

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
(WESTERN ZONE AT PUNE)

ORIGINAL APPLICATION NO. 130 OF 2017 (WZ)

IN THE MATTER OF:

LOPINHO XAVIER

... APPLICANT

VERSUS

STATE OF GOA & ORS.

... RESPONDENTS

AFFIDAVIT ON BEHALF OF RESPONDENT NO. 2  
GOA COASTAL ZONE MANAGEMENT AUTHORITY

PAPER BOOK

(KINDLY SEE INDEX INSIDE)

ABHAY ANIL ANTURKAR  
ADVOCATE FOR RESPONDENT NO. 2

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**AFFIDAVIT ON BEHALF OF RESPONDENT NO. 2  
GOA COASTAL ZONE MANAGEMENT AUTHORITY**

I, Johnson Bedy Fernandes, adult, being the Member Secretary of the Respondent No. 2 Goa Coastal Zone Management Authority [hereinafter, "GCZMA"], having my office at: 4<sup>th</sup> Floor, Dempo Towers, Patto, Panaji, Goa, do hereby solemnly affirm and state as under:

1. I am the Member Secretary of the Respondent No. 2 GCZMA in the captioned original Applicant. I have taken charge as Member Secretary recently on 02.01.2024 and have thereafter examined the documents pertaining to the captioned Application as available in my office. I am filing the present Affidavit on the basis of the said documents available in my office.
2. I say that nothing in the present Affidavit may be deemed to be an admission of any content of the captioned Original

Application, unless the same is categorically admitted herein. I further submit that nothing in the captioned Application may be deemed to have been admitted for want of specific denials.

3. I am filing the present Affidavit solely for the limited purpose of appraising this Hon'ble Tribunal about the status of proceedings in respect of the captioned matter. I seek the liberty of this Hon'ble Tribunal to file a detailed Affidavit at a later stage, if so directed or advised.
4. The captioned matter was listed before this Hon'ble Tribunal on 16.05.2023. After perusing the record pertaining to the captioned matter, this Hon'ble Tribunal was pleased to direct the answering Respondent to appear in person and explain, *inter alia*, as to why the GCZMA was not represented before this Hon'ble Tribunal on the said date.
5. At the outset, the answering Respondent tenders its unconditional apology to this Hon'ble Tribunal for the fact that it was not represented before this Hon'ble Tribunal. An Advocate was instructed to appear on behalf of the answering Respondent. However, the said Advocate was not able to appear in the captioned matter owing to a conflict of interest.
6. The issue in the captioned matter pertains, *inter alia*, to certain structures constructed by the Respondent No. 5 M/s. Movaj Enterprises Pvt. Ltd. [hereinafter, "**Project Proponent**"] in the property bearing Sy. Nos. 171/0 and 171/1 of Village Quelossim, Cortalim, Mormugao, Goa



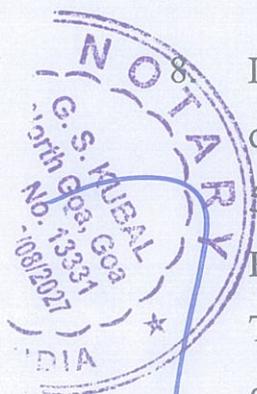
171/1 of Village Quelossim, Cortalim, Mormugao, Goa [hereinafter, "*Suit Property*"]. The answering Respondent GCZMA had received a complaint in respect of certain activities carried out by the Respondent No. 5 Project Proponent over the Suit Property. The answering Respondent had issued a Show Cause Notice cum Stop Work Order dated 17.06.2019 in respect the said complaint.

7. The answering Respondent conducted proceedings in respect of the aforesaid complaint finally during its 316<sup>th</sup> Meeting dated 21.07.2022. After hearing the concerned parties, the answering Respondent decided to dismiss the complaint and discharge the aforesaid Show Cause Notice cum Stop Work Order issued against the Respondent No. 5 Project Proponent. An order dated 22.07.2022 was passed in this regard.

A true copy of the Minutes of the GCZMA's 316<sup>th</sup> Meeting dated 21.07.2022 is annexed and is marked as **ANNEXURE R-1. 5-16 )**

A true copy of the Order dated 22.07.2022 is annexed and is marked as **ANNEXURE R-2. 17-26 )**

It is submitted that the answering Respondent has already decided the aforesaid complaint against the Respondent No. 5 Project Proponent. To the best of the answering Respondent's knowledge, no appeal before this Hon'ble Tribunal has been preferred against the aforesaid order dated 22.07.2022. Hence, the captioned matter has been



infructuous and may kindly be disposed off accordingly. Notwithstanding the aforesaid, the answering Respondent undertakes to abide by any directions passed by this Hon'ble Tribunal in respect of the captioned matter.

*[Signature]*  
DEPONENT

MEMBER SECRETARY  
GOA COASTAL ZONE MANAGEMENT AUTHORITY  
PANAJI - GOA

**VERIFICATION**

I, the abovenamed Deponent, do hereby state on solemn oath and affirmation that the facts stated hereinabove in this Counter Affidavit are true and correct to the best of knowledge, information and belief, and nothing has been concealed.

Verified at Panaji on this 08<sup>th</sup> day of January, 2024.

IDENTIFIED BY:

*[Signature]*  
DEPONENT  
8/1/24

MEMBER SECRETARY  
GOA COASTAL ZONE MANAGEMENT AUTHORITY  
PANAJI - GOA

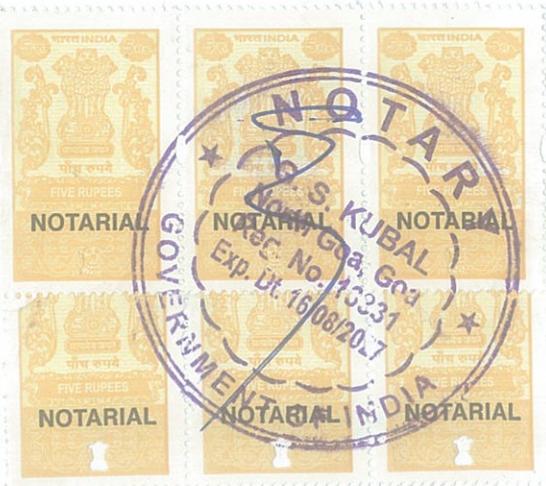
Solemnly affirmed before me by

*[Signature]*

Reg. No. 06/925 Date: 8.1.2024

known and identified to me by.

