

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

O.A. 193/2023

Narendra Gaude & Ors.

...Applicants

Versus

State of Goa & Ors.

...Respondents

**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NOS. 3,  
4 & 5**

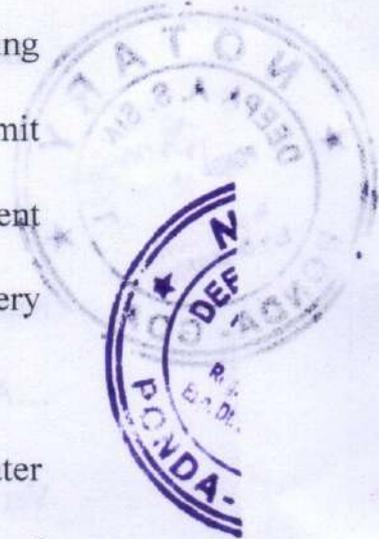
I, Mr. Shailesh Keshav Naik, The Executive Engineer, Works Division XI, Age: Adult, Occupation: Service, having office at: Water Resources Department, Government of Goa Rawanford, Salcete, Goa- 403601, do take oath and state as under:

1. The Applicant has filed the application under reply for Construction of a Barrage on Khandepar River at Muridwada contending that the present Respondent has violated conditions

*Naik*

in the NOC granted by Respondent No. 2 thereby threatening the CRZ areas, fisheries and local community. I say and submit that since the inception of the project the present Respondent had faced tremendous opposition by the villagers with every attempt to stall the project.

2. I say and submit that the project under consideration is a Water Resources development project. The development of sustainable water resources and management of the same along with equitable distribution is the mandate of the Government.
3. I say and submit that when this project was proposed certain group of people from the same area who are indulged into sand mining were instigating the villagers and were creating public nuisance.
4. I say and submit that the present Respondents has followed due process of law towards obtaining Technical sanction, Administrative Approval, and Expenditure Sanction. I further say and submit that in view of the Resolution No. 10(5) in the meeting held on 05.10.2023 approving the Construction of the



*[Handwritten signature]*

Barrage on Khandepar River at Survey No. 39 of Khandepar Village in front of Lift Control Factory, the site is then relocated at Survey No. 36/1 of Khandepar Village with the approval of Respondent No. 1.

5. I say and submit that a meeting was conducted with the villagers of Muridwada wherein obstructions were received from the residents of Gauthan, Murid, Khandepar which were considered and public hearing was given. After considering the objections and the outcome of public hearing the Government has approved the site to be shifted 500 meters upstream of the village.

6. After adopting due process of law and opportunity of hearing given to the villagers the work order was issued on 01.07.2022 to the Respondent No. 9 for the construction of barrage at Muridwada.

7. It is pertinent to note that enormous correspondence has taken place from many villagers from Usgaon, Khandepar etc. and the villagers have strongly objected to the project. Some of



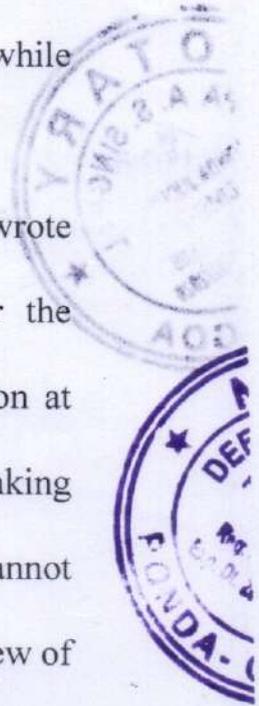
*[Signature]*

*[Signature]*

them also contended that the person who have written letter did not have right over the property mentioned. Thus, even the personal dispute among the individuals cropped up while executing the project.

8. I further say and submit that even the Respondent No. 10 wrote a letter thereby asking rejection of the proposal for the Construction of Barrage and Raw water pumping station at Muridwada. I say and submit that this project is for drinking water purpose and the Panchayat i.e. Respondent No. 10 cannot resist the same and the same does not fall under the purview of the Goa Panchayat Raj Act, 1994.

