

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

**Appeal No. 18/2025(WZ)**

Ludovico Goveia

...Appellant

Vs.

GCZMA & Anr.

...Respondents

**INDEX**

<b>S. No.</b>	<b>Particulars</b>	<b>Page No.</b>
<b>1.</b>	Reply by the Respondent No. 2 to the Appeal	<b>351 to 383</b>
<b>2.</b>	<b>Annexure R2 - A</b> Copy of image taken from the Google Earth of April 2010 – Goveia Marina	<b>384</b>
<b>3.</b>	<b>Annexure R2 – B</b> Copy of image taken from the Google Earth of April 2012 – Goveia Marina	<b>385</b>
<b>4.</b>	<b>Annexure R2 – C</b> Copy of the aerial image taken in January 2024	<b>386</b>
<b>5.</b>	<b>Annexure R2 – D</b> Copy of the photograph taken by the GCZMA and submitted to Hon'ble High Court	<b>387</b>
<b>6.</b>	<b>Annexure R2 – E COLLY</b>	<b>388 to 392</b>

	Copy of the photograph taken by the GCZMA and submitted to Hon'ble High Court	
<b>7.</b>	<b>Annexure R2 - F</b> Copy of the Order dated 15/03/2024 passed in Writ Petition No. 772/2024	<b>393 to 410</b>
<b>8.</b>	<b>Annexure R2 - G</b> Copy of the Order dated 25/01/2024 passed in Writ Petition No. 772/2024	<b>411 to 415</b>
<b>9.</b>	<b>Annexure R2 - H</b> Letter dated 24/03/2023 by the Appellant to the GCZMA	<b>416 to 418</b>
<b>10.</b>	<b>Annexure R2 - I</b> Copy of the Order date 14/05/2024 In Special Leave Petition (. c)No. 7997/2024	<b>419 to 429</b>
<b>11.</b>	<b>Annexure R2 - J</b> Copy of the Estimate dated 10/07/2024 by the Gov. of Goa Public Works Department, Office of the Assistant Engineer S.D.II/W.D.XIII (R), PWD, BARDEZ - GOA	<b>430 to 431</b>

Place : Pune  
Date: 08/04/2025



Adv. For Respondent No. 2

BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE

Appeal No. 18/2025(WZ)

Ludovico Goveia

... Appellant

v.

GCZMA & anr.

... Respondents



**REPLY OF THE RESPONDENT NO. 2  
TO THE APPEAL**

MAY IT PLEASE YOUR LORDSHIPS:

Respondent no. 2 most humbly states and submits as under:

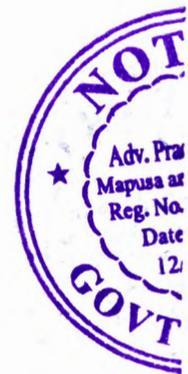
- 1) Respondent humbly submits that by the present appeal the Appellant seeks to set aside the Order dated 18/12/2024 passed by the Goa Coastal Zone Management Authority (GCZMA) directing the Appellant to pay environmental compensation towards the ecological and environmental damage caused by the Appellants brazen illegal construction and land-filling of the lagoon along the Siolim river in Survey Nos. 318/2, 319/2 and 320/2 of Village Siolim.
- 2) Respondent respectfully states that there was a large lagoon admeasuring 125m x 80m along the banks of

*(Signature)*  
aintel

the pristine Siolim river. **Annexure R2-A** is the aerial image from Google Earth of April 2010. This aerial image of April 2010 captures the illegal land-filling and construction on the southern and eastern side of the lagoon as well as a large octagonal concrete platform on stilts was constructed in the north eastern portion of the lagoon. **Annexure R2-B** is the aerial image from Google Earth of April 2012. This image shows the further illegal land-filling done along the northern, eastern and western boundaries. It also shows the large concrete platform constructed on the northern boundary. The small opening that existed abutting the river in the center is seen covered by this concrete platform. In its stead a much larger opening is seen towards the western side abutting the river. A cemented pathway is seen constructed along the lagoon with a raised cement boundary. The structures erected on the southern side were removed to make a tarred road and garden keeping only two structures which continue to operate as cottages. **Annexure R2-C** is an aerial image taken in January 2024 which shows these two cottages painted in blue and white colour on the top left of the image. The concrete platform that was illegal constructed along the river is also seen. However most of it has been covered with the massive illegal G+1 hotel construction which the Appellant started end of 2023.

- 3) Infact the construction of this massive G-1 hotel was so brazen that the balconies were jetting out into the

*M. S. Costa*



Siolim river. **Annexure R2-D** is a photograph taken by the GCZMA and submitted to the Hon'ble High Court. The whole edifice was made of MS channels, bison cement boards and GI sheet roofing. Cement mortar was used on the bison board base for fixing tiles with toilet pipelines inserted into the ground. **Annexure R2-E Colly** are other photographs submitted by the GCZMA to the Hon'ble High Court.



- 4) The aerial images prior to April 2010 are not presently available on Google Earth. However, the then GCZMA Expert Member, Dr. Antonio Mascarenhas, while preparing his Report dated 05/03/2016 has referred to the Google Earth image of 2003 and in relation thereto has stated that it shows a large lagoon/pond admeasuring 125m x 80m. The Report further records that in comparison the Google Image of 2015 shows the lagoon to be 90 x 70m. This is because of the land-filling done. The Report also records that the reclamation has taken place on all four sides; maximum being on the southern side.

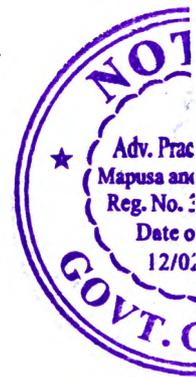
- 5) Respondent no. 2 respectfully states that the images produced by Respondent no. 2 form part of the Writ Petition No. 772/2023 before the High Court of Bombay at Goa filed by the Respondent no. 2. However, these images as well as other annexures have been deliberately, mischievously and maliciously suppressed and not produced by the Appellant in the present Appeal so that this Hon'ble Court can be may

*M. S. Aintal*

not know about the extent and scale of illegalities and the consequent damage and destruction of the ecology and the environment. It was imperative that the Appellant produces these images in the present Appeal while producing the copy of the Writ Petition No. 772/2024. Wherever it suits the Appellant, the Appellant has produced annexures selectively.

- 6) The conduct of the Appellant has throughout been despicable and unscrupulous and this alone should disentitle the Appellant from being granted any relief in this Appeal.
- 7) The Hon'ble High Court of Bombay at Goa in Writ Petition No. 772/2024 has observed about the dishonest and contumacious conduct of the Respondent no. 4 in its Order dated 15/03/2024. **Annexure R2-F** is a copy of the Order dated 15/03/2024 passed in Writ Petition No. 772/2024. For quick perusal, the relevant portion is extracted below:

“21. At this stage, we must refer to the conduct of the fourth respondent, which we think is plainly dishonest and contumacious. Despite the order dated 07.04.2017 attaining finality, the fourth respondent, to date, has not bothered to comply with the directions therein fully. Further, despite urging that the directions in GCZMA's order dated 07.04.2017 being substituted by the NGT's order dated 15.12.2022 (which contention is incorrect and misconceived), the fourth respondent did not even bother to comply with the directions in the order dated 15.12.2022. In the course of the hearing, and based on



*Handwritten signature in blue ink, appearing to read 'R. S. Pinto'.*

instructions from the fourth respondent who was present in the Court, full compliance is now assured up to 20.03.2024. This means that if the present petition were not to be instituted, in all probabilities, the fourth respondent would have gotten away with not complying with the orders made by the GCZMA and the NGT.



22. The fourth respondent had no qualms about writing to the GCZMA that he had complied with the GCZMA and NGT orders. These letters were addressed with full knowledge that there was no compliance. Even before this Court, the fourth respondent, who had appeared in person, had no qualms about making incorrect statements or avoiding the Court processes.  
(emphasis supplied)

8) The Hon'ble High Court infact has observed that at every stage Respondent no. 4 made false statements and that it is apparent that Respondent no. 4 has no regard for the truth:

“26. Even Mr Rao, learned counsel for the fourth respondent, admitted that the above statements were false. There is ample material on record about the area being affected by CRZ and the property being subject to tidal influence. At every stage, the fourth respondent made false statements, and it is apparent that the fourth respondent had no regard for the truth, not to mention any environmental concerns. Considering the conduct of the fourth respondent, in not only of not complying with the orders, but also of making a false statements of having complied with the same, we in fact were of a mind to issue a notice of contempt to the fourth respondent, however, considering the assurances by Mr. Rao, learned Counsel for the fourth respondent, we as of now are refraining from doing so.”

*Painted*

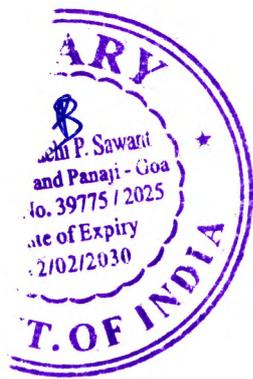
(emphasis supplied)

9) Infact, during the proceedings before the High Court in Writ Petition No. 772/2024 the GCZMA had issued a Show Cause cum Stop Work Order dated 11/01/2024 (with Corrigendum dated 15/01/2024). In defiance of the Show Cause cum Stop Work Order the Appellant continued to put up the illegal G+1 hotel on the riverbank and this was noted by the GCZMA during its site inspection on 23/01/2024. At the hearing of the Writ Petition on 25/01/2024 when questioned by the Hon'ble High Court the Appellant informed the Court that no stop work order was ever served upon him by the GCZMA. This statement was found to be false. At the hearing itself, the record of GCZMA reflected that the Show Cause Notice cum Stop Work Order as well as the Corrigendum bore the signature of the Appellant. **Annexure R2-G** is a copy of the Order dated 25/01/2024 in Writ Petition No. 772/2024 in which the Hon'ble High Court has taken note of the false stand taken by the Appellant.

10) The Appellant had written to the GCZMA a Letter dated 24/03/2023 in which he falsely stated that he has complied with the Directions in terms of the Order dated 15/12/2022 passed by this Hon'ble National Green Tribunal in O.A. 03/2018. **Annexure R2-H** is a copy of the Letter dated 24/03/2023 by the Appellant to the GCZMA. This Letter was made by the Appellant with full knowledge that the directions of



*Raintal*

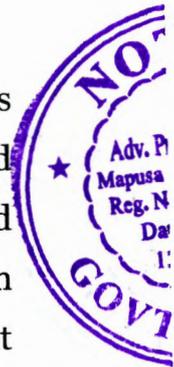


this Hon'ble National Green Tribunal were not complied; that the Appellant is falsely stating that the directions are complied. This Letter was written in order to overreach the directions passed by this Hon'ble National Green Tribunal and avoid its compliance. This is a fraud played by the Appellant on an Order passed by this National Green Tribunal. Such an Appellant deserves no relief, interim or final, as observed by the Hon'ble Supreme Court in the case of *Amar Singh v. Union of India* (2011) 7 SCC 69 and *Kishore Samrite v. State of UP* (2013) 2 SCC 398 relevant extracts whereof have been reproduced by at the end for quick perusal.

