

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

APPEAL NO. 06/2024

REAGAN RODRIGUES ..... APPELLANT

V/s

GCZMA & ORS. .... RESPONDENTS

**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 1**  
**GOA COASTAL ZONE MANAGEMENT AUTHORITY**

I, Johnson Bedy Fernandes, Indian National, major of age, having office at 4<sup>th</sup> Floor, Dempo Towers, Patto, Panaji-Goa, the Member Secretary of the Respondent No. 1 above named, do on solemn affirmation state and submit as under:

1. I say that I am the Member Secretary of Respondent No.1, the Goa Coastal Zone Management Authority and am authorised to affirm the present reply affidavit on its behalf. I have examined the relevant records available in my office in respect of the above matter and am affirming the present reply Affidavit based on the same. Nothing in the present reply Affidavit may be deemed to be an admission of any of the contents of the above-captioned Appeal. Nothing in the above-captioned Appeal may be deemed to have been admitted for mere want of specific denial.

2. I say that the present Appeal has been filed seeking directions for quashing and setting aside the impugned order dated 27/11/2023 passed by the Respondent by virtue of which the proceedings against Respondent No.1 are dropped. I say that the impugned order is annexed at Page No. 48 to the Appeal. I say that the Appellant had filed a complaint against the Respondent No.2 for carrying illegal construction

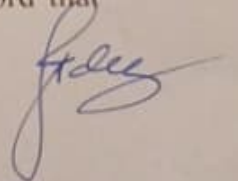
within CRZ area in the property surveyed under Survey No. 50/1 and 50/3 of village Cavellossim of Salcete taluka.

3. I say that the Respondent had forwarded the complaint to the Chairman of District Level Committee (DLC) to inspect the site and submit the report. The DLC had submitted the report after conducting site inspection. The site inspection report is annexed at Annexure H to the Appeal. The specific remarks about Respondent No. 2's alleged illegal structure are there at page No.109 to the Appeal (Exhibit H). I say that the Present Respondent issued show cause notice to the Respondent No. 2 with regards to illegal construction in Survey No. 50/1 and 50/3 of village Cavellossim of Salcete taluka and Respondent No.2 filed his reply and produced necessary documents to support his case. I say that the present Respondent perused the reply and documents produced by Respondent No. 2 and noted that the Respondent No. 2 constructed structures in property bearing Survey No. 50/1 and 50/3 of village Cavellossim of Salcete taluka in the year 1951 and to substantiate his claim, he produced permission dated 27/12/1951 granted by the Camara Municipal De Salcete. Respondent No.2 claimed that he has not constructed any new structures and all structures of the Respondent No. 2 are of the year prior to 1991. The permission licence for construction by the then Camara Municipal De Salcete is annexed at Exhibit M to the Appeal at page No. 124.
4. I say that Respondent No. 2's contention is that the Respondent's property is beyond the purview of CRZ as there exists a sluice gate on the Western Bank of river Sal i.e. at the mouth of water channel which is a Poiem. According to the Respondent No. 2, the said sluice gate is non operational /dysfunctional, which led to inlet of tidal water upto the Poiem, however, same cannot be considered as riverine part and therefore it doesn't fall under CRZ area. Poiem is a fresh water body which is beyond the tidally



influenced area therefore CRZ is not applicable for Respondent property. According to Respondent No.2, the property of Respondent is lying 300 MTR away from the Western bank of river Sal and therefore it doesn't fall within 100 mtrs NDZ (No Development Zone) of river Sal. To support above contentions, Respondent No. 2 produced two reports, one of Sadekar Enviro Engineers Pvt Ltd (annexed at Page No. 172 to the Appeal) which is an accredited EIA Consultancy recognised by MOEF & CC and second report prepared by Dr. Nandkumar Sawant and Mr. Deepak Kumbhar (annexed at Page No. 145 to the Appeal). Both reports claim that there exists a sluice gate and due to the destruction of the sluice gate, led the tidal water upto the property of Respondent No. 2 hence CRZ Jurisdiction is not applicable to the Respondent property.

