



**BEFORE THE NATIONAL
GREEN TRIBUNAL WESTERN
ZONE AT PUNE**

APPEAL NO. 164/2024 WZ

SUNIL MANDREKAR & OTHERS ... APPELLANTS

V/S

1) GOA COASTAL ZONE

MANAGEMENT AUTHORITY ... RESPONDENT NO. 1

2) RIVER NAVIGATION

DEPARTMENT,

GOVT. OF GOA. ... RESPONDENT NO. 2

**REPLY AFFIDAVIT ON BEHALF OF
RESPONDENT NO. 2**

I, Vikramsinh N. Rajebhosale, son of Nanasahab Rajebhosale, aged about 59 years, Indian National, Director of River Navigation Department, the Respondent no.2 herein, having office at Betim, Bardez, Goa, do hereby solemnly affirm and state as follows:

1. I say that I have been duly served with a copy of the appeal memorandum and having perused the contents



and arguments contained therein, I submit this reply being duly authorized on behalf of Respondent No. 2.

2. I say that any statement or argument contained in the appeal which is contrary to the statements and submissions contained in this reply shall be deemed to be denied, and nothing to the contrary shall be deemed to be admitted for want of specific traverse.
3. I say that the statements contained in the appeal and the submissions made thereunder are misconceived, false, erroneous and without any substance in law or fact. As such present appeal is liable to be dismissed in limine.
4. I say that the Appellants have raised a challenge to the demolition order dated 24.09.2024 passed by Respondent No. 1 - Goa Coastal Zone Management Authority in proceedings bearing Reference No. GCZMA/N/ILLE-COMPL/24-25/10/2008. I say that the challenge is primarily two-fold: firstly, on the

fepkosal



ground of violation of natural justice and second, on the ground that the structure existed prior to 1991.

5. I say that I shall first address the contention of violation of principles of natural justice as urged by the Appellants before proceeding to respond on the merits.
6. I say that vide complaint dated 22.12.2023, this Respondent brought to the notice of the Member Secretary of GCZMA that a shop/house has been constructed right next to the Narao ferry ramp in the property bearing survey no: 48/21 of village Narao-Bicholim (Subject property), which is obstructing the vehicular traffic moving to and from the ferry docking at the Narao jetty.
7. I say that it was specifically stated in the complaint that the structure so constructed falls within 100 meters (NDZ) in CRZ-III zone in terms of the CZMP 2011. I say that photographs of the structure were annexed to support the complaint. Hereto annexed and marked as

feshesh



“Annexure R-1-Colly” is a copy of the complaint dated 22.12.2023 along with the photographs attached thereto.

8. I say that similar complaints were also preferred before the Village Panchayat of Narao, Deputy Collector Bicholim, and Deputy Town Planner, Bicholim vide complaint dated 18.12.2023.

9. I say that taking cognizance of the aforementioned complaints, a joint site inspection was carried out by GCZMA, i.e. Respondent no.1 on 28.03.2024, which observed the existence of one laterite masonry structure with G.I. sheet roofing measuring 6.40 mtr. x 14.00 mtr., occupied by Mr. Dayesh Mandrekar and operating a bar and restaurant business under the name "Village Bar & Restaurant". Hereto annexed and marked as “Annexure R-2” is a copy of the site inspection report dated 28.03.2024.

Febusda



10. I say that accordingly, Show Cause Notice dated 21.05.2024 was issued to Mr. Dayesh Mandrekar calling upon him to show cause why action under the provisions of the Environment Protection Act, 1986 should not be initiated to demolish the subject structure and direct restoration of the land. I say that Mr. Dayesh Mandrekar was called upon to file his reply and place on record permissions issued by competent authorities to prove the legality of the construction.

11. I say that GCZMA conducted the first hearings in Case No. GCZMA/N/ILLE-COMPL/24-25/10/2008 in its 402nd meeting held on 11.06.2024, wherein Mr. Dayesh Mandrekar sought time to file his reply, which was granted, and the matter was posted for hearing on 01.08.2024.