- 11) It is pertinent to note that the Order dated 15/03/2024 of the Hon'ble High Court was challenged by the Appellant before the Hon'ble Supreme Court in Special Leave Petition (c) No. 7997/2024 which was dismissed by Order dated 14/05/2024. **Annexure R2-I** is a copy of the Order dated 14/05/2024 in Special Leave Petition (c) No. 7997/2024. The Hon'ble Supreme Court in its Order dated 15/03/2024 has ruled that “*we must make it clear that as to the present dispute of the lagoon is concerned, it would stand concluded by our present order here.*” The Hon'ble Supreme Court has also ruled that “*the lagoon had to be restored to its original size of 125 mts x 80 mts*”.

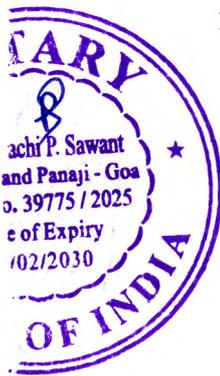
*As stated*

- 12) Respondent no. 2 respectfully states that even as of today the lagoon is not restored to the original size of 125mts x 80mts.
- 13) Infact, if the lagoon was restored to the original size of 125mts x 80mts then the construction of the G+1 hotel structure illegal constructed by the Appellant could never have been possible to be constructed.
- 14) The present case is not of a person who has innocently or ignorantly violated the CRZ laws and upon realizing has removed the violations and restored the land. Per contra, the Appellant has been repeatedly violating the CRZ law and being defiant with the result that the destruction and damage to the ecology and environment has continued even to date.
- 15) Even the Hon'ble Supreme Court in its Order dated 14/05/2024 in Special Leave Petition (c) No. 7997/2024 has observed that “..one thing is clear, which is that the Petitioner has shown little respect for the laws and the GCZMA has turned a blind eye towards this encroachment and violation of its orders.”
- 16) The GCZMA has placed on record in Writ Petition No. 772/2024 that the tentative costs for GCZMA to restore the lagoon will be Rs. 62,02,870/- (Rupees sixty two lakhs two thousand eight hundred



*AK Aintay*

and seventy only) as per the estimates prepared by the Public Works Department (PWD), Government of Goa. **Annexure R2-J** is a copy of the Estimate dated 10/07/2024.



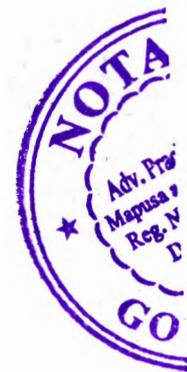
17) In respect of the G+1 hotel illegally constructed by the Appellant, the GCZMA passed Demolition Order dated 17/05/2024. The Appellant has partly carried out the demolition. The entire G+1 hotel structure was required to be removed since it was not in accordance with the Permission dated 23/08/2021 granted by the GCZMA.

18) It is pertinent to note that the GCZMA had granted Permission dated 23/08/2021 to the Appellant to put up temporary 6 huts and temporary 1 restaurant. The approved plan shows (a) the location of the proposed temporary 6 huts and 1 restaurant (b) setbacks of 4.2 mts at its narrowest angle along the boundary.

19) The elevation drawings depict the 6 temporary huts and 1 restaurant to be a ground floor structure only with a roof of Mangalore tiles with wooden rafters. The height of the temporary huts is shown to be 3.34 mt. The height of the temporary restaurant is shown to be 3 mts. The plan clearly depicts the structure of the temporary huts and the restaurant to be of wooden planks, wooden railings and wooden flooring.

*A. Aintay*

- 20) In contrast what has been constructed under the guise of this Permission is a permanent building of MS Steel members/channels. There is neither wooden flooring nor is the roof of Mangalore tiles or with wooden rafters. There is no use of wooden planks for the superstructure of the illegal G+1 hotel building.
- 21) The location of the G+1 hotel building is in the area/location shown in the approved plan for the temporary restaurant and not where the temporary huts were depicted.
- 22) The height of the temporary restaurant as approved was 3 mts only. The Permission dated 23/08/2021 unequivocally prescribes that all the structures shall be of ground floor only. In contrast, the illegal structure is seen to be a G+1 storey building.
- 23) The setback of 4.20 mts (at its narrowest angle) has also not been maintained. Per contra, the illegal construction is clearly seen jetting out into the river and beyond the plot boundary.
- 24) Condition No. 4 of the Permission prescribed that the proposed temporary seasonal structure should be made of wooden material; no cement/concrete shall be used for flooring; no structure of permanent nature shall be erected.



*Pranil*

25) The Appellant in brazen disregard to any of these conditions or the approved plans proceeded to put up the illegal structure on the banks of river Siolim in gross violation of the approved Plan and Permission. Respondent no. 2 humbly states that this is yet again an instance of how the Appellant has scant regard for the law.



26) The Hon'ble High Court of Bombay at Goa in its Order dated 25/01/2024 in Writ Petition No. 772/2023 has observed adversely against the Appellant that the "*photographs at least prima facie show that what has been put up is a steel structure which can hardly be described as temporary cottages*".

27) In connection with the defiance of the Appellant to not stop the work the Hon'ble High Court in its Order dated 25/01/2024 has observed as below:

"16. At this stage, Mr. Gouveia states that he has not only completed the constructions but he has even rented them to parties. Admittedly, there is no occupancy certificate. Therefore, this defence about renting out cannot be accepted. Ms Correia stated that at least from 24.01.2024 all constructions at the site were halted. The GCZMA and police authorities must ensure that these premises are sealed forthwith.

17. Mr. Gouveia cannot take advantage of the works carried out by him in defiance of the stop work order. Even now Mr. Gouveia was not agreeable to stop the constructions despite

*MS Gouveia*

orders of this Court. Since Mr. Gouveia was himself not willing to comply with the orders of this court and seem defiant, it is all the more important that police authorities and the GCZMA take immediate steps as directed.”

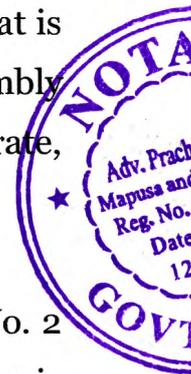
(Emphasis Supplied)

28) It is also pertinent to note that the Appellant has suppressed the above Demolition Order passed by the GCZMA as well as the other facets stated above pertaining to what was actually constructed and how much has been removed by the Appellant and what is still retained on the site. Respondent no. 2 humbly submits that the suppression is deliberate, mischievous and malafide.

29) With respect to paragraph 2, Respondent No. 2 denies that the Impugned Order dated 18/12/2024 is without jurisdiction or arbitrary or without any source of power or is vulnerable on any count or warranting the Impugned Order to be set aside.

30) With respect to paragraph 5, Respondent No. 2 denies the allegation that this is a man-made lagoon or was made by Appellants predecessors – in – title or by digging out soil from the property to an extent of 1/2 meter. It appears that there was always a lagoon in the property. Even the adjoining property has a lagoon as seen in the Google Earth images produced by me. Respondent no. 2 denies that at the time of purchase

*AK Aintal*



of the property there was a man-made lagoon having dimensions of 96m x 67m in width or 0.5m in depth.

31) Be that as it may, it is clear that the location and position of the lagoon has been shifted, altered and changed by the Appellant since after the purchase of the property.



32) With respect to paragraph 6, Respondent no. 2 states that the location and dimensions of the lagoon as seen in the Survey Plan of the year 1970 and after its reclamation, alterations and shifting done by the Appellants are different and do not correspond to the dimension and location as shown in the Survey Plan. This is clear from the plan prepared by the Committee constituted by this Hon'ble National Green Tribunal.

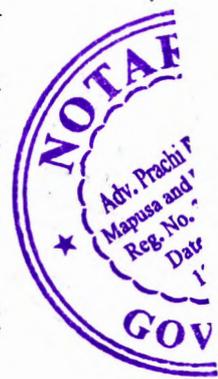
33) The Plan clearly depicts the present location of the lagoon after its reclamation and alterations and depicts in dotted line the location of the water lagoon as per the DSLR Plan. It is clearly seen that the dotted lines encompass the road constructed and part of the garden area put up by the Appellant after reclamation of the lagoon. Respondent no. 2 therefore most humbly submits that the submissions and contentions of the Appellant made in Paragraph 6 cannot be countenanced.

34) Be that as it may, the historical Google Earth image of 2010 clearly shows that there was a large

*Ms. Punita*

lagoon with hardly any land on its northern and western boundary and a very narrow strip of land along the eastern boundary. The alterations done are clearly visible when the Google Earth image of 2010 is compared with the Google Earth image of 2012.

- 35) In so far as the CRZ line is concerned it is pertinent to note that lagoons, ponds connected to the rivers are covered by the Explanation to Clause 1 (ii) of the CRZ Notification, 2011. Respondent no. 2 humbly submits that it is idle for the Appellant to contend that his property is not covered by the prohibitions imposed by the CRZ Notification, 2011.
- 36) With respect to paragraph 7 & 8, the Appellant has falsely contended that the Respondent no. 1 (GCZMA) noted and came to a conclusion that there were alleged violations for the first time on 07.04.2017. This is a false statement. The Appellant has deliberately tried to mislead this Hon'ble Court that the GCZMA has found that the violations were done for the first time on 07.04.2017. A bare reading of the Demolition Order dated 07/04/2017 exposes the falsity of the Appellants statement.
- 37) It is pertinent to note that when the Appellant undertook the alterations and reclamation of the lagoon as well as putting up of illegal concrete platform the villagers of Siolim filed a complaint in the year 2012. The complaint by the villagers brought to



*Prachi*

the notice of the GCZMA the “*construction of a huge unauthorized development destroying sluice gate, fish pond (agor) and several other water bodies (poinn) and also encroachment in the property of the captain of ports blocking the traditional access.*”



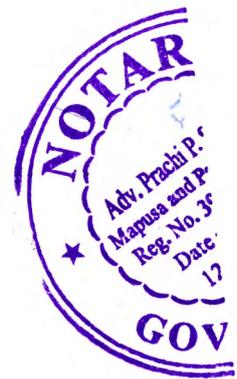
38) Unfortunately there was no prompt action by the GCZMA. This compelled two villagers Mr. Anthony D'Souza & another to move this Hon'ble National Green Tribunal for appropriate action in Application No. 181/2015. This Hon'ble National Green Tribunal disposed the case by Order dated 28/09/2016 directing the GCZMA to take action within 4 weeks pursuant whereto the Demolition Order dated 17/04/2017 was passed by the GCZMA.

39) While passing the Demolition Order dated 17/04/2017 the GCZMA also took into account the inspection carried out on 04/03/2016 by the Expert Member of then GCZMA Dr. Antonio Mascarenhas of the subject property. The inspection was carried out in the presence of the owners of the property, 3 complainants and also the Sarpanch of the Village Panchayat who was invited by the owner. The Report in summary concluded as under:

- a. The plot has undergone changes with respect to the dimensions of the lagoon in particular;

*As per report*

- b. The hexagonal platform built on concrete columns in the lagoon does not seem to have approval from competent authorities;
- c. The need for the reclamation of the lagoon and the approvals obtained, if any, for land filling will have to be explained by the promoters of the resort as such activity is stent amount to CRZ 2011 violations of a tidal water body.
- 40) The Expert Member, Dr. Antonio Mascarenhas, has noted in the Report that the DSLR plan shows that the area of combined plots 318, 319, 320 is 135 x 90 mts. It is pertinent to note that even in the plan submitted for approval by the Appellant to the GCZMA for putting up of temporary huts and restaurant the area of the 3 plots was shown by the Appellant to be 135.64mts.
- 41) Dr. Antonio Mascarenhas, while preparing his Report dated 05/03/2016 has referred to the Google Earth image of 2003 and in relation thereto has stated that it shows a large lagoon/pond admeasuring 125m x 80m. He has further stated that these dimensions more or less match those of the DSLR plan. The Report further records that in comparison the Google Image of 2015 shows the lagoon to be 90 x 70m. This is because of the land-filling done.