9. I say and submit that in view of the work order dated 01.07.2022 the construction work has commenced complying with all the conditions laid down in the NOC. But again the villagers from Sonarbag, Usgao have made agitations and obstructed the work. I say and submit that the project work started on many occasions i.e. on 01.11.2022, 17.01.2023 and 02.05.2023 but the same had to be stopped due to the



*[Handwritten signature]*

*[Handwritten signature]*

objections of the villagers who claimed to be agricultural tenant. At this juncture it is important to note that the project of utmost importance for the public at large was obstructed because of the personal disputes between the owners and the agricultural tenants in the said area.

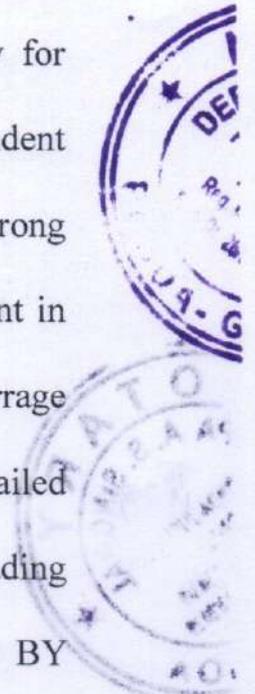
10. It is submitted that due to this constant agitation and resistance at instigation by two people for obstruction of the work, Section 144 of CrPC was imposed. In spite of the following due process of law, due consideration to the objection raised and opportunity of hearing accorded the villagers continued with the strong resistance without considering the interest of public at large.

11. It is further submitted that the current project in Survey No. 36/1 of Khandepar Village does not fall in the CRZ area as per the approved CZMP 2011. For the activity which commenced in the above-mentioned Survey No. the NOC by the Respondent no. 2 is not applicable.



*[Handwritten signature]*

12.I say and submit that till date the present Respondent has not commenced the work in the CRZ area. The preliminary work of temporary shade, construction of site office, facility for storage of material was carried out but the present Respondent could not continue with the work because of the strong resistance and opposition by the villagers. The Applicant in para 68, where it is stated that the 'Construction of the Barrage in CRZ area has not commenced except for three failed attempts to start the work.' Whereas under the heading DISTRUCTION OF THE ENVIRONMENT CAUSED BY PROJECT IN PARA 37 IT IS MENTIONED IN THE CONTRARY THAT THE CONSTRUCTION WORKS ARE AT AN INITIAL STAGE AT PRESENT. At site of the Barrage Construction of the approach road has started outside the CRZ area. Within CRZ, an excavation had been used to dig the bank of the river and mangroves have been felled illegally. I say and submit that this discrepancy in the pleading clearly shows that the Applicant is misguiding the Court. The work has not yet





started in the River and no mangroves have been felled. It is further submitted that as far as the area which does not fall under the CRZ, activity in the said area cannot be stopped on the false allegation of non-compliance of NOC. Because the NOC is applicable only with respect to area falling within CRZ.

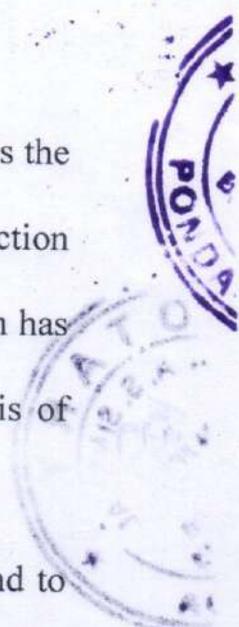
13. I say and submit that it is not true to say that the present Respondent is destructing the estuarine area, mud flats, fisheries, shell fish breeding grounds, aquatic flora and fauna, mangroves etc. I say and submit that the present Respondent has not started the work in the river nor any cutting of Mangroves has taken place. As the project could not start because of the resistance and opposition of the villagers, compliances mentioned in the permission cannot take place unless and until the work commences and which could not be possible because of the accusation of the villagers.