12. I say that the matter was thereafter taken up for hearing on 01.08.2024 in the 408th meeting of GCZMA. I say that Mr. Dayesh Mandrekar was present but filed no reply or documentary proof to establish the legality of

Febkosal



the structure. I say that he made only an oral submission claiming that no illegal construction was carried out and that the shop/house existed prior to 1991, thus praying for withdrawal of the Show Cause Notice.

13. I say that GCZMA, after considering the site inspection report, observed that the structure was unauthorized and illegal, as no permission or NOC had been obtained from GCZMA for construction or reconstruction within the NDZ area of River Mandovi. I say that accordingly, vide order dated 24.09.2024, GCZMA issued directions under Section 5 of the Environment Protection Act directing Mr. Dayesh Mandrekar to demolish the offending structure.

14. I say that the contention of Appellants No. 1 & 2 regarding violation of principles of natural justice is liable to be dismissed for the following reasons.

15. I say that it is undisputed that Appellant No. 3 (Mr. Dayesh Mandrekar) is the brother of Appellant No. 1 and

Febhosd



son of Appellant No. 2, and that it is with their consent and knowledge that he operates the Bar & Restaurant business in the subject structure.

16. I say that the plea that Appellants No. 1 & 2 had no knowledge of the GCZMA proceedings is patently false and devoid of merit, given the family relationship and business operations with their express consent.

17. I say that the Appellants have annexed to their appeal memorandum two replies dated 11.07.2024 & 09.08.2024 bearing inward stamps of Respondent No. 1 dated 02.08.2024 and 09.08.2024, which clearly state that the construction belongs to Appellant No. 2, who is the mother of Appellants No. 1 & 3.

18. I say that no explanation is forthcoming from the Appellants regarding the failure of Appellant No. 3 to inform Appellants No. 1 & 2, who belong to the same family, about the proceedings initiated by GCZMA

Felhu sal



through Show Cause Notice dated 21.05.2024 against the subject construction.

19. I say that the observance of principles of natural justice cannot be construed as a straight-jacket formula having general application divorced from the facts and circumstances in which it is sought to be invoked.

20. I say that unless a party to a proceeding is able to show or plead how he has been prejudiced by the order under challenge and what different outcome would have resulted if he had been allowed to participate in the proceedings before the competent authority, the appellate authority would not interfere with the order challenged, as the same would be contrary to the legal principle of empty formality, which is an exception to the principles of natural justice.

21. I say that in any event, the Appellants have now in the present appeal have annexed documents on the basis of which they claim that the subject structure existed prior

fubhosab



to 1991 and to content that the subject structure therefore cannot be subject matter of consideration under the CRZ regulations, 1991 and/or 2011, notified under the provisions of the Environment Protection Act, 1986.

22. I say that assuming without admitting that Appellants No. 1 & 2 were required to be heard by Respondent No. 1, such hearing, if required, can be cured by providing adequate hearing to the Appellants in the present appeal proceedings.

23. I say that the second contention of the Appellants is that the subject structure existed in the subject property prior to 1991.

24. I say that the Appellants have in support of their aforementioned contention produced documents in the nature of Shop & Establishment license, Excise license, challans etc.

Perkosal



25. I say that such contention of the Appellants based on the documents produced along with the appeal memorandum is fallacious, devoid of merit and patently false.

26. I say that the Shop & Establishment license annexed at pages 32 & 33 of the appeal memorandum does not indicate the house number or the specific structure to which it pertains. I say that furthermore, the challans annexed with the appeal memorandum claiming that the subject structure has been registered since 1975 with the office of the Labour Commissioner, Bicholim are also devoid of truth or merit as nothing in these documents indicates to which specific premises they pertain.

27. I say that such ambiguous and vague assertions without any corresponding documents or reference to show their relation with the subject structure renders the documents annexed with the appeal memorandum as irrelevant and inadmissible.

