

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

APPLICATION NO. 66/2014 (WZ)

COLVA CIVIC AND CONSUMER
FORUM

... APPLICANT

VERSUS

GOA COASTAL ZONE MANAGEMENT
AUTHORITY AND OTHERS

... RESPONDENTS

REPLY ON BEHALF OF RESPONDENT NOS. 3 AND 4

MAY IT PLEASE YOUR LORDSHIPS:

Respondent Nos. 3 and 4 hereinabove (“**the Answering Respondents**”) state and submit as under:

1. The Answering Respondents have read and understood the contents of the captioned OA and no part thereof shall be deemed to have been admitted for the lack of specific traverse.
2. Before responding to the contents of the captioned OA, the Answering Respondents would like to place certain material and relevant facts before this Hon’ble Tribunal pertaining to the subject matter in issue in the captioned OA. These facts will demonstrate that the Tourist Resort in question has been existing since the year 1986/1987, well before the Coastal Regulation Zone Notification was issued in the year 1991. These facts will further show that the Answering Respondents as well as their predecessors-in-title have obtained all the necessary approval and permissions at all points of time. All these facts will show that the Answering Respondents have not committed any violation whatsoever of any laws, approvals, permissions, etc.

BRIEF FACTS

3. On 29th April 1981, one M/s Progressive Estate Developers (“**Progressive**

Developers”) made an application to Respondent No. 2 seeking grant of a Construction License for the purpose of construction of a Tourist Resort at Colva beach on the property bearing Survey Nos. 23/13 and 23/17 (“**the subject property**”).

4. Respondent No. 2 was pleased to issue a Construction License to Progressive Developers on 5th May 1981 for the purpose of construction of a Tourist Resort at Colva Beach on the subject property. A copy of the construction license dated 05th May 1981 issued by Respondent No. 2 is hereto annexed and marked as **ANNEXURE R-1 at pg.115**
5. Upon obtaining the Construction License, Progressive Developers applied for and obtained all necessary approvals and permissions from various Government Authorities in order to construct the Tourist Resort on the subject property, which included approvals from the Eco Coastal Committee, Goa (“**ECC**”), Ecological Development Council (“**EDC**”), the Town and Country Planning Department and Respondent No. 2. The Answering Respondents crave leave to refer to and rely upon necessary approvals and permissions, if and when necessary.
6. The construction of the Tourist Resort having six cottages and swimming pool on the subject property was completed in the year 1986. Sometime in the year 1987, the subject property along with the Tourist Resort standing thereon was acquired by Pent House Builders Pvt. Ltd. (“**Pent House**”) from Progressive Developers.
7. Thereafter, Pent House obtained a loan of Rs. 61,21,200/- from Economic Development Corporation Limited on 23rd March 1987. As security for the said loan, the subject property along with the Tourist Resort standing thereon was mortgaged by Pent House in favour of Economic Development Corporation vide a Mortgage Deed dated 24th March 1987 and thereafter by Deeds of

Further Charge dated 20th May 1988 and 24th October 1988.

8. The fact that the Tourist Resort was operational on Colva Beach well before 1991 is evident from the first invoice/bill issued by Pent House on 13th November 1987 stating the name of the guest, the duration of their stay and the invoice amount. While the Answering Respondents do not have a copy of the said invoice, the existence and operation of the Tourist Resort before 1991 is further evidenced by a letter addressed by Travel Corporation (India) Pvt. Ltd. to Pent House on 9th April 1988 regarding allocation room for the clients of Travel Corporation (India) Pvt. Ltd. from mid October 1988 to end April 1989. This clearly shows that the Tourist Resort was constructed and operation well before 1991. A copy of the letter dated 09th April 1988 from the Travel Corporation (India) Pvt. Ltd. to Pent House is hereto annexed and marked as **ANNEXURE R-2 at pg.117**
9. On 19th February 1991, The Coastal Regulation Zone Notification (“**CRZ 1991**”) came to be notified. Under CRZ 1991, the coastal stretches influenced by tidal action (in the landward side) up to 500 meters from the High Tide Line (“**HTL**”) were declared as Coastal Regulation Zone. CRZ 1991 further provided for a classification of CRZ areas. As per CRZ 1991, CRZ-III area has been described as:
- “ ...
CRZ-III
 (iv) The area upto 200 meters from the High Tide Line is to be earmarked as ‘No Development Zone’. No construction shall be permitted within this zone except for repairs of existing authorised structures not exceeding existing FSI, existing plinth area and existing density. ...
 ...
 (iv) Reconstruction/alterations of an existing authorised building permitted subject to (i) to (iii) above
 ...”
- [Emphasis added]

The Tourist Resort, which had been constructed and was operational prior to 1991, fell within the area up to 200 meters from the HTL. Thus, the Tourist

Resort is in CRZ-III area and is an existing authorised structure as per CRZ 1991. Further, in view of Clause (iv) extracted above, reconstruction/alteration of the Tourist Resort, which was an existing authorised structure, was permitted. A copy of the CRZ Notification 1991 dated 19th February 1991 is hereto annexed and marked as **ANNEXURE R-3 at pg.120**

10. In the 8th meeting of the Goa State Committee for Coastal Environment (“GSCCE”), GSCCE was pleased endorse two additional structures for the Tourist Resort other than the six cottages and a swimming pool. The new structures were identified as Blocks “A” and “C” while the six cottages were identified as Block “B”.

11. The existence of the Tourist Resort prior to coming into force of CRZ 1991 is again evidenced vide a letter dated 12th March 1996 addressed by the Office of Town and Country Planning Department to the Chief Engineer, Irrigation Department wherein it was stated that “*This particular resort is existing since 1987*”. The said letter was sent along with a House Tax Assessment Form issued by Respondent No. 2 which confirms structures H. No. 424 and H. No. 424 (1) on the subject property were constructed in the year 1986 and 1987 respectively. A copy of the letter dated 12th March 1996 from the Office of the Town and Country Planning Department to the Chief Engineer, Irrigation Department is hereto annexed and marked as **ANNEXURE R-4 at pg.125** A copy of the House Tax Assessment Form issued by Respondent No. 2 is hereto annexed and marked as **ANNEXURE R-5 at pg.125**

12. Since Pent House defaulted in servicing the loan taken from Economic Development Corporation Limited, the subject property along with the Tourist Resort standing thereon was auction sold by the Economic Development Corporation Limited to one M/s. R. G. Bakhle on 22nd June 2001. Possession of the Tourist Resort was thereafter handed over to Mr. R. G. Bakhle on 6th April 2002 and a Deed of Assignment and Sale from Economic Development

Corporation Limited to Mr. R. G. Bakhle was executed on 13th October 2003.

13. The Answering Respondents only entered the picture on 5th July 2005 when M/s. R. G. Bakhle and Respondent No. 3 entered into an Agreement for Sale in respect of the subject property along with the Tourist Resort standing thereon. The Agreement for Sale culminated into a Deed of Sale dated 31st March 2008 executed between Mr. R. G. Bakhle and another with Respondent No. 3 for the subject property along with the Tourist Structure standing thereon.

14. By this time, the Tourist Resort had been abandoned and was in ruinous condition. The Answering Respondents intended to restart the Tourist Resort. Accordingly, an application was made by the Answering Respondents to Respondent No. 1 for proposed repair/renovation/alteration/reconstruction of the existing Tourist Resort. Vide letter dated 18th May 2006, Respondent No. 1 was pleased to convey its approval for the proposed repairs and renovation of existing Block "B" structures (i.e., cottages) and the swimming pool of the existing Tourist Resort. A copy of the approval letter dated 18th May 2006 from Respondent No. 1 to the Answering Respondents is hereto annexed and marked as **ANNEXURE R-6 at pg.128**

15. Since approval for two other existing structures of the Tourist Resort being Block "A" and "C" was deferred by Respondent No. 1, the Answering Respondents made another application to Respondent No. 1 seeking approval for the proposed repair/renovation/alteration/reconstruction of the Block "A" and "C" structures. Vide letter dated 31st January 2008, Respondent No. 1 was pleased to convey its approval for the proposed repair/renovation/alteration/reconstruction of Block "A" and "C" structures of the Tourist Resort. A copy of the approval letter dated 31st January 2008 from the GCZMA to the Answering Respondent is hereto annexed and marked as **ANNEXURE R-7 at pg.132**

16. The Answering Respondents thereafter obtained the following permissions/ approvals for the purpose of repair/renovation/alteration/reconstruction of the Tourist Resort:

- a. Letter from the Public Works Department to Respondent No. 2 on 15th May 2008 stating that the proposal for repair/renovation/alteration of the Tourist Resort is technically approved. In other words, technical approval was granted. A copy of the letter dated 15th May 2008 from the Public Works Department to Respondent No. 2 is hereto annexed and marked as **ANNEXURE R-8 at pg135**
- b. No Objection Certificate (“NOC”) issued by the Office of the Senior Town Planner, Government of Goa to Respondent No. 2 for the proposed repairs/renovation/alteration/reconstruction of the Tourist Resort on 19th May 2008. A copy of the NOC dated 19th May 2008 issued by the Office of the Senior Town Planner is annexed hereto and marked as **ANNEXURE R-9 at pg137**
- c. Construction License issued by Respondent No. 2 to Respondent No. 3 on 11th June 2008 granting permission for repair/renovation/alteration/reconstruction of the Tourist Resort. This Construction License was issued on the basis of the clearance/approvals granted by Respondent No. 1 vide letters dated 18th May 2006 and 31st January 2008. A copy of the Construction License dated 11th June 2008 issued by Respondent No. 2 to Respondent No. 3 is annexed hereto and marked as **ANNEXURE R-10 at pg.143**

17. In the year 2011, a complaint came to be filed by one Shriram Raiturkar against the Answering Respondents. On the basis of this complaint, Respondent No. 1 issued a show cause notice to the Answering Respondents. Another complaint came to be filed by Goa Foundation against the Answering Respondents on 21st

November 2011 (*See Annexure 9 to the captioned OA*) alleging that there were additional constructions being undertaken over and above the existing plinth area. In furtherance of this complaint, Respondent No. 1, vide letter dated 5th December 2011, requested Directorate of Settlement and Land Records (“**DSLRL**”) to conduct a survey of the existing structures and identify if any of the structures had exceeded plinth area as against earlier surveys conducted with regard to the subject property. A copy of the letter dated 5th December 2011 from Respondent No. 1 to DSLR is hereto annexed and marked as **ANNEXURE R-11 at pg.145**

18. DSLR addressed a letter to Respondent No. 1 on 26th December 2011 whereby DSLR shared a copy of the plan showing the structures surveyed by DSLR on 15th December 2011 in furtherance of Respondent No. 1’s directions issued above. A perusal of the plan shared by DSLR shows that the plinth area of the structures was found to be 2030 sq. m., which is very well within the originally existing plinth area of 2117 sq. m., as per the past survey conducted on 7th April 2009. As regards the swimming pool, the area is found to be the same as it was in the survey conducted on 7th April 2009, i.e., 115 sq. m. A copy of the letter dated 26th December 2011 from the DSLR to Respondent No. 1 is hereto annexed and marked as **ANNEXURE R-12 at pg. 147**

19. On 20th June 2012, the Answering Respondents addressed a letter to Respondent No. 1 requesting Respondent No. 1 to verify whether the repairs/renovation/ reconstruction had been carried out as per the revised plans. Vide letter dated 23rd July 2012, Respondent No. 1 requested DSLR to carry out mapping of the structures and confirm the details by comparing DSLR’s records with that submitted by the Answering Respondents. A copy of the letter dated 23rd July 2012 from Respondent No. 1 to DSLR is hereto annexed and marked as **ANNEXURE R-13 at pg.150**

20. DSLR addressed a letter to Respondent No. 1 on 30th July 2012 whereby DSLR

shared a copy of the plan showing the structures surveyed by DSLR on 25th July 2012 in furtherance of Respondent No. 1's directions issued above. The plan shared by DSLR confirmed that the repairs/renovation/reconstruction was as per the approvals granted to the Answering Respondents and within the existing CRZ survey plan. The plinth area was found to be unchanged and identical to what it was in the previous survey carried out on 15th December 2011). A copy of the letter dated 30th July 2012 from DSLR to Respondent No. 1 is hereto annexed and marked as **ANNEXURE R-14 at pg152**

21. After having determined that the repairs/renovation/reconstruction by the Answering Respondents was in accordance with the approvals and the sanctioned plans, Respondent No. 1 addressed a letter to Respondent No. 4 on 23rd August 2012 confirming that the work carried out by the Answering Respondents was in accordance with the approvals granted. A copy of the letter dated 23rd August 2012 from Respondent No. 1 to Respondent No. 4 is hereto annexed and marked as **ANNEXURE R-15 at pg.154**

22. Upon the Answering Respondents having completed the repairs/renovation/reconstruction work, the Town and Country Planning Department issued a Completion Order to Respondent No. 3 on 16th April 2013 certifying that the repairs/renovation/reconstruction of the Tourist Resort (Block "A", "B" and "C") had been completed. A copy of the completion order dated 16th April 2013 issued by the Office of the Deputy Town Planner is hereto annexed and marked as **ANNEXURE R-16 at pg.158**

23. Thereafter, the Answering Respondents obtained a consent to operate for the Tourist Resort from the Goa State Pollution Control Board ("GSPCB") on 16th May 2013. A copy of the Consent to Operate dated 16th May 2013 issued by the Goa State Pollution Control Board to the Answering Respondent is hereto annexed and marked as **ANNEXURE R-17 at pg.159**

24. Since Respondent No. 2 did not respond to the Answering Respondents' application for Occupancy Certificate, the Answering Respondents were constrained to approach the Block Development Officer by way of an Appeal. Upon examining all the relevant material, the Block Development Officer was pleased to pass an Order on 20th August 2013 directing Respondent No. 2 to issue Occupancy Certificate to the Answering Respondent's Tourist Resort within a period of 10 days. A copy of the Order dated 20th August 2013 passed by the Block Development Officer, South Goa, is hereto annexed and marked as **ANNEXURE R-18 at pg.165**

25. The issuance of Occupancy Certificate took a little time. In the interregnum, since the Occupancy Certificate had not yet been issued, the Answering Respondents had to apply for a renewal of the Construction License. Accordingly, the Answering Respondents applied for and obtained a renewal and revised approval of their Construction License from Respondent No. 2 on 16th January 2014 for the proposed repairs/renovation/reconstruction of the Tourist Resort. A copy of the renewal and revised approval of the Construction License dated 16th January 2014 is hereto marked and annexed as **ANNEXURE R-19 at pg.193**

26. In the meantime, the Answering Respondents obtained the following NOCs from Respondent No. 2: (i) to register the Tourist Resort with the Fire Department; (ii) to apply for an electricity connection; (iii) to apply for a water connection; and (iv) to register and run a resort, bar and restaurant on the subject property.