14. I further say and submit that repetitive contentions can be seen in the application regarding destruction of fishery resources,

mangrove destruction and damage to the mud flats. But as the work could not commence the question of alleged destruction of the environment does not arise. The initial work which has commenced is towards the Usgao site where the bank is of laterite rock and there is no existence of mangroves.

15. It is submitted that the present Respondent is duty bound to adhere to the condition and assure the same. The present application is premature with mere apprehension and false presumption that the conditions in the Impugned NOC would not be complied with by the present Respondent.

16. I say and submit that the present Respondent had conducted meetings and discussions with the villagers and a detailed Power Point Presentation was conducted for the villagers as well as the Panchayat members. All the technical issues were answered and efforts were made to convince the villagers about the long-term benefits of the projects. However, the villagers were prejudiced and vehemently opposing the construction of the project.



*[Faint signature]*  
*[Signature]*



It is further submitted that the Applicant had raised concern regarding the salinity ingress in the River water. In this regard

I say and submit that the salinity ingress starts only during months of January to May when the flow in the upstream portion of Khandepar Village dwindles. During monsoon the fresh water flow in the River will not allow the ingress of salinity. Since the Barrage gates would be fully kept open during monsoon, there will not be any change in the system.

18. The Respondents submit that the apron will be built up at the River bed level, and not on the 9 meters or higher wall above the River bed. The section of the River in 2018 and at present are changed due to the illegal sand extraction.

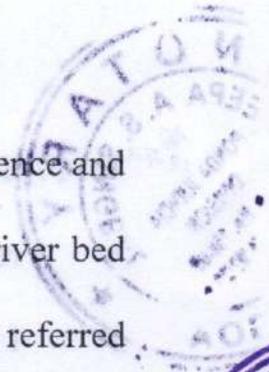
19. The Respondent submits that the allegations with respect to the presence of mangroves and alleged illegal destruction of mangroves by the present Respondents are denied in toto.

20. It is submitted that the project has not commenced in the CRZ area inside the river. The accusations regarding felling of mangroves is false and not admitted by the present Respondent.

21. It is not true to say that the contour plan is not in existence and available with the offices. The cross-sections of the river bed at the site were taken in the year 2018 and the same are referred while considering the execution of the project.

22. The Respondent submits that the contents with respect to adverse impact of Construction of Barrage which would allegedly obstruct the flow of flood waters is false and incorrect hence the present Respondent denies the same.

23. It is further submitted that the present Respondent has considered the project on the scientific feasibility. Presently the villages of Querim and Savoi Verem, face a crisis of drinking water supply in the lean season, i.e. from February to May, as the PWD water supply is restricted drastically due to non-availability of Raw water at Opa water treatment Plant. The shortage of drinking water is catered by supplying water through Water Tankers wherever possible. Therefore considering the increase in the growth of population and other demands for Irrigation, it was envisaged to create a Raw water



*[Handwritten signature]*

*[Handwritten signature]*

storage of 15.0 lakh cu.m, by Construction of Barrage at Muridwada.

24. The Respondent submits that the contents in para 15 are not true and correct. It is not true to say that there is no fresh water available in the river Khandepar for the Barrage. In fact, the barrage is planned to impound 15.00 lac. Cu. M. of water which would flow from the month of November into the sea.

25. It is not true to say that there is no study of aquatic ecology is submitted by the present Respondent to the Respond No 2. An Exhaustive Environmental Impact Assessment Report has been submitted to the GCZMA in this regard.

26. I say and submit that there is no violation of the conditions of the NOC dt. 11.06.2021. the special condition "the project proponent shall be under obligation to obtain approvals from other competent authorities including local body under any other Acts or Regulations are applicable to the project, further subject to the conformation with local building bylaws." It is important to note here that these conditions are not applicable



*[Signature]*

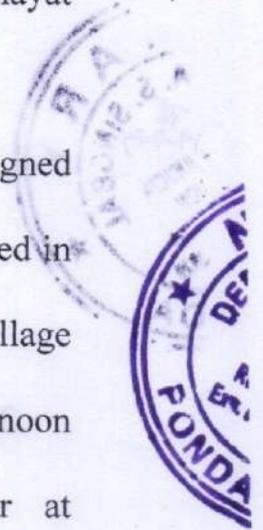
*[Signature]*

to the water storage projects. Furthermore no approvals are required from the Town and Country Planning with respect to the water storage project as per 244A of The Goa Panchayat Raj Act, 1994.

