this Hon'ble Tribunal were completely different to the issues raised in the present Application and further the impugned CRZ Notification of 2019 was not challenged in the said matter.



17. I therefore deny the contents of para 22 of the affidavit and categorically and emphatically deny that the present Application deserves to be dismissed.

18. In relation to the contents of para 23 of the Affidavit I say that the Respondent No.1 has had ample opportunity spanning almost 8 months to file an affidavit in reply in whatever extent and detail it chose to in the present Application and has failed to make use of the same. I say that the Respondent No. 1 should

Subhash

not be afforded any further opportunity to file any further Affidavits in the captioned matter.

19.I accordingly say that the present Application deserves to be allowed and the prayers therein should be made absolute by this Hon'ble Tribunal

Solemnly Affirmed at Goa)

Dated this 7th Day of August 2023)

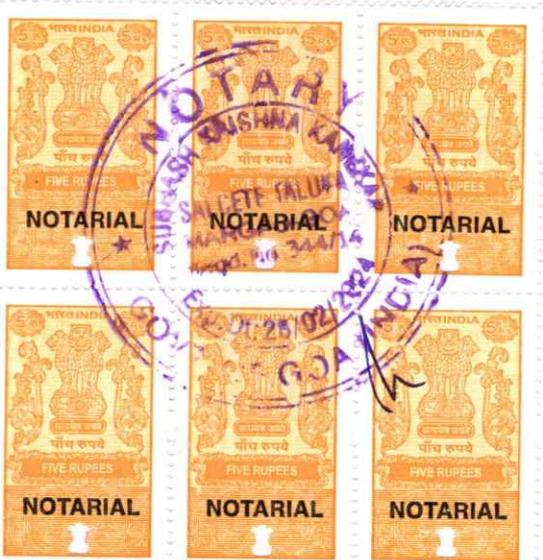
Deponent

(David Rodrigues, the authorised signatory of the Applicant No. 1)

Identified by me

RONITA BHATTACHARYA

Advocate for the Applicant



BEFORE ME
Solemnly affirmed before me by
Shri/Smt. David Rodrigues
Who is identified to me by his
photo card Trk 0311993
Who is personally known to me
this 7th day of Aug. 2023
Reg. No. 1126/2023

SUBHASH KRISHNA KANEKAR
NOTARY
SALCETE TALUKA
STATE OF GOA (INDIA)

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AFFIDAVIT IN REJOINER

On This Dated 7th August 2023

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