*[Signature]*  
G. S. KUBAL  
Notary (Govt. of India)  
Panaji-Goa, India



## ANNEXURE-R-1

**MINUTES OF THE 316<sup>th</sup> MEETING OF THE GOA COASTAL ZONE MANAGEMENT AUTHORITY (GCZMA) HELD ON 21/07/2022 at 03.30 PM. IN THE CONFERENCE HALL, FOURTH FLOOR, DEMPO TOWER, PATTO-PANAJI-GOA.**

The 316<sup>th</sup> Meeting of the Goa Coastal Zone Management Authority (GCZMA) was held under the Chairmanship of the Secretary (Environment), on 21/07/2022 at 3.30 p.m.in the Conference Hall, Fourth Floor, Dempo Tower, Patto-Panaji-Goa.

**The following members were present for the meeting on 21/07/2022.**

- Secretary (Environment) / Chairman (GCZMA).
- Representative on behalf of Principal Chief Conservator of Forest
- Representative on behalf of Directorate of Panchayats.
- Representative on behalf of Department of PWD, Panaji Goa.
- Shri Sujeet Dongre, Expert Member (GCZMA)
- Shri. Flaviano Miranda, Expert Member (GCZMA).
- Member Secretary (GCZMA).

**Case No.1.1**

**To decide on Complaintdated28/02/2020 from Michael Felix Dias regards to alleged illegal filling of low lying paddy field and illegalconstruction of structures at Murda Village of Mercedes Village Panchayat, Goa by Mr. Raul F Fernandes resident and Mr Oswald Fernandes, Gabriel F.A.Gonsalves**

**Background:** The Office of the Goa Coastal Zone Management Authority (hereinafter referred as ‘the GCZMA’ in short) had received a complaint letter dated28/02/2020 from Michael Felix Dias, r/o Mesta Batt, Mercedes Goa; with regards to alleged illegal filling of low lying paddy field and illegalconstruction of structures at Murda Village of Mercedes Village Panchayat, Goa in the property bearing survey no 91/3,4,5,6,7,8, and 9 in Murda Village within CRZ area being carried out by one Mr. Raul F Fernandes resident of House No. 1260, Bairo BundirSt.Cruz, Goa and Mr Oswald Fernandes, Gabriel F.A.Gonsalves both

pointed out in inspection report are old. Further submitted that the Complainant is involved in extortion case and an FIR is filed against him.

The Authority directed the Complainant to file rejoinder with advance copy to the Respondent. The Authority further decided to hold site inspection through Expert Member on 22/06/2022 from 11.00am onwards and posted the matter on 07/07/2022 at 3.30pm for hearing.

During 315<sup>th</sup> GCZMA meeting held on 07/07/2022 The Complainant present in person. Junior Advocate from Adv Parag Rao's office appeared for the Respondent. Copy of Site Inspection report given to the parties.

The Authority posted the matter on 21/07/2022 at 3.30 p.m for final arguments.

**Proceeding:- Matter called out , Complainant present in person, Advocate for Respondent present. Advocate Respondent submitted that they have not received report of site inspection and prayed time in present matter for final argument. Authority noted that in previous meeting site inspection report was furnished to both the parties and to which advocate for Respondent denied of the receipt of any site inspection report however complainant submitted that he received the site inspection report.**

**Decision :- Authority directed Respondent advocate to collect the site inspection report and give acknowledgment of receipt of site inspection report and decided to grant last and final opportunity for Respondent to file reply if any before next date of hearing and fixed matter for final argument on 11/08/2022 at 3.30 pm**

#### **Case No 1.8**

**To discuss and decide on the Complaints letters dated 24/01/2017 and 27/01/2017 received from Dr. Claude Alvares, Director, The Goa Foundation and Lopinho Xavier pertaining to illegal dumping of mud in the property bearing Sy.No. 170/0 and 171/1 of Quelossim Village, Mormugao Goa by 'M/s. Movaj Enterprises Pvt. Ltd'.**

**Background:** 1. The Office of the GCZMA has received complaint letters dated 24/01/2017 and 27/01/2017 from Dr. Claude Alvares, Director, The Goa Foundation, G-8, St. Britto's Apts, Feira Alta, Mapusa, Goa and Lopinho Xavier, R/o. H.No. 289, Uddo Quelossim, Cortalim-Goa respectively with regard to the alleged illegal dumping of mud in the property bearing Sy.No. 170/0 and 171/1 of Quelossim Village, Mormugao Goa within the CRZ area being carried out by M/s. Movaj Enterprises Pvt. Ltd., Mishell, Nr. Ribander Police Outpost, Ribander-Goa. Accordingly the office of GCZMA has issued Show Cause Notice cum Stop Work Order to M/s. Movaj Enterprises Pvt. Ltd bearing ref. No. GCZMA/ ILLE-COMPL/16- 17/67/2162 dated 09/02/2017. Further, taking into consideration complaints dated 24/01/2017 and 27/01/2017, the site under reference was inspected by the Expert Members of the GCZMA along with Technical Officer GCZMA on 17/02/2017.