27. Ultimately, the Occupancy Certificate came to be granted to the Answering Respondents by Respondent No. 2 on 13th February 2014 in respect of the Tourist Resort along with the repairs/renovation/reconstruction carried out by the Answering Respondents. A copy of the Occupancy Certificate dated 13th February 2014 granted to the Answering Respondent by Respondent No. 2 is

hereto annexed and marked as **ANNEXURE R-20 at pg.197**

28. From the above, it is evident that the Answering Respondents had obtained all the requisite approvals/permissions/orders/communications from various Government Authorities. Consequently, the Applicant's case is without any basis. The approvals/permissions/orders/communications granted by various authorities can be summarised in the table below:

Authority	Approvals/Permissions/Orders/Communications
Village Panchayat of Colva	05.05.1981, 05.09.1984, 15.09.1984, 06.03.1986, 27.09.1986, 05.11.1986, 12.11.1987, 11.06.2008, 27.01.2009, 19.03.2012, 16.01.2014, 11.02.2014, 13.02.2014, 22.02.2014.
Town and Country Planning Department	04.04.1985, 30.10.1985, 24.02.1986, 23.11.1989, 07.08.1996, 12.03.1996, 19.05.2008, 15.04.2013, 16.04.2013, 30.09.1988
ECC/EDC/GCZMA	12.03.1985, 30.08.1985, 30.09.1985, 10.02.1986, 19.07.1988, 20.04.2006, 18.05.2006, 12.12.2007, 30/31.01.2008, 23.08.2012, 19.10.2015, 14.08.2018, 28.04.1988.
Add. Director of Panchayat	15.01.2013, 29.08.2013
Goa State Pollution Control Board (GSPCB)	16.05.2013, 29.07.2013, 27.09.2016, 19.07.2016
Block Development Officer (BDO)	20.08.2013
Fire Department	12.02.2018
Collector (South)	01.06.1981
DSLRL	05.02.2009, 07.04.2009, 15.12.2011, 25.07.2012,

	30.07.2012
Public Works Department (PWD)	16.12.1986, 12.01.1987, 24.01.1987, 25.01.2002, 07.02.2002, 15.01.2008, 06.06.2014
Electricity Department	25.05.1987, 13.07.1987, 11.09.1987, 06.11.1987, 09.11.1987, 20.11.1987, 22.02.1988, 09.06.2014
Director (Tourism Dept.)	29.01.1988, 03.11.1989
Excise Dept.	08.04.1988

29. It is thus evident from the facts set out above that the Tourist Resort, constructed on the subject property, was constructed after obtaining all the requisite permissions, and has been in existence and operation, prior to 1991, i.e., well before CRZ 1991 came into effect. The construction carried out subsequently was repair/renovation/reconstruction of the said pre-existing authorised structures, after obtaining requisite permissions from Respondent No. 1 amongst other relevant authorities and therefore meets the criteria for such repair/ renovation/reconstruction as per the CRZ Notifications. The Answering Respondents undertake to make separate compilation containing all the approvals/permissions/orders/communications, if the same is necessary.

30. Having set out the relevant facts in the preceding paragraphs, the Answering Respondents make the following preliminary submissions/objections.

PRELIMINARY OBJECTIONS/SUBMISSIONS

31. At the outset, it is submitted that the captioned OA seeks to impugn permissions granted by a Village Panchayat, i.e., Respondent No. 2 in the present case, under a legislation which is not listed in Schedule I to the National Green Tribunal Act, 2010 (“NGT Act”) and consequently, it is beyond the scope of Section 14 of the NGT Act.

32. Furthermore, while the ostensible challenge is to the approvals/permissions granted by Respondent No. 2, the subject property being a CRZ area, the said approvals/permissions were in turn predicated on approvals/permissions granted by Respondent No. 1. The said approvals/permissions have withstood a challenge by another party in writ proceedings, being Writ Petition No. 751 of 2008, wherein the Hon'ble Bombay High Court at Goa has, after considering the matter at length, and following two decisions of this Hon'ble Tribunal, held that the said approvals/permissions do not suffer from any legal infirmity and are in consonance with the CRZ Notifications.
33. Moreover, the said approvals/permissions, having attained finality in writ proceedings, the decision of the Hon'ble Bombay High Court at Goa with respect to the validity of the approvals/permissions granted is binding on this Hon'ble Tribunal as has been held by the Hon'ble Supreme Court in *State of Andhra Pradesh v. Raghu Ramakrishna Raju Kanumuru (M.P.)*, reported in 2022 (8) SCC 156.
34. This Hon'ble Tribunal was pleased issued notice to the Answering Respondents in the captioned OA on 2nd July 2014. The issuance of notice was challenged by the Answering Respondents before the Hon'ble Bombay High Court at Goa by filing Writ Petition No. 469 of 2014 challenging the jurisdiction of this Hon'ble Tribunal vis-à-vis issues raised in the captioned OA, in view of Section 2 (m) of the National Green Tribunal Act, and also on the ground that an identical issue was pending before the Hon'ble Bombay High Court at Goa in Writ Petition No. 751 of 2008, and consequently, a parallel proceeding before this Hon'ble Tribunal was not maintainable. A copy of Writ Petition No. 469 of 2014 dated 24th July 2014 filed by the Answering Respondents before the Hon'ble Bombay High Court at Goa is hereto annexed and marked as **ANNEXURE R-21 at pg. 199**

35. The Hon'ble Bombay High Court at Goa, by its Order dated 28th July 2014, was pleased to stay the proceedings before this Hon'ble Tribunal. A copy of Order dated 28th July 2014 passed by the Hon'ble Bombay High Court at Goa in Writ Petition No. 469 of 2014 is hereto annexed and marked as **ANNEXURE R-22 at pg.216**
36. Subsequently, vide Order dated 28th November 2014, the Writ Petition No. 469 of 2014 was tagged along with Writ Petition No. 751 of 2008 and directed to be heard together. A copy of Order dated 28th November 2014 passed by the Hon'ble Bombay High Court at Goa in Writ Petition No. 469 of 2014 is hereto annexed and marked as **ANNEXURE R-23 at pg.218**
37. The Hon'ble Bombay High Court at Goa heard the Petitions together and by Judgment dated 20th June 2019 dismissed Writ Petition No. 751 of 2008. The Hon'ble Bombay High Court at Goa clearly held that the approvals/permissions granted to the Answering Respondents (and their predecessors-in-title) were lawful. It was further held that the three structures being Blocks "A", "B" and "C" were authorised and in existence since the year 1986/1987, much before the CRZ Notifications were issued. The constructed structures were held to not fall foul of the requirements of CRZ Notification as they did not exceed the existing plinth area, existing FSI or existing density. As far as Writ Petition No. 469 of 2014 was concerned, the Hon'ble Bombay High Court at Goa was pleased to direct the Answering Respondents (Petitioners in the said Writ Petition) to approach this Hon'ble Tribunal and seek disposal of the captioned OA based on the said judgment. A copy of the judgment dated 20th June 2019 passed by the Hon'ble High Court of Bombay at Goa in Writ Petition Nos. 751 of 2008 and 469 of 2014 is hereto annexed and marked as **ANNEXURE R-24 at pg.219**
38. The Applicant (Respondent No. 3 in Writ Petition No. 469 of 2014) filed SLP (C) No. 27545 of 2019 before the Hon'ble Supreme Court challenging the

Judgment of the Hon'ble Bombay High Court at Goa. A copy of Special Leave Petition No. 27545 of 2019 dated 14th October 2019 filed by the Applicant before the Hon'ble Supreme Court is hereto annexed and marked as **ANNEXURE R-25 at pg.248**

39. By Order dated 3rd October 2023, the Hon'ble Supreme Court directed this Hon'ble Tribunal to decide the captioned OA, and the parties were granted liberty to raise all contentions, objections as are available under law by filing replies and the documents before this Hon'ble Tribunal. A copy of the Order dated 3rd October 2023 passed by the Hon'ble Supreme Court in SLP (C) No. 27545 of 2019 is hereto annexed and marked as **ANNEXURE R-26 at pg.270**

40. In furtherance of the same, the Answering Respondents are filing the instant Affidavit in Reply to the captioned OA. The reliefs sought by the Applicant in the captioned OA are as follows:

“ ...

- (a) *That this Hon'ble Tribunal may be pleased to direct the Respondents nos. 1 and 2 to forthwith and immediately take action in accordance with law against the constructions of the Respondents no. 3 and 4 in survey no. 23/13 and 23/17 of Colva, remove the offending constructions and restore the beach to its original condition.*
- (b) *That this Hon'ble Tribunal may be pleased to quash the construction license/renewal of construction license issued on 16/1/2014 and occupancy certificate no. VP/SVCG/2232/13-14 dated 13/2/2014 issued by Respondents no. 2 in respect of the revised plans of Respondents no. 3 and 4.*
- (c) *For ad-interim relief in terms of stay of the operation of the orders dated 16/1/2014 and 13/2/2014.*
- (d) *For costs and*
- (e) *For such other and/or further reliefs, as this Hon'ble Tribunal may deem fit in the facts and circumstances of the case, and as the ends of justice may warrant and/or demand.*

...”

[Emphasis added]

Maintainability

41. A careful reading of the captioned OA will leave no room for doubt that it is essentially a challenge to the approvals dated 18th May 2006 and 30th/31st January 2008 granted by Respondent No. 1 for repair/renovation/reconstruction of the Tourist Resort. The Answering Respondents state that the said permissions can only be challenged by way of an appeal under Section 16 (g) of the NGT Act.

42. This Hon'ble Tribunal has categorically held that permissions that are appealable cannot be challenged by disguising the same as an OA. The reasoning of this Hon'ble Tribunal in its Judgment dated 27th May 2016 passed in *Narinder Shukla v. Jagish Saphiya*, OA No. 135 of 2015, is that once a permission has attained finality, having not been challenged within the limitation period of 90 days, it cannot thereafter be challenged by way of a side-wind by filing an OA. Hence this Hon'ble Tribunal observed *albeit* in the context of an EC (which is also an appealable order) as follows:

“ ...

23. ... *the E.C was granted as early as 22.09.2015, the applicant could not have preferred an appeal under Section 16 of NGT Act, 2010 challenging the EC on 23.04.2015, the day when the application was filed before the Tribunal. When the order granting E.C, is an appealable order, and the applicant failed to challenge the E.C within the statutory period, or the period provided for condonation of delay, the same cannot be challenged in the guise of an application under section 14 of the National Green Tribunal Act, 2010.*

...”

[Emphasis added]

The instant case squarely falls within the *ratio* of the said judgment in as much as the Applicant, having allowed the said permissions to attain finality, cannot now seek to indirectly challenge the same. Conversely, if there is no challenge to these permissions, the captioned OA is *ipso facto* not maintainable in as much as the Applicant cannot urge this Hon'ble Tribunal to go behind the said permissions *vide Narinder Shukla (supra)*.

43. No doubt the permissions were granted at a time when the National Green

Tribunal had not yet been incorporated. However, the Applicant could have challenged the same by way of a writ petition. In fact, another party, i.e., the Petitioners in Writ Petition No. 751 of 2008 before the Hon'ble Bombay High Court at Goa did challenge the approvals/permissions *albeit* unsuccessfully.

44. In such circumstances and in view of what is stated hereinabove, the captioned OA ought to be dismissed as not maintainable.

Jurisdiction

45. The Answering Respondents submit that the reliefs sought by the Applicant are beyond the purview of jurisdiction of this Hon'ble Tribunal. This Hon'ble Tribunal has jurisdiction over the issues falling under Section 2 (m) of the NGT Act, i.e., "substantial question relating to environment". The reliefs sought herein do not meet the requirements of being a "substantial question relating to the environment" and therefore, the captioned OA ought not be entertained by this Hon'ble Tribunal.

46. A literal reading of the prayers in the captioned OA suggests that the Applicant seeks to impugn permissions granted by Respondent No. 2 to Respondent No. 3 under the Goa Panchayat Raj Act, 1994. Since the said legislation does not form a part of the Acts enlisted in Schedule I to the NGT Act, the Answering Respondents submit that the captioned OA ought to be dismissed for want of jurisdiction.

Limitation

47. The Answering Respondents submit that the captioned OA is barred by the law of limitation on two counts.

48. *Firstly*, as already stated, this is an appeal in disguise filed as an OA only to circumvent the limitation prescribed under Section 16 of the NGT Act. The limitation under Section 16 is 90 days from the date of the approval impugned. In the instant case, the approval impugned was granted to the Answering Respondents in the year 2006 and 2008. In the absence of this Hon'ble Tribunal at that time, the Applicant ought to have challenged the approvals impugned with alacrity in writ proceedings.

49. *Secondly*, assuming that this is in fact an OA, the Applicant has tried to justify the limitation (in paragraph 19 of the captioned OA) on the ground that Respondent No. 2 had initiated action against the Answering Respondents. It is stated that by order dated 10th December 2012, Respondent No. 2 had revoked the renewal of Construction License dated 19th March 2012 (*See Annexure 11 to the captioned OA*) and by another order dated 26th December 2012 (*See Annexure 11 to the captioned OA*), Respondent No. 2 had directed the demolition of the structures standing on the subject property. It has further been stated that as Respondent No. 2 later did a *volte face*, the Applicant was constrained to file the present proceedings. The Applicant thereafter states that the Completion Certificate and Occupancy Certificate were furnished to the Applicant only on 3rd April 2014 under Right to Information Act, 2005 (“RTI”) and it was only thereafter that the Applicant could file the captioned OA.

50. At the outset, the Answering Respondents submit that the reasons cited for the purpose of limitation are bad in law and cannot be considered at all. Sub-section (3) of Section 14 of the NGT Act provides as under:

“ ...

(3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose:

Provided that the Tribunal may, if it is satisfied that the Applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

...”

A bare reading of sub-section (3) of section 14 of the NGT Act shows that the period of limitation is 6 months from the date on which the cause of action for such dispute arose. It is settled law that by the device of clever drafting of pleadings, the question of limitation cannot be circumvented by camouflaging the real issue in the proceedings.

51. In the case of *T. Arivandandam Vs. T.V. Satyapal and another*, reported in 1977 (4) SCC 467, the Hon’ble Supreme Court has observed as under:

“ ...
 5. *We have not the slightest hesitation in condemning the petitioner for gross abuse of the process of the court repeatedly and unrepentantly resorted to. From the statement of the facts found in the judgment of the High Court, it is perfectly plain that the suit now pending before the First Munsif's Court, Bangalore, is a flagrant misuse of the mercies of the law in receiving plaints. The learned Munsif must remember that if on a meaningful - not formal- reading of the plaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under Order VII Rule 11, C.P.C., taking care to see that the ground mentioned therein is fulfilled. And, if clever drafting has created the illusion of a cause of action, nip it in the bud at the first hearing by examining the party searchingly under Order X, C.P.C. An activist Judge is the answer to irresponsible law suits.*

...”

[Emphasis added]

52. The Answering Respondents submit that the cause of action for the Applicant, if at all it arises, would have been in July 2012. The Answering Respondents state that the Applicant was always aware of the repair/renovation/reconstruction of the Tourist Resort by the Answering Respondents and the status of repair/renovation/reconstruction from time to time. However, the Applicant deliberately chose not to file any proceedings before this Hon’ble Tribunal within the limitation period. The Answering Respondents cannot be made liable for an irresponsible Applicant who was sleeping over its rights to file proceedings before this Hon’ble Tribunal even after being aware about

repair/renovation/reconstruction carried out by the Answering Respondents since July 2012. The fact that the Applicant was aware about the repair /renovation/reconstruction activity being undertaken by the Answering Respondents is evident from the events set out below.