5. I say that the Respondent Authority also deliberated and discussed that Respondent No. 2 produced documents which state that Respondent No. 2's father Mr. Alexio Caetaninho Passanha obtained licence dated 11/12/1951 from Camara Municipal De Salcete (presently Margao Municipal Council) and Respondent No. 2 claims that after obtaining the said licence, Respondent's father constructed rooms in Survey No. 50/1 of village Cavellosim. From this it is evident that there were authorised structures in property Survey No. 50/1 of village Cavellosim, constructed prior to the year 1991 before CRZ notification came into force. Therefore structures of Respondent No. 2 were considered to be authorised structures constructed prior to the year 1991 much before CRZ notification came into force.
6. I say that the present Respondent perused both the reports produced by Respondent No. 2 and observed that both the reports concluded that there exists sluice gate and CRZ Jurisdiction lies upto that sluice gate and the Respondents property is lying beyond CRZ purview. The present Respondent also observed that both the reports record that



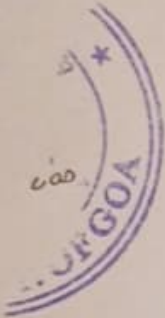
there exists a sluice gate and due to the destruction/ non functional sluice gate there is ingress of tidally influenced water upto Respondent No. 2's property, therefore CRZ jurisdiction is not applicable to the Respondent property. The present Respondent also observed that on Goa approved CZMP 2011, there are altogether three sluice gates shown near the Respondent No. 2's property and same are marked by NCSCM (National Centre for Sustainable Coastal Management). Hereto annexed and marked Goa approved CZMP 2011 abstract of the relevant plan of the property which is at Annexure 1. The sluice gates are identified in black colour in the nature of a box in the said Annexure 1.



7. The present Respondent is of the opinion that as per the S.O. 1422(E) dated 01/05/2020 amendment CRZ 2011 notification which says that in case there exists a bund or a sluice gate constructed in the past, prior to the date of CRZ notification issued vide S.O. 114 (E) dated 19/02/1991, the HTL shall be restricted to the line along the bund or the sluice gate. I say that in the present matter, as per expert reports produced by Respondent No. 2, there exists sluice gate and same is breached therefore, aforesaid amendment dated 01/05/2020 in CRZ Notification 2011, is applicable in the present matter and CRZ jurisdiction is not applicable to the Respondent No. 2's property. Hereto annexed and marked copy of S.O. 1422(E) as Annexure 2.
8. I say that for these reasons, the present Respondent decided to drop the proceedings against Respondent No. 2 and discharged the Show Cause Notice against the Respondent.
9. In view of the aforesaid, it is most humbly submitted that the above-captioned Appeal filed by the Appellant above-named deserves to be dismissed.

DEPONENT

VERIFICATION



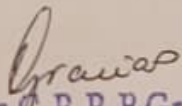
I, the deponent above-named do solemnly affirm that all that is stated in this Affidavit is true to the best of my knowledge and belief, which is based on the records available in respect of the issues involved in the above-captioned Appeal. Nothing false has been stated herein.