The Member Secretary, GCZMA informed the members that the Goa State Biodiversity Board (GSBB) has submitted a report in respect of the same. He further informed that M/s. Movaj Enterprises Pvt. Ltd. has filed their reply in view of the Show Cause Notice Cum Stop Work Order dated 09/02/2017 issued by the GCZMA. The said matter was placed in the 141st GCZMA meeting held on 21/02/2017 wherein after detailed discussion and due deliberation and in view of the submissions made by Dr. Claude Alvares representing Goa Foundation, the Authority decided to provide / forward the copy of the reply dated 21/02/2017 filed by M/s. Movaj Enterprises Pvt. Ltd. to the Goa Foundation and further decided to take up the matter for personal hearing on 07/03/2017. Further, with respect to the request made by M/s. Movaj Enterprises Pvt. Ltd. to conduct a fresh inspection in their presence as well as in the presence of the Complainant. Accordingly, in view of the decision taken by the Authority, the site was re-inspected by the Expert members of the GCZMA on 10/05/2017. The observations recorded on site are as follows:

- i) Initially, the proponent, Mr. Ram Agarwal showed the filling done by somebody else in Sy. No. 181 and 182 which is lying outside between the main road up to his property (Sy. Nos. 171/0 and 171/1). He says he does not know who has done the filling in the said Sy. Nos. 181 and 182 and said that GCZMA should find out who has done the filling and do the necessary.

- ii) The Sy. Nos. 170/0 and 171/1, did not show any further work done after the site inspection of 17/2/2017. The proponent told that he did not do any work thereafter due to the stay order imposed by GCZMA.
- iii) The proponent told that the extra mud filling which is seen at the corners, adjacent to bunds on the western side of the area is not done by him but by the earlier agency, M/s. GAIL India Ltd. while laying their pipeline along the bund.
- iv) The extra mud filling done by them was for the trucks to take to the site and for their manufacturing
- v) The wet land / khazan land of Sy. No. 170/0 is seen to be completely dry by closing of the sluice gates, to which the proponent says that he could not open the sluice gates due to imposition of stop work order.

**Conclusion and Recommendation:**

- i) The dumping of mud in Sy. Nos. 181 and 182 as shown by the proponent outside his property is illegal in the NDZ area, however, the filling does not appear to be for the reclamation of land as there are lot of coconut plants within the property. Nevertheless, the owner of the property should be served with a show cause notice for the act without any permission.
- ii) Though there is no work done in Sy. Nos. 170/0 and 171/1 after the site inspection dated 17/2/2017, the proponent has not bothered to open the sluice gates by taking permission from the GCZMA despite bringing it to the notice in site inspection report that the biodiversity and the environment is degraded due to closing of sluice gates.
- iii) The drying of the wet land due to stopping of natural water from all sides of the wet land area has spoiled the biodiversity and the environment further.
- iv) If the project is really for floating pontoons as the proponent claims, then he should have maintained sufficient water level and not allowed it to dry.
- v) The excess mud dumped at the corner of the western side may be ordered to be removed immediately under proper supervision.
- vi) Similarly, the sluice gates may be ordered to be opened immediately under proper supervision.

vii) The proponent and the Complainant may be heard during the Authority meeting before taking any further decision. It is pertinent to note that, a Miscellaneous Civil Application No. 326 of 2017 in M.A. No. 138 of 2017 has been filed by M/s. Movaj Enterprises Pvt. Ltd. before the Hon'ble High Court of Bombay at Goa. The said Application was disposed of vide Order dated 19/04/2017.

The said matter was placed in the 155th GCZMA meeting held on 08/08/2017 wherein the Authority in principle of natural justice decided to grant another opportunity of personal hearing to the parties and fixed the matter for hearing on 22/08/2017 and decided to communicate the same to both the parties. In view of the above, the matter was placed for grant of personal hearing to the concerned parties.

During 156th GCZMA meeting 22/08/2017 the Authority after detailed discussion and due deliberation and on considering the site inspection reports so also the oral as well as written submissions made by the parties decided to carry out proper mapping of the entire area in question along with the DSLR. As far as the sluice gates are concerned, the same are to be opened immediately and as such decided to direct the applicant to restore the sluice gate in order to facilitate circulation of water in the area.

Now this office is in receipt of documents pertaining to the proposed mini India park project dated 27/05/2019 from office of MLA, Cortalim Constituency requesting to conduct Site Inspection.

During 202<sup>nd</sup> GCZMA meeting held on 29/05/2019. The Authority after perusing the agenda note and the representation from office of MLA, Cortalim Constituency decided to issue Stop work Order cum show cause Notice immediately and also decided to conduct site inspection by Expert members (GCZMA).

Accordingly show cause cum stop work order was issued to party on 17/06/2019.

The site under reference was inspected Expert Member GCZMA on 22/05/2020. Vide order dated 31/08/2021 in Petition bearing PIL WP no. 12/2020 the Hon'ble High Court of Bombay at Goa has directed the

authority to decide the said show cause cum stop work order dated 17/06/2019.

During 272nd GCZMA meeting held on 23/09/2021. The Authority heard both the parties. After hearing the Authority directed the Respondent to get the clear whether the alleged activity falls beyond NDZ or not and the land in which activity sought to be carried in khazan land or otherwise. The matter is kept for further arguments on 07/10/2021 at 3.30 pm. During 274th GCZMA meeting held on 07/10/2021 the Authority decided to keep the matter for further clarification /arguments 21/10/2021 at 3.30 pm.

During 276th GCZMA meeting held on 21/10/2021 Hon'ble MLA Smt Alina Saldana present for the Complainant along with Lupino Xavier. Adv Katak appeared on behalf of the Respondent. The Adv for the Respondent submitted that after 2019 Show Cause Notice no fresh inspection has been carried out and to the Show Cause Notice issued in the year 2019, reply for the same has been submitted before Authority. Further the inspection was carried out by the Expert member (GCZMA) in absence of the Respondent and a report is made based on the hearsay statement from the villagers as the land was flooded under water and it was not possible for the Expert members to do the inspection. Further it was submitted that in 2019 stop work order was issued to the Respondent but the order was not clear as there was no mentioned as to what work to stop.