Subhash



28. I say that the Appellants further place reliance upon the response dated 08.07.2024, issued by the Executive Engineer, WD-V, Department of Electricity, Bicholim-Goa under RTI, communicating information pertaining to electricity connection issued in the name of Shri Shivaji K. Mandrekar. I say that the Appellants claim that Late Shri Shivaji K. Mandrekar is the father of Appellants No. 1 & 3 and husband of Appellant No. 2 and the original occupant of the subject structure.

29. I say that the response of the Electricity Department and documents thereunder further falsify the case set up by the Appellants inasmuch as the application form for requisition of electricity connection at page 56 reveals that the electricity connection was sought for a "Gada" bearing No. 92 situated at Diggi Vaddo in the village of Narao.

30. I say that the application seeking release of electricity connection proves two material facts: First, that the

Febhusal



electricity connection sought in 1989 was pertaining to a "Gada" and not a permanent structure as is the case under consideration. Second, that the "Gada" for which electricity connection was sought was situated at Diggi Vaddo, which is in stark contradiction to the "Registration Certificate of Establishment" annexed at page 33, which purportedly relates to an establishment situated at Tarwada in Village Narao.

31. I say that a bare perusal of the registration certificate of establishment at page 32 and the document issued under RTI by the Electricity Department shows two material discrepancies: First, there is no reference to a house number or specific structure to which the same relates and/or whether the same proves the existence of the subject structure prior to 1991. Second, the requisition form for release of electricity connection at page 56 clearly shows that the same pertains to "Gada" No. 92, which in absence of any pleadings to that effect cannot be said to have any relation to the subject structure.

Febhusal



32. I say that the Appellants have nowhere pleaded or stated that this "Gada" No. 92 is the same subject structure. I say that the Appellants have also failed to produce any license or permission issued by the Village Panchayat or the Town & Country Planning Department which permitted the construction of the subject structure prior to 1991 and/or conversion of the "Gada", which is a temporary structure, to a permanent structure.

33. I say that the Goa Panchayat Raj Act, 1994 came into force on 14.07.1994. Prior to this enactment, all construction within the limits of the village panchayats were governed under the he Goa, Daman and Diu Village Panchayats Regulation, 1962. Similarly, prior to coming Town and Country Planning Act, 1974 coming into force, all constructions in the State were requiring permissions under the Interim Building Bye-laws and Zoning Regulations 1965. I say that the Appellants have failed to disclose any such permissions or licenses to prove the existence of the Subject Structure or its construction

Pethoed



prior to 1991. As such an adverse inference ought to be drawn against the Appellants.

34. I say that with respect to the remainder of the documents relied upon by the Appellants, namely the Excise license issued in 1993 and the Shop & Establishment license issued from 1996, these do not substantiate the case of the Appellants that the subject construction/structure existed in the subject property prior to 1991, nor do these accord any legality to the subject structure.

35. I say that reliance placed by the Appellants on the site inspection report dated 05.03.2024 prepared by the Village Panchayat of Naroa is wholly misplaced and does not establish the legality of the subject construction, nor does it prove that the said construction existed prior to the year of 1991. I further say that the said inspection report is of no evidentiary value in the context of the present proceedings, particularly as no consequential action was initiated by the Village Panchayat of Naroa

Perdhasa



pursuant to the complaint lodged by this Respondent. Owing to the inaction of the Panchayat despite the said complaint, this Respondent was constrained to seek redressal before the Office of the Deputy Director of Panchayats, by requesting appropriate action against the unauthorized construction and the same is pending adjudication.

36. I say that this Respondent has along with the complaint dated 22.12.2023 annexed photographs of the subject construction as it existed in 2015 and comparable photographs of the subject structure as it exists today, taken in 2023. I say that a comparative perusal of the photographs of the subject structure from 2015 and 2023 clearly shows that the structure which exists today is a new structure which has been constructed by the Appellants in the year 2023. I say that this statement is without prejudice to my contention that the structure which existed in even the year 2015 was also illegal.

feshosal



37. I say that even considering the documents now produced by the Appellants before this Hon'ble Tribunal, no presumption or proof can be drawn in favor of the Appellants to substantiate their plea that the subject construction is legal or that the same is beyond the purview of the CRZ Regulations 1991 and 2011 for having existed prior to 1991.