53. It is pertinent to note that the Applicant had, in July 2012, filed Miscellaneous Civil Application No. 635 of 2012 in *Suo Moto Writ Petition No. 2 of 2006* before the Hon'ble Bombay High Court at Goa, wherein the Applicant had made grievance about the Tourist Resort structures of the Answering Respondents and sought an enquiry against said structures. The Applicant had further prayed for orders from the Hon'ble Bombay High Court at Goa to that effect. By an Order dated 31st July 2012, the Applicant was joined as a party Respondent to *Suo Moto Writ Petition No. 2 of 2006*. A copy of Miscellaneous Civil Application No. 635 of 2012 dated 13th July 2012 in *Suo Moto Writ Petition No. 2 of 2006* filed by the Applicant before the Hon'ble Bombay High Court at Goa is hereto annexed and marked as **ANNEXURE R-27 at pg.272**
54. Further in paragraph 7 of the captioned OA, the Applicant has specifically stated that on 24th September 2012, the Applicant had written a letter to Respondent No. 1 to take action against the construction in the subject property. The said letter is annexed as "*Annexure 10*" to the captioned OA.
55. The Answering Respondents state that a perusal of Misc. Civil Application No. 635 of 2012 and the letter dated 29th September 2012, it comes to light that the Applicant was clearly aware of the work which was being carried out by the Answering Respondents. The Applicant has deliberately chosen not to file proceedings before this Hon'ble Tribunal.
56. This Hon'ble Tribunal has, in *Ajay Jayvantrao Bhonsle vs Union of India through MoEF & Ors*, O.A. No. 63 of 2019, held the period of limitation must be reckoned from when the construction commenced:

“ ...

16. He has argued that in this case, there is recurring cause of action and therefore, the date which has stated in his application i.e. 15.06.2019, when the SEIAA issued a Show Cause Notice to the Project Proponent, should be treated to be the date of cause of action.

...

19. We are not inclined to accept this argument because according to his pleading, he had full knowledge in the year 2011 itself when the construction had started. The pretext of having come to know about this project being constructed through RTI on a later date as stated above appears to be only in order to bring the present Original Application within limitation period. We agree with the learned Counsel for the Project Proponent (PP) that it is very easy for any person to use RTI to seek information for any project on any date chosen by him. We are of the considered opinion that such kind of practice cannot be allowed. We are not inclined to accept the argument made by the learned Counsel for the Applicant in Original Application and are convinced with the argument raised by the learned Counsel for the Respondent No. 11/Project Proponent. We find that this Original Application is time barred, hence this Original Application stands dismissed as time barred.

...”

[Emphasis added]

57. The submission of letters dated 23rd April 2014 and 25th April 2014 (See Annexure 16 to the captioned OA) is nothing but an attempt to mislead this Hon’ble Tribunal and fabricate a cause of action from those dates in order to disguise the captioned OA as being within the period of limitation. The Answering Respondents, therefore, submit that the Applicant has suppressed the above facts from this Hon’ble Tribunal and has fabricated the cause of action to have occurred on 3rd April 2014 in order to overcome the bar of limitation.

58. It is submitted that the cause of action starts from the date of actual cause originating from the actions of the person and not from the date of creation of cause of action through subsequent creation of documents. The Answering Respondents therefore submit that on this ground alone, the present proceedings are liable to be dismissed.

Re agitation of settled issues

59. The Answering Respondents submit that the instant proceedings are a gross abuse of the judicial process. The Applicant is reagitating issues, which have already been concluded in favour of the Answering Respondents. These issues were raised by this very party i.e., the Applicant, who had previously filed Misc. Civil Application No. 635 of 2012 in Suo Motu Writ Petition No. 2 of 2006 before the Hon'ble Bombay High Court at Goa.
60. The Answering Respondents submit that the Applicant has conveniently omitted to state anything regarding the proceedings before the Hon'ble Bombay High Court at Goa which had been filed and were being pursued by the Applicant in Misc. Civil Application No. 635 of 2012 in Suo Motu Writ Petition No. 2 of 2006. The Answering Respondents submit that without disclosing this fact to this Hon'ble Tribunal, the captioned OA came to be filed. Thus, it is evident that the Applicant was pursuing two remedies parallelly at the same time. Regardless of the fact that the proceedings before Hon'ble Bombay High Court at Goa (and thereafter continued before Respondent No. 1) came to be dismissed, it was the duty of the Applicant to disclose, to this Hon'ble Tribunal, the proceedings which the Applicant had filed before the Hon'ble Bombay High Court at Goa which were on the same cause of action.
61. It becomes apparent the Applicant is merely interested in wasting precious judicial time by reagitating issues, which have already been concluded in favour of the Answering Respondents, by concealing the aforesaid proceedings in which it was unsuccessful. In such circumstances, it is submitted that the captioned OA deserves to be dismissed on this count alone, i.e., for concealment of material facts and on account of being barred on principles analogous to *res judicata*, i.e., reagitating settled issues.

Merits

62. It is the Applicant's case that the repairs/renovation/reconstruction work carried out by the Answering Respondents is illegal and has prayed for the relief of quashing of the Construction License and the Occupancy Certificate.
63. The Answering Respondents submit that the said permissions are only consequential and the repair/renovation/reconstruction was, in fact, carried out by the Answering Respondents in accordance with approvals granted by Respondent No. 1 being (i) Approval for Six Cottage Structures (Block B) along with swimming pool dated 18th May 2006; and (ii) Approval for main building (Block A) and restaurant (Block C) structures dated 31st January 2008. The said approvals have not been challenged by the Applicant and have attained finality.
64. As set out in the facts stated hereinabove, it has been confirmed by Respondent No. 1, by a letter dated 23rd August 2012, that the Answering Respondents carried out repairs/renovation/reconstruction work of the Tourist Resort on the subject property in terms of the approvals which had been granted. The Answering Respondents had also obtained approvals from other necessary Government Authorities such as Department of Town and Country Planning, Respondent No. 2, amongst others.
65. The issues raised by the Applicant in the captioned OA have now come to be dealt with by Respondent No. 1 and subsequently by the Hon'ble Bombay High Court at Goa.

Issues decided by Respondent No. 1

66. Respondent No. 1 has decided the issues in favour of the Answering Respondents in the year 2018, after taking into consideration a report submitted

by the Inquiry Committee of Respondent No. 1 in the year 2015. The following facts are relevant in this regard:

- a. The Hon'ble Bombay High Court at Goa by its Order dated 12th January 2015 in Misc. Civil Application No. 635 of 2012 (which was filed by the Applicant) in Suo Motu Writ Petition No. 2 of 2006 had directed Respondent No. 1 to conduct an inquiry with respect to the structures existing in the No Development Zone of CRZ-III in Village Colva, which included, *inter alia*, the Tourist Resort. A copy of the Order dated 12th January 2015 passed by the Hon'ble Bombay High Court at Goa in Suo Moto Writ Petition No. 2 of 2006 is hereto annexed and marked as **ANNEXURE R-28 at pg.279**
- b. The said enquiry was conducted by an Inquiry Committee constituted by Respondent No. 1, comprising three members which included a retired District Judge (Mr. Afonso Araujo), retired *Mamlatdar* (Mr. Kanchan Lotlikar) and a retired Surveyor (Mr. Caetano Braganca), on 31st October 2013, in terms of the directions issued by the National Green Tribunal *vide* its orders dated 3rd May 2013, 22nd May 2013 and 26th July 2013 in OA No. 68 of 2012.
- c. The Inquiry Committee, after examining the relevant documents provided by the Answering Respondents and perusing the records of Respondent No. 1, submitted its report dated 19th October 2015 wherein it was found that the structures in the subject property were pre-existing structures, which though within the No Development Zone, had only been repaired/ renovated/reconstructed without exceeding the plinth area, and such repair and reconstruction of existing structure was permissible within the No Development Zone and the repairs/renovations/reconstructions carried out were in accordance with law. A copy of the Report dated 19th October 2015 of the Inquiry

Committee of Respondent No. 1 is hereto annexed and marked as **ANNEXURE R-29 at pg.281**

- d. Pertinently, the Secretary of the Applicant (who is the deponent in the captioned OA) was present and participated in the proceedings before the said Inquiry Committee, and advance arguments.
- e. The said report was subsequently examined by Respondent No. 1 in its 179th, 180th and 181st meeting held on 19th July 2018, 31st July 2018 and 14th August 2018 respectively. Respondent No. 1, after hearing the Applicant and the Answering Respondents and examining the aforesaid report as well as a report submitted by DSLR, confirmed that the construction was as per the plans and plinth size submitted to the authority while obtaining approval. Thus, the findings of the Inquiry Committee's report dated 19th January 2015 came to be accepted by Respondent No. 1. A copy of the Minutes of the 179th Meeting of Respondent No. 1 held on 19th July 2018 is hereto annexed and marked as **ANNEXURE R-30 at pg.285** A copy of the Minutes of the 180th Meeting of Respondent No. 1 held on 31st July 2018 is hereto annexed and marked as **ANNEXURE R-31 at pg.308** A copy of the Minutes of the 181st Meeting of Respondent No. 1 held on 14th August 2018 is hereto annexed and marked as **ANNEXURE R-32 at pg.338**
- f. The Applicant then chose to not pursue the matter further and allowed Respondent No. 1's order to attain finality.

67. Having lost before Respondent No. 1 in proceedings resulting from Misc. Civil Application No. 635 of 2012 in Suo Motu Writ Petition No. 2 of 2006, the Applicant is now seeking to pursue the captioned OA which effectively challenges the same approvals/permissions which have been held to be valid and lawful.

Issues decided by the Hon'ble Bombay High Court at Goa

68. The Answering Respondents again submit that the issue raised pertaining to the illegality of the Tourist Resort no longer survives in view of the Judgement passed by the Hon'ble Bombay High Court at Goa on 20th June 2019 in Writ Petition No. 751 of 2008.
69. The Hon'ble Bombay High Court at Goa has declared that the structures constructed on the subject property were constructed after obtaining requisite permissions, and have been in existence and operation, prior to 1991, i.e. even before the Coastal Regulation Zone Notification was issued on 19th February 1991. The Hon'ble Bombay High Court at Goa has further held that the construction carried out subsequently was repair/renovation/reconstruction of the said pre-existing structures, after obtaining requisite permission from Respondent No. 1 and meets the criteria for such repair/renovation/reconstruction as per the CRZ notifications.
70. As pointed out above, the Applicant was a party and more importantly a contesting Respondent in the said proceedings and was duly heard before the Hon'ble High Court. The contention of the Petitioner in Writ Petition No. 751 of 2008 and the Applicant is virtually the same. The Answering Respondents state that the Petitioner in Writ Petition No. 751 of 2008 and the Applicant were acting in collusion behind the scenes and filed several frivolous cases before multiple forums alleging that the structures of the Answering Respondents were illegal.
71. The Answering Respondents state that the Petitioner in Writ Petition No. 751 of 2008 had approached the Hon'ble Bombay High Court at Goa purportedly in public interest. However, in reality, the said Petitioner had approached the Hon'ble Bombay High Court at Goa, taking cudgels for and espousing the

cause of Pent House, who was the predecessor-in-title of the Answering Respondents.

72. Pent House had filed civil suits seeking injunction against the Answering Respondents. Having failed to secure any injunctive reliefs, Pent House filed Writ Petition No. 751 of 2008 under the garb of environmental violations before the Hon'ble Bombay High Court at Goa through one Mr. Theodore Fernandes and Another. Having failed again to obtain any interim reliefs against the Answering Respondents before the Hon'ble Bombay High Court at Goa, the captioned OA before this Hon'ble Tribunal has been filed.

73. By the Judgement dated 20th June 2019 in Writ Petition No. 751 of 2008, the Hon'ble Bombay High Court at Goa has held that the c repair/renovation/reconstruction of the Tourist Resort is within the framework of law and is, therefore, completely legal.

74. In paragraph 3 of the Judgement, the Hon'ble Bombay High Court at Goa has recorded as follows:

“ ...

3. The Petitioners have come to the Court with a case that in the property surveyed under Nos.23/13 and 23/17, there existed five cottages, one house structure, one building, one swimming pool, one open restaurant with four sit-outs. These were used as a beach resort under the name and style of Penthouse Beach Resort. The resort was lying in an abandoned condition for the last several years. In or around the first week of September 2008, the Petitioners noticed survey operations being carried out in the property. Upon inquiries made and information sought from authorities, including the Panchayat of Colva, Goa Coastal Zone Management Authority (GCZMA), and Town and Country Planning Department of the State, the Petitioners claim to have learnt that in the guise of sanctions obtained from the authorities for repairs/alternations /renovations, Respondent No.5 (who had in or about 2008 acquired rights to the property) was reconstructing or newly constructing a beach resort at site; the plans of such construction showed total deviation from the plinth of existing structures. Whereas the existing covered area of five cottages and one house was 843.76 sq. metres, the six buildings

proposed in their place would have a covered area of 1324.86 sq. metres. So also, the floor area of 1822.08 sq. metres of the existing structures was being increased to 2537.22 sq. metres. It is the Petitioners' case that even the existing structures, which were purportedly being repaired/alterd/renovated, were unauthorised and 6 wps751-08,469-14 dt.19.06.19 did not have the requisite approvals from the authorities. The Petitioners claim to have applied to the concerned statutory authorities (Respondent Nos. 2, 3 and 4) for revoking and withdrawing the permissions and since they did not receive positive response, filed the present Petition.

...”

A perusal of the above shows that an identical case has been set up by the Applicant in the captioned OA.

75. Thereafter, in paragraph 13, the Hon'ble Bombay High Court at Goa has observed as follows:

“ ...

13. On its plain terms, the Regulation makes it clear that what is permissible under CRZ III is not merely repairs or renovation of an existing authorised structure or building, but even reconstruction or alteration of an existing authorised structure or building. In either case, be it a proposal for repairs or renovation or a proposal for reconstruction or alteration, what is necessary is to maintain, that is to say, not to exceed “existing FSI”, “existing plinth area” and “existing density”. There is nothing in the Regulation to suggest that exceeding of plinth area within the meaning of the relevant stipulation, implies either alteration of the plinth or its location or orientation. Learned Counsel for the Petitioners implores us to construe the expression 'not to exceed the existing plinth area', as not to alter the contours of the plinth or change the footprint of the structure in terms of contours or orientation. That, we are afraid, would amount to reading of words into the statute, which is clearly impermissible. When the words used in the statute are clear in themselves, it is not permissible to read words into it and construe the same differently. “Plinth area” is always measured in square feet or square metres and exceeding the existing plinth area would, by a plain grammatical meaning, imply exceeding the total quantity of plinth area in terms of square feet or square metres, as the case may be. There is no scope to construe this expression as meaning a restriction on change of contours of the plinth or its location or orientation.

...”

76. Further, in paragraph 15, it has been stated as under:

“ ...

15. In the present case, the record of the case clearly bears out that the plinth area of the new construction does not exceed the plinth area of the originally authorised existing structures. The plan submitted by Respondent No.5 for repairs/renovations/alterations of the existing structures and which was approved by GCZMA in August 2006, shows six cottages of type B admeasuring a total plinth area of 1324.86 sq. metres. In addition to these cottages, there were two more structures referred to as type A and type C, respectively, admeasuring 605 sq. metres and 102.46 sq. metres, making the total existing plinth area as 2032.32 sq. mtres. There is substantial material on record, and which appears to have been considered by the authorities whilst approving the subject plan, putting the total plinth area at 2032.32 sq. metres. When the initial construction plan (Phase-I) was before the authorities for consideration around the year 1986, the Eco Control Committee (ECC) of the State had scrutinized the plan and observed that the project was fulfilling the guidelines and norms prescribed by Eco Development Council (EDC) and decided to recommend the project for final decision. There is also on record a letter addressed by the Chief Town Planner to the Member Secretary of EDC, confirming that the project fulfilled the guidelines and norms specified by EDC and forwarding the file containing construction plans for the latter's approval. It is also on record that the original Phase I development was approved subject to the condition that the remaining land in the northern part of the plot shall be ceded to the Government. On that condition, the approval was conveyed to the predecessor of Respondent No.5 in 1986. The predecessor of Respondent No.5, thereafter, submitted plans for Phase II development, which was proposed within that part which was required to be ceded to the Government according to the original sanction. An in-principle approval was granted by EDC/ECC to this proposal, which was conveyed to the applicant sometime in 1988-1989. The minutes of meeting of EDC in this behalf (minutes of 28th ECC meeting held on 28th April, 1988) are on record. So also, is on record a communication of the Senior Town Planner, communicating such in-principle approval to the predecessor of Respondent No.5. Also on record is a letter of the Under Secretary to the Government of Goa (Tourism Department) informing the Chief Town Planner that the Government had decided to withdraw the condition regarding ceding of land (originally made part of the sanction for Phase I development). There is a communication from the Chief Town Planner, in turn, to Respondent No.4 about the Government decision to withdraw the condition regarding ceding of land. All this does show that further construction of Phase II development in respect of the areas denoted as A and C types was sanctioned by the authorities. In

other words, there is ample material on record to show that these two types of structures, which were claimed as existing authorised structures, in fact did have authorisation.
 ...”