*Dr. Antonio Mascarenhas*

42) The Report specifically mentions that the change in dimensions is because a rectangular portion measuring 25m x 80m on the southern part of the lagoon was reclaimed by mud filling around the year 2008. The Report also considered the Google Earth image of 2008.

43) It is pertinent to note that the GCZMA also showed the Google Earth images of 2003 to the advocate for Appellant at the hearing before the GCZMA. This is clearly recorded in the Demolition Order dated 07/04/2017 of GCZMA and is reproduced below for quick perusal:

“The Authority invited the attention of the Advocate for the Respondent [i.e Appellant to present Appeal] on the Google images of the property for the year 2003 and 2016 wherein the GE image for the year 2003 a large lagoon/pond is clearly seen, however, the GE image for the year 2016 the dimension of the said lagoon is reduced which shows that the lagoon is reclaimed by mud filling”

44) The Demolition Order dated 07/04/2017 by GCZMA directed the Appellant within 45 days to:

- a. Restore the opening of the sluice gate from 12m wide to its original size.
- b. Remove the mud filling carried out in the lagoon and restore the lagoon to its original dimensions i.e 125m x 80m.

*Handwritten signature in blue ink.*



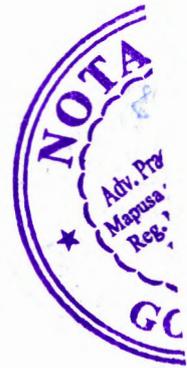
- c. To remove the concrete platform along with columns in the lagoon constructed along the riverbank.
- d. To remove/ demolish the boundary wall of laterite masonry constructed up to the edge of the river.

45) The Appellant challenged the Demolition Order dated 07/04/2017 before this Hon'ble National Green Tribunal in Appeal No. 41/2017 and which was dismissed by Order dated 15/05/2017. While dismissing the Appeal this Hon'ble National Green Tribunal has also noted and observed:

“The Authority particularly invited attention of the parties to the Google Images of the property for the year 2003 and 2016, which demonstrated that the lagoon was reclaimed by mud filling after the year 2003. Certainly, development carried out was without any permission from GCZMA.”

46) Despite the dismissal of the Appeal the Appellant did not restore the land or comply out the directions.

47) Belatedly, after nearly 2 years on 30/03/2019, the Appellant filed a Review Application No. 03/2019(WZ) before this Hon'ble National Green Tribunal challenging the Order dated 15/05/2017 dismissing the Appeal. The Review Application was also dismissed by Order dated 09/07/2021.



*Printed*

48) Despite the dismissal of the Review also the Appellant did not restore the land or comply out the directions.

49) The Demolition Order dated 07/04/2017 despite having attained finality was not complied with by the Appellant and continues to remain fully complied by the Appellant.

50) Infact, if the lagoon was restored to the original size of 125mts x 80mts then the construction of the G+1 hotel structure illegal constructed by the Appellant could never have been possible to be constructed.

51) With respect to paragraph 9 and 12, it is pertinent to note that the Hon'ble High Court of Bombay at Goa has clearly observed that the Order dated 15/12/2022 passed in O.A No. 3/2018 (filed Goa Parvavaran Savrakshan Sangharsh Samitee) was not in substitution of the directions issued by the GCZMA on 07/04/2017. The relevant portion from the Order dated 15/03/2024 in Writ Petition No. 772/2023 is reproduced below:

“17. The NGT Order dated 15.12.2022 was issued in an Original Application instituted by Goa Parvavaran Savrakshan Sangharsh Samitee. The complainant, Anthony D’Souza, based on whose complaint the GCZMA had made its Order dated

*Handwritten signature: Anthony D'Souza*



07/04/2017 had nothing to do with the O.A. No. 3/2018. Secondly, from the perusal of the Order dated 15/12/2022 it is evident that none appeared on behalf of the Goa Parvavaran Savrakshan Sangharsh Samitee. Thirdly, from the reading of the Order dated 15/12/2022 it appears that neither the fourth respondent nor the GCZMA brought to the notice of the Division Bench of the NGT (Western Zone) that the appeal against GCZMA's order dated 07/04/2017 was already dismissed by the NGT on 15/05/2017. Further, the Principal Bench considered and dismissed even the Review Application No. 3/2019 comprising 5 members vide Order dated 09/07/2021. In any case, there is nothing in the Order dated 15/12/2022 which even remotely suggests that the directions issued therein were in substitution to the directions issued by the GCZMA on 07/04/2017, which directions, as noted earlier, had already attained finality given the NGT orders dated 15/05/2017 and 09/07/2021.



18. Therefore, to read and construe NGT's order dated 15/12/2022 or the GCZMA's order dated 20/09/2018 to mean that the said orders in any manner reviewed, modified or substituted the GCZMA's order dated 07.04.2017, which has already attained finality, would be entirely misconceived."

- 52) Infact, the Report dated 27/10/2022 clearly depicts in the plan that the present location of the lagoon after its reclamation and alterations and depicts in dotted line the location of the water lagoon as per the DSLR Plan. It is clearly seen that the dotted lines encompass the road constructed and part of the garden area put up by the Appellant after reclamation of the lagoon.

*(Handwritten signature)*

53) The Report also clearly records that Survey No. 319/2 (which is in between 318/2 and 320/2) as per survey plan is a water body. This Survey No. 319/2 at present is filled with mud and partly has the concrete platform illegally constructed by the Appellant.



54) With respect to paragraph 10, it is clear that the Appellant has misled the Inspection team and/or the Inspection team filed a false report. The report states that the violator has complied with 3 out of the 4 directions which is clearly seen to be false. It records that the sluice gate is restored to its original size which is false. The Applicant himself has admitted that the restoration of the sluice gate was not done. The concrete platform has also not been removed. It appears that the Inspection Report dated 22/06/2018 was made to favour the Appellant to continue with the illegalities and not comply with the Directions contained in Demolition Order dated 07/04/2017 which has attained finality.

55) With respect to paragraph 11, the Appellant has once again falsely stated that the Report of the Expert Member recorded that there was a mismatch between survey plan and Google Image. This is false to the knowledge of the Appellant and an attempt to mislead and misguide this Hon'ble Court. The Report does not state that there is a mismatch between survey plan and Google Image. Per contra, it records that the Google

*Handwritten signature in blue ink.*





- 60) With respect to paragraph 22, Respondent no. 2 denies that the report by the committee is limited to only coastal damage. Respondent no. 2 states that the violations done prior to 2017 would also attract the calculation of fines as per the report. In any event, the Appellant never raised this issue before the GCZMA in his reply and cannot for the first time be permitted to raise this issue in Appeal.
- 61) With respect to paragraph 23 & 24, Respondent No. 2 denies that the Impugned Order is without jurisdiction or that there is no source of power to impose such penalty/ compensation. Respondent no. 2 denies that the imposition of Environmental Compensation by the Respondent no. 1 on the whole area is contrary to its Order of 05.04.2022 or that it should be to only the area damaged for the purpose of calculation of compensation. Respondent No. 2 denies that in the present case, the Respondent no. 1 has not even indicated the damage or the area of actual damage.
- 62) With respect to paragraph 25, Respondent no. 2 denies that filling has been done only on the southern side or that this area is beyond CRZ or that the respondent no. 1 has no jurisdiction/authority or power whatsoever to impose any fine in respect of this area. Respondent no. 2 denies that for the lagoon the CRZ area is only 43 meters from the high tide line and



*Printed*

that the jurisdiction or authority of the respondent no. I would relate to only this area.



- 63) Respondent no. 2 denies that the total area in NDZ is only 3360 sq. mts and there was no activity whatsoever in the NDZ area or therefore there was no reason whatsoever to apply the said formula and impose penalty/ compensation.
- 64) With respect to paragraph 26, it is true that respondent no.1 through the office of Deputy Collector, Bardez, Goa has worked out the cost of restoration to be Rs. 62,02,870/- (Rupees Sixty-Two Lakhs Two Thousand Eight Hundred and Seventy Only). However this is only the cost of restoration and not the Environmental Compensation.
- 65) With respect to Paragraph 27, Respondent no. 2 denies that compensation/fines on the basis of the formula will not apply to any violation on any date prior to 02.11.2017. In any event, the Appellant never raised this issue before the GCZMA in his reply and cannot for the first time be permitted to raise this issue in Appeal.
- 66) With respect to Paragraph 28, Respondent no. 2 denies that formula was relating to coastal damage and not in respect of any violation in CRZ in a remote village. The subject property is not in a remote village but in the coastal village of Siolim. The scientific report

*M. S. Pant et al*

“Environmental Compensation for Coastal Damage through Total Ecosystem Service Values” in the conclusion itself encompasses lagoons (see page 223).

“As in the definition of a coastal ecosystem, the various habitats within this ecosystem: shorelands, dunes, off shore islands, barrier islands, headlands, lagoons and fresh water wetlands...” (emphasis supplied)

67) Respondent no. 2 therefore denies that the formula itself was not applicable in the case of the appellant.

68) With respect to Paragraph 29, Respondent no. 2 states that the stipulation of a penalty by the 2023 amendment is pursuant to the Jan Vishwas (Amendment of Provisions) Act, 2023 which is an act to amend certain enactments for decriminalizing and rationalising offences to further enhance trust based governance for ease of living and doing business. The contention that the compensation beyond Rs. 15,00,000/- (Rupees fifteen lakhs only) for any environmental violation whatsoever and howsoever grave or massive is preposterous, contrary to the amended provisions and untenable in law. Respondent no. 2 denies that compensation above Rs. 15 lakhs is impermissible. In any event, the Appellant never raised this issue before the GCZMA in his reply and cannot for the first time be permitted to raise this issue in Appeal.



*AA airtel*



69) With respect to Paragraph 29, denies that the formula adopted is unworkable or is being applied with non-application of mind. The Appellant cannot escape the payment of environmental compensation on the basis of the environmental compensation in some other unconnected case. The case mentioned by the Appellant did not involve reclamation of a lagoon and the large scale ecological destruction carried out by him. In any event, the Appellant never raised this issue before the GCZMA in his reply and cannot for the first time be permitted to raise this issue in Appeal.

70) With respect to paragraph 30 and 31, Respondent no. 2 denies that the formula is being mechanically applied and does not at all have any relationship with the environmental damage/degradation that is being caused. Respondent no. 2 denies that the respondent no.1 is blindly applying this formula by taking the entire area of the property without any regard to the actual area of violation and the consequences thereof on the environmental damage/ degradation. In any event, the Appellant never raised this issue before the GCZMA in his reply and cannot for the first time be permitted to raise this issue in Appeal.

71) With respect to paragraph 32, Respondent no. 1 denies that in the case of the appellant, the excavation

*Handwritten signature: AA aintal*

of the rectangular portion was done by the predecessor in title of the appellant. Respondent no. 2 denies that at the highest it could be alleged that the appellant had reduced the size of this rectangular portion from 125 meters to 96 meters by doing filling by way of earth/mud on the southern side of the property bearing survey no. 318/2. Respondent no. 2 denies that by no stretch of imagination the reclamation of the lagoon caused any environmental degradation/damage either in that particular area or to the flora and fauna of the area. Respondent no. 2 denies that the respondent not is totally silent about the actual damage or the assessment thereof by the respondent. In any event, the Appellant never raised this issue before the GCZMA in his reply and cannot for the first time be permitted to raise this issue in Appeal.