38. I say that the demolition order dated 24.09.2024 passed by Respondent No. 1 does not deserve to be interfered with in light of what has been stated hereinabove. I say that even assuming without admitting that the matter is remanded back to Respondent No. 1, no material fact or document exists or has been produced before this Hon'ble Tribunal by the Appellants to show existence of the structure prior to 1991 and/or any permission received from the competent authority to prove the legality of said structure.

39. I say that in view of the aforesaid, this appeal is liable to be dismissed.

J. K. S. Choudhary



40. I say that, I, do hereby verify that the contents of paragraphs 1 to 35 of the above affidavit are true and correct to my knowledge and based on the records available with my office and that no part of it is false.

41. I say that the documents and photographs which are annexed along with the present affidavit are true copies of the originals and reflect in the records of this Respondent, obtained by fair means and proper procedure.

Solemnly affirmed on this 24th day of July, 2025, at Porvorim-Goa

Aarti N. Colvalkar
 Deponent
 Respondent no.2

Identified by:



Aarti N. Colvalkar
AARTI N. COLVALKAR:
 NOTARY AT PORVORIM, BARDEZ
 STATE OF GOA, INDIA
 Reg. No. 501/25

Solemnly affirmed and Verified
 before me by *Vikram Sanjiv Bhosale*
 Who is identified before me
 by *Hadkar, Card No: 5953 0816 3859*
 Whom I Knew.
 Sr. No, ...*48*..... Dated *24/7/25*



River Navigation Department
Government of Goa
Betim-Goa.

(142)

~~(144)~~

(141)

Phone Nos.+91(0832)2417710/2415280

Fax+91(0832)2414485

Website: www.rnd.goa.gov.inE-mail: workshop-river.goa@nic.in

No.RND/Traffic/23-24/425

Dated: 22/12/2023

To

The Member Secretary,
Goa Coastal Zone Management Authority,
Dempo Tower, Patto Plaza,
Panaji Goa.

Sub:- Construction of Shop/house on the road next to the ferry ramp at Narao within NDZ and in violation to the provision of CRZ (III) of (River-NDZ)

Sir/Madam,

This is to inform you that, new shop/house is being constructed/constructed right next to the Narao ferry ramp which is causing obstruction for the vehicles/four wheelers as there is no turning place remained. Also during emergency situation, this new house/shop will create hurdle for vehicles of fire department etc.

You are requested to inspect the site and ensure that there is no obstruction to the traffic, to and fro from the ferryboats at the ramp.

Photographs of the structure/shop is hereby enclosed.

This structure is situated within 100 mts (NDZ) as per CRZ(III) (River-NDZ) of CZMP 2011.

Copy of the complaint made to local Panchayat is hereby enclosed.