77. The Answering Respondents submit that the Hon’ble Bombay High Court at Goa has taken note of:

- the repair/renovation/alteration/reconstruction of the existing structures as also the existing plinth area, along with the consideration of the repair/ renovation/alteration/reconstruction by ECC in the year 1986 and 1988;
- the recommendation granted to the repair/renovation/alteration/reconstruction by EDC; and
- the subsequent letter of the Chief Town Planner to the Member Secretary of EDC confirming that the repair/renovation/alteration/reconstruction fulfils the guidelines and norms specified by EDC.

After considering the entire material on record, the Hon’ble Bombay High Court at Goa has concluded that there is ample material on record to show that the structures were existing and authorised structures, constructed prior to 1991.

78. In paragraphs 16 to 20, the Hon’ble Bombay High Court at Goa has taken note of the House Tax Assessment done by Respondent No. 2 which shows that the Tourist Resort has been in existence prior to 1991. The Hon’ble Bombay High court at Goa has further observed that the repair/renovation/reconstruction carried out by the Answering Respondents did not exceed the already existing plinth area. It has been held as follows:

“ ...
 16. *Apart from this authorisation, there is also evidence of lawful existence of the structures acknowledged by statutory authorities and, in fact, the structures being assessed to Panchayat tax on that basis. There is on record a house tax assessment on the part of Respondent*

No.4-Panchayat, showing construction of House No.424 in 1986 and House No.424(1) later, clearly suggesting that not only were B type structures existing as authorised structures, but even the structures designated as A and C types had always existed, as authorised structures, much prior to 1991. There are on record aerial photographs of Colva village in respect of the particular area where the beach resort was situate, showing all these structures as of 1991 and 1993. The existing structures find an endorsement on the part of GSCCE in its meeting (8th Meeting) dated 30.6.1995. Then there is a letter addressed to the Chief Engineer, Irrigation Department, by the Chief Town Planner on 12th March, 1996 indicating that the resort had been in existence since 1987 along with the site plan showing all structures. This communication was followed by a communication from the Director of Tourism to the Chief Town Planner conveying compliance of environmental guidelines by the beach resort and its construction in accordance with the permissions obtained from EDC/ECC from time to time. There is, accordingly, preponderance of evidence to suggest that not only were all structures, claimed in the plans submitted by Respondent No.5 in 2006, in existence, but they were also authorised.

17. As regards the plinth area of the existing authorised structures, there is once again abundance of material to show that the area was at least 2030 sq. metres plus swimming pool of 115 sq. metres. There is a survey report by Government of Goa, Directorate of Settlement and Land Records, (DSLRL) Panaji, Goa giving plinth area details according to (i) the survey conducted on 4th July, 2009 (stating the area to be 2117 sq. metres), (ii) as per the survey conducted on 15th December, 2011 (as 2030 sq. metres) and (iii) as per verification survey conducted on 25th July, 2012 (as 2030 sq. metres.). Even the Petitioners' own surveyor's report shows that buildings A and C and the swimming pool in the construction licence were substantially in conformity with the existing structures. All this material shows not only authorisation of B type structures, which is a matter of admission on the part of the Petitioners (in para 18 of the rejoinder, the Petitioners have accepted this), but even the other structures designated as A and C and the swimming pool were also existing at site and were duly sanctioned by the concerned authorities and that the plinth area of the structures in all was 2030 sq. metres.

18. It is nobody's case that the plinth of the new structures, which are finally sanctioned by the Chief Town Planner in 2012, exceeds 2030 sq. metres. In other words, the work of repairs/ renovations/alterations carried out by Respondent No.5 at site, does not exceed the plinth area of the existing authorised structures. The only real grievance, if at all, in this behalf, as noted above, is that the location of the plinth and in

particular, its orientation vis-a-vis the plot has been changed. That, as we have noted above, does not amount to any breach or violation of either of the two CRZ Notifications of 1991 and 2011.

19. The other submission of learned Counsel for the Petitioners is that there is no authorisation of GCZMA so far as the plans submitted by Respondent No.5 in 2012, based on actual construction carried out at site, are concerned. It is submitted that GCZMA, in its communication dated 23 August 2012, had simply considered a DSLR report of mapping of the existing structures, i.e. the structures actually constructed at site and existing in 2012. It is submitted that the DSLR Report merely confirms what was actually repaired/renovated/altered and was existing at site. The submission is that there is no reference to the decision taken by the body on whether or not to allow revision of plans, that is to say, the alteration between sanctioned plans of 2006 and 2008, on the one hand, and those submitted in 2012 in accordance with the actual construction, on the other. A letter addressed by GCZMA to Respondent No.5 on 23rd August, 2012 clearly belies this submission. The letter explicitly states that the project has been approved by GCZMA in terms of clause (8)(i),(iii)(CRZ-III)(A)(ii) of the CRZ Notification, 2011, (earlier Notification, 1991). In other words, not only has GCZMA considered the report of DSLR showing actually constructed structures at site to be in accordance with the plan of 2012, but that there was a consideration of whether the plans should be approved and that approval was duly accorded by GCZMA in terms of the applicable notification.

20. The correctness and propriety of the plans submitted by Respondent No.5 have been scrutinized by the authorities on a number of occasions and found to be in order. The plans were first approved for structures B and swimming pool by GCZMA on 18th May, 2006. This was after the decisions were duly taken in the meeting of GCZMA, minutes of which are on record. In its 38th meeting held on 12.12.2007, GCZMA granted approval for repairs and renovation of the structures marked as blocks A and C. Communication of such grant of approval by GCZMA to Respondent No. 5 is of 30-31st January, 2008. A saga of show cause notices/demolition notices, appears to have followed thereafter, presumably at the instance of the Petitioners herein and other interested parties. Respondent No.4-Panchayat issued show cause notices and even passed demolition orders. Whilst all this was being debated and the matter was already in Court, Respondent No.5 had proceeded to obtain a technical approval from PWD (15.5.2009), inspection report by the Senior Town Planner (15.5.2008), NOC of the Town Planner (19.5.2009), licence for repairs/alterations/ renovations granted by the Panchayat (11.06.2008). Notices issued by Respondent No.4-Panchayat were

withdrawn on 15 June 2009. This was followed by a complaint made by Goa Foundation to GCZMA, alleging that the construction was being carried out without environmental clearance. At that stage, GCZMA directed DSLR to conduct an inspection of the site and verify whether the structures were being constructed as per the plinth area originally in existence. This was by a communication dated 5.12.2011. The DSLR appears to have conducted the survey of the structures and the plinth area was found to be 2030 sq. metres. The DSLR, by its communication dated 26th December, 2011, confirmed, based on its survey, that the construction was within the plinth area originally existing. It was after all these considerations that GCZMA granted its final approval to revised plan as of 30th August, 2012. There is nothing to suggest that all this was done without following due process of law.

...”

79. As far as the Applicant is concerned, the Hon’ble Bombay High Court at Goa has observed, in paragraph 21, as under:

“ ...

21. Even after this, there was a further show cause notice issued by the Respondent Panchayat, on the basis of a complaint by Respondent No.3 in the companion petition (Writ Petition No.469/2014). A reply was filed to that show cause notice by Responded No.5. This was followed by a Misc. Civil Application in Suo Motu Writ Petition No.2/2006 by Respondent No.3-Colva Civic and Consumer Forum. Once again, in response, a show cause notice was issued by the Panchayat to Respondent No.5, which led to rejection of the construction licence and its renewal by Respondent No.4 Panchayat and a demolition order in pursuance thereof. This was challenged by Respondent No.5 before the Additional Director of Panchayats, who directed Respondent No.4 Panchayat to maintain status quo at site. The matter was once again heard at length by the Additional Director, who, by his order dated 29th August, 2013, passed an order quashing the show cause notices and demolition orders issued by Respondent No.4-Panchayat.

...”

This paragraph, in fact, shows that the present proceedings are barred by the law of limitation. It has been clearly noted by the Hon’ble Bombay High Court at Goa that Misc. Civil Application No. 635 of 2012 was filed by the Applicant in Suo Moto Writ Petition No. 2 of 2006 complaining about the illegality of the Answering Respondents’ structures which were under construction at the time.

80. Thereafter, paragraph 24 of the Judgement says as follows:

“ ...
 24. *An upshot of the above discussion is that matters such as (i) character of the existing structures as of the date of CRZ Notification, 1991 – whether in existence and whether authorised or unauthorised, (ii) compliance by the owner in the work of repairs/renovations/alterations with the CRZ Notifications, 1991 and 2011 and, in particular, the restriction of the renovated/altered structures having to be within the existing plinth area; (iii) change of the footprint or alignment or orientation of the original plinth – whether it made any difference in the matter; were all considered by the concerned authorities from time to time and after hearing all concerned parties and assessing relative merits of the rival cases at length.*
 ...”

81. The Answering Respondents therefore submit that the Applicant was represented through their lawyer before the Hon’ble Bombay High Court at Goa in Writ Petition No. 469 of 2014 in which they were party respondents, and they were also duly heard and duly given multiple opportunities to represent themselves.

82. In the case of **Raghu Ramakrishna** (*supra*), the Hon’ble Supreme Court has held that the findings of a High Court in a judgment are binding on subordinate courts including the National Green Tribunal. The Hon’ble Supreme Court has held as follows:

“ ...
 11. *In any case, no law is necessary to state that insofar as the Tribunals are concerned, they would be subordinate to the High Court insofar as the territorial jurisdiction of the High Court is concerned. A reference in this respect was also made to the judgment of the Constitution Bench of this Court in the case of L. Chandra Kumar v. Union of India and Others.*

12. *We are, therefore, of the considered view that it was not appropriate on the part of the learned NGT to have continued with the proceedings before it, specifically, when it was pointed that the High Court was also in seisin of the matter and had passed an*

interim order permitting the construction. The conflicting orders passed by the learned NGT and the High Court would lead to an anomalous situation, where the authorities would be faced with a difficulty as to which order they are required to follow. There can be no manner of doubt that in such a situation, it is the orders passed by the constitutional courts, which would be prevailing over the orders passed by the statutory tribunals.

13. In that view of the matter, we are of the considered view that the continuation of the proceedings before the learned NGT for the same cause of action, which is seized with the High Court, would not be in the interest of justice.
...”

83. In light of the above Judgment, the findings of the Hon’ble High Court are squarely binding on this Hon’ble Tribunal. The Answering Respondents state that the issues were decided and concluded by the Hon’ble Bombay High Court at Goa in its Judgement dated 20th June 2019. It is reiterated that since the issues raised in the captioned OA are identical, the question concerning the legality of the Tourist Resort is no longer “*res integra*” and no longer survives.

Subsequent events before the Hon’ble Supreme Court

84. Pertinently, the Judgement passed by the Hon’ble Bombay High Court at Goa dated 20th June 2019 was challenged by the Applicant before the Hon’ble Supreme Court vide SLP (C) No. 27545 of 2019 on the premise that the Applicant was not heard by the Hon’ble High Court and the documents placed by the Applicant before this Hon’ble Tribunal were not considered.

85. As far as the contention that the Applicant was not heard before the Hon’ble High Court, it is submitted that such a contention is absolutely false and runs into the teeth of the orders passed in Writ Petition No. 751 of 2008 along with Writ Petition No. 469 of 2014, where it is amply clear that the Applicant was present and heard. The Applicant was a party respondent to Writ Petition No. 469 of 2014 and represented all through the proceedings. Even otherwise, the

Hon'ble Supreme Court, by its order dated 3rd October 2023, has directed this Hon'ble Tribunal to consider the case of the Applicant in accordance with law. The relevant portion is as reproduced as under:

“ ...
In the meantime, we request the National Green Tribunal to decide the said application, as expeditiously as possible. The parties are at liberty to raise all contentions, objections as are available under law and file the replies and documents, if any, before the National Green Tribunal.
 ...”

Thus, the grievance of the Applicant that it was not heard is clearly unstatable. In any event, in view of the Order passed by the Hon'ble Supreme Court extracted above, the grievance of the Applicant no longer survives. The Answering Respondents therefore submit that this Hon'ble Tribunal ought not to consider the contention that the Applicant was not heard.

Reliance placed by the Applicant on Show Cause Notices

86. The Answering Respondents state that the Applicant has placed heavy reliance on show cause notices dated 8th May 1990, 21st February 1991 and 27th March 1991. The Answering Respondents submit that the set of show cause notices neither decide nor conclude that the structures of the Answering Respondents were illegal or unauthorised. In any event, the show cause notices are only an intimation of an investigation in any proceeding and cannot be called or termed as a definite document which decides the rights of any person or the authenticity of the subject matter.

87. As far as the show cause notice dated 8th May 1990 is concerned, the same is issued for extension and construction of cottages. As regards the show cause notice dated 21st February 1991, the said show cause notice was issued as the construction was allegedly done without the prior approval of South Goa Planning and Development Authority (“SGPDA”). It is therefore submitted

that these show cause notices themselves demonstrate that the cottages and other structures were existing prior to 1991.

88. The last show cause notice dated 27th August 1991 was issued for carrying out construction of (i) main building consisting of G + 1 structure and a portion of which is having a basement floor; (ii) number of structures such as powerhouse, dressing room, check post, etc.; (iii) swimming pool; and (iv) addition to the existing villas. As far as construction of main G + 1 building, swimming pool and existing villas are concerned, the said structures do have valid permissions as on date. The permissions and approvals have been spelt out by the Answering Respondents in the earlier paragraphs. Further, even though the show cause notice has been issued in 1991, the said show cause notice does not cast any shadow of illegality on the hotel project as no final orders were passed based on the said show cause notices.

89. One of the above show cause notices (February 1991) clearly states that if no reply is received to the said show cause notice within 15 days, SGPDA shall take further steps as provided under the relevant Act. It is a matter of record that the structures on the subject property (allegedly illegal under these show cause notices) were never demolished nor cut down to size by SGPDA or any other authority thereafter based on any show cause notice. This itself shows that there is no truth or any semblance of legality in the contentions of the Applicant which the Applicant is attempting to canvass based on the aforesaid show cause notices.

90. The said show cause notices do not, in any manner whatsoever, show that the structures on the subject property are unauthorised structures. In any event, the Answering Respondents, having purchased the subject property and the Tourist Resort standing thereon from an auction purchaser, cannot be victimised based on show cause notices issued to the erstwhile owner which never fructified.

Hence, it is submitted that the documents, on which heavy reliance has been placed by the Applicant, ought not to be considered by this Hon'ble Tribunal.