- 72) With respect to paragraph 33, Respondent no 2 denies that the environmental compensation is foisted on the appellant vide Impugned Order dated 18.12.2024 beyond the powers and authority conferred on the GCZMA via Section 5 of the EPA Act, 1986. Respondent no. 2 denies that the power to impose environmental compensation cannot be read into Section 5. In any event, the Appellant never raised this issue before the GCZMA in his reply and cannot for the first time be permitted to raise this issue in Appeal.

*R. Prady*

73) With respect to paragraph 34 & 35, Respondent denies that the impugned order is vulnerable or liable to be quashed and set aside for any of the reasons stated therein. In any event, the Appellant never raised this issue before the GCZMA in his reply and cannot for the first time be permitted to raise this issue in Appeal. Respondent no. 2 denies that the GCZMA is not authorized impose environmental compensation.



74) Respondent no. 2 states that the appeal is without any merit. Besides, the conduct of the Appellant coupled with the false statements and suppression by the Appellant disentitles the Appellant from grant of any relief.

75) Respondent no. 2 states that the Hon'ble Supreme Court in the case of *Amar Singh v. Union of India* (2011) 7 SCC 69 at page 88 while referring to its earlier decision in the case of *Dalip Singh* (2010) 2 SCC 114 has stated thus:

*“60. In the last noted case of Dalip Singh [(2010) 2 SCC 114 : (2010) 1 SCC (Civ) 324 : JT (2009) 15 SC 201] , this Court has given this concept a new dimension which has a far-reaching effect. We, therefore, repeat those principles here again: (SCC pp. 116-17, paras 1-2)*

*“1. For many centuries Indian society cherished two basic values of life i.e. ‘satya’ (truth) and ‘ahimsa’ (non-violence). Mahavir, Gautam Buddha and Mahatma Gandhi guided the people to ingrain these values in their daily life. Truth constituted an integral part of the*

*MS Aintal*

*justice-delivery system which was in vogue in the pre-independence era and the people used to feel proud to tell truth in the courts irrespective of the consequences. However, post-independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings.*

*2. In the last 40 years, a new creed of litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order to meet the challenge posed by this new creed of litigants, the courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final.*



*However, this Court is constrained to observe that those principles are honoured more in breach than in their observance.”*

(emphasis supplied)

- 76) Again in the Hon'ble Supreme Court in the case of Kishore Samrite v. State of UP (2013) 2 SCC 398 at Para 32.2 reiterated:

*“32. The cases of abuse of process of court and such allied matters have been arising before the courts consistently. This Court has had many occasions where it dealt with the cases of this kind and it has clearly stated the principles that would govern the obligations of a litigant while*

*of*

approaching the court for redressal of any grievance and the consequences of abuse of process of court. We may recapitulate and state some of the principles. It is difficult to state such principles exhaustively and with such accuracy that would uniformly apply to a variety of cases. These are:



**32.1.** Courts have, over the centuries, frowned upon litigants who, with intent to deceive and mislead the courts, initiated proceedings without full disclosure of facts and came to the courts with “unclean hands”. Courts have held that such litigants are neither entitled to be heard on the merits of the case nor are entitled to any relief.

**32.2.** The people, who approach the court for relief on an *ex parte* statement, are under a contract with the court that they would state the whole case fully and fairly to the court and where the litigant has broken such faith, the discretion of the court cannot be exercised in favour of such a litigant.

**32.3.** The obligation to approach the court with clean hands is an absolute obligation and has repeatedly been reiterated by this Court.

**32.4.** Quests for personal gains have become so intense that those involved in litigation do not hesitate to take shelter of falsehood and misrepresent and suppress facts in the court proceedings. Materialism, opportunism and malicious intent have overshadowed the old ethos of litigative values for small gains.

**32.5.** A litigant who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands is not entitled to any relief, interim or final.

**32.6.** The court must ensure that its process is not abused and in order to prevent abuse of

*Handwritten signature: [Signature]*

*process of court, it would be justified even in insisting on furnishing of security and in cases of serious abuse, the court would be duty-bound to impose heavy costs.*

(emphasis supplied)

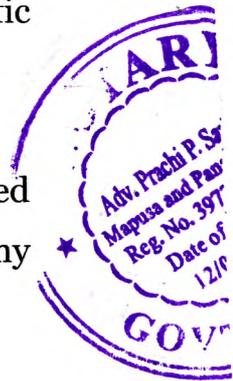
77) Respondent No. 2 denies all and singular the contents of the Appeal which are inconsistent or contrary to the case pleaded by the Respondent no. 2 in this Reply. Nothing not specifically denied may be treated to be an admission for mere want of specific traverse.

78) Respondent no. 2 states that the Impugned Order is just and proper and does not warrant any interference from this Hon'ble Court.

79) In light of what is stated above the Appellant is not entitled for any relief as prayed or otherwise and the Appeal is liable to be dismissed with costs.

Mapusa, April 08, 2025

  
Respondent No. 2



**AFFIDAVIT**

I, Mohinder Kaur Paintal, wife of Late Mr. Lakhinder Singh Paintal, aged 85 years, residing at H.No. 199/2/B1 – B2, Fernandes Vaddo, Siolim, Bardez, Goa 403517 do hereby on solemn affirmation state that what is stated by me in Paragraphs 1 to 5, 7 to 28, 29(p), 30 to 32, 33(p), 34, 36 to 59, 60(p), 62(p), 63, 64, 65(p), 68(p), 69(p), 70(p), 71(p), 72(p), 73(p) and 77 is true to my knowledge and documents which I have accessed and what is stated by me in Paragraphs 6, 29(p), 33(p), 35, 60(p), 61, 62(p), 65(p), 66, 67, 68(p), 69(p), 70(p), 71(p), 72(p), 73(p), 75, 76, 78 and 79 are legal submissions which I believe to be true.

Solemnly affirmed as aforesaid

at Mapusa, Goa on this 8<sup>th</sup> day of April 2025

*Mohinder Kaur Paintal*  
Deponent



Solemnly affirmed before me by  
Smt/Smt. Mohinder Kaur Paintal  
who is identified to me by through Adhar Card  
Shri/Smt. 727159159833  
who is personally known to me  
this 8<sup>th</sup> day of April 2025.

*Prasant*  
**PRACHI P. SAWANT**  
ADVOCATE & NOTARY  
MAPUSA AND PANAJI - GOA  
(GOVT OF INDIA)  
REG. NO. 39775

*Se no - 23*  
*identified through*  
*Adhar Card*

**Goveia Marina**

This image taken from google earth of April 2010.

**Annexure R2-A**

**384**

**Legend**



# Goveia Marina

This image taken from google earth of April 2012.

# Annexure R2-B

385

Legend







Annexure A



*Belkar* 





Brelkar 



Bhelkar ✓



**IN THE HIGH COURT OF BOMBAY AT GOA****WRIT PETITION NO.772/2023**

MOHINDER KAUR PAINTAL

... PETITIONER

*Versus*STATE OF GOA, THR. CHIEF  
SECRETARY AND 3 ORS.

... RESPONDENTS

Mr Amey Kakodkar with Ms S. Lata, Advocates for the Petitioner.

Mr D. Pangam, Advocate General with Ms Maria Correia, Additional  
Government Advocate for Respondent-State.

Mr Pranay Kamat, Advocate for Respondent No.3.

Mr Parag Rao with Mr Akhil Parrikar, Ms Sowmya Drago and Mr A.  
Menon, Advocates for Respondent No.4.**CORAM: M. S. SONAK &  
AVINASH G. GHAROTE, JJ.****DATE: 15<sup>th</sup> MARCH 2024****P.C.:**

1. Heard arguments.
2. Mr Amey Kakodkar, learned counsel for the petitioner, brought to our notice an order dated 07.04.2017 made by the Goa Coastal Zone Management Authority (GCZMA) against the fourth respondent and submitted that there was no complete compliance with the directions issued by the GCZMA in this order. He submitted that the appeal against this order was dismissed by the National Green Tribunal (NGT) on 15.05.2017, and even a review against the order dated 15.05.2017 was dismissed on 09.07.2021.

3. Mr Kakodkar submitted that despite all this and without verifying the status of compliances, the GCZMA granted approval dated 23.08.2021 based upon which the fourth respondent has undertaken activities in the Coastal Regulation Zone (CRZ) area and, in doing so, even exceeded the conditions imposed in the said approval.

4. Mr D. Pangam, learned Advocate General, placed before us a compilation of orders and submitted that after the GCZMA made its order dated 07.04.2017, the fourth respondent, by his communication dated 22.05.2018, reported certain compliances. Based on that, the GCZMA officials held some site inspections. During the site inspections, it was noted that there was only partial compliance. Therefore, the GCZMA, in its order dated 20.09.2018, recorded that there was no complete compliance and issued directions for compliance.

5. Learned AG then pointed out that the fourth respondent filed a review application on 30.03.2019, seeking review of the NGT's order dated 15.05.2017, dismissing the appeal against the order of GCZMA dated 07.04.2017. This review petition was dismissed by the NGT on 09.07.2021.

6. Learned AG pointed out that one Goa Paryavaran Savrakshan Sangharsh Samitee had also filed O.A. No.3/2018 before the NGT complaining about the non-compliance by the fourth respondent. This was disposed of on 15.12.2022 by issuing certain directions for compliance.

7. Learned AG then submitted that the fourth respondent has neither fully complied with the directions in the order of GCZMA dated 07.04.2017, which has attained finality, nor the directions in the order

dated 15.12.2022 made by the NGT in O.A. No.3/2018 instituted by the Goa Paryavaran Savrakshan Sangharsh Samitee.

8. In the context of NGT's order dated 15.12.2022, Mr Parag Rao, learned counsel for the fourth respondent, submitted that the fourth respondent would comply with the directions in paragraph 10 of NGT's order dated 15.12.2022 within forty-eight hours or in any case, latest by 20.03.2024 and file a compliance report.

9. However, regarding GCZMA's order dated 07.04.2017, including, in particular, compliance with the directions to remove the mud filling and restore the lagoon to its original dimensions of 125 mtrs. x 80 mtrs., Mr Rao submitted that this direction stands substituted by NGT's order dated 15.12.2022, and therefore, there was no requirement to comply with this direction. Mr Rao submitted that even the NGT's order dismissing the review application refers to the GCZMA's order dated 20.09.2018, which, in turn, refers to the original dimension of the lagoon as 96 mtrs. x 67 mtrs.

10. Mr Rao submitted that a fresh survey should be ordered by this Court involving the Directorate of Survey and Land Records (DSLRL) to ascertain whether the original dimension of the lagoon was 125 mtrs. x 80 mtrs. He submitted that the original dimension was only 96 mtrs. x 67 mtrs. and the fourth respondent would restore the lagoon dimensions to 96 mtrs x 67 mtrs. by 20.03.2024.

11. Mr Rao, on instructions from the fourth respondent who was present in the Court, said that the fourth respondent would restore the opening of the sluice gate from 12 mtrs. to its original size and also restore the width

of the sluice gate to 2.5 mtrs. and the depth of the construction of the sluice gate opening would be maintained at the lowest tide level. However, Mr Rao submitted that it was impossible for the fourth respondent to comply with the direction in the GCZMA's order dated 07.04.2017 about restoring the lagoon to its original dimensions of 125 mtrs. x 80 mtrs. He also submitted that these dimensions were based on Google images, which were far from accurate, and this Court should go by the DSLR measurements, which show that the original dimensions of the lagoon were only 96 mtrs. x 67 mtrs.