Ld Adv for the Respondent prayed that the Show Cause Notice of the year 2019 may be disposed in terms of order of the Hon'ble High Court of Bombay at Goa. The Respondent did not carry out any new activity which needs to be stopped.

Smt Alina Saldana submitted that the report given by GCZMA Expert member is very clear and in the said report directions were given to the Respondent to open the 7 sluice gates as due to the closure of the sluice gates there was a putrifaction of water. Further the Complainant submitted that they have filed an appeal before the Hon'ble NGT for non execution of order which is pending for decision. Further it was submitted that the mud has been removed from the land which has resulted into inundation of land

under water and prayed that the Respondent be asked to comply with the directions of this Authority.

The Authority heard both the parties at length and directed them to file brief written submission and posted the matter for further arguments on 28.10.2021 at 2.30 pm.

During 277th GCZMA meeting held on 02/11/2021 Hon'ble MLA Smt Alina Saldana present for the Complainant along with Lupino Xavier. Adv Kantak appeared on behalf of the Respondent. Both the parties filed written documents which were taken on record. Complainant submitted that the land is khazan land and wrongly shown as garden area on Form I & XIV.

The Authority after hearing both the parties at length and taking into consideration the submissions made by both the parties, decided to seek old records from O/o Collector, South Goa pertaining to the land and kept the matter for Orders on Show Cause Notice dated 17/06/2019.

The Chairman of GCZMA/Secretary Environment was transferred vide order dated 01/12/2021 and hence the Authority has put up the matter for hearing before the newly inducted Chairman of the GCZMA for hearing.

The matter was placed in its 280th GCZMA Meeting held on 16/12/2021. The Proceedings at the hearing is that the Complainant Lupino Xavier present for the matter, Adv Kantak appeared on behalf of the Respondent. The Member Secretary informed the Authority that the Complainant Mrs Alina Saldanha had call and informed the Authority her inability to appear in the matter for today hearing as she was pre-occupied with Court matter. The Complainant briefed the Authority by stating the facts of the case. He stated that He, Mr. Lopinho Xavier is the Chairman of Quelossim Bio Diversity Management Committee and he has also filed a Complaint against the Respondent. The Complainant stated that the Respondent has done mud filling in the Khazan land which needs to be removed, further the Respondent has destroyed the bund and that the area falls in NDZ. To the question whether the Complainant approached the NGT, the complainant states that he has approached the Hon'ble NGT and that the matter is also pending before the Hon'ble NGT. The Adv for the Respondent stated that

the show cause notice is issued based on the Complaint filed by Mrs Saldana as the show cause does not mention as to what activities to be stopped. The Adv for Respondent states that bund has been destroyed by the Gail Pipeline project. He stated that the Gas pipeline is running through the said land and it was the Gail agency that destroyed the bund when installing the pipeline for gas. He further adds that this issue of bund destruction was decided by the Deputy Collector. The Adv for Respondent states that all these issues do not form part of the Show Cause Notice and that the Complainant are continuously bringing out fresh issues which cannot be taken cognisance of without putting the Respondent to Notice. The Adv further adds that the initial Complaint filed by Mrs Alina does not mention all the allegations. The Member Secretary has pointed out to the Authority that as per the order of the Hon'ble High Court of Bombay at Goa the Show Cause Notice dated 17/06/2019 issued by the Authority needs to be disposed.

The Authority after hearing the parties in its 280th Meeting decided to directed them to file the brief written arguments if any with advance copies to be served on the other side in advance and posted the matter for Final Arguments on 06.01.2022 at 3pm.

During 284h GCZMA meeting held on 6/01/2022 Hon'ble MLA Smt Alina Saldana present for the Complainant along with Lupino Xavier. Adv Kantak appeared on behalf of the Respondent. The Complainant submitted the brief written arguments along with the supporting documents. The Adv. for the Respondents also filed a written arguments along with the supporting documents. The Authority after considering the written arguments filed by both the parties decided to post the matter for orders.

The office of Directorate of Settlement and land Records (DSLRL), Panaji finally submitted a report/plan vide letter bearing no.19/ DSR/Resurvey cell/CRZ-River/41/12/1047 dated 29/03/2022. The parties were called for hearing vide personal hearing notice date 26/04/2022 enclosing the copy of the plan submitted by office of Directorate of Settlement and land Records (DSLRL), Panaji vide letter bearing no.19/ DSR/Resurvey cell/CRZ-River/41/12/1047 dated 29/03/2022.

The matter was heard in the 302<sup>nd</sup> GCZMA meeting held on 05/05/2022. The proceedings in the said matter can be seen as follows: Complainants absent, Adv Kantak appeared on behalf of the Respondent and argued the matter. the Authority is also in receipt of report of mapping from DSLR . The report of the DSLR is also discussed in the meeting.

In the 302<sup>nd</sup> GCZMA meeting held on 05/05/2022 The Authority after hearing the Respondent and perusing the report posted the matter for orders.

**Decision:**The Authority noted that in the present matter the inquiry began upon receipt of documents pertaining to the proposed Mini India park project dated 27/05/2019 from office of MLA, Cortalim Constituency requesting to conduct site inspection.

The Authority considered the same as a complaint/representation dated 27/05/2019 was discussed and deliberated in the 202<sup>nd</sup> GCZMA meeting held on 29/05/20219 wherein it was decided to issue a show cause cum stop work order to the Respondent.

The show cause cum stop work order dated 17/06/2019 was also issued to respondent for the Developmental Activities in Syno.170/0, 171/0 and 171/1 Quelossim village, Cortalim, Mormugao.