Applicant's reliance on complaints

91. As regards the contention that complaints were filed by the Citizen Working Centre and Goa Foundation, the Answering Respondents submit that it does not support the case of the Applicant. The said organizations never filed any further complaints against the Answering Respondents nor did they take any other further action before any other authority pursuant to the necessary inspections, clarifications and examinations carried out by Respondent No. 1 based on their complaints. In fact, the Inspector of Survey and Land Records ("ISLR") carried out site inspections in the years 2009 and 2011 and submitted the report to Respondent No. 1 which clearly showed that the structures on the subject property were in accordance with law.

Applicant's reliance on revocation of permissions by Respondent No. 2

92. The Answering Respondents state that Respondent No. 2 had revoked their Construction License on 10th December 2012 and thereafter issued demolition notice dated 26th December 2012 citing reasons more particularly mentioned therein.

93. The Answering Respondents deny that Respondent No. 2 did a *volte face* and granted a revised Construction Licence which is sought to be alleged by the Applicant. The Applicant has only made baseless allegations and attempted to distort the true facts. The proper facts are as follows.

94. The reasons provided in order dated 10th December 2012 revoking the Construction License and the demolition notices dated 26th December 2012 were false and contradictory to the records of Respondent No. 2 itself. The said

demolition notice was an outcome of undue pressure and deliberate misrepresentation of facts by the Applicant on Respondent No. 2 and in connivance with the erstwhile members of Respondent No. 2. It was in these circumstances that the demolition notice dated 26th December 2012 was issued by Respondent No. 2.

95. The Answering Respondents challenged the revocation of Construction License and demolition notice by filing Panchayat Appeal No. 3 of 2013 before the Additional Director of Panchayat, Panaji.
96. By Judgment dated 29th August 2013, the revocation of Construction License and demolition notice were quashed and set aside. The Additional Director of Panchayat, Panaji further directed the Answering Respondents to approach Respondent No. 2 with a proper application for grant of revised Construction License, and Respondent No. 2 was directed to decide the same.
97. A part of the Judgment dated 29th August 2013 was challenged by the Answering Respondents by filing Writ Petition No. 632 of 2013 before the Hon'ble Bombay High Court at Goa. The said Writ Petition came to be withdrawn on 25th October 2013. However, the Answering Respondents filed an Application for Review before Hon'ble High Court seeking review of order dated 25th October 2013. The said Application for Review was subsequently withdrawn by the Answering Respondents after Respondent No. 2 made a statement that Occupancy Certificate and revised Construction License had already been granted. This statement made by Respondent No. 2 was recorded by Hon'ble Bombay High Court at Goa.
98. Thereafter, Respondent No. 2, in furtherance of the above facts and orders of the Appellate Authorities, issued a revised Construction Licence dated 16th January 2014 and after much persuasion, issued Occupancy Certificate dated 13th February 2014 to the Answering Respondents.

99. The Answering Respondents therefore submit that the revocation of Construction License and the issuance of demolition orders were nothing more than motivated acts of the ruling body of Respondent No. 2 at that time in connivance with the Applicant. The Answering Respondents however do not prefer to go into details of the said actions as the said orders were quashed and set aside in Appellate proceedings initiated by the Answering Respondents.

CONCLUSION

100. All of the above facts were placed by the Answering Respondents before the Hon'ble Bombay High Court at Goa in Writ Petition No. 751 of 2008 and Writ Petition No. 469 of 2014. These facts have been considered by the Hon'ble High Court in its Judgment dated 20th June 2019. The Answering Respondents crave leave of this Hon'ble Tribunal to produce the same in case the same are required.
101. The Applicant has always conducted a campaign of harassment by filing frivolous complaints and cases against the Answering Respondents before various fora. The records before the Hon'ble Bombay High Court at Goa also show that the Applicant was in consort with the Petitioner in Writ petition No. 751 of 2008. The records show that as interim reliefs in said Petition were not granted, the Applicant tried to rope in the Answering Respondents into another round of parallel litigation by filing Misc. Civil Application No. 635 of 2012. Having been unsuccessful once again, the present proceedings have been initiated.
102. The Department of Town and Country Planning issued Technical Clearance order on 15th April 2013 and completion certificate dated 16th April 2013 after conducting physical verification. The Answering Respondents state that there is

no illegality in the issuance of the Technical Clearance order by the Department of Town and Country and Occupancy Certificate by the Village Panchayat.

103. Interestingly the Inquiry done by the said inquiry committee has given a clean chit to the Answering Respondents and held that the structures have been constructed in accordance with law. The said enquiry was conducted by an Inquiry Committee comprising of three members which included a retired District Judge (Mr. Afonso Araujo), Retired Mamlatdar (Mr. Kanchan Lotlikar) and a retired Surveyor (Mr. Caetano Braganca), constituted by Respondent No. 1 on 31st October 2013, in view of the directions passed by the National Green Tribunal vide its Orders dated 3rd May 2013, 22nd May 2013 and 26th July 2013 in Original Application No. 68 of 2012.
104. By report dated 19th October 2015 the Inquiry Committee concluded, after examining the relevant documents provided by the Answering Respondents and perusing the records of Respondent No. 1, that the structures on the subject property were pre-existing structures, which though within the No Development Zone had only been repaired/renovated/reconstructed without exceeding the plinth area, and such repair and reconstruction of existing structure was permissible within the No Development Zone. This has been duly noted by the Hon'ble Bombay High Court at Goa by delivering their Judgement dated 20th June 2019.
105. It has been canvassed by the Applicant before this Hon'ble Tribunal and before all other fora that Respondent No. 4, who is the Managing Director of Respondent No. 3, has been an MLA namely a Member of the 2nd Legislative Assembly(1994-1999), 3rd Legislative Assembly(1999-2002), 4th Legislative Assembly(2002-2007), 5th Legislative Assembly(2007-2012) and held the Office of a Cabinet Minister as Minister of Environment from 2007-2012. To this, the Answering Respondents state that it is a matter of record that Respondent No. 4 was not a Minister in the year 2006, let alone the Minister

for Environment, when the first permission was granted. Further, Respondent No. 4 was neither a minister in the month of August 2012 when the third communication/approval was received. Respondent No. 4 was also not a member of the legislative assembly from March 2012 until March 2022 which is the period during which all of the subsequent enquiries/appellate proceedings/cases have been carried out. All the permissions are secured by the Answering Respondents after running from post to the pillar and not otherwise. The Answering Respondents therefore submit that all the permissions granted to the Answering Respondents are within the framework of law.

106. The Answering Respondents reserves their right to file additional affidavit in the event the same is necessary.

107. In view of the facts and submissions made herein, the Answering Respondents therefore submit that there is no merit in the captioned OA filed by the Applicant and the same is liable to be dismissed with costs.

Place: Panaji Goa.

Date: 19.01.2024


Advocate for Respondent Nos. 3 and 4



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

ORIGINAL APPLICATION NO. 66 OF 2014

COLVA CIVIC & CONSUMER FOUM

.... APPLICANT

Versus

GCZMA & ORS

...RESPONDENT

AFFIDAVIT

I, Aleixo Antonio De Piedade Sequeira, son of Eusebio A. R. S. S. F. X. D. P. Sequeira, aged 64 years, resident of H. No. 248/E/2, Flat No. G-2 Kurtarkar County, Manora, Raia, Salcete, Goa, 403720, the Respondent No. 3 in the captioned petition, do hereby solemnly affirm and declare as under: -

1. That I am the Managing Director of Respondent No. 3 in the captioned matter, and I am aware of the facts of this case, and competent to swear this affidavit.
2. That contents of the accompanying application have been drafted by my counsel under my instructions and after going through and carefully understanding the same I state the same to be true and correct to the best of my knowledge and belief, based on records of the case, and the legal submissions made therein are based on legal advice which I believe to be true. No part thereof is false and nothing material has been concealed therefrom.
3. That the annexures enclosed with the said application/s are true and / or typed and/or true and typed copies of their respective originals.
4. That the contents of this affidavit are true and correct.

DEPONENT

VERIFICATION

Verified at Panaji on this 17th day of January, 2024 that the contents of foregoing affidavit are based on my knowledge and belief and that no part thereof is false and that nothing material has been concealed therefrom.

DEPONENT



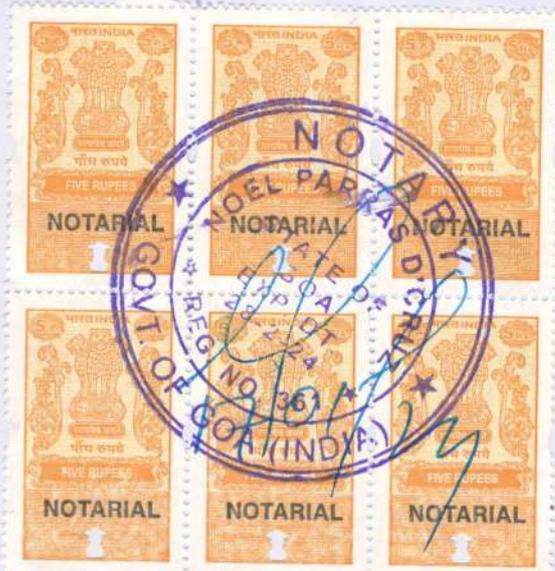


solemnly affirmed before me by
 the deponent / s
 Who is/are identified to me by
known to me

Who I personally know on
 this 17 day of 01 2024

Reg. No. 59/2024

17/01/24
 NOEL PARRAS D. CRUZ
 NOTARY
 State of Goa (Reg. No. 361)
 STATE OF GOA (INDIA)
 757 / 942269655



solemnly affirmed before me by
 the deponent / s
 Who is/are identified to me by
known to me

Who I personally know on
 this 17 day of 01 2024

Reg. No. 60/2024

17/01/24
 NOEL PARRAS D. CRUZ
 NOTARY
 State of Goa (Reg. No. 361)
 STATE OF GOA (INDIA)
 757 / 942269655

the Village Panchayat

atim, Vanelim & Colva.

Construction Licence No. 83/81-82

~~Shri S. S. S. S.~~ M/s. Progressive Estate Developers
 from Old Market, Margao Wark is hereby granted licence for the
 construction of a Tourist Resort at Colva Beach.

in terms of the resolution No. _____ taken in the Panchayat meeting
 dated _____, as per the plans in triplicate/duplicate attached to his/her
 application under inward No. 63 Plans 4 dated 29.4.81. One copy
 of the plans concerned, with the approval note carrying the embossed seal of this
 Panchayat and duly signed, is returned to the interested party, who shall comply with
 the following conditions:

- 1) To limit himself/herself to the Plans approved and statements therein.
- 2) The construction shall be as per plan approved by this Village Panchayat and condition imposed on it.
- 3) To inform the Panchayat when the construction has been completed upto Plinth level.
- 4) To inform the Panchayat as soon as the construction is completed.
- 5) Not to inhabit the building without the prior permission of this Panchayat
- 6) To abide by the other related provisions in force.
- 7) That the building or construction is carried out as per the alignment given and the Plinth level fixed by the Panchayat.
- 8) The construction licence shall be revoked:
 - a) if the construction work is not executed as per the plans approved and statements therein;
 - b) wherever there is any false statement or any misrepresentation of any material passed, approved or shown in the application on which the permit was based.

9)

10)

11)

12)

The licence shall be valid for a period of ~~ONE~~ TWO / THREE year/s beginning from to-day. He has paid the respective tax/fees to the tune of Rs. 8697.48 by Receipt No. 75/44 dated 5-5-1981.

This carries the embossed seal of this Panchayat.

Office of the Village Panchayat, Vanelim and Colva.

5.15 May

V. Panchayat Secretary



[Signature]
Sarpanch



TYPED COPY OF ANNEXURE R-1

THE VILLAGE PANCHAYAT
Sernabatim, Vanelim, Colva
Construction License No. 88/81-82

M/s Progressive Estate Developers from Old Market, Margao, is hereby granted license for the construction of a Tourist Resort at Colva Beach. _____ in terms of the Resolution No. _____ taken in the Panchayat meeting dated _____, as per the plans in triplicate/duplicate attached to his/her application under inward No. 63 Plans 4 dated 29.04.1981. One copy of the plans concerned, with the approval note carrying the embossed seal of this Panchayat and duly signed, is returned to the interested party, who shall comply with the following conditions:

1. To limit himself/herself to the Plans approved and statements therein.
2. The Construction shall be as per plan approved by this Village Panchayat and condition imposed on it.
3. To inform the Panchayat when the construction has been completed upto plinth level.
4. To inform the Panchayat as soon as the construction is completed.
5. Not to inhabit the building without the prior permission of this Panchayat.
6. To abide by the other related provisions in force.
7. That the building or construction is carried out as per the alignment given and the plinth level fixed by the Panchayat.
8. The construction license shall be revoked:
 - a. If the construction work is not executed as per the plans approved and statements therein.
 - b. Wherever there is any false statement or any misrepresentation of any material passed, approved or shown in the application on which the permit was based.
9. _____
10. _____
11. _____
12. _____

The license shall be valid for a period of one/two/three year/s beginning from today. He has paid the respective tax/fees to the tune of Rs. 8,697.48 by receipt No. 75/44 dated 05.05.1981.

This carries the seal of this Panchayat.

Office of the Village Panchayat, Sernabatim, Vanelim and Colva 5th May, 1981

Sd
Sarpanch

.....
V. Panchayat, Secretary

//True Copy//



Travel Corporation (India) Pvt. Ltd.



'SHIVRAM', Ground Floor,
Opposite Mayfair Apartments,
Off Alqaram Borkar Road,
Panaji-Goa-403 001.
Tel: 6251

To,

Mr. Joey De Souza,
Penthouse Beach Resort,
Margao - Goa.

9th April, 1988.

Dear Mr. De. Souza,

SUB: ALLOCATION OF ROOM AT PENTHOUSE BEACH RESORT.

Thank you for confirming 20 DBL and 05 SGL rooms for our clients expected on Charter commencing from Mid October, 1988 to End April, 1989.

As agreed, the following rates would be applicable for the above period:-

SINGLE ROOM	Rs. 295/-
DOUBLE ROOM	Rs. 310/-
AMERICAN BREAKFAST	Rs. 35/- per person
LUNCH	Rs. 60/- per person
DINNER	Rs. 70/- per person.

As agreed, the above rates would be nett and non-commissionable and inclusive of all taxes and levies present, and in future if any.

All bills would be settled within 35 days of the clients departure and bookings will be subject to a 21 days cut-off time.

P.T.O.

Head Office : Chander Mukhi, Nariman Point, Bombay - 400 021. Tel: 202 1881/2027120, Telex: 11 2366/11 3983 TOUR IN 115751 TCIN, Cable: "TURING".

Branch Offices : Agra, Ahmedabad, Bangalore, Baroda, Calcutta, Cochin, Darjeeling, Gorakhpur, Hyderabad, Kanpur, Lucknow, Madras, New Delhi, Patna, Pune, Srinagar, Varanasi.

Overseas Offices : Barcelona, Frankfurt, London, Los Angeles, Milan, New York, Paris, Tokyo.



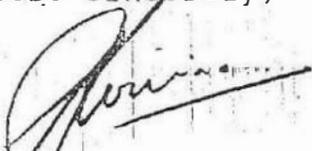
Continuation Sheet

51
CNTD.....2/-

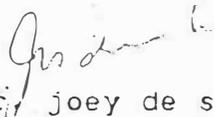
Please sign the duplicate copy of this letter, as acceptance of the rates, terms and conditions.

Looking forward to a close co-operation and a bright season with you.