**12.** On consideration of the rival contentions and the material placed on record by both parties, it is indisputable that the GCZMA, after due compliance with the principles of natural justice and fair play, recorded a finding that the lagoon's original dimensions were 125 mtrs x 80 mtrs in its order dated 07.04.2017. Accordingly, directions were issued to the fourth respondent to remove the mud filling brazenly carried out in a highly eco-sensitive area and restore the lagoon to its original dimensions of 125 mtrs. x 80 mtrs.

**13.** The fourth respondent appealed to the NGT vide Appeal No.41/2017 (WZ). This appeal was dismissed by the NGT by order dated 15.05.2017. In this order, the NGT specifically noted that the GCZMA had invited the parties' attention to the Google images of the property for the years 2003 and 2016, which demonstrated that the lagoon was shrunk after 2003. Since all these activities were in the area affected by CRZ and the same were undertaken by the fourth respondent without bothering to obtain any permissions from the GCZMA, the appeal against GCZMA's order dated 07.04.2017 was dismissed by the NGT.

14. Undeterred, the fourth respondent instituted review application no.3/2019 seeking review of NGT's order dated 15.05.2017, dismissing the fourth respondent's appeal against GCZMA's order dated 07.04.2017. Again, even this review petition was dismissed by the NGT after observing that even subsequent inspection by the GCZMA on 22.06.2018, on which the fourth respondent had relied, does not show that the structure in question was outside the NDZ. On the contrary, minutes of the meeting dated 28.08.2018 specifically record that the appellant had failed to comply with the earlier orders, which led to the passing of the further order dated 20.09.2018. Accordingly, the NGT observed, "*We do not find any merit in the review application, which is dismissed*".

15. Despite the GCZMA's order dated 07.04.2017 attaining finality on account of dismissal of the appeal against the same by NGT vide its order dated 15.05.2017 and after the dismissal of Review Application No.3/2019 against the NGT's order dated 15.05.2017, the fourth respondent still insists that the directions issued by GCZMA for removing the mud filling carried out in the lagoon and restoring the lagoon to its original dimensions i.e. 125 mtrs. X 80 mtrs. is wrong. Such a contention or argument cannot be accepted. At this stage, there is no question of re-survey or involving the DSLR to conduct a re-survey. A finding in the order dated 07.04.2017, which has attained finality, cannot be revisited simply because the fourth respondent does not adamantly wish to comply with the same.

16. The contention that the above finding in the GCZMA's order dated 07.04.2017 stands substituted by the NGT's order dated 15.12.2022 in O.A. No.3/2018 instituted by the Goa Paryavaran Savrakshan Sangharsh Samitee, is entirely misconceived and nothing but a ploy to avoid

compliance with GCZMA's order dated 07.04.2017, which has already attained finality.

17. The NGT's order dated 15.12.2022 was issued in an original application instituted by Goa Paryavaran Savrakshan Sangharsh Samitee. The complainant, Anthony D'Souza, based on whose complaint the GCZMA had made its order dated 07.04.2017, had nothing to do with the O.A. No.3/2018. Secondly, from the perusal of the order dated 15.12.2022, it is evident that none appeared on behalf of the Goa Paryavaran Savrakshan Sangharsh Samitee. Thirdly, from the reading of the order dated 15.12.2022, it appears that neither the fourth respondent nor the GCZMA brought to the notice of the Division Bench of the NGT (Western Zone) that the appeal against GCZMA's order dated 07.04.2017 was already dismissed by the NGT on 15.05.2017. Further, the Principal Bench considered and dismissed even the Review Application No.3/2019 comprising five members vide order dated 09.07.2021. In any case, there is nothing in the order dated 15.12.2022 which even remotely suggests that the directions issued therein were in substitution to the directions issued by the GCZMA on 07.04.2017, which directions, as noted earlier, had already attained finality given the NGT orders dated 15.05.2017 and 09.07.2021.

18. Therefore, to read and construe NGT's order dated 15.12.2022 or the GCZMA's order dated 20.09.2018 to mean that the said orders in any manner reviewed, modified or substituted the GCZMA's order dated 07.04.2017, which has already attained finality, would be entirely misconceived. Such a construction would amount to saying that the NGT, in making the said orders, acted beyond or in excess of jurisdiction. That could never have been the import of the NGT's orders. The NGT's orders neither say so nor could they have said so. Once the GCZMA's order dated

07.04.2017 attained finality post the dismissal of the appeal and review application by the NGT, neither the GCZMA nor any other Bench of the NGT in a petition instituted by some third party would have any jurisdiction to either review or even modify the GCZMA's order dated 07.04.2017.

**19.** On a meaningful consideration of the NGT's order dated 15.12.2022 or the GCZMA's order dated 20.09.2018, it is more than apparent that the directions issued therein were not in substitution of the directions issued by the GCZMA in its order dated 07.04.2017, which had already attained finality. Therefore, based on a patent misconstruction of the NGT's order dated 15.12.2022 or the GCZMA's order dated 20.09.2018, the fourth respondent cannot seek a re-survey or avoid compliance with the directions to remove the massive mud filling carried out in the lagoon and restore the lagoon to its original dimensions, i.e. 125 mtrs. x 80 mtrs.

**20.** Mr Kakodkar invited us to examine the Google images and other material in the context of the original dimensions of the lagoon. Mr Rao submitted that the google images are never accurate. At this stage, however, there is no question of our revisiting the findings recorded by the GCZMA in its order dated 07.04.2017 after this order has attained finality. As noted earlier, the appeal against the said order was dismissed by the NGT on 15.05.2017. The review petition against the order dated 15.05.2017, which was also based on some confusion that the fourth respondent attempted to create, was also dismissed by the NGT on 09.07.2021. Therefore, it is quite unfortunate that the fourth respondent still refuses to comply with the GCZMA directions for the restoration of the lagoon to its original dimensions.

**21.** At this stage, we must refer to the conduct of the fourth respondent, which we think is plainly dishonest and contumacious. Despite the order dated 07.04.2017 attaining finality, the fourth respondent, to date, has not bothered to comply with the directions therein fully. Further, despite urging that the directions in GCZMA's order dated 07.04.2017 being substituted by the NGT's order dated 15.12.2022 (which contention is incorrect and misconceived), the fourth respondent did not even bother to comply with the directions in the order dated 15.12.2022. In the course of the hearing, and based on instructions from the fourth respondent who was present in the Court, full compliance is now assured up to 20.03.2024. This means that if the present petition were not to be instituted, in all probabilities, the fourth respondent would have gotten away with not complying with the orders made by the GCZMA and the NGT.

**22.** The fourth respondent had no qualms about writing to the GCZMA that he had complied with the GCZMA and NGT orders. These letters were addressed with full knowledge that there was no compliance. Even before this Court, the fourth respondent, who had appeared in person, had no qualms about making incorrect statements or avoiding the Court processes.

**23.** Learned AG placed on record communication dated 22.05.2018 addressed by the fourth respondent to the Member Secretary of the GCZMA. In this communication, the fourth respondent admits that the GCZMA order dated 07.04.2017 had directed him to do the following:

- a) Restore the opening of the sluice gate from 12m wide to its original size.
- b) Remove the mud filing carried out in the lagoon and restore the lagoon to its original dimensions i.e. 125m x 80m.

c) To remove the concrete platform alongwith columns in the lagoon constructed along the river bank.

d) To remove/demolish the boundary wall of laterite masonry constructed up to the edge of the river.

**24.** In his communication dated 22.05.2018, the fourth respondent writes that he has complied with the directions (c) and (d) though belatedly. Regarding direction (b), the fourth respondent demands a re-survey by arguing that the length of his property, as per the survey plan, is only 120 mtrs and, therefore, the restoration of the lagoon/pond to 125 mtrs. x 80 mtrs. would be *impracticable and impossible*. Some dispute was also raised about the width of the creek, even though, in this case, we are concerned with the river.

**25.** Mr Kakodkar referred to the building plan submitted by the fourth respondent to the GCZMA very recently (on page 66 of the paper book). He pointed out that in terms of this plan, the fourth respondent had claimed that the length of his property was 135.64 mtrs. This belies the contention about the length being only 120 mtrs. Therefore, when it comes to obtaining benefits, the fourth respondent goes by the length of his property being over 135 mtrs. but when it comes to restoring the lagoon to its original size, the claim is that the length of the lagoon was only 96 mtrs. and not 125 mtrs. In the communication dated 22.05.2018, the fourth respondent went so far as to claim that he had never done any mud filling or that the area would be beyond the CRZ demarcated area. The fourth respondent goes so far as to state that, to his knowledge, traditionally and as of date, his property surveyed under no.318/2 was not subject to tides.

26. Even Mr Rao, learned counsel for the fourth respondent, admitted that the above statements were false. There is ample material on record about the area being affected by CRZ and the property being subject to tidal influence. At every stage, the fourth respondent made false statements, and it is apparent that the fourth respondent had no regard for the truth, not to mention any environmental concerns. Considering the conduct of the fourth respondent, in not only of not complying with the orders, but also of making a false statements of having complied with the same, we in fact were of a mind to issue a notice of contempt to the fourth respondent, however, considering the assurances by Mr. Rao, learned Counsel for the fourth respondent, we as of now are refraining from doing so.

27. The record bears out that the fourth respondent virtually filled up a natural lagoon with a view to finding a place for putting up a commercial project. Concrete walls were constructed on the river bank; sluice gate walls were demolished and re-constructed, and sluice gate openings were unduly widened. The constructions put up on the property virtually amount to environmental havoc. Still, the fourth respondent wants to put more cottages on the property for commercial exploitation. All this, even without complying with the orders made by the GCZMA and the NGT.

28. By complying with the directions issued by the NGT in O.A. No.3/2018 instituted by Goa Paryavaran Savrakshan Sangharsh Samitee, the fourth respondent cannot avoid compliance with the directions in the GCZMA's order dated 07.04.2017, after this order has attained finality. As noted earlier, some third party instituted O.A. No.3/2018, and there is nothing in the order dated 15.12.2022 based on which it could be said that the directions issued therein were in substitution of the GCZMA's order

dated 07.04.2017. Such an interpretation would mean that whatever the fourth respondent could not get by instituting the appeal against the GCZMA's order dated 07.04.2017 from the NGT, the fourth respondent has got in the original application instituted by a third party, in which the fourth respondent was only a respondent and not even an appellant. Therefore, the fourth respondent's claim that the GCZMA's direction to restore the lagoon to its original dimensions of 125 mtrs. x 80 mtrs. stands set aside in the order dated 15.12.2022, is entirely a misconceived and even a dishonest claim.

**29.** Therefore, the fourth respondent's conduct deserves to be severely deprecated. However, what shocks and hurts us most is the approach of the GCZMA. When the fourth respondent applied for permission to construct more cottages, the GCZMA officials claimed to have visited the property. However, none of the GCZMA officials flagged the issue of non-compliance with the GCZMA's order dated 07.04.2017 or, for that matter, NGT's order dated 15.12.2022. The GCZMA officials did not even record that the fourth respondent had failed to restore the opening of the sluice gate from 12 mtrs. to its original size and restore the lagoon to its original dimensions of 125 mtrs. x 80 mtrs. Instead, approvals were granted, and even though the fourth respondent *prima facie* exceeded the approvals, the GCZMA did not deem it fit to stop the unauthorised constructions and initiate an action against the fourth respondent.