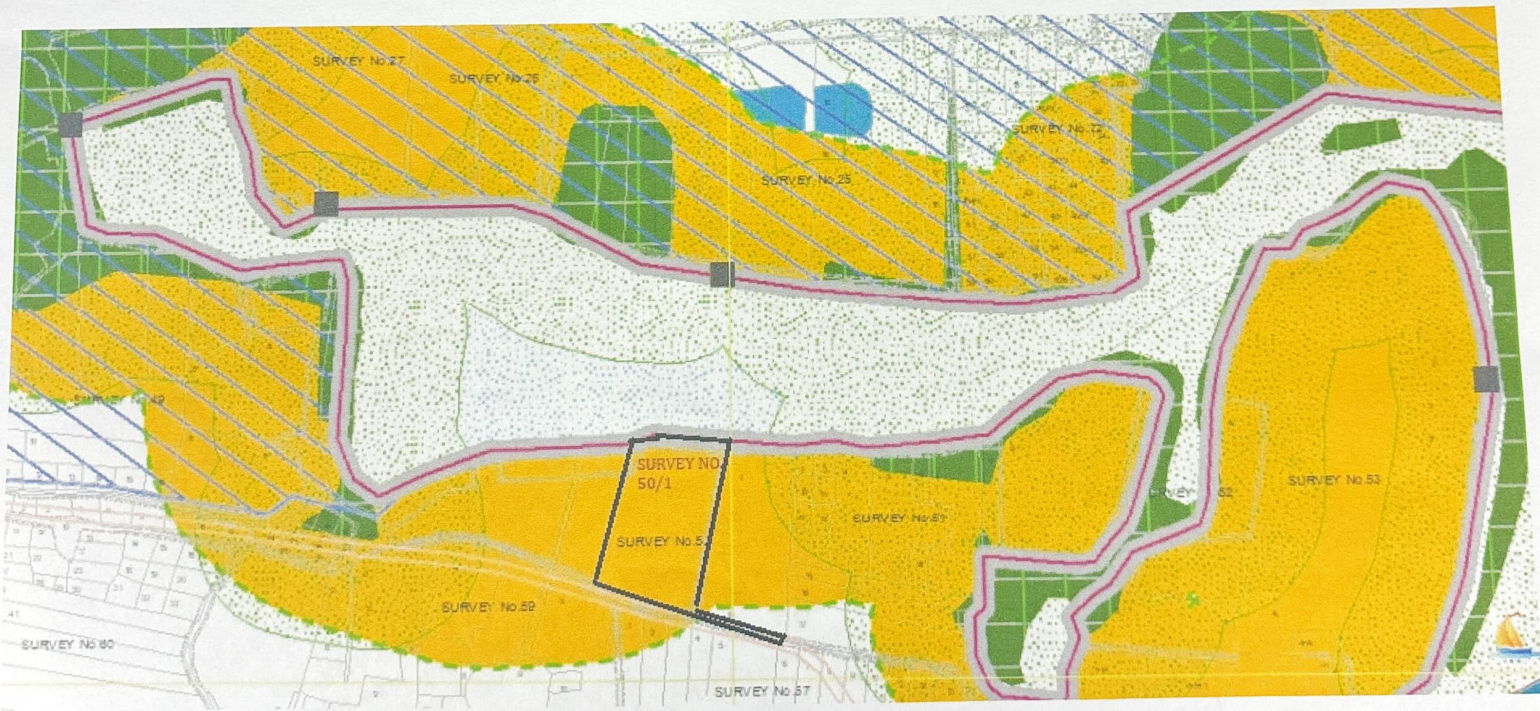
Verified at Panaji on this 01<sup>st</sup> day of August, 2024.

  
DEPONENT



Solemnly affirmed before me  
Johnson Bedy Fernandes  
Who is identified before me by  
\_\_\_\_\_  
\_\_\_\_\_  
At Panjim - Goa  
Sr. No. 110/08/2024  
Date. 01/08/2024

  
Venefrada C.P.P.B Gracias  
Advocate & Notary Goa State





# भारत का राजपत्र

## The Gazette of India

सी.जी.-डी.एल.-अ.-05052020-219295  
CG-DL-E-05052020-219295

असाधारण  
EXTRAORDINARY  
भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)  
प्राधिकार से प्रकाशित  
PUBLISHED BY AUTHORITY

सं. 1274]  
No. 1274]

नई दिल्ली, मंगलवार, मई 05, 2020/वैशाख 15, 1942  
NEW DELHI, TUESDAY, MAY 05, 2020/VAISAKHA 15, 1942

पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय

अधिसूचना

नई दिल्ली, 1 मई, 2020

का.आ. 1422(अ).— भारत सरकार के पर्यावरण और वन मंत्रालय की अधिसूचना संख्या का.आ. 19(अ.), तारीख 6 जनवरी, 2011 (जिसे इसमें इसके पश्चात् तटीय विनियमन क्षेत्र अधिसूचना, 2011 कहा गया है) द्वारा केंद्रीय सरकार ने कतिपय तटीय विस्तारों को तटीय विनियमन क्षेत्र के रूप में घोषित किया था और उक्त क्षेत्र में उद्योगों को स्थापित करने और विस्तार करने, प्रचालन और प्रसंस्करण पर निर्बंधन अधिरोपित किये गए थे ;

और, केंद्रीय सरकार ने विभिन्न पणधारियों, जिनके अंतर्गत राज्य सरकारें भी हैं, से उक्त अधिसूचना के उपबंधों के अधीन खजान भूमि से बंड/ गीली भूमि तक एच टी एल के चिन्हांकन, और सुंदरबन जैव आरक्षित में एच टी एल और सी आर जेड प्रवर्गों की रूपरेखा हेतु अभ्यावेदन प्राप्त हुए हैं ;