Yours sincerely,



A. Gomes Pereira
(Manager - Goa).



Mr. Joey de Souza
(PENTHOUSE BEACH RESORT)

True Copy



TYPED COPY OF ANNEXURE R-2

**TRAVEL CORPORATION (India) PVT. LTD.
 "SHIVRAM" GROUND FLOOR,
 Opposite Mayfair Apartments
 Off. Atmaram Borkar Road
 Panaji-Goa- 403- 001**

9th April, 1988

To

Mr. Joey De Souza
 Penthouse Beach Resort
 Margao-Goa

Dear Mr. De. Souza

Sub: ALLOCATION OF ROOM AT PENTHOUSE

Thank you for confirming 20 DBL and 05 SGL rooms for our clients expected on charter commencing from Mid October, 1988 to End April, 1989.

As agreed, the following rates would be applicable for the above period:

Single Room	: Rs. 295/-
Double Room	: Rs. 310/-
American Break Fast	: Rs. 35/- per person
Lunch	: 60 per person
Dinner	: 70 per person

As agreed, the above rates would be net and non-commissionable and inclusive of all taxes and levies present, and in future if any.

All bills would be settled within 35 days of the clients departure and bookings will be subject to a 21 days of cutoff time.

Please sign the duplicate copy of this letter, as acceptance of the rates, terms and conditions.

Looking forward to a close co-operation and a bright season with you.

Yours Sincerely

Sd/-
 A. Gomes Pereira
 Manager Goa

sd/-
 Mr. Joey De Souza
 Penthouse Beach Resort

//True Copy//

True Typed Copy

MINISTRY OF ENVIRONMENT & FORESTS

(Department of Environment, Forests & Wildlife)

NOTIFICATION UNDER SECTION 3(1) AND SECTION 3(2)(v) OF THE ENVIRONMENT (PROTECTION) ACT, 1986 AND RULE 5(3)(d) OF ENVIRONMENT (PROTECTION) RULES, 1986, DECLARING COASTAL STRETCHES AS COASTAL REGULATION ZONE (CRZ) AND REGULATING ACTIVITIES IN THE CRZ.

New Delhi, the 19th February, 1991

S.O. 114(E).—Whereas a Notification under Section 3(1) and Section 3(2)(v) of the Environment (Protection) Act, 1986, inviting objections against the declaration of Coastal Stretches as Coastal Regulation Zone (CRZ) and imposing restrictions on industries, operations and processes in the CRZ was published vide S.O. No. 944 (E) dated 15th December, 1990.

And whereas all objections received have been duly considered by the Central Government;

Now, therefore, in exercise of the powers conferred by Clause (d) of sub-rule (3) of Rule 5 of the Environment (Protection) Rules, 1986, and all other powers vesting in its behalf, the Central Government hereby declares the coastal stretches of seas, bays, estuaries, creeks, rivers and backwaters which are influenced by tidal action (in the landward side) upto 500 metres from the High Tide Line (HTL) and the land between the Low Tide Line (LTL) and the HTL as Coastal Regulation Zone; and imposes with effect from the date of this Notification, the following restrictions on the setting up and expansion of industries, operations or processes etc. in the said Coastal Regulation Zone (CRZ). For purposes of this Notification, the High Tide Line (HTL) will be defined as the line upto which the highest high tide reaches at spring tides.

Note.—The distance from the High Tide Line (HTL) to which the proposed regulations will apply in the case of rivers, creeks and backwaters may be modified on a case by case basis for reasons to be recorded while preparing the Coastal Zone Management Plans (referred to below); however, this distance shall not be less than 100 metre or the width of the creek, river or backwater whichever is less.

2. Prohibited Activities :

The following activities are declared as prohibited within the Coastal Regulation Zone, namely :

- (i) setting up of new industries and expansion of existing industries, except those directly related to water front or directly needing foreshore facilities;
- (ii) manufacture or handling or storage or disposal of hazardous substances as specified in the Notifications of the Government of India in the Ministry of Environment & Forests No. S.O. 594(E) dated 28th July, 1989, S.O. 966(E) dated 27th November,

1989 and GSR 1037(E) dated 5th December, 1989;

- (iii) Setting up and expansion of fish processing units including warehousing (excluding hatchery and natural fish drying in permitted areas);
- (iv) setting up and expansion of units/mechanisms for disposal of waste and effluents, except facilities required for discharging treated effluents into the water course with approval under the Water (Prevention and Control of Pollution) Act, 1974; and except for storm water drains;
- (v) discharge of untreated wastes and effluents from industries, cities or towns and other human settlements. Schemes shall be implemented by the concerned authorities for phasing out the existing practices, if any, within a reasonable time period not exceeding three years from the date of this notification;
- (vi) dumping of city or town waste for the purposes of landfilling or otherwise; the existing practice, if any, shall be phased out within a reasonable time not exceeding three years from the date of this Notification;
- (vii) dumping of ash or any wastes from thermal power stations;
- (viii) land reclamation, bunding or disturbing the natural course of sea water with similar obstructions, except those required for control of coastal erosion and maintenance or clearing of waterways, channels and ports and for prevention of sandbars and also except for tidal regulators, storm water drains and structures for prevention of salinity ingress and for sweet water recharge;
- (ix) mining of sands, rocks and other substrata materials, except those rare minerals not available outside the CRZ areas;
- (x) harvesting or drawal of ground water and construction of mechanisms therefor within 200 m of HTL; in the 200 m to 500 m zone it shall be permitted only when done manually through ordinary wells for drinking, horticulture, agriculture and fisheries;
- (xi) construction activities in ecologically sensitive areas as specified in Annexure-I of this Notification;
- (xii) any construction activity between the Low Tide Line and High Tide Line except facilities for carrying treated effluents and waste water discharges into the sea, facilities for carrying sea water for cooling purposes, oil, gas and similar pipelines and facilities essential for activities permitted under this Notification; and
- (xiii) dressing or altering of sand dunes, hills, natural features including landscape changes

for beautification, recreational and other such purpose, except as permissible under this Notification.

3. Regulation of Permissible Activities :

All other activities, except those prohibited in para 2 above, will be regulated as under :

- (1) Clearance shall be given for any activity within the Coastal Regulation Zone only if it requires water front and foreshore facilities.
- (2) The following activities will require environmental clearance from the Ministry of Environment & Forests, Government of India, namely :
 - (i) Construction activities related to Defence requirements for which foreshore facilities are essential (e.g. slipways, jetties etc.); except for classified operational component of defence projects for which a separate procedure shall be followed. (Residential buildings, office buildings, hospital complexes, workshops shall not come within the definition of operational requirements except in very special cases and hence shall not normally be permitted in the CRZ);
 - (ii) Operational constructions for ports and harbours and light houses requiring water frontage; jetties wharves, quays, slipways etc. (Residential buildings & office buildings shall not come within the definition of operational activities except in very special cases and hence shall not normally be permitted in the CRZ);
 - (iii) Thermal power plants (only foreshore facilities for transport of raw materials facilities for in-take of cooling water and out-fall for discharge of treated waste water|cooling water); and
 - (iv) All other activities with investment exceeding rupees five crores.
- (3) (1) The coastal States and Union Territory Administrations shall prepare, within a period of one year from the date of this Notification, Coastal Zone Management Plans identifying and classifying the CRZ areas within their respective territories in accordance with the guidelines given in Annexures-I and II of the Notification and obtain approval (with or without modifications) of the Central Government in the Ministry of Environment & Forests;
- (ii) Within the framework of such approved plans, all development and activities within the CRZ other than those covered in para 2 and para 3(2) above shall be regulated by the State Government, Union Territory Administration or the local authority as the case may be in accordance with the guidelines given in Annexures-I and II of the Notification; and

- (iii) In the interim period till the Coastal Zone Management Plans mentioned in para 3(3)(i) above are prepared and approved, all developments and activities within the CRZ shall not violate the provisions of this Notification. State Governments and Union Territory Administrations shall ensure adherence to these regulations and violations, if any, shall be subject to the provisions of the Environment (Protection) Act, 1986.

4. Procedure for monitoring and enforcement :

The Ministry of Environment & Forests and the Government of State or Union Territory and such other authorities at the State or Union Territory levels, as may be designated for this purpose, shall be responsible for monitoring and enforcement of the provisions of this notification within their respective jurisdictions.

[N. K-15019|1|84-IA-III (Vol. II)]

R. RAJAMANI, Secy.

ANNEXURE-I

COASTAL AREA CLASSIFICATION AND DEVELOPMENT REGULATIONS

Classification of Coastal Regulation Zone :

6(1) For regulating development activities, the coastal stretches within 500 metres of High Tide Line of the landward side are classified into four categories, namely :

Category I (CRZ-T) :

- (i) Areas that are ecologically sensitive and important, such as national parks|marine parks, sanctuaries, reserve forests, wildlife habitats, mangroves, corals|coral reefs, areas close to breeding and spawning grounds of fish and other marine life, areas of outstanding natural beauty|historical|heritage areas, areas rich in genetic diversity, areas likely to be inundated due to rise in sea level consequent upon global warming and such other areas as may be declared by the Central Government or the concerned authorities at the State|Union Territory level from time to time.

- (ii) Area between the Low Tide Line and the High Tide Line.

Category-II (CRZ-II) :

The areas that have already been developed upto or close to the shore-line. For this purpose, "developed area" is referred to as that area within the municipal limits or in other legally designated urban areas which is already substantially built up and which has been provided with drainage and approach roads and other infrastructural facilities, such as water supply and sewerage mains.

Category-III (CRZ-III) :

Areas that are relatively undisturbed and those which do not belong to either Category-I or II. These

will include coastal zone in the rural areas (developed and undeveloped) and also areas within Municipal limits or in other legally designated urban areas which are not substantially built up.

Category-IV (CRZ-IV)

Coastal stretches in the Andaman & Nicobar, Lakshadweep and small islands except those designated as CRZ-I, CRZ-II or CRZ-III.

Norms for Regulation of Activities.

6(2) The development or construction activities in different categories of CRZ areas shall be regulated by the concerned authorities at the State/Union Territory level, in accordance with the following norms :

CRZ-I

No new construction shall be permitted within 500 metres of the High Tide Line. No construction activity, except as listed under 2(xii), will be permitted between the Low Tide Line and the High Tide Line.

CRZ-II

- (i) Buildings shall be permitted neither on the seaward side of the existing road (or roads proposed in the approved Coastal Zone Management Plan of the area) nor on seaward side of existing authorised structures. Buildings permitted on the landward side of the existing and proposed roads/existing authorised structures shall be subject to the existing local Town and Country Planning Regulations including the existing norms of FSI/FAR.
- (ii) Reconstruction of the authorised buildings to be permitted subject with the existing FSI/FAR norms and without change in the existing use.
- (iii) The design and construction of buildings shall be consistent with the surrounding landscape and local architectural style.

CRZ-III

- (i) The area upto 200 metres from the High Tide Line is to be earmarked as 'No Development Zone'. No construction shall be permitted within this zone except for repairs of existing authorised structures not exceeding existing FSI, existing plinth area and existing density. However, the following uses may be permissible in this zone—agriculture, horticulture, gardens, pastures, parks, playfields, forestry and salt manufacture from sea water.
- (ii) Development of vacant plots between 200 and 500 metres of High Tide Line in designated areas of CRZ-III with prior approval of MEF permitted for construction of hotels/beach resorts for temporary occupation of tourists/visitors subject to the conditions as stipulated in the guidelines at Annexure-II.

- (iii) Construction/reconstruction of dwelling units between 200 and 500 metres of the High Tide Line permitted so long it is within the ambit of traditional rights and customary uses such as existing fishing villages and goathans. Building permission for such construction/reconstruction will be subject to the conditions that the total number of dwelling units shall not be more than twice the number of existing units ; total covered area on all floors shall not exceed 33 per cent of the plot size ; the overall height of construction shall not exceed 9 metres and construction shall not be more than 2 floors (ground floor plus one floor).
- (iv) Reconstruction/alterations of an existing authorised building permitted subject to (i) to (iii) above.

CRZ-IV

Andaman & Nicobar Islands :

- (i) No new construction of buildings shall be permitted within 200 metres of the HTL ;
- (ii) The buildings between 200 and 500 metres from the High Tide Line shall not have more than 2 floors (ground floor and 1st floor), the total covered area on all floors shall not be more than 50 per cent of the plot size and the total height of construction shall not exceed 9 metres ;
- (iii) The design and construction of buildings shall be consistent with the surrounding landscape and local architectural style.
- (iv) Corals and sand from the beaches and coastal waters shall not be used for construction and other purposes ;
- (v) Dredging and underwater blasting in and around coral formations shall not be permitted; and
- (vi) However, in some of the islands, coastal stretches may also be classified into categories CRZ-I or II or III, with the prior approval of Ministry of Environment and Forests and in such designated stretches, the appropriate regulations given for respective Categories shall apply.

Lakshadweep and small Islands :

- (i) For permitting construction of buildings, the distance from the High Tide Line shall be decided depending on the size of the islands. This shall be laid down for each island, in consultation with the experts and with approval of the Ministry of Environment & Forests, keeping in view the land use requirements for specific purposes vis-a-vis local conditions including hydrological aspects erosion and ecological sensitivity;
- (ii) The buildings within 500 metres from the HTL shall not have more than 2 floors (ground floor and 1st floor), the total covered area on all floors shall not be more than

- 50 per cent of the plot size and the total height of construction shall not exceed 9 metres;
- (iii) The design and construction of buildings shall be consistent with the surrounding landscape and local architectural style.
- (iv) Corals and sand from the beaches and coastal waters shall not be used for construction and other purposes;
- (v) Dredging and underwater blasting in and around coral formations shall not be permitted; and
- (vi) However, in some of the islands, coastal stretches may also be classified into categories CRZ-I or II or III, with the prior approval of Ministry of Environment & Forests and in such designated stretches, the appropriate regulations given for respective Categories shall apply.
- (vi) However, in some of the Islands, coastal stretches may also be classified into categories CRZ-I or II or III with prior approval of the Ministry of Environment & Forests. In such designated stretches the appropriate regulations given for respective categories shall apply.