**30.** Despite the petitioner's complaints, no action was initiated by the GCZMA. It was only after this petition was filed that a show cause notice was issued to the fourth respondent after noticing *prima facie* violations. Mr Kakodkar submitted that even now, the fourth respondent had made constructions which almost jut out into the river by claiming that their

property was washed away by the river and, therefore, they have the right to make such constructions. As we have seen, the fourth respondent can go to any extent and make any statements with scant regard for the truth. However, what surprises us is that the GCZMA, which is enjoined with the responsibility of protecting areas affected by the CRZ notification, does not even care to notice blatant violations or entertain complaints of blatant violations until after the constructions are complete and a fait accompli situation is created. The officials of the GCZMA, cannot be said to be oblivious of the orders of the NGT and the continuance of the violation of these orders as they were not only parties to such directions/orders, but had also visited the site for inspection thereafter at least twice.

**31.** On account of inaction on the part of the GCZMA officials in this matter, the fourth respondent continued with his constructions until we were forced to intervene by our order dated 25.01.2024. Even after the GCZMA issued a stop work order, the fourth respondent continued with the constructions on the spacious plea that his name was not correctly described in the stop work order. In our order dated 25.01.2024, we have already recorded the conduct of the fourth respondent, who initially claimed that he never received the stop work order and later on, after his signatures were found on the copy in token of receipt, the fourth respondent tried to explain that he signed on stop work order because he was told that such orders were in relation to his pending applications. For all these reasons, we are constrained to record that the fourth respondent appears to have very scant regard for truth and environmental concerns.

**32.** The GCZMA has already issued notices of show-cause to the fourth respondent. Learned AG stated that the notices would be disposed of as soon as possible in accordance with the law. Accordingly, we direct the

GCZMA to dispose of the show cause notices within the next fifteen days. This is because we were informed that the arguments were almost concluded.

**33.** In this case, the fourth respondent has failed to comply with the GCZMA and NGT orders. At the same time, we also find that the GCZMA was not serious about the fourth respondent complying with its orders. Instead of vigorously pursuing compliance and restoration of the site degraded by the fourth respondent to its original condition, the GCZMA was busy considering fresh proposals for construction submitted by the fourth respondent. But for this petition, we think the GCZMA would not have even bothered to implement its orders and restore the lagoon and its surroundings to their original position. In this case, we note that even though the fourth respondent carried out massive environmental degradation, the GCZMA, despite having the powers and duty, has not bothered to recover any amounts from the fourth respondent towards the environmental costs and damages.

**34.** The GCZMA, as noted earlier, is statutorily enjoined to protect the areas affected by the CRZ notification. Therefore, if there are instances of environmental damage, it is the duty of the GCZMA to stop such damage by vigilant action and, in any case, to make suitable orders for the restoration of these areas to their original condition. There is also a duty to assess and recover environmental damage costs. Ultimately, the GCZMA must remember that they are only the trustees appointed to take care of the CFRZ areas, and therefore, it is not for them to arbitrarily waive the environmental damage costs from some parties or to levy them on others. In all cases where there is environmental damage, it is the duty of the GCZMA officials to assess and recover environmental damages. The public

trust doctrine, which applies in such situations, requires the GCZMA to recover such environmental damage costs. Accordingly, We direct the GCZMA to tentatively assess the environmental damages caused by the fourth respondent and issue a show-cause notice to the fourth respondent for recovery of such damages. Such show-cause notice must be issued and disposed of in accordance with the law as expeditiously as possible and not later than four months from today.

35. Disturbed by the facts in the present case, we requested the learned AG to give us information about water bodies in the State of Goa. The learned AG gave us a list of the wetlands included in the draft notification and the list of wetlands/water bodies that have been finally notified.

36. The list of finally notified wetlands/water bodies reads as follows:-

<b>Sr. No.</b>	<b>Name of Wetland</b>	<b>District</b>	<b>Village</b>	<b>Taluka</b>
1	Durga Lake	South Goa	Chinchinim	Salcete
2	Carambolim Lake	North Goa	Carambolim, Corlim	Tiswadi
3	Batim Lake	North Goa	Batim	Tiswadi
4	Coneix Lake	South Goa	Priol	Ponda
5	Tarvale Lake	South Goa	Shiroda	Ponda
6	Sulabhat Lake	North Goa	St. Lawrence	Tiswadi
7	Pali Lake	South Goa	Dicarpale, Davorlim	Salcete
8	Toygar Lake	North Goa	Chimbel	Tiswadi
9	Saulem Lake	North Goa	Pilerne	Bardez
10	Dashi Lake	North Goa	Revora	Bardez
11	Cottombi Lake	South Goa	Avedem, Cottombi	Quepem
12	Xeldem Lake	South Goa	Xeldem	Quepem
13	Sarzora Lake	South Goa	Saarzora	Salcete
14	Bondvol Lake	North Goa	Calapur	Tiswadi
15	Nanda Lake*	South Goa	Cacora	Quepem

\* Nanda Lake (Quepem) is designated as Goa's first Wetland of International Importance (Ramsar site)

37. The list of wetlands/water bodies included in the draft notification reads as follows:-

Sr. No.	Name of Waterbody	District	Village	Taluka
1	Udden Lake	South Goa	Shiroda	Ponda
2	Panchami Lake	South Goa	Khandepar	Ponda
3	Parra Lake	North Goa	Parra	Bardez
4	Karmale Lake or Arla Keri Tollem	South Goa	Querim	Ponda
5	Dhakte Lake or Diuler tollem	South Goa	Benaulim	Salcete
6	Ita Lake	South Goa	Benaulim	Salcete
7	Maem Lake	North Goa	Mayem	Bicholim
8	Macasana Lake	South Goa	Macasana	Salcete
9	Bandolem lake	South Goa	Sancoale	Mormugao
10	Orlim Lake	South Goa	Orlim	Salcete
11	Dhulpe Lake or Chicungal tollem	South Goa	Shiroda	Ponda
12	Sapu Lake or Tollem Bandar	South Goa	Ambelim	Salcete
13	Vodle Lake	South Goa	Benaulim	Salcete
14	Talaulim Lake or Talsal Tollem	South Goa	Wadi Talaulim	Ponda
15	Betal Lake	South Goa	Querim	Ponda
16	Adsule Lake	South Goa	Benaulim	Salcete
17	Kodal Lake	North Goa	Karapur	Bicholim
18	Manali Lake	South Goa	Benaulim	Salcete
19	Kolamwada Lake	North Goa	Karapur	Bicholim
20	Ambulor Lake	South Goa	Verna	Salcete
21	Kamala Lake	South Goa	Benaulim	Salcete
22	Bebki Lake	South Goa	Raia	Salcete
23	Bachbhatt lake	South Goa	Raia	Salcete
24	Maimollem Lake	South Goa	Mormugao	Mormugao
25	Lagoa De Cima	South Goa	Chandor	Salcete
26	Vodle-Dhakte Complex	South Goa	Cortalim	Mormugao
27	Moingal Lake	South Goa	Shiroda	Ponda
28	Lamgao Lake	North Goa	Lamgao	Bicholim
29	Zuari lake	South Goa	Sancoale	Mormugao

**38.** Insofar as the finally notified wetlands/water bodies are concerned, the restrictions prescribed in Rule 4 of the Wetlands (Conservation and Management) Rules, 2017 would apply. Rule 4 requires that the wetlands be conserved and managed per the principle of "wise use" as determined by the Wetlands Authority. Rule 4(2), however, provides that certain activities will be prohibited within the wetlands, namely conversion for non-wetland uses, including encroachment of any kind; setting up of any industry and expansion of existing industries; manufacture or handling or storage or disposal of construction and demolition waste covered under the Construction and Demolition waste; hazardous substances; solid waste dumping; discharge of untreated wastes; construction of a permanent nature and poaching.

**39.** Insofar as the wetlands included in the draft notification are concerned, we apprehend that the laxity of the enforcement agencies would lead to the destruction of these water bodies/wetlands, even before any final notification is issued. Although the lagoon, which is the subject matter of the present petition, will not be governed by the Wetland Rules of 2017 because such lagoon is governed by the CRZ Notification of 2011, this case is symptomatic of the general laxity in the implementation of environmental laws and regulations in the State of Goa.

**40.** There are instances of filling up water bodies and wetlands for environmental commercial exploitation. Solid wastes are invariably dumped in low-lying lands, water bodies and wetlands for environmental commercial exploitation or conversion for non-wetland uses, many a times surreptitiously in the night hours. Still, the authorities who are enjoined in the task of preventing such breaches hardly take any action. Even if complaints are filed, no action is forthcoming. This case is an example of

how an entire lagoon was constructed and encroached upon. Despite directions for restoring the lagoon to its original dimensions and state, there is a deficit in compliance. Instead of insisting upon compliance, the authorities are busy entertaining further applications that will facilitate commercial exploitation.

**41.** For all the above reasons, we direct that at least in respect of the above-listed water bodies/wetlands (in the final as well as the draft notifications), the State of Goa, through its agencies and instrumentalities, must ensure that the restrictions set out in Rule 4 of the Wetland Rules of 2017 are duly enforced. The Secretary (Environment), State of Goa, must, within fifteen days from today, issue necessary circulars to the Mamlatdars, Collectors and Deputy Collectors apprising them of the list of wetlands and water bodies and the provisions of the Wetland Rules of 2017 so that there is strict compliance.

**42.** In addition, the wetland authorities constituted under the Wetland Rules of 2017 must also keep a vigil on violations and take action to prevent violations or, in any case, against the violators so as to secure the restoration of such water bodies and wetlands in the State of Goa.

**43.** Learned AG stated that a survey is being undertaken to determine the water bodies in towns and other places in the State of Goa. Such surveys must continue so that there is clear data concerning the water bodies and wetlands. If there is any list prepared by the Water Resources Department or the Public Works Department, the same must be placed before us in this matter by the next date.

44. Since the fourth respondent has agreed to restore the lagoon only to the extent of 96 mtrs. x 67 mtrs., we direct the GCZMA to undertake the work of balance restoration so that the lagoon is restored to its original dimensions of 125 mtrs. x 80 mtrs. As it is, the GCZMA's order dated 07.04.2017 stated that in case the fourth respondent fails to comply, the Deputy Collector and SDO of Bardez shall comply with the directions and recover the expenses from the fourth respondent as arrears of land revenue.

45. Further, we direct the fourth respondent to deposit ₹5 lakhs in the first instance with the GCZMA within two weeks from today. The GCZMA must start the restoration works within two weeks, irrespective of the fourth respondent's deposit of this amount. The GCZMA must also inform the Court of the tentative costs for the restoration so that suitable directions can be issued to the fourth respondent for depositing the costs.

46. Mr Kakodkar states that there are other issues involved in this petition. For the present, we post this matter on 20.03.2024 for the GCZMA and the fourth respondent to report compliances. On the said day we also propose to hear the learned counsel for the parties on the other issues which arise in this petition.

**AVINASH G. GHAROTE, J.**

**M. S. SONAK, J.**

SUCHITRA  
NANDAN  
SINGBAL

Digitally signed by  
SUCHITRA NANDAN  
SINGBAL  
Date: 2024.03.15  
15:30:03 +05'30'

**IN THE HIGH COURT OF BOMBAY AT GOA****WRIT PETITION NO.772 OF 2023**

MOHINDER KAUR PAINTAL

... PETITIONER

*Versus*THE STATE OF GOA THR  
CHIEF SECRETARY & ORS.