और, 13 जनवरी, 2020 को हुई अपनी 39 वीं बैठक में राष्ट्रीय तटीय क्षेत्र प्रबंध प्राधिकरण ने भी यह विनिश्चित किया था कि ऊपर वर्णित मुद्दों पर विचार करने की आवश्यकता है ;

और, केंद्रीय सरकार की, पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उपनियम (4) के उपबंधों को ध्यान में रखते हुए यह राय है कि उक्त तटीय विनियमन क्षेत्र अधिसूचना, 2011 के संशोधन के लिए उक्त नियमों के नियम 5 के उपनियम (3) के खंड (क) के अधीन नोटिस की अपेक्षा को समाप्त करना लोक हित में होगा,

अतः, अब केंद्रीय सरकार, पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उपनियम (3) के खंड (घ) के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3 की उपधारा (1) और उपधारा (2) के खंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, तटीय विनियमन क्षेत्र अधिसूचना, 2011 में निम्नलिखित और संशोधन करती है, अर्थातः-

1. पैरा 2 में निम्नलिखित परन्तुक अंतः स्थापित किया जाएगा अर्थात्:-

"परंतु का. आ.114(अ), तारीख 19 फरवरी, 1991 द्वारा अधिसूचना जारी करने की तारीख के पूर्व, बंद विद्यमान होने या गीली भूमि द्वार का सन्निर्माण होने के मामले में, एच टी एल का निर्बंधन बंद या गीली भूमि द्वार रेखा तक होगा और ऐसे मामले में बंद या गीली भूमि द्वार से आगे खारे पानी के कारण उद्भूत कच्छ वनस्पति के अधीन क्षेत्र, बंद या गीली भूमि द्वारा से आगे क्षेत्र का विस्तार होते हुए भी सी आर जेड-14 के रूप में वर्गीकृत किए जाएंगे। कच्छ वनस्पति के अधीन ऐसे क्षेत्र संरक्षित किए जाएंगे और उनका किन्हीं विकास संबंधी क्रियाकलापों के लिए परिवर्तन नहीं किया जाएगा।"

2. पैरा 7 के उप पैरा (i) के खंड अ के उपखंड (ड) में "जैव आरक्षित" शब्दों के पश्चात् निम्नलिखित अंतः स्थापित किया जाएगा, अर्थात् :-

"सुन्दर वन जैव आरक्षित के मामले के सिवाय, जिसमें सी आर जेड का प्रवर्गीकरण और एच टी एल तथा सी आर जेड सीमाओं की रूपरेखा सी आर जेड अधिसूचना, 2011 के उपबंधों के अनुरूप की जाएगी।

**टिप्पण :** सुंदरवन जैव आरक्षित के भीतर रेखांकित सी वी सी ए, राज्य सरकार द्वारा तैयार और केंद्रीय सरकार द्वारा अनुमोदित एकीकृत प्रबंधन योजना द्वारा प्रबंधित किया जायेगा।"

3. विशेष ध्यान की अपेक्षा वाले क्षेत्रों से संबंधित पैरा 8.V के अधीन, खंड(3) में, उपखंड(iv)के स्थान पर, निम्नलिखित उपखंड रखा जाएगा, अर्थात् :-

"(iv) पारिस्थितिक संवेदनशील निम्नस्थ क्षेत्र जो ज्वार भाटा द्वारा प्रभावित होते हैं और खजान भूमि के नाम से ज्ञात हैं, उनका नक्शा तैयार किया जाएगा और का. आ.114(अ), तारीख 19 फरवरी, 1991 द्वारा अधिसूचना जारी करने की तारीख के पूर्व, बंद विद्यमान होने या गीली भूमि द्वार का सन्निर्माण होने के मामले में, एच टी एल का निर्बंधन बंद या गीली भूमि द्वार रेखा तक होगा और ऐसे मामले में बंद या गीली भूमि द्वार से आगे खारे पानी के कारण उद्भूत कच्छ वनस्पति के अधीन क्षेत्र, बंद या गीली भूमि द्वारा से आगे क्षेत्र का विस्तार होते हुए भी सी आर जेड-14 के रूप में वर्गीकृत किए जाएंगे। कच्छ वनस्पति के अधीन ऐसे क्षेत्र संरक्षित किए जाएंगे और उनका किन्हीं विकास संबंधी क्रियाकलापों के लिए परिवर्तन नहीं किया जाएगा।"