fahosah
Sr. Superintendent (W&T)
River Navigation Department
Betim Goa

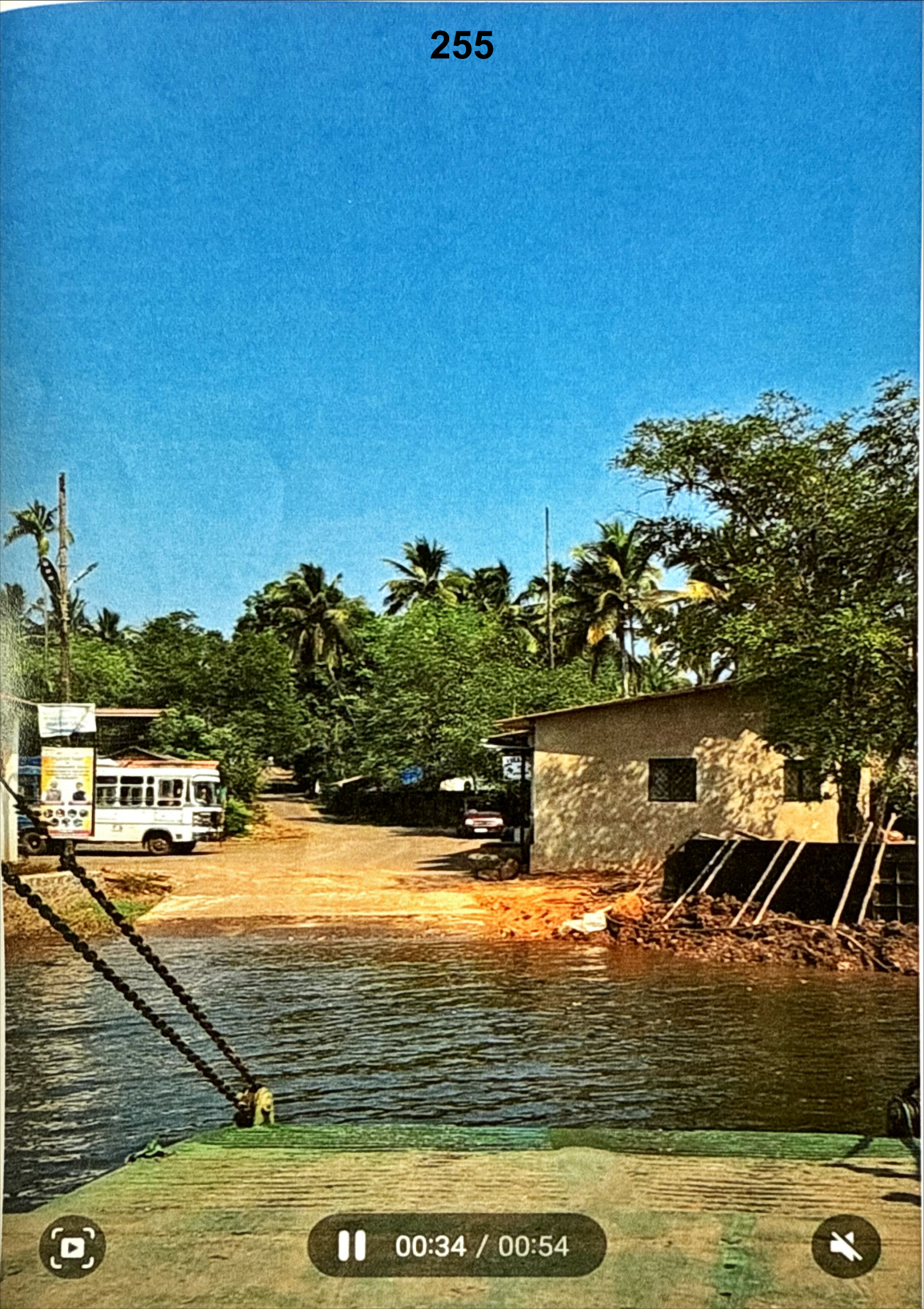
Copy to:

- 1) Concerned file
- 2) Guard file

22/12/2023
O/o Member Secretary
Goa Coastal Zone Management Authority
C/o Department of Environment & Climate Change
Dempo Tower 4th Floor,
Patto Plaza Panaji-Goa. 403001

254





00:34 / 00:54









The Biggest Textile Showroom Largest Collection At Lowest

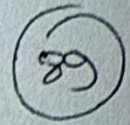
SINCE 1958
BSC
THE TEXTILE MALL

BSC
THE TEXTILE MALL

Belakwadi, Belagavi (Belgaum) Ph: 0831-20077

GA01T7084





GOA COASTAL ZONE MANAGEMENT AUTHORITY

C/o Department of Environment and Climate Change (Govt. of Goa)

4th floor, Dempo Towers, Patto, Panaji-Goa

E-mail: goacoastalzone@gmail.com

Ref.No.GCZMA/N/11UE-compl/24-25/10/635 Dated: 21/5/2024

SHOW CAUSE NOTICE ISSUED UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION) ACT, 1986, READ WITH RULE 4 OF THE ENVIRONMENT (PROTECTION) RULES, 1986.