... RESPONDENTS

Mr Amey Kakodkar with Mr Akshay Naik, Advocates *for the Petitioner.*Ms Maria Correia, Additional Government Advocate *for the State and The Goa Coastal Zone Management Authority.*

Ms Venefreda Gracias, Legal retainer, GCZMA.

Mr Ludovico Gouveia, Proprietor of Respondent No.4.

**CORAM: M.S. SONAK &  
BHARAT P. DESHPANDE, JJ.****DATE: 25<sup>th</sup> JANUARY 2024****P.C.:**

1. Heard Mr Amey Kakodkar for the Petitioner and Ms Maria Correia, learned Additional Government Advocate for respondents no.1, 2 and 5.
2. On 11.01.2024 we issued notice to the petitioner returnable on 06.02.2024. On this date, we directed the Goa Coastal Zone Management Authority (GCZMA) to conduct survey/inspection and take all legally permissible steps to ensure that no further construction without requisite sanctions and permissions takes place.
3. Ms Maria Correia states that pursuant to the inspections, illegalities were noticed and accordingly a stop work order dated 11.01.2024 was issued. Further Ms Correia states that on receipt of complaints that the

work was going on despite the stop work order, a surprise inspection was held on 23.01.2024. Ms Correia states that during the surprise inspection it was found that the construction was indeed going on despite the stop work order.

4. Ms Correia, on instructions states that from 24.01.2024 the work has been stopped. She states that the GCZMA authorities and the police authorities are monitoring the site on a day to day basis to see that the work does not re-commence.

5. Mr Amey Kakodkar states that after we made our order dated 11.01.2024, the respondent no.4, commenced the work at a fast pace in a bit to possibly create a situation of *fait accompli*. He placed on record photographs to show how the construction has progressed in an illegal manner. On a comparison we do find that the construction has progressed. Mr Kakodkar's submission is corroborated by Ms Correia's statement that despite the stop work order and the surprise inspection, the construction was found to be going on. Mr Kakodkar complains that even the police authorities declined to intervene on the specious plea that the GCZMA officials have no powers to issue any directions to the police. Mr Kakodkar states that he will file affidavit giving the details of the police personnel to whom such complaints were made and the police personnel who declined to intervene based on this alleged plea.

6. For the present, from the material placed before us and also the statement made by Ms Maria Correia we are satisfied that the respondent no.4 must be directed to halt all constructions at the site. Further, whatever constructions are at the site must be immediately sealed by the GCZMA with the help of the police. At the time of sealing, a proper

panchanama along with photographs should be drawn to show that the status quo is properly crystallized.

7. Mr Ludovico Gouveia, Proprietor of M/s. Gouveia Resorts is present. He says that no stop work order was ever served upon his establishment by the GCZMA. He says that he has permissions from the GCZMA and Panchayat based upon which he continued with the constructions. He has also produced before us a permission/approval dated 23.08.2021 and an NOC from the Panchayat dated 30.09.2023.

8. On perusal of these two documents we find that some approvals were given for erection of six temporary cottages and one restaurant. However, the photographs at least prima facie show that what has been put up is a steel structure which can hardly be described as temporary cottages.

9. Since we expressed shock and requested Ms Maria Correia to explain to us whether or not the stop work order was indeed served, Ms Correia produced on record the original show cause notice cum stop work order dated 11.01.2024. she also produced the corrigendum dated 15.01.2024 specifically referring to the name of respondent no.4. She pointed out that the original show cause notice as well as the corrigendum bear the signature of Mr Ludovico Gouveia who is present before us today.

10. Upon this, Mr Gouveia admitted that the signatures on the notices and corrigendum were his. He however explained that he had gone to the GCZMA office possibly on the 15<sup>th</sup> or 18<sup>th</sup> of January 2024 when he was asked to sign these papers and he accordingly obliged. He further maintained that since these notices were not addressed to him he was not obliged to stop the works.

11. We do not approve this stance of Mr Gouveia. Prima facie, this amounts to defiance of orders made by authorities. If Mr Gouveia was in any manner aggrieved, he should have challenged these notices. But his insistence upon continuing works prima facie in breach of the permissions which were granted to him cannot be appreciated. Ultimately, these are eco-sensitive areas which cannot be exploited in this manner.

12. Further, we find that the show cause notice cum stop work order was issued inter alia to the Police Inspector of Anjuna Police Station, Anjuna, Bardez-Goa. This bears an endorsement to enforce these directions and ensure that no work is carried out at the site, other than in accordance with law and further provide police protection in enforcing the stop work order and further to attach any machinery/equipments utilized on site for the purpose of construction. If what Mr Kakodkar states is true, then, it is apparent that even the Police Inspector of Anjuna Police Station has not bothered to stop the construction despite the show cause notice cum stop work order. If this is true, then, it is again extremely unfortunate that law enforcement agencies decline to enforce law.

13. Be that as it may, the GCZMA and police authorities must now ensure that the constructions are completely stopped and sealed. If there is any machinery at the site, the same must also be attached unless Mr Gouveia is ready to move the machinery at some other place forthwith. Having the machinery at the site is again an invitation to clandestinely continue with the works which cannot be permitted.

14. Mr Gouveia states that he would like to file a reply in this matter by engaging an advocate. Accordingly, he is granted a week's time to file his reply in the matter. Copy of the reply must be furnished to the learned counsel for the petitioner and other respondents by 01.02.2024. If the

petitioner or other respondents wish to file any rejoinder they may do so within four days on receipt of this reply.

15. We post this matter on 08.02.2024 for further consideration.

16. At this stage, Mr Gouveia states that he has not only completed the constructions but he has even rented them to parties. Admittedly, there is no occupancy certificate. Therefore, this defence about renting out cannot be accepted. Ms Correia stated that at least from 24.01.2024, all constructions at the site were halted. The GCZMA and police authorities must ensure that these premises are sealed forthwith.

17. Mr Gouveia cannot take advantage of the works carried out by him in defiance of the stop work order. Even now Mr Gouveia was not agreeable to stop the constructions despite orders of this Court. Since Mr Gouveia was himself not willing to comply with the orders of this Court and seemed defiant, it is all the more important that the police authorities and the GCZMA take immediate steps as directed.

18. Necessary compliance report must be filed in this Court by 29.01.2024. If the police do not cooperate with GCZMA, Member Secretary, must file an affidavit giving the names of the police officers who were requested to cooperate and who have refused to cooperate.

19. Stand over to 08.02.2024.

20. All concerned to act on an authenticated copy of this order.

**BHARAT P. DESHPANDE, J.**

**M. S. SONAK, J.**

SUCHITRA  
NANDAN  
SINGBAL

Digitally signed by  
SUCHITRA NANDAN  
SINGBAL  
Date: 2024.01.25  
13:34:11 +05'30'

From:

M/s Goveia Developers,

Through it's partner

Mr. Ludovico S. Goveia,

r/o. H. No. 642, Ponsulem,

Colvale, Bardez, Goa

Date: 24/03/2023

9850483242

**Member Secretary**

**G. C. Z. M. A.**

**Forward No. 5291**

**Date: 27/03/2023**

*For 103/2023  
Legal*

To,

The Member Secretary,

GCZMA,

Secretariat Complex,

Porvorim, Goa

Ref: Directions in terms of order dated 15/12/2023 passed by the National Green Tribunal in O. A. 03/2018.

Sub: Compliance of the Directions above to referred.

Respected Sir,

1. By the above referred order the following directions were given to the undersigned, viz:

a) The width of sluice gate is found to be only 050 m during site inspection whereas as per

Google Earth image of 2003 the width of the bund near the sluice gate shows 2.50m it

should be restored back to its original size.

b) The opening of the sluice gate must be restored from 12m wide to its original size.

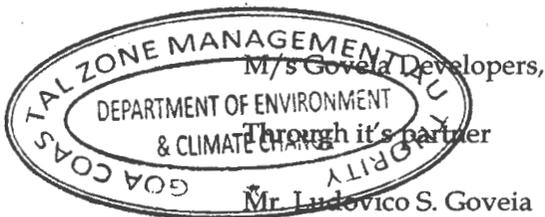


- c) The dimension of the Lagoon as per old DSLR plan shows 96.00 m x 67.00m, the mud filling done of water body from the southern side of the Lagoon has to be reclaimed to maintain 96.00m length of the lagoon, since filling carried out comes within the mangrove buffer zone as per CZMP 2011.
- d) The depth of construction of sluice gate opening should be maintained below the lowest tide level.
2. We have complied with the above referred directions and are hence informing your office about the same.
3. With respect we wish to submit that since we have complied with all the directions of the above referred order, we request that compliance report be prepared and that matter be closed.

Thanking you,



Yours Sincerely,



07/03/2024

22/03/2024

22/03/2024

20/-

385

22/03/2024.



MEMBER SECRETARY  
GOA COASTAL ZONE MANAGEMENT AUTHORITY  
PANAJI - GOA

ITEM NO.56

COURT NO.16

SECTION IX

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No.7997/2024

(Arising out of impugned final judgment and order dated 15-03-2024 in WP No. 772/2023 passed by the High Court Of Judicature at Bombay At Goa)

M/S GOVEIA DEVELOPERS

Petitioner(s)

VERSUS

STATE OF GOA & ORS.

Respondent(s)

(FOR ADMISSION and I.R.  
IA No. 95759/2024 - GRANT OF INTERIM RELIEF)

Date : 14-05-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSHU DHULIA  
HON'BLE MR. JUSTICE PRASANNA BHALACHANDRA VARALE

For Petitioner(s) Mr. Neeraj Kishan Kaul, Sr. Adv.  
Mr. Ninad Laud, Adv.  
Mr. Parag Rao, Adv.  
Ms. Ira Mahajan, Adv.  
Mr. Dcosta Ivo Manuel Simon, AOR

For Respondent(s) Mr. Abhishek Manu Singhvi, Sr. Adv.  
Mr. Amey Kakodkar, Adv.  
Mr. Salvador Santosh Rebello, AOR  
Mr. Raghav Sharma, Adv.  
Mr. Jaskirat Pal Singh, Adv.  
Mr. Prateek Tanmay, Adv.  
Mr. Yesh Johri, Adv.  
Mr. Deepanshu Raj, Adv.  
Ms. Pooja Gill, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

The special leave petition is dismissed in terms of the signed  
order.

Pending application, if any, stands disposed of.

(RASHMI DHYANI PANT)  
COURT MASTER (SH)

(RENU BALA GAMBHIR)  
COURT MASTER (NSH)

(signed order is placed on the file)

**IN THE SUPREME COURT OF INDIA****EXTRA-ORDINARY APPELLATE JURISDICTION****SPECIAL LEAVE PETITION (C) NO. 7997 OF 2024****M/S. GOVEIA DEVELOPERS****...PETITIONER****Versus****STATE OF GOA, THROUGH CHIEF  
SECRETARY & ORS.****...RESPONDENT(S)****ORDER****SUDHANSHU DHULIA, J.**

1. The subject which concerns us here is the unauthorised construction made at the hands of the petitioner, on a river lagoon, in North Goa.

What is impugned here is an order of the Division Bench of the

Signature Not Verified

Digitally signed by  
rashmi dnyanesh pant  
Date: 2024.05.29  
12:59:43+05:30  
Reason: I

Bombay High Court dated 15.03.2024 in a writ petition filed by Ms.