In the meantime, the office of GCZMA was also in receipt of application from Respondent requesting for permission to carry out the work of restoration of bunds and sluice gate and its proper operations and maintenance in the property bearing survey no. 170 and 171. In the context of guidelines issued by NCZMA, the Respondent had also requested to expedite the permission of work for bund and sluice gate and its proper operations and maintenance of same. The matter was placed in 223<sup>rd</sup> GCZMA meeting held on 18/3/2020 for discussion and deliberation. In the said meeting the Authority thus deemed it fit to conduct a site inspection along with the representatives of the local body and thereafter take a final call. The site in question was inspected by Expert Member GCZMA on 22/05/2020. The said site inspection report recommended DSLR to conduct detailed survey in the matter.

Accordingly vide letter dated 28/04/2021, the GCZMA requested the office of Directorate of Settlement and land Records (DSLRL), Panaji to carry out site inspection and prepare the plan of various violations carried out by M/s. Movaj Enterprises Pvt. Ltd.

vide letter dated 07/06/2021, the office of Directorate of Settlement and land Records (DSLRL) replied to letter dated 28/04/2021 issued by the GCZMA stating that site inspections were done on 22/05/2020, 23/03/2021 and 16/04/2021. The field surveyor reported that entire survey in respect of survey numbers could not be carried out as the area was inaccessible.

vide order dated 31/08/2021 in Petition bearing PIL WP no.12/2020 the Hon'ble High Court of Bombay at Goa directed the authority to decide the said show cause cum stop work order dated 17/06/2019.

The office of Directorate of Settlement and land Records (DSLRL), Panaji finally submitted a report/plan vide letter bearing no.19/ DSR/Resurvey cell/CRZ-River/41/12/1047 dated 29/03/2022.

In view of the directions contained in the order dated 31/08/2021 in Petition bearing PIL WP no.12/2020, the limited aspect to be decided by Authority is the show cause cum stop work order dated 17/06/2019. The Authority accordingly issued personal hearing notice to concerned parties i.e MLA, Cortalim Constituency Mrs. Alina Saldanha and Director, Movaj Enterprises Private Limited.

The Authority noted that the show cause cum stop work order dated 17/06/2019 was also issued to respondent for the Developmental Activities in Syno.170/0, 171/0 and 171/1 Quelossim village, Cortalim, Mormugao within CRZ area. The issue for determination of the matter before the authority is limited and same can be seen as under:-

Whether the Respondent has carried out any developmental activities in CRZ area in Syno.170/0, 171/0 and 171/1 Quelossim village, Cortalim, Mormugao

The concerned party i.e The Director, Movaj Enterprises Private Limited and Ex MLA, Cortalim Constituency Mrs.Alina Saldanha were heard in person and also through authorised representative at length by the authority. The record reveals both the parties have filed reply/written submission along with documents in support of their case. The Authority observed the respondent has filed a reply to said show cause cum stop work order dated 17/06/2019 only on 06/09/2021. The reason for delay in filing the reply being, the Respondent was not aware of the said show cause cum stop work order dated 17/06/2019 and only came to about the same when the same was produced in Writ Petition no.12/2020. The Respondent in the course of arguments has pointed out that vide letter dated 22/05/2018 had informed this authority about change in address of communication. The Authority noted the records reveal that such letter dated 22/05/2018 informing the change in address of communication was infact received by office of GCZMA.

The Authority observed that in view of recommendation of the Expert Member of GCZMA who had recommended detailed mapping of the subject matter property, the office of Directorate of Settlement and land Records, Panaji-Goa has vide letter bearing no.19/ DSIR/Resurvey cell/CRZ-River/41/12/1047 dated 29/03/2022 has forwarded the report/plan.

The Authority perused the plan submitted by office of Directorate of Settlement and land Records,(DSLRL) Panaji-Goa vide letter dated 29/03/2022 and noted that the mud stacks at loco don't have much bearing on the ecological set up of the area. The Authority noted the floating poontons are of temporary nature and their positioning is also not fixed and hence not affecting the water flow. The Authority observed that the minor widening of bund is no way impacting the waterflow, nature and landscape.

The Authority did not find any merit in submissions of the complainant and the issue is answered in the negative.

In view of the aforesaid observations and findings, the Authority decided to dismiss the complaint/representation dated 27/05/2019 filed by

Mrs. Alina Saldanha ex MLA, Cortalim Constituency. The show cause cum stop work order dated 17/06/2019 issued to Respondent is accordingly discharged. The proceedings before the Authority are accordingly disposed off.

## **2. Additional Agenda**

### **2.1**

**The objections dated 13/07/2022 received from Shri. Flaviano Miranda, Expert Member of Authority was placed before the Authority.**

The objection in respect of water Beach Lounge and Grill Private Limited Anjuna was discussed and it was decided that the project proponent shall be asked not to touch the slope and construction shall be restricted to the area approved by the Authority.

### **2.2**

**Nalini Rosa Fernandes v/s Zinhos Guest House In O.A. 18/2020 before Hon'ble NGT Pune (WZ).**

The Authority decided to write to counsel Representing GCZMA before Hon'ble NGT in O.A. 18/2020 matter to move an application before Hon'ble NGT to vacate stay granted.

### **2.3**

**Representation received from Anuja-Caisua Biodiversity Management Committee dated 25/04/2022 through the Deputy Collector North Goa District for implementation of following in the CZMP**

**1). Chopora River**

**2). Chopora Bay**

**3). Fishing Community of Anjuna-Caisua**

The matter placed before the Authority, the Authority after deliberation & discussion decided not to entertain any objections and suggestion as same is time barred.

T/C

23 of 24

# GOA COASTAL ZONE MANAGEMENT AUTHORITY

C/o Department of Environment and Climate Change (Govt. of Goa) ANNEXURE-R2  
4<sup>th</sup> floor, Dempo Towers, Patto, Panaji-Goa  
E-mail: goacoastalzone@gmail.com

159

Refno. GCZMA/S/ILLE-COMPL/19-20/07 / 850

Dated: 22/07/2022

## ORDER

WHEREAS, office is in receipt of complaint pertaining to the proposed mini India park project dated 27/05/2019 from office of MLA, Cortalim Constituency requesting to conduct site inspection.