WHEREAS, the Goa Coastal Zone Management Authority (hereinafter referred to as 'the GCZMA' in short) has been constituted by the Ministry of Environment & Forests (MoEF), Government of India pursuant to the directions of the Hon'ble Supreme Court of India to deal, inter alia, with violation of the Coastal Regulation Zone (CRZ) Notification 2011 and implementation of the CRZ Notification.

AND WHEREAS, the Office of the Goa Coastal Zone Management Authority is in receipt of complaints dated 22/12/2023 and 18/03/2024 from River Navigation Department, Betim Goa and office of Dy. Town Planner, Town and Country Planning Department, Bicholim /Sattari, Taluka with regards to construction of shop/house on the road next to the ferry ramp at Narao in Sy.No 48/21 of village Narao.

AND WHEREAS, a joint site inspection was carried out on 28/03/2024. The copy of the complaint and site inspection report is enclosed herewith as 'A' colly

That upon close perusal of the said report the following alleged gross illegal construction resulting violation of CRZ Notification 2011 was observed:

Name of the Party/alleged violator	Survey No. / Village	Type of Construction/activity	Distance from HTL
Mr. Dayesh Mandrekar,	Sy.No 48/21 of village Narao	There exist one laterite masonry structure with G.I sheet roofing of size	CRZ III (river NDZ). Affected by mangroves buffer zone

	Bicholim taluka,	6.40mtr X14.00mtr belongs to Mr.Dayesh Mandrekar and runs under the name style "Village Bar & Restaurant".	
--	------------------	--	--

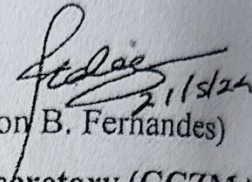
AND WHEREAS, all proposed 'Construction / re-construction / development / repair' and other permissible activities between 100 mts. from the River, and 500 mts of the Sea require the prior approval of the GCZMA under the CRZ Notification, 2011.

AND WHEREAS, the alleged construction/ activity appears to be devoid of the prior approval granted by GCZMA as required under CRZ Notification, 2011.

NOW THEREFORE, in exercise of the powers conferred by section 5 of the Environment (Protection) Act, 1986 read with sub-rule (3) (a) of rule 4 of the Environment (Protection) Rules, 1986, read with power vested with the GCZMA vide Order .O. 6071(E) dated 27/12/2022 issued by the Ministry of Environment & Forests, Government of India, the GCZMA, hereby directs you to **SHOW CAUSE** as to why a direction to demolish the structure and to restore the land to its original condition should not be issued to you. Further, you are directed to ensure that no civil work of whatsoever kind and nature is carried out at said site.

FURTHER TAKE NOTE THAT, you are required to file your reply along with compliance report and construction/reconstruction/repair licence/approvals, if any, issued by the concerned Authorities including GCZMA along with approved plan, as also documents to show the title to the Office of the GCZMA, having its Office at 4th Floor, Dempo Towers Patto, Panaji- Goa. Further you directed to remain present for the personal hearing on 04/06/2024 at 3.30pm or depute your duly authorized representative with all the documents, approved site plans and other related documents if any in support of your case/ structure before the Authority. 4th

floor, Dempo Towers Patto, Panaji- Goa Please take note that if you fail to submit your reply/appear along with the required documents, the GCZMA will come to the conclusion that you have no justification to carry out activities as above stated and the Authority shall proceed to issue final directions to you in this regard without any further notice which inter alia includes order of demolition of structures, disconnection of water / power supply etc.