27. It is not true to say that no information regarding the impugned project was provided. The public meetings were conducted in this regard by the present respondent on 21.05.2023 at Village Panchayat Usgaon in the morning session and in the afternoon session at the Village Panchayat Curti Khandepar at Murdiwada on the same date.

28. It is further submitted that whatever negligible amount of work has commenced in Sy. No. 36/1 in Khandepar village the same does not come under CRZ area as per CZMP 2011 for Goa.

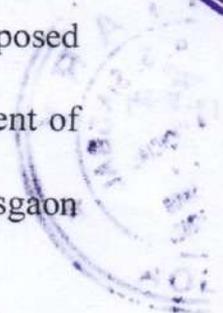
29. The present respondent before commencing the project has adhered to all the mandatory legal requirements. The present respondent has also undertaken confidence-building exercise for the communities living in and around the project area. On 21.05.2023 the present respondent had carried out interaction





that the Barrage is an open type of Barrage and the water and silt will be let out by the opening of the gates during rainy season and during the non-rainy season the water and silt will be let out through silt excluder if required. The structure is an open type of structure which will not block any flow of water nor lead to flood efflux. It is not true to say that the proposed Barrage will have disastrous impact upon the environment of river Khandepar and the Tribal and other residents of Usgaon and Khandepar village.

31. The Respondent submits that there already exists a natural water storage tank at Bhutkhamb Plateau on the top of the Querim and Savoi Verem villages which is in dilapidated condition and the present Respondent is strengthening the same. The water will be stored in the Shitole Tank for drinking water and irrigation purpose. Thus there is no question of new construction of storage tank. It is just the strengthening of the existing water tanks. It is not true to say that the revamping of existing storage tank at Bhutkhamb plateau would open the



*[Handwritten signature]*

*[Handwritten signature]*

plateau to rampant constructions. The accusations in this regard are baseless and without any substantial proofs thereof.

32  
19-7-24  
J.S.

It is further submitted that after making every endeavor to execute the project with all necessary legal requirements and with all the assurances to strike a balance between development and environment the present respondent has proposed the drinking water project which is the subject matter of the present application. Although the present respondent tried all means by educating people/ villagers by holding Gram Sabha / Public Presentation, Ministerial Meetings with agitating villagers on the ground the villagers continue to disturb and resist the said project. The same resulted into an unreasonable delay of more than 2 years. In spite of Police intervention the project could not substantially commence. In addition to this the Department had carried out the hydrographic survey riverbed/ mapping, it is observed that the riverbed has deepened as much as 7mts to 9mts below the normal bed level at the center of the river. Which may be the result of

This affidavit document is executed  
illegal extraction of riverbed material. This has damaged the site

*Sub*

DEEPA A. S. SINGHAL  
NOTARY PUBLIC  
FO-51, Ponda Commerce Centre,  
PONDA-GOIA

Reg. No. 21035/24

and to restore the same huge quantity of earth filling would be required. Considering all the above factors the project does not seem to be technoeconomically viable at present. Hence, the matter was brought to the notice of Respondent No.1- The State of Goa pointing all the issues. The Respondent No.1 has thus approved the abandonment of the project. A Notice dt. 10.04.2024 with regard to the foreclosure of contract with respect to abandonment of the project was issued to Respondent No.9. The same is annexed herewith and marked as 'Annexure'.

Hence this Affidavit.

I know the Affiant

Affiant

Advocate



This affidavit / document is executed before me and I state

DEEPA A. S. SINGBAL  
NOTARY PUBLIC  
FO-51, Ponda Commerce Centre,  
PONDA-GOIA

Reg. No. 21454/24