AND WHEREAS, the said complaint was discussed and deliberated in the 202<sup>nd</sup> GCZMA meeting held on 29/05/2021 wherein it was decided to issue a show cause cum stop work order.

AND WHEREAS, further a show cause cum stop work order dated 17/06/2019 was also issued to respondent. The said show cause notice cum stop work dated 17/06/2019 was issued by authority. The site under reference was inspected Expert Member GCZMA on 22/05/2020.

AND WHEREAS, vide order dated 31/08/2021 in Petition bearing PIL WP no.12/2020 the Hon'ble High Court of Bombay at Goa has directed the authority to decide the said show cause cum stop work order dated 17/06/2019. Accordingly the concerned parties were called for personal hearing before the Authority.

AND WHEREAS, the matter was heard in the 272<sup>nd</sup> GCZMA meeting held on 23/09/2021. The proceedings in the said matter can be seen as follows: "*Adv Kantak appeared on behalf of the Respondent, Hon'ble MLA Smt Alina Saldana Present in person along with the Sarpanch. Hon'ble Minister Smt Alina Saldana advanced her arguments by requested to have fresh site inspection. Further it was submitted that on 18/11/2019 this Authority had issued a notice to remove the floating platform. When the Village Panchayat received Complain site inspection was carried out and after seeing the*

*same Panchayat revoked the approval granted. It was further submitted that every Government body has declared the same that it falls under NDZ infact this Authority had issued a order to open the sluice gate as the Respondent were digging the khazan land so that the water can come in and they can do the boating. It was further submitted that the permissions granted by COP is based on IPB permission has been withdrawn. It was also pointed out by Hon'ble MLA Smt Alina Saldana that there is a report from Biodiversity which says that the area is rich in Biodiversity and migratory bird do nesting there. Further it was also pointed out that Sr no 170 and 171 are NDZ and said property is a tenanted property there are almost 100 tenants. Further Adv Kantak rebutted to the arguments advanced by the Complainant and stated that in the complaint it is nowhere mentioned what illegal work is going on, the said project is to put floating platform and the same is falling outside NDZ, and it is completely a private property and is in possession of respondent for last 10 years without any resistance from any person. The COP had granted the permission to put up the floating platform and said permission of COP is not challenged by the complainant. He funher pointed out with the plan issued by DSLR demarcating the HTL and the activities are falling beyond the NDZ."*

**AND WHEREAS**, in the 272<sup>nd</sup> GCZMA meeting held on 23/09/2021 it was decided as follows: *"Authority heard both the parties. After hearing the Authority decided that issue to be decided as of now is whether the alleged activity falls beyond NDZ or not, and the land in which activity sought to be carried is khazan land or otherwise. The matter is kept for further arguments on 07/10/2021 at 3.30 pm."*

**AND WHEREAS**, the matter was heard in the 274<sup>th</sup> GCZMA meeting held on 07/10/2021. The proceedings in the said matter can be seen as follows: *"Hon'ble MLA Smt. Alina Saldana along with Mr Luphino Xavier remain present, Adv Kantak appeared along with Respondent. Respondent produced two plans before the Authority and submitted that it is private property. Further the Representative of Applicant submitted that the said property in question is tenanted property and the Tenancy Appeal is pending*

before the Administrative Tribunal. Further he submitted that the said property is khazan and there is report forwarded by all the Government bodies describing the said property as khazan land. Copy of additional reply held by Complainant is shared with Respondent."

**AND WHEREAS**, the matter was heard in the 274<sup>th</sup> GCZMA meeting held on 07/10/2021. The proceedings in the said matter can be seen as follows: "Authority after hearing both the parties at length, decided to keep the matter for further clarification /arguments on 21.10.2021 at 3.30 pm."

**AND WHEREAS**, the matter was heard in the 276<sup>th</sup> GCZMA meeting held on 21/10/2021. The proceedings in the said matter can be seen as follows: "Hon'ble MLA Smt Alina Saldana present for the Complainant along with Lupino Xavier. Adv K. antak appeared on behalf of the Respondent. The Adv for the Respondent submitted that after 2019 Show Cause Notice no fresh inspection has been carried out and to the Show Cause Notice issued in the year 2019, reply for the same has been submitted before Authority. Further the inspection was carried out by the Expert member (GCZMA) in absence of the Respondent and a report is made based on the hearsay statement from the villagers as the land was flooded under water and it was not possible for the Expert members to do the inspection- Further it was submitted that in 2019 stop work order was issued to the Respondent but the order was not clear as there was no mentioned as to what work to stop. Ld Adv for the Respondent prayed that the Show Cause Notice of the year 2019 may be disposed in terms of order of the Hon,ble High Court of Bombay at Goa. The Respondent did not carried out any new activity which needs to be stopped. Smt Alina Saldana submitted that the report given by GCZMA Expert member is very clear and in the said report directions were given to the Respondent to open the 7 sluice gates as due to the closure of the sluice gates there was a putrifaction of water. Further the Complainant submitted that they have filed an appeal before the Hon'ble NGT for non execution of order which is pending for decision. Further it was submitted that the mud

**162** removed from the land which has resulted into inundation of land under water and prayed that the Respondent be asked to comply with the directions of this Authority."

**AND WHEREAS**, in the 276<sup>th</sup> GCZMA meeting held on 21/10/2021 it was decided as follows: "The Authority heard both the parties at length and directed them to file brief written submission and posted the matter for further arguments on 28.10.2021 at 2.30 pm."

**AND WHEREAS**, the matter was heard in the 277<sup>th</sup> GCZMA meeting held on 02/11/2021. The proceedings in the said matter can be seen as follows: "Honble MLA Smt Alina Saldana present for the Complainant along with Lupino Xavier. Adv Kantak appeared on behalf of the Respondent. Both the parties filed written documents which are taken on record. Complainant submitted that the land is khazan land and shown as garden area on Form I & XIV."