[फा. सं. 19-27/2015 आई ए III (भाग)]

अरविंद कुमार नौटियाल, संयुक्त सचिव

**टिप्पण:** मूल अधिसूचना, भारत के राजपत्र, असाधारण, भाग II, खंड 3, उप-खंड (ii) में संख्या का.आ. 19 (अ), तारीख 6 जनवरी, 2011 द्वारा प्रकाशित की गई थी और उसमें अंतिम संशोधन का.आ. 1002(अ), तारीख 6 मार्च, 2018 द्वारा किया गया।

## MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

### NOTIFICATION

New Delhi, the 1st May, 2020

**S.O. 1422(E).**— WHEREAS by notification of the Government of India in the Ministry of Environment and Forests number S.O. 19(E), dated the 6th January, 2011 (hereinafter referred to as the Coastal Regulation Zone Notification, 2011), the Central Government declared certain coastal stretches as Coastal Regulation Zone and restrictions were imposed on the setting up and expansion of industries, operations and processes in the said zone;

AND WHEREAS, the Central Government have received representations from various stakeholder including the State Governments regarding need for restricting demarcation of HTL in Khazan Land to the bund/sluice gate, and delineation of HTL and CRZ categories in the Sundarbans Biosphere Reserve under the provisions of the said notification;

AND WHEREAS, the National Coastal Zone Management Authority in its 39th meeting held on 13th January, 2020 had also decided that the above-mentioned issues need consideration;

AND WHEREAS, the Central Government, having regard to the provision of sub-rule (4) of rule 5 of the Environment (Protection) Rules, 1986, is of the opinion that it is in public interest to dispense with the requirement of notice under clause (a) of sub-rule (3) of rule 5 of the said rules for amending the said Coastal Regulation Zone Notification, 2011.

NOW THEREFORE, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following further amendments in the Coastal Regulation Zone Notification, 2011, namely: -

1. In paragraph 2, the following proviso shall be inserted, namely: -

*“Provided that in case there exists a bund or a sluice gate constructed in the past, prior to the date of notification issued vide S.O. 114(E) dated 19th February, 1991, the HTL shall be restricted up to the line long along the bund or the sluice gate and in such a case, area under mangroves arising due to saline water ingress beyond the bund or sluice gate shall be classified as CRZ-IA irrespective of the extent of the area beyond the bund or sluice gate. Such areas under mangroves shall be protected and shall not be diverted for any developmental activities.”*

2. In paragraph 7, in sub-paragraph (i), in clause A, in sub-clause (e), after the words “Biosphere Reserves”, the following shall be inserted, namely: -

*“except in the case of the Sundarbans Biosphere Reserve, wherein, the categorization of CRZ and delineation of the HTL and CRZ boundaries shall be done in consonance with the provisions of the CRZ Notification, 2011*

Note: The CVCA delineated within the Sundarbans Biosphere Reserve shall be managed by the Integrated Management Plan prepared by the State Government and approved by the Central Government”.

3. Under paragraph 8.V relating to Areas requiring special consideration, in clause 3, for sub-clause (iv), the following sub-clause shall be substituted, namely: -

*“(iv) the eco sensitive low lying areas which are influenced by tidal action known as khazan lands shall be mapped and in case there exists a bund or a sluice gate constructed in the past, prior to the date of notification issued vide S.O. 114(E) dated 19th February, 1991, the HTL shall be restricted up to the line long along the bund or the sluice gate and in such a case, area under mangroves arising due to saline water ingress beyond the bund or sluice gate shall be classified as CRZ-IA irrespective of the extent of the area beyond the bund or sluice gate. Such areas under mangroves shall be protected and shall not be diverted for any developmental activities”.*

[F. No. 19-27/2015-IA III (pt)]

ARVIND KUMAR NAUTIYAL, Jt. Secy.

**Note:** The principal notification was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number S.O. 19 (E), dated the 6th January, 2011 and was last amended vide number S.O. 1002(E), dated 6th March, 2018.