ANNEXURE-II

GUIDELINES FOR DEVELOPMENT OF BEACH RESORTS|HOTELS IN THE DESIGNATED AREAS OF CRZ-III FOR TEMPORARY OCCUPATION OF TOURIST|VISITORS, WITH PRIOR APPROVAL OF THE MINISTRY OF ENVIRONMENT & FORESTS

7(1) Construction of beach resorts|hotels with prior approval of MEF in the designated areas of CRZ-III for temporary occupation of tourists|visitors shall be subject to the following conditions :

Lakshadweep and small Islands :

- (i) For permitting construction of buildings, the distance from the High Tide Line shall be decided depending on the size of the islands. This shall be laid down for each island, in consultation with the experts and with approval of the Ministry of Environment & Forests, keeping in view the land use requirements for specific purposes vis-a-vis local conditions including hydrological aspects, erosion and ecological sensitivity;
- (ii) The buildings within 500 metres from the HTL shall not have more than 2 floors (ground floor and 1st floor), the total covered area on all floors shall not be more than 50 per cent of the plot size and the total height of construction shall not exceed 9 metres;
- (iii) The design and construction of buildings shall be consistent with the surrounding landscape and local architectural style.
- (iv) Corals and sand from the beaches and coastal waters, shall not be used for construction and other purposes.
- (v) Dredging and under water blasting in and around lagoons and coral formations shall not be permitted; and
- (i) The project proponents shall not undertake any construction (including temporary constructions and fencing or such other barriers) within 200 metres (in the landward side) from the High Tide Line and within the area between the Low Tide and High Tide Line;
- (ii) The total plot size shall not be less than 0.4 hectares and the total covered area on all floors shall not exceed 33 per cent of the plot size i.e. the FSI shall not exceed 0.33. The open area shall be suitably landscaped with appropriate vegetal cover;
- (iii) The construction shall be consistent with the surrounding landscape and local architectural style;
- (iv) The overall height of construction upto the highest ridge of the roof, shall not exceed 9 metres and the construction shall not be more than 2 floors (ground floor plus one upper floor);
- (v) Ground water shall not be tapped within 200 m of the HTL; within the 200 metre-500 metre zone it can be tapped only with the concurrence of the Central|State Ground Water Board;
- (vi) Extraction of sand, levelling or digging of of sandy stretches except for structural foundation of building, swimming pool shall not

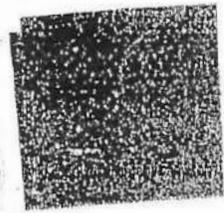
- be permitted within 500 metres of the High Tide Line;
- (vi) The quality of treated effluents, solid wastes, emissions and noise levels etc. from the project area must conform to the standards laid down by the competent authorities including the Central/State Pollution Control Board and under the Environment (Protection) Act, 1986;
- (vii) Necessary arrangements for the treatment of the effluents and solid wastes must be made. It must be ensured that the untreated effluents and solid wastes are not discharged into the water or on the beach; and no effluent/solid waste shall be discharged on the beach;
- (ix) To allow public access to the beach, atleast a gap of 20 metres width shall be provided between any two hotels/beach resorts; and in no case shall gaps be less than 500 metres apart; and
- (x) If the project involves diversion of forest land for non-forest purposes, clearance as required under the Forest (Conservation), Act, 1980 shall be obtained. The requirements of other Central and State laws as applicable to the project shall be met with.
- (xi) Approval of the State/Union Territory Tourism Department shall be obtained.
- 7(2) In ecologically sensitive areas (such as marine parks, mangroves, coral reefs, breeding and spawning grounds of fish, wildlife habitats and such other areas as may be notified by the Central/State Government/Union Territories) construction of beach resorts/hotels shall not be permitted.

Ref. No. DJ/3782/T/116/1020
Town & Country Planning
Government of Goa

ANNEXURE R-4

INFORMATION ISSUED UNDER RTI ACT, 2005

Panaji, Goa - 403001.
Date: 12/3/96



To,
The Chief Engineer,
Irrigation Department,
Panaji - Goa.

sub:- Application of M/s. Pent House Beach Resort
in Sy. No. 23/13 & 17 of Colva - Regularisa-
tion of the existing basement floor regarding.

Sir,

With reference to your latest communication on the
above subject, I am to inform you as follows:

This particular resort is existing since 1987. I am
enclosing herewith a copy of the site plan showing the
basement and also the existing Colva Nallah on the western
side of the Resort site.

I request necessary clarification may be given on the
permissibility of allowing the basement for onward trans-
mission to Govt. of India.

Yours faithfully,

ol

(N. PANDALAI)

Chief Town Planner

- Encl: 1) Site Plan
- 2) Assessment of the House Tax
from the Village Panchayat of
Colva showing a construction
in 1986 & 1987.

Certified copy of the Document
Available in Office Records
15/1/96

Certified copy of the document
available in office records

MEMBER SECRETARY
GOA COASTAL ZONE MANAGEMENT AUTHORITY
Sallgao - Goa

Public Information Officer
(GCZMA)

MR/-



TYPED COPY OF ANNEXURE R-4

Ref. NO. DJ/3782/TCS-Proj/
Town and Country Planning Department
Government of Goa, Daman Diu
Panaji Goa

Date: 12.03.1996

To

The Chief Engineer
Irrigation Department
Panaji, Goa

Subject: Application of M/s Pent House Beach Resort in Sy. No. 23/13 & 17
of Colva-Regularization of the existing basement floor regarding

Sir,

With reference to your latest communication on the above subject, I am to inform
to you as follow:

This particular report is existing since 1987. I am enclosing herewith a copy of the
site plan showing the basement and also the existing Colva Nallah on the western
side of the Resort site.

I request necessary clarification may be given on the permissibility of allowing the
basement for onward transmission to Government of India.

Yours Faithfully

Sd/-
N. PENDALAL
Senior Town Planner
For Chief Town Planner

Certified copy of the Document available
in office records

sd/-

Member Secretary
Goa Coastal Zone Management Authority
Saligao, Goa

Encl.

1. Site Plan
2. Assessment of House Tax from the Village Panchayat of Colva showing a
construction in 1986 & 1987.

//True Copy//

True Typed Copy

Registered A/D

VILLAGE PANCHAYAT

Ref. No. UP/SUCG/436/92-93

Form for New Assessment of the House Tax

- Full name of the owner/occupier/retaker
मास्टर राजगारा देवमानकरगामाचे मूळ दार
- Full address 4th corner, ...
मूळ पत्ता
- House No 424 & 424(1)
- Particulars of house :-
गट्या तपसिल.
 - When constructed H.No - 424 in 1986 & 424(1) in 1987
को बांधून मासे
 - Estimate cost of house or building? House No - 424 RS 10 Lakhs & H.No - 424(1) RS 4 Lakhs.
इराची किंता विवरीगवा अदाजे कडे?
 - Material used (mud/stone) H.No: 424 Stone used H.No -
वाचकाम कश्याचे (माती दगड)
 - Roofing (tiles/R. C. C /Thatched)
छप्पर (कोले/आर सी सी. प्रोपरी)
 - Flooring (Mosaic Tiles, Cement/Mud) flooring tiles
[ब्रीची/करची/सीमेंट/माती]
 - Number of rooms H.No - 424 - 68 rooms, H.No - 424(1) - 6 rooms
कोम्या किती
 - State whether electrified or not Electrified
विज वापरची कातें का?
 - State whether the tap water is provided? Tap water provided
वडाच्या पाण्याची सोय आहे काय?
H.No - 424 - 1500 sq. m.
 - Approximate plinth area of the building H.No 424(1) - 600 sq. m.
सर्व हायारण वाचकामासाठील अक्षरकळ
- State whether house utilized for residence/business/shop/factory Hotel
परावा उश्चीय रहावनासाठी/वगासाठी/दुकान कारखान्यासाठी किंवा कारखान्यासाठी
- [a] If rented, state the monthly rent NOT applicable
वाटवाने दिले बडत्वाच, माचीक बाडे
- [b] If not rented, assessed letting value of the building
वाटवाने दिले बडत्वाच, अदाजे माचिक बाडे किमत
I declare that the above particulars are true to
को वाचू इच्छितो की बरीत तपसिल करय आहे
Village ...
गाव

This Certified copy is a copy of the
Photocopy submitted to the Office
Which is available in the Office records

Signature of Public Information Officer
GCZMA/DSTE

I have checked the house and found the above
that the same should be assessed for Rs
) per year

Village ...
गाव

Certified copy of the document
available in office records

MEMBER SECRETARY
GOA COASTAL ZONE MANAGEMENT AUTHORITY
Saligao - Goa

True Copy



GOA COASTAL ZONE MANAGEMENT AUTHORITY

**C/o Department of Science, Technology & Environment,
Opp. Saligao Seminary, P.O. Saligao, Bardez, Goa – 403511**

Phone (0832) 240, 2407187, 2407189

REF. NO.1 GCZMA/S/311/1539

DATE:18/5/2006

To,

Shri Aleixo Sequeira,

Ermelinda Resorts Pvt. Ltd.,

446, Raia, Salcete – Goa – 403720

Sub:- Proposed repairs and renovation of an existing Beach Resort in Survey NO.23/13 and 23/17 of Colva Village, Salcete Taluka

Sir,

This has a reference to your application No.NIL dated January 16, 2006 seeking the approval of the Goa Coastal Zone Management Authority (GCAMA) for the above cited proposal. The said proposal was processed and placed for the consideration of the GCZMA in its 25th meeting held on 20th April 2006. After examining the site inspection report vis-à-vis the earlier approvals granted to the Resort, the GCZMA was pleased to grant its approval for the proposed repairs and renovation of the said existing Beach Resort in Survey No.23/13 and 23/17 of Colva Village, Salcete Taluka.

This approval is subject to the following conditions:

1. The permission is granted as per the endorsed plan hereby annexed.
2. Prior to the commencement of the 'repairs/renovation' work, it will be incumbent upon the applicant to obtain the

licence from the village Panchayat of Sernabatim, Vanelim, Colya & Gandaulim.

3. This permission is liable to be revoked if it is found, at any stage, that the application contained false information/wrong plans/calculations/documents or any other incorrect/wrong accompaniments.
4. The completion of the repair work should be informed to this office for the purposes of verification.
5. The Resort should adopt all possible eco-friendly measures suggested below:
 - i. Use of non-conventional and renewable sources of energy should be promoted (eg. Solar water heating system, Solar photo-voltaic lighting system etc.)
 - ii. Roof harvesting of rainwater and its storage for supplementary use.
 - iii. An appropriate system of collection, segregation treatment and/or disposal of solid waste through the following measures;
 - a. 'Vermi-composting/composting' of all biodegradable wastes and its use for gardening within the Resort area.
 - b. Segregation of all recyclable wastes and promotion of recycling through appropriate arrangements.
 - c. Aiming for a plastic-free Resort by abandoning the use of bags, wrappers, cups, bottles etc. made of non-biodegradable materials.
 - d. Sale of all reusable times.

- iv. Use of drip irrigation, sprinkler irrigation, mulching, etc. for judicious use of water for gardening, plantations etc., wherever feasible.
- v. Use of compost and organic manures instead of chemical fertilizers.

Public access to the beach, if any, in the vicinity of the Resort should be left free of any obstruction.

Prior to its operationalisation, the Resort should make all arrangements for the full treatment of sewage and other waste waters and should obtain the Consent to Operate from the Goa State Pollution Control Board (GOPCB).

Yours Faithfully

Sd/-

(Dr. N.P. S. Varde)

Member Secretary, GCZMA

Copy to the Panchayat Secretary, Village Panchayat of Sernabatim, Venelim, Colva & Gandaulim, Salcete – Goa.



ELEVATION - BLOCK B
REVISED ELEVATIONAL FEATURES

AREA STATEMENT EXISTING

Total Area of the Plot bearing survey no. 23/ 13 & 17 : 6,973.60 m²

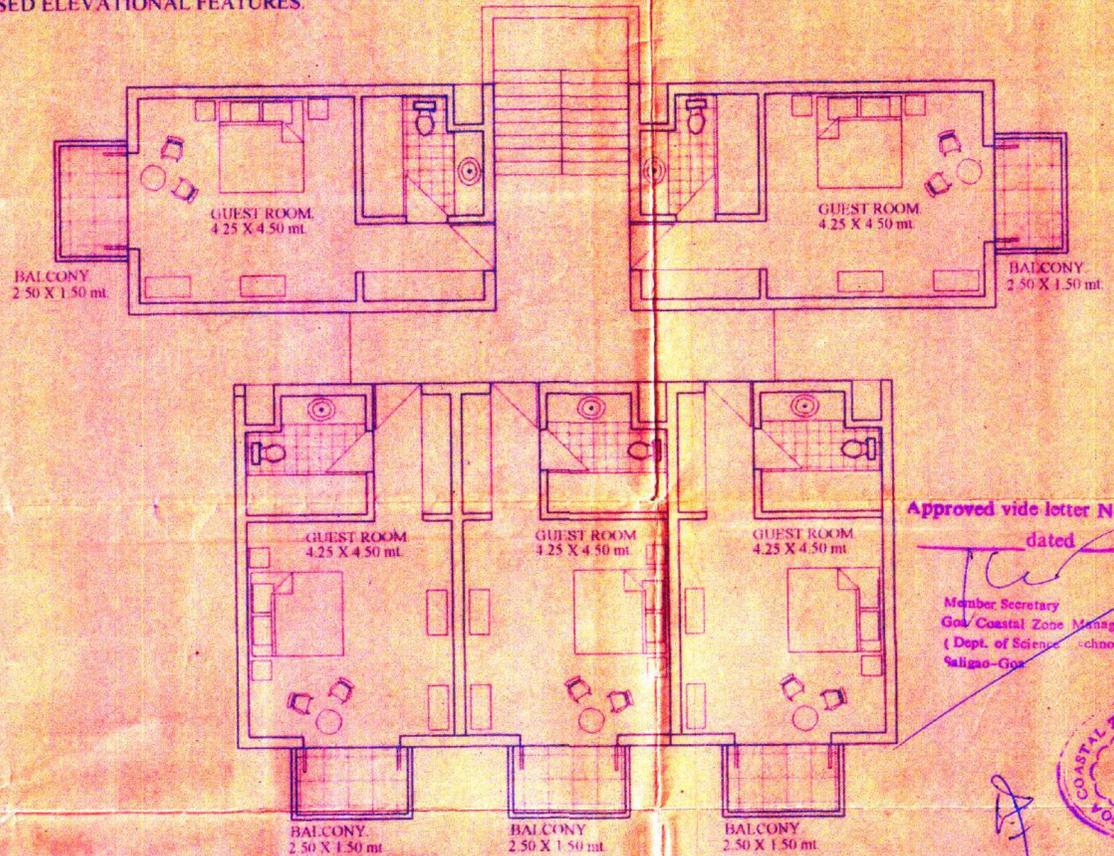
EXISTING GROUND FLOOR AREAS :

type A	605.00 m ² x 1 nos	605.00 m ²
type B	220.81 m ² x 6 nos	1324.86 m ²
type C	102.46 m ² x 1 nos	102.46 m ²
TOTAL EXISTING GROUND FLOOR AREA		2,032.32 M² - EXISTING COVERAGE = 29.14%

TOTAL EXISTING FIRST FLOOR AREAS

type A	539.53 m ² x 1 nos	539.53 m ²
type B	202.06 m ² x 6 nos	1212.36 m ²
TOTAL EXISTING FIRST FLOOR AREA		1,751.89 M²
TOTAL EXISTING FLOOR AREA		3,784.21 M² - EXISTING F A R = 54.26%