(Johnson B. Fernandes)

Enl. As above

Member Secretary (GCZMA)

To,

- ✓ 1. Mr. Dayesh Mandrekar R/o next to Ferry Ramp, Naroa Bicholim Goa.
2. office of Dy. Town Planner, Town and Country Planning Department, Bicholim /Sattari, Taluka

Copy to:

1. The Collector & District Magistrate (North), Office of the Collector (North), Panaji -Goa... *for information and necessary action.*
2. The Dy. Collector & S.D.O of Bicholim having office at Bicholim - Goa.... *for information and necessary action.*
3. The Police Inspector, Bicholim Police Station – Bicholim Goa.. *for information and necessary action.*
4. The Secretary, Village Panchayat of Naroa *to serve the copy of this notice upon the alleged violator and submit a compliance report to this office. Further to take action interms of Goa Panchayat Raj Act.*
5. Sr. Supritendent (W & T) River Navigation Department , Betim Goa *for information*
6. The Dy. Town Planner, Town and Country Planning Department, Bicholim /Sattari, Taluka Bicholim Goa.... *for information*
7. The Mamlatdar of Taluka Bicholim, Bicholim Goa... *for information*

FORMATE OF SITE INSPECTION REPORT (REVISED)

- i) Name of Complainant:- Sr. Suptd (WFT)
River Navigation Dept
Govt. of Goa (Copies enclosed)
- ii) Date of the Complaint:-
- iii) Name of the alleged violator:- Blocking the access to the
ferry ramp by constructing shop/house within 100.
(ND2) as per CR2 (III) River ND2, CZMP 2011
- iv) Nature of Alleged violation:-
Illegal construction against the prevailing Rules
Act
- v) Date of construction based on
the documents: Not known but recently
- vi) Date of Inspection:- 28/3/24
- vii) Present user of the structure: illegal house cum shop / Commercial
activity
- viii) Name of the parties present:-
- ix) Location of the alleged violation:- In front of Narao ferry ramp
GPS co-ordinates
Land mark on Narao - Dimaar ferry route
Sy No. _____ Village _____ Taluka _____
Chalta No. _____ -P.T.C. No. _____ Town _____
} May pls be
obtained from
Talathi of V. I
Name
(Sur. No 48/24 of Narao
Village
- x) Accessibility:- Yes/No Partially
blocked
If yes, details of width of access
- xi) Distance from the HTL of River/Sea:- Approx. 3 to 5 meters.
- xii) Classification of RZ Area :-CRZ-I/CRZ-II/CRZ-III/CRZ-IV
ND2 as per CR2 (III), River ND2,
CZMP 2011
- xiii) Whether sand dunes are existing:- Yes/No
If yes, height of the sand dunes: No
- xiv) Whether any lagoons backwater or other water bodies exit in the plot: Yes/No:-
River
- xv) Plinth area of the structure/alleged violations:-
May pls be verified from field survey
of office of Municipal
Talathi
- xvi) Nature of the structure:-
a) RCC Frame structure
b) Load bearing /Masonry structure
c) Temporary structure
d) Any other

C.I

25/10
16/9
13/C

xvii) Height of the Structure:- 8 to 10 ft.
xviii) Detail of extension of the existing structure:- New structure

xix) Details of conversion Sanad, if any:- NA

xx) Details of construction license abstained, if any:- Not issued.

xxi) Approvals/NOC's issued by any other Department/Authorities : Not issued
letter from Town & Country planning enclosed

xxii) Nature of violation if any, with regard to provision of CRZ Notification 2011:- As mentioned earlier.

xxiii) Whether the proposed construction meet the CZMP guidelines:- No

xxiv) Conclusion /Recommendation:- should be demolished immediately for smooth operation of ferry boats at high waters.

Enclosures:-

1. Photographs of the Structure
2. Survey Map of the Structure
3. Documents submitted by the Complainant
4. Documents submitted by the alleged Violation:-
5. Any other :-

FOREST MEMBER

PWD MEMBER

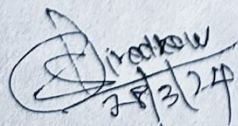
SURVEYOUR MEMBER

EXPERT MEMBER

MAMLATDAR
MEMBER SECRETARY

Based on inspection

Sham A. Shindekar (A.M.O) Traffic officer


28/3/24