Mohinder Kaur Paintal who is respondent No. 4 before us. The High Court in its order has given a finding that the petitioner has encroached on a lagoon, and consequently orders have been passed directing the petitioner to remove the encroachment and restore the lagoon to its original size of 125 mts. x 80 mts. Since the writ petition is still pending before the High Court, where several other aspects relating to environment and conservation and coastal management of Goa appear to be still under consideration, we would not go into any details. Yet we must make it clear that as to the present dispute of this lagoon is concerned, it would stand concluded by our present orders here.

2. The petitioner is a partnership firm, engaged in the business of real estate development and is the owner of property bearing Sy. No.318/2, 319/2 and 320/2 in village Siolim, North Goa. This property is located on the banks of a creek that joins river "Chapora" before it meets the sea. This property adjoins a lagoon, which is a water body separated from larger bodies of water by a natural barrier.

3. In Goa, any construction near coastal region, be it a river coast, or sea coast or beach, has to have a prior sanction and approval from a Regulating Authority known as Goa Coastal Zone Management

Authority (hereinafter referred to as “GCZMA”), which is an Authority constituted by the Central Government under Section 3(3) of the Environment (Protection) Act, 1986.

It was the GCZMA which had first issued a show cause notice to the petitioner in the year 2012, pursuant to a complaint made against the petitioner by the resident of Siolim, alleging that the petitioner had carried out extensive and unauthorized construction, *inter alia*, encroaching on a lagoon thereby damaging the ecology etc., apart from violating the building laws.

4. The Site Inspection Report dated 05.03.2016, *inter alia*, observed that the area of the subject property is 135 mts x 90 mts and within this area the lagoon occupies an area of 95 mts x 65 mts. However, on a comparison of Google Earth Images of the year 2003, it was found that the size of the lagoon was 125 mts x 80 mts, which more or less matches the dimensions as provided in the plans created by the Directorate of Settlement & Land Records.

GCZMA after hearing the petitioner and the complainants passed an order dated 07.04.2017 directing the petitioner to remove the unauthorised construction and restore the lagoon to its original dimensions of the size of 125 mts x 80 mts.

5. This order of GCZMA was challenged by the petitioner before the National Green Tribunal (Western Zone Bench at Pune). The appeal was, however, dismissed vide order dated 15.05.2017, and the Tribunal upheld the order of GCZMA. Later, a review petition was filed on 27.03.2019, by the petitioner i.e. after two years from the order of the Tribunal dated 15.05.2017. The review application was based on a subsequent inspection report of 22.06.2018 by which the lagoon was shown of the size of 96 mts x 67 mts, and not of 125 mts x 80 mts.

6. This review petition was also dismissed by the NGT vide its order dated 09.07.2021. The above order of the Green Tribunal was never challenged by the petitioner, which thus attained a finality. Nevertheless, the petitioner failed to comply with the orders of the Tribunal and the GCZMA, and to our amazement GCZMA too failed in its duty to implement its own orders! The brazen conduct of the petitioner and the failure to abide by its mandate on part of the GCZMA is reflected in the impugned order of the High Court dated 15.03.2024, and we see no point in repeating it. But one thing is clear, which is that the petitioner has shown little respect for the laws, and the GCZMA turned a blind eye towards this encroachment and violation of its orders.

Even after the orders of the Tribunal passed on 15.05.2017 and then on 09.07.2021 the petitioner failed to comply with the same.

7. Strangely, a petition was filed before the NGT Goa by an NGO known as Goa Paryavaran Savrakshan Sangharsh Samiti ("GPSSS"). This petition though ostensibly alleges encroachment and violation of building laws against the petitioner on the same lagoon, but the prayer is that the lagoon which has been encroached by the petitioner should be restored to the size of 96 mts x 67 mts referring to the inspection report of 2018, a report which had already been placed before the Tribunal (in the review petition referred above), and was dismissed, was never stated.

The Tribunal allowed the above petition and directed the petitioner to restore the lagoon to the size of 96 mts x 67 mts, vide its order dated 15.12.2022. This time the directions though ostensibly are to restore the lagoon but to a much lesser size, not of 125 mts x 80 mts as it was ordered in the first order (dated 15.05.2017), but to 96 mts x 97 mts.

8. There is no point here to discuss as to whether this new round of litigation was a ploy engineered by interested parties to somehow get away and defeat the earlier orders of the Tribunal which had given a

different finding as to the measurement of the lagoon, and had actually attained a finality. We leave this to the High Court, which is still seized with the broader issues. What is obvious, however, is that all this was to the benefit of the petitioner. The role of GCZMA too is problematic. But even this order of NGT was not complied by the petitioner, till a writ petition was ultimately filed before the High Court.

9. The present Respondent No.4 i.e. Mohinder Kaur Paintal, who as we are told lives in the neighbourhood of the petitioner, gave a complaint to the GCZMA and finally filed the writ petition before the Bombay High Court, bringing to the knowledge of the High Court the encroachment and the tactics adopted by the petitioner and as to how the process has been abused and how the building laws and the coastal regulations and most importantly the ecology has been damaged by the petitioner by encroaching on a lagoon, inspite of order of the Authority (GCZMA) and the Tribunal, and as to how the petitioner has neither complied with the first or even the second order of the Tribunal.

10. The High Court after hearing all the parties has passed a well-considered order, after discussing all the relevant aspects of the matter, it has directed the petitioner to restore the lagoon to its

original form i.e. 125 mts x 80 mts as it existed before it was encroached and reclaimed at the hands of the petitioner. The High Court noticed the previous litigation on the subject and the order passed by the Tribunal particularly the order passed subsequently in the review petition dated 09.07.2021. It compared and studied the earlier reports which had categorically given a finding based on relevant data that the actual size of the lagoon was 125 mts x 80 mts :

*“The NGT’s order dated 15.12.2022 was issued in an original application instituted by Goa Paryavaran Saurakshan Sangharsh Samitee. The complainant, Anthony D’Souza, based on whose complaint the GCZMA had made its order dated 07.04.2017, had nothing to do with the O.A. No.3/2018. Secondly, from the perusal of the order dated 15.12.2022, it is evident that none appeared on behalf of the Goa Paryavaran Saurakshan Sangharsh Samitee. Thirdly, from the reading of the order dated 15.12.2022, it appears that neither the fourth respondent nor the GCZMA brought to the notice of the Division Bench of the NGT (Western Zone) that the appeal against GCZMA’s order dated 07.04.2017 was already dismissed by the NGT on 15.05.2017. Further, the Principal Bench considered and dismissed even the Review Application No.3/2019 comprising five members vide order dated 09.07.2021. In any case, there is nothing in the order dated 15.12.2022 which even remotely suggests that the directions issued therein were in substitution to the directions issued by the GCZMA on 07.04.2017, which directions, as noted earlier, had already attained finality given the NGT orders dated 15.05.2017 and 09.07.2021.”*

11. We have heard learned senior counsels, Mr. Neeraj K. Kaul for the petitioner and Mr. Abhishek M. Singhvi for the respondent no.4 and we have perused the materials placed on record.

We find no scope whatsoever to interfere with the order impugned. The petitioner's contention in this regard is that it has now complied with the order of the Green Tribunal dated 15.12.2022 and restored the lagoon to the size of 95 mts x 65 mts. We do not find this to be relevant now. We are completely in agreement with the findings of the High Court that the NGT, Pune in its order dated 15.12.2022 could not have modified its earlier directions passed in the first proceeding as the same had attained finality once the review petition was dismissed, and the lagoon had to be restored to its original size of 125 mts x 80 mts.

12. In this view of the matter, no interference is required by this Court in the order dated 15.03.2024, passed by the High Court of Bombay at Goa. The special leave petition is accordingly dismissed. We have gone through the specific order of the High Court as to the

implementation and the cost to be given. Let the orders be complied at the earliest, if not already done.

13. Pending application(s), if any, stand disposed of.

No order as to costs.

.....J.  
[SUDHANSHU DHULIA]

.....J.  
[PRASANNA B. VARALE]

**New Delhi.**  
**May 14, 2024.**

# Annexure R2-J

430

No. PWD/SD.II/WD.XIII(R)/E.20 / 192/2024-25

OFFICE OF DY. COLLECTOR  
SDO & SDM  
INWARD NO. 9504  
10/14/2024  
MAPUSA - GOA

[Signature]  
Inward Clerk

Government of Goa,  
Office of the Assistant Engineer,  
SD.II, WD.XIII(R),  
Public Works Department,  
D-Type PWD Quarter's (PIIE-N),  
Dattawadi - Mapusa,  
Bardez - Goa.

Dated: 10/07/2024.

To,  
The Executive Engineer,  
Works Division-XIII (Roads),  
Public Works Department,  
Mapusa, Bardez - Goa.

**Sub:-** Restoration of Lagoon by demolition of structure and removal of illegal land filling in Sy. No. 318/2 carried out by Mrs. Goveia Resort / Waterfront as directed by the Hon'ble High Court under section 5 of the Environment Protection Act 1986.

Sir,

Please find enclosed herewith the estimate file in duplicate amounting Rs. 6202870.00 for further needful.

Yours faithfully

[Signature]  
Assistant Engineer -II  
ASSISTANT ENGINEER  
PUBLIC WORKS DEPARTMENT  
MAPUSA - GOA

Copy to:-

1. The Dy. Collector & SD-I & SDM, Mapusa - Goa.....
2. Concern file.
3. Work file.
4. Guard file.

**GOVERNMENT OF GOA,  
PUBLIC WORKS DEPARTMENT  
OFFICE OF THE ASSISTANT ENGINEER,  
S.D.II/W.D.XIII(R), PWD,  
BARDEZ-GOA.**

**Name of work:-** Restoration of Lagoon by demolition of structure and removal of illegal land filling in Sy. No. 318/2 carried out by Mrs. Goveia Resort / Waterfront as directed by the Hon'ble High Court under section 5 of the Environment Protection Act 1986.

**Budget Head:-** 5054-04-800-03-53 -(RR) Plan Work

**History :-** This office is in receipt of demolition order No. DEMO-SQUAD/42/2024/916 dtd. 22/05/2024 for restoration of lagoon by excavating & transporting the illegal land filling carried out in Sy. No. 318/2, Siolim by Mrs. Goveia Resort / Waterfront through its proprietor Goveia Marina Resorts, Vaddy, Siolim, Bardez -Goa.

This office does not have agency to take up work of such huge magnitude. The work involves restoration of lagoon by excavation of illegal land filling and demolition of 4 Nos. of single storied structures and partial demolition of building (G + 1). The above structures were identified by the GCZMA official Smt. Bhargavi Kelkar (Environmental Assistant ) in the presence of the Talathi of Siolim Shri. Subham Sakhalkar during site inspection on 9th July, 2024.

This work involves huge financial cost, hence this estimate is prepared and submitted for needful.

**Design & Scope** The scope of work involves Excavation of illegal land filling, demolition of structures of masonry, RCC etc. and transporting the debris & excavated material to a distance of 20 KM to a site to be identified by the Dy. Collector's Office for disposal.

**Rates :-** As per R. A. & GSR 2023

**Cost :-** Rs. 6202870.00

**Time limit :-** 60 days.

**Method :-** By E-Tendering.

**Tools & Plants :-** Shall be arranged by the agency.

Submitted Please.

10/07/2024  
Assitant Engineer-II

S.D.II, W.D. XIII(R), PWD,  
BARDEZ-GOA