**AND WHEREAS**, in the 277<sup>th</sup> GCZMA meeting held on 02/11/2021 it was decided as follows: "The Authority after hearing both the parties at length and taking into consideration the submissions made by both the parties, decided to seek old records from the office of Collector, South Goa pertaining to the land and kept the matter for Orders on Show cause Notice dated 17/06/2019."

**AND WHEREAS**, the Chairman of GCZMA/Secretary Environment was transferred vide order dated 01/12/2021 and hence the Authority has put up the matter for hearing before the newly inducted Chairman of the GCZMA for hearing.

**AND WHEREAS**, the matter was placed for personal hearing in the 280<sup>th</sup> GCZMA Meeting held on 16/12/2021. The proceedings in the said matter can be seen as follows: "Complainant Lupino Xavier present for the matter, Adv Kantak appeared on behalf of the Respondent. The Member Secretary informed the Authority that the Complainant Mrs Alina Saldanha had call and informed the Authority her inability to appear in the matter for today hearing as she was pre-occupied with Court matter. The

Complainant briefed the Authority by stating the facts of the case. He stated that He, Mr. Lopinho Xavier is the Chairman of Quelossim Bio Diversity Management Committee and he has also filed a Complaint against the Respondent. The Complainant stated that the Respondent has done mud filling in the Khazan land which needs to be removed, further the Respondent has destroyed the bund and that the area falls in NDZ. To the question whether the Complainant approached the NGT, the complainant states that he has approached the Hon'ble NGT and that the matter is also pending before the Hon'ble NGT. The Adv for the Respondent stated that the show cause notice is issued based on the Complaint filed by Mrs Saldana as the show cause does not mention as to what activities to be stopped. The Adv for Respondent states that bund has been destroyed by the Gail Pipeline project. He stated that the Gas pipeline is running through the said land and it was the Gail agency that destroyed the bund when installing the pipeline for gas. He further adds that this issue of bund destruction was decided by the Deputy Collector. The Adv for Respondent states that all these issues do not form part of the Show Cause Notice and that the Complainant are continuously bringing out fresh issues which cannot be taken cognisance of without putting the Respondent to Notice. The Adv further adds that the initial Complaint filed by Mrs Alina does not mention all the allegations. The Member Secretary has pointed out to the Authority that as per the order of the Hon'ble High Court of Bombay at Goa the Show Cause Notice dated 17/06/2019 issued by the Authority needs to be disposed."

AND WHEREAS, in the 280<sup>th</sup> GCZMA Meeting held on 16/12/2021 it was decided as follows: "The Authority after hearing the parties directed them to file the brief written arguments if any with advance copies to be served on the other side in advance and posted the matter for Final Arguments on 06.01.2022 at 3pm."

AND WHEREAS, the matter was heard in the 284<sup>th</sup> GCZMA meeting held on 06/01/2022. The proceedings in the said matter can be seen as follows: "The Complainant Ex- MLA of Cortalim Smt Alina Saldana present. Complainant Lupino

*Xavier present, Adv. Kantak appeared on behalf of the Respondent, Smt Alina submitted that her reply is on record and the same may be considered as her arguments and same may be considered when deciding the matter. The Complainant submitted the brief written arguments along with the supporting documents. The Adv. for the Respondents also filed written arguments along with the supporting documents. Mr. Lopinho Xavier is the Chairman of Quelossim Bio Diversity Management Committee submitted a document to show that this area in dispute is a Khazan Land. The Member Secretary brought to the notice of the Authority that as per order of the Hon'ble High Court the SCN dated 17.6.2019 needs to be decided."*

**AND WHEREAS**, in the 284<sup>th</sup> GCZMA meeting held on 06/01/2022 it was decided as follows: *"The Authority heard the parties and length and have also taken the written arguments of both the parties on record. The matter is posted for orders to be communicated on SCN 17.6.2019."*

**AND WHEREAS**, the office of Directorate of Settlement and land Records (DSLRL), Panaji finally submitted a report/plan vide letter bearing no.19/ DSR/Resurvey cell/CRZ-River/41/12/1047 dated 29/03/2022. The parties were called for hearing vide personal hearing notice date 26/04/2022 enclosing the copy of the plan submitted by office of Directorate of Settlement and land Records (DSLRL), Panaji vide letter bearing no.19/ DSR/Resurvey cell/CRZ-River/41/12/1047 dated 29/03/2022.

**AND WHEREAS**, the matter was heard in the 302<sup>nd</sup> GCZMA meeting held on 05/05/2022. The proceedings in the said matter can be seen as follows: *"Complainants absent, Adv Kantak appeared on behalf of the Respondent and argued the matter . the Authority is also in receipt of report of mapping from DSLR . The report of the DSLR is also discussed in the meeting."*

AND WHEREAS, in the 302<sup>nd</sup> GCZMA meeting held on 05/05/2022 it was decided as follows: *"The Authority after hearing the Respondent and perusing the report posted the matter for orders."*

AND WHEREAS, the matter was finally discussed deliberated and decided in the 316<sup>th</sup> GCZMA meeting held on 21/07/2022. In the said meeting it was decided as follows: *"The Authority noted that in the present matter the inquiry began upon receipt of documents pertaining to the proposed Mini India park project dated 27/05/2019 from office of MLA, Cortalim Constituency requesting to conduct site inspection.*

*The Authority considered the same as a complaint/representation dated 27/05/2019 was discussed and deliberated in the 202<sup>nd</sup> GCZMA meeting held on 29/05/20219 wherein it was decided to issue a show cause cum stop work order to the Respondent.*

*The show cause cum stop work order dated 17/06/2019 was also issued to respondent for the Developmental Activities in Syno.170/0, 171/0 and 171/1 Quelossim village, Cortalim, Mormugao.*

*In the meantime, the office of GCZMA was also in receipt of application from Respondent requesting for permission to carry out the work of restoration of bunds and sluice gate and its proper operations and maintenance in the property bearing survey no. 170 and 171. In the context of guidelines issued by NCZMA, the Respondent had also requested to expedite the permission of work for bund and sluice gate and its proper operations and maintenance of same. The matter was placed in 223<sup>rd</sup> GCZMA meeting held on 18/3/2020 for discussion and deliberation. In the said meeting the Authority thus deemed it fit to conduct a site inspection along with the representatives of the local body and thereafter take a final call. The site in question was inspected by Expert Member GCZMA on 22/05/2020. The said site inspection report recommended DSLR to conduct detailed survey in the matter.*

166 Accordingly vide letter dated 28/04/2021, the GCZMA requested the office of Directorate of Settlement and land Records (DSLRL), Panaji to carry out site inspection and prepare the plan of various violations carried out by M/s. Movaj Enterprises Pvt. Ltd.

vide letter dated 07/06/2021, the office of Directorate of Settlement and land Records (DSLRL) replied to letter dated 28/04/2021 issued by the GCZMA stating that site inspections were done on 22/05/2020, 23/03/2021 and 16/04/2021. The field surveyor reported that entire survey in respect of survey numbers could not be carried out as the area was inaccessible.

vide order dated 31/08/2021 in Petition bearing PIL WP no.12/2020 the Hon'ble High Court of Bombay at Goa directed the authority to decide the said show cause cum stop work order dated 17/06/2019.

The office of Directorate of Settlement and land Records (DSLRL), Panaji finally submitted a report/plan vide letter bearing no.19/ DSR/Resurvey cell/CRZ-River/41/12/1047 dated 29/03/2022.

In view of the directions contained in the order dated 31/08/2021 in Petition bearing PIL WP no.12/2020, the limited aspect to be decided by Authority is the show cause cum stop work order dated 17/06/2019. The Authority accordingly issued personal hearing notice to concerned parties i.e MLA, Cortalim Constituency Mrs.Alina Saldanha and Director, Movaj Enterprises Private Limited.

The Authority noted that the show cause cum stop work order dated 17/06/2019 was also issued to respondent for the Developmental Activities in Syno.170/0, 171/0 and 171/1 Quelossim village, Cortalim, Mormugao within CRZ area. The issue for determination of the matter before the authority is limited and same can be seen as under:-

Whether the Respondent has carried out any developmental activities in CRZ area in Syno.170/0, 171/0 and 171/1 Quelossim village, Cortalim, Mormugao?

The concerned party i.e The Director, Movaj Enterprises Private Limited and Ex MLA, Cortalim Constituency Mrs. Alina Saldanha were heard in person and also through authorised representative at length by the authority. The record reveals both the parties have filed reply/written submission along with documents in support of their case. The Authority observed the respondent has filed a reply to said show cause cum stop work order dated 17/06/2019 only on 06/09/2021. The reason for delay in filing the reply being, the Respondent was not aware of the said show cause cum stop work order dated 17/06/2019 and only came to about the same when the same was produced in Writ Petition no. 12/2020. The Respondent in the course of arguments has pointed out that vide letter dated 22/05/2018 had informed this authority about change in address of communication. The Authority noted the records reveal that such letter dated 22/05/2018 informing the change in address of communication was infact received by office of GCZMA.

The Authority observed that in view of recommendation of the Expert Member of GCZMA who had recommended detailed mapping of the subject matter property, the office of Directorate of Settlement and land Records, Panaji-Goa has vide letter bearing no. 19/DSIR/Resurvey cell/CRZ-River/41/12/1047 dated 29/03/2022 has forwarded the report/plan.

The Authority perused the plan submitted by office of Directorate of Settlement and land Records, (DSLRL) Panaji-Goa vide letter dated 29/03/2022 and noted that the mud stacks at loco don't have much bearing on the ecological set up of the area. The Authority noted the floating poontons are of temporary nature and their positioning is also not fixed and hence not affecting the water flow. The Authority observed that the minor widening of bund is no way impacting the waterflow, nature and landscape.

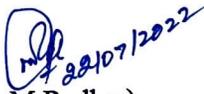
The Authority did not find any merit in submissions of the complainant and the issue is answered in the negative.



*In view of the aforesaid observations and findings, the Authority decided to dismiss the complaint/representation dated 27/05/2019 filed by Mrs. Alina Saldanha ex MLA, Cortalim Constituency. The show cause cum stop work order dated 17/06/2019 issued to Respondent is accordingly discharged. The proceedings before the Authority are accordingly disposed off.*

**NOW THEREFORE**, the GCZMA in exercise of the powers conferred under Section 5 of the Environment (Protection) Act, 1986 (Central Act 29 of 1986) read with sub-rule (3) (a) of Rule 4 of the Environment (Protection) Rules 1986, and read with power vested with the GCZMA vide Order S.O. 3975 (E) dated 31/10/2019 issued by the Ministry of Environment & Forests, Government of India, hereby dismisses/rejects the representation dated 27/05/2019 filed by Smt. Alina Saldanha, Hon'ble Ex MLA Cortalim Constituency and discharges Show Cause Cum Stop Work Order dated 17/06/2019 issued to M/s Movaj Enterprises Pvt Ltd, Residency Club, 3 Queen's Garden Road, Camp, Pune, 411001 interms of decision taken in 316<sup>th</sup> GCZMA meeting held on 21/07/2022. The proceedings are accordingly disposed off.

**For and on behalf of the  
Goa Coastal Zone Management Authority**

  
(Dasharath M. Redkar)

**Member Secretary (GCZMA)**

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To,

1. M/s Movaj Enterprises Pvt Ltd, Residency Club, 3 Queen's Garden Road, Camp, Pune, 411001.
2. Smt. Alina Saldanha, Hon'ble Ex MLA Cortalim Constituency, Housing Board, Upasnagar, Sancoale, Goa.

T/C