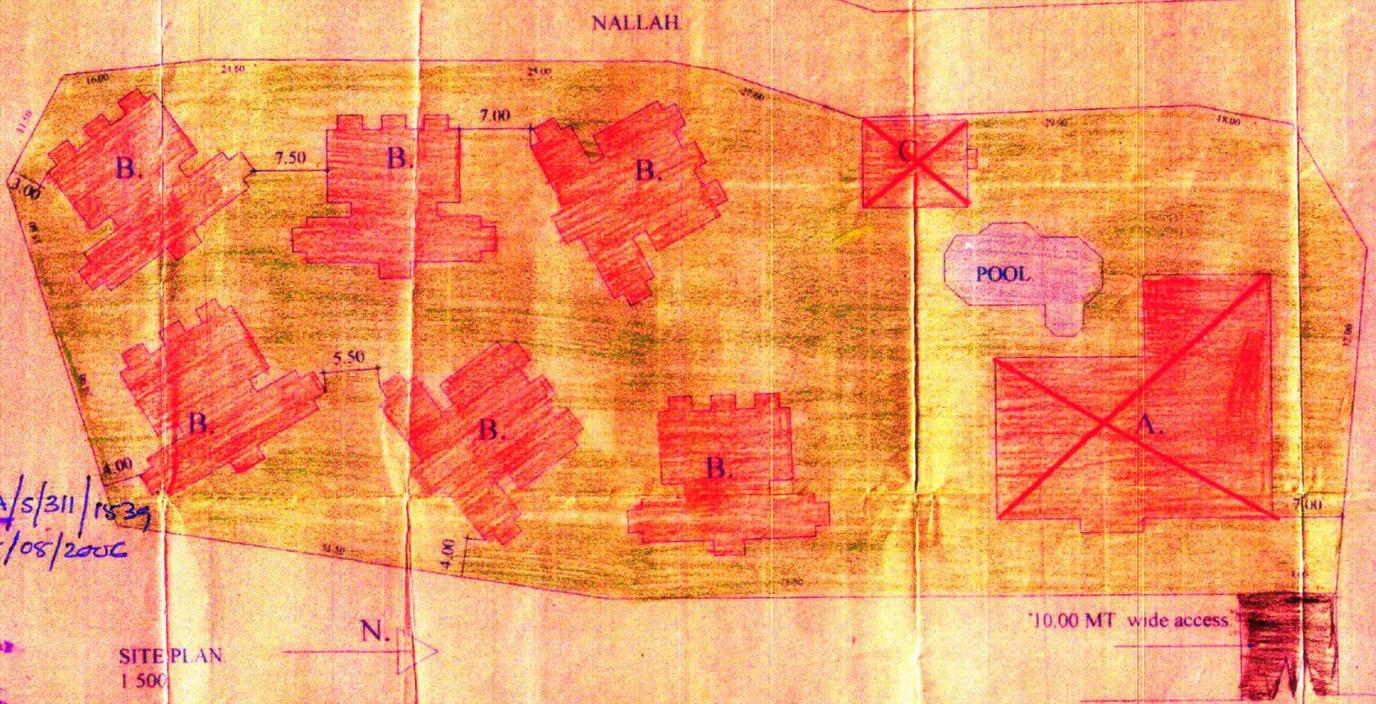
Pascoal B. Noronha
PASCOAL BARBOSA NORONHA
 B.Sc; B.E. (Civil); M.J.E.,
 M.A.S.C.E; M.A.C.I; M.H.S.E.
 M.I.C.I; M.I.R.C; M.I.S.S.E.
CHARTERED ENGINEER (I)
 Office: Ashoka Bldg.,
 Near Bank of India
 Margao, Goa 403 601
 Tel: (0832) 735833 / 737027



EXISTING BLOCK B
- TYPICAL GROUND FLOOR AND FIRST FLOOR PLAN
1:100

Approved vide letter No. GC2MA/S/311/1839
 dated 18/08/2005

Member Secretary
 Goa Coastal Zone Management Authority
 (Dept. of Science, Technology & Environment)
 Saligao-Goa



SITE PLAN
1:500

EXISTING BEACH RESORT,
 on land bearing survey no. 23/13 & 17,
 at Colva, Salcette, Goa.
 Engr. Pascoal B. Noronha,
 1st Floor,
 Ashoka Building, Near Bank of India,
 Margao. Ph. 2737027

DRWG.
NO. 01

ANNEXURE R-7**GOA COASTAL ZONE MANAGEMENT AUTHORITY**

C/o Department of Science, Technology & Environment, Govt. of Goa.
Opp. Saligao Seminary, P.O. Saligao, Bardez, Goa - 403 511
Phone: (0832) 2407186, 2407187, 2407189 Fax: (0832) 2407186

Ref No.: GCZMA/S/311/3545

a e. 31

No.

Shri Aleixo Sequeira,
C/o Ermelinda Resorts Pvt. Ltd,
No. 446 (1), Raicho Ambo,
Salcete Taluka.

Sub: Proposed repairs and renovation of an existing beach resort in Survey No. 23/13 & 23/17 of Colva village, Salcete Taluka.

- Ref:-**
- (i) Your application No. NIL dated 16/01/2006
 - (ii) Approvals for repair and renovation from GCZMA vide letter No. GCZMA/S/311/1539 dated 18/05/2006 alongwith plan.
 - (iii) Your application No. NIL dated 14/11/2007.

This bears reference to your application No. NIL dated 14/11/2007 seeking approval of the Goa Coastal Zone Management Authority (GCZMA) to carry out repairs and renovation of two existing structures for which approvals were not considered by the GCZMA earlier, as conveyed to and marked in plan (Block 'A' & 'C') attached with the letter dated 18/05/2006 (refer (ii) above).

2. The said proposal was examined by GCZMA in its 38th meeting held on 12/12/2007. GCZMA has decided to grant approval for repairs and renovations of the aforesaid two structures (Block A & Block B) in accordance with the provisions of CRZ Notification, 1991 subject to the conditions that the repairs and renovations of these existing structures in Survey No. 23/13 and 23/17 of Colva Village, Salcete Taluka shall not exceed existing FSI, existing plinth area and existing density and shall conform with the local building bye laws.

The approval is further subject to the following conditions:

- (i) All the provisions of the CRZ Notification should be strictly complied with.
- (ii) Prior to the commencement of the 'repairs/renovation' work, it will be incumbent upon the applicant to obtain the licence from the Village Panchayat.
- (iii) This permission is liable to be revoked if it is found, at any stage, that the application contained false information / wrong plans / calculations / documents or any other incorrect / wrong accompaniments.
- (iv) The completion of the repair work should be informed to this office for the purposes of verification.

True Copy Under RTIA

Public Information Officer
Town & Country Planning Dept
Margao Goa

(Michael M.)
Member Secretary (GCZMA) &
Director/ Ex-Officio Jt. Secy. (STE)

Copy to:

1. P.S. to Chief Secretary / Chairman (GCZMA), Secretariat, Porvorim - Goa ... for kind information.
2. The Secretary, Village Panchayat of Colva, Salcete Taluka.....for kind information.

TYPED COPY OF ANNEXURE R-7

GOA COASTAL ZONE MANAGEMENT AUTHORITY
 C/O Department of Science, Technology and Environment
 Opp. Saligao Seminary,
 P.O. Saligao, Bardez, Goa-403 511
 Phone (832) 2407186, 2407187, 2407189, Fax-(832) 2407186

Ref. No. GCZMA/S/311/3545

Date: 30/31.1.2002

To

Shri Aleixo Sequeira
 C/o Ermelinda Resorts Pvt. Ltd
 No. 446 (1), Raicho Ambo
 Rai, Salcete, Goa

Subject: Proposed repairs and renovation of an existing beach resort in Survey No. 23/13 & 23/17 of Colva Village, Salcete Taluka.

Ref. No.

- vii) Your Application No. Nil dated 16.01.2006
- viii) Approvals for repair and renovation from GCZMA vide Letter No.
 GCZMA/S/311/1539 dated 18.05.2006 along with Plan.
- ix) Your Application No. Nil dated 14.11.2007.

Sir,

This bears reference to your application No. Nil dated 14.11.2007 seeking approval of the Goa Coastal Zone Management Authority (GCZMA) to carry out repairs and renovation of two existing structures for which approvals were not considered by the GCZMA earlier, as conveyed to and marked on Plan (Block 'A' and 'C') attached with the letter dated 13.05.2006 (refer(ii) above).

2. The said proposal was examined by GCZMA in its 38th meeting held on 12.12.2007. GCZMA has decided to grant approval for repairs and renovations of the aforesaid two structures (Block 'A' and 'C') in accordance with the provisions of CRZ Notification, 1991 subject to the condition that the repairs and renovations of these existing structures in Survey No. 23/13 and 23/17 of Colva Village, Salcete Taluka shall not exceed existing FSI, existing plinth area and existing density and shall conform with the local building bye laws.

The approval is further subject to the following conditions:

- i) All the provisions of the CRZ Notification should be strictly complied with.
- ii) Prior to the commencement of the 'repairs/renovation' work it will be incumbent upon the applicant to obtain the license from the Village Panchayat.
- iii) This permission is liable to be revoke if it is found, at any stage, that the application contained false information/wrong plans/calculations/documents or any other incorrect/wrong accompaniments.
- iv) The completion of the repair work should be informed to this office for the purpose of verification.

<p>True copy under RTIA</p> <p>Sd/- Public Information Officer Town & Country Planning Department Margao, Goa</p>	<p style="text-align: right;">Yours Faithfully</p> <p style="text-align: right;">Sd/- Michael M. D'Souza Member Secretary Director/Ex Office Joint Secretary</p>
---	--

Copy to:

1. P.S. to Chief Secretary/Chairman (GCZMA), Secretariat, Porvorim-Goa for kind information.
2. The Secretary, Village Pachayat of Colva, Salcete Taluka.....for kind information.

True Typed Copy

ANNEXURE R-8

NO. PWD/WDXXV/SDII/T.A./08-09/ 15
 Government of Goa,
 Office of the Assistant Engineer
 & Technical Officer,
 S.D.-II, Div. XXV. PWD,
 Fatorda, Margao - Goa.

Date: - 15/05/2008.

To,
 The Sarpanch,
 Village Panchayat,
 Colva,
 Salcete- Goa

Office of the Village Panchayat
 Sernabatim Vanelim Colva & Gandaulim
 Received on: 19/5/08
 Inward No. 557

Sul

TECHNICAL APPROVAL

Ref No

VP/SVCG/08-09/444

Di: - 08/05/08

**Name of
 Owner**

Tonia Estates & Resorts Pvt. Ltd.

**Detail of
 Const.**

Repairs/ Renovation/ Alteration to existing beach
 resort in survey no. 23/13 & 23/17 at Colva.

Sir,

The following construction proposal is technically approved, subject to the following conditions:

1. The R.C.C. layout should confirm to the approved building dimensions.
2. All the structural works should be carried out under full supervision and guidance of the consulting Engineer who shall be responsible for the structural stability of the building.
3. The estimated cost of construction works out to Rs. 1, 19, 42,967/- (Rupees one crore nineteen lakhs forty two thousand nine hundred sixty seven only) as per plans submitted to this office.
4. The set back for construction of compound wall from the centerline of the road may be confirmed from competent authority.
5. The valuation certificate issued by this office is only for assessment of license fee. Regarding other legal formalities the Panchayat office may please get confirmed from competent authority before issue of construction license.
6. The permission is liable to be revoked, if it is based on false information/ wrong plans/calculations/documents or any other accompaniments of the application are found to be incorrect or wrong at any stage.

Recd for meeting
Paranav

[Signature]
 SECRETARY
 Village Panchayat
 SERNABATI, VANELIM,
 COLVA & GANDAULIM

Yours faithfully,

[Signature]
 (R. PEREIRA)
 Technical Officer
 &
 Assistant Engineer

True Copy



TYPED COPY OF ANNEXURE R-8

Ref. NO. PWD/WDXXV/SDII/T.A./08-09
 Government of Goa
 Office of the Assistant Engineer
 & Technical Officer
 SD-II, DIV. XXV, PWD
 Fatorda, Margao-Goa

Date: 15.05.2008

To
 The Sarpanch
 Village Panchayat
 Colva, Salcete, Goa

Subject: Technical Approval
 Ref. No. VP/SVCC/08-09/444 dated 08.05.2008
 Name of Owner Tonia Estates & Resorts Pvt.Ltd.
 Detail of Construction Repairs/renovation/alteration to existing beach
 Resort in Survey No. 23/13 & 23/17 at Colva

Sir,

The following construction proposal is technically approved, subject to the following conditions:

1. The R.C.C. layout should confirm to the approved building dimensions.
2. All the structural works should be carried out under full supervision and guidance of the consulting Engineer who should be responsible for the structural stability of the building.
3. The estimated cost of the construction work out to Rs. 1,19,42,967/- (Rupees One Crore Nineteen Lacs Forty Two Thousand Nine Hundred Sixty Seven only) as per plans submitted to this office.
4. The setback for construction of compound wall from the centerline of the road may be confirmed from competent authority.
5. The Valuation certificate issued by this office is only for assessment of license fee regarding other legal formalities the Panchayat Office may please get confirmed from competent authority before issue of construction license.
6. The permission is liable to be revoked, if it is based on false information/wrong plans/calculations/documents or any other accompaniments of the application are found to be incorrect or wrong at any stage.

Yours Faithfully

(R. Pereira)
Technical Officer &
Assistant Engineer

Secretary
Village Panchayat
Sernabatim, Vanelim,
Colva, Gandaulim

//True Copy//

True Typed Copy

ANNEXURE R-9

OFFICE OF THE SENIOR TOWN PLANNER,
TOWN & COUNTRY PLANNING DEPARTMENT,
SOUTH GOA DISTRICT OFFICE, 'B' WING, 4TH FLOOR,
OSIA COMMERCIAL ARCADE, MARGAO-GOA.

TPM/CONST/Colva/23/13 & 17/08/2021 DATE: 19/5/08

To:
The Sarpanch,
Office of the Village Panchayat
Colva, Salcete-Goa.

Office of the Village Panchayat
Sarnabatim Vanelim Colva & Gandaulim
Received on: 19/5/08
Inward No. 558

Sub: Application of Sri/Smt. Touria Estates and Resorts Pvt. Ltd.
Construction/reconstruction of / Repair/alteration /renovation to
existing resorts
in s. no. 23/13 & 17 Plot no. Village... Colva.....
Salcete Taluka.

Ref: 11.No. VP/SVCG/443/2008-09 dtd. 8/5/08

21.

with reference to the above mentioned subject, this is to inform you that
there is no objection over the proposed ~~construction/reconstruction of~~ /
Repair/alteration/renovation to existing Resorts

from planning point of view with the following conditions:-

1. The permission is recommended as per the plans hereby annexed.
2. The permission is liable to be revoked if it is based on false information/wrong plans/calculations/documents and any other accompaniments of the application are found to be incorrect or wrong at any stage.
3. Any change to be effected to the approved plans, prior permission has to be obtained.
4. Prior to commencement in development work it will be incumbent upon the applicant to have conversion sanad of use of land as contemplated under Goa, Daman & Diu Land Revenue Code, 1968.
5. There should not be any drinking water well within 15mts. from soakpit, septic tank & vice versa.
6. Ownership of the land and acquisition of land if any, may be seen by Village Panchayat/Municipality before issue of licence.
7. Trees if any shall be cut only with prior permission from the concerned authority.
8. The opening of the compound wall gate shall be inwards only.
9. Traditional access if any, passing through the property shall not be blocked.
10. Approval from the Technical Officer, P.W.D. Sub-Div. III, W. D. VIII, Patorda, Margao shall also be obtained on soundness of the structure etc.
11. Neat and clean environment with special reference to drainage, sewerage, garbage, etc., shall be maintained.
12. If any HT/LT/Electric line is passing through the property then N.O.C. of the Electricity Department shall be obtained prior to starting the construction work.
13. Occupancy certificate should be issued only after obtaining N.O.C. from this office.
14. It is advisable to plant trees suitable to site condition.

..2..

Place for meeting
Heard

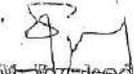
[Signature]
SECRETARY
Village Panchayat,
SARNABATIM, VANELIM,
COLVA & GANDAU LIM



15. The building shall have sloping roof with Mangalore tiles.
 16. In case of compound wall adequate openings at the bottom of the compound wall shall be kept so that no cross drainage is blocked.
 17. No hill cutting or filling of low lying area shall be undertaken without obtaining prior permission from the Chief Town Planner under section 17-A of T.P. Act.
 18. N.O.C from all concerned authorities shall be obtained before commencement of the development.
 19. F.A.R. coverage & setback shall be strictly maintained as per the approved plans and as per the rules in force.
 20. Verification of ownership with specific reference to Tenancy position as on 2/11/1990 has to be made at your end before issue of licence.
 21. This N.O.C is issued based on clearances/approvals granted by Member Secretary, Goa Coastal Zone Management Authority vide no. GCZMA/S/311/1539 dtd. 18/5/06 and vide no. GCZMA/S/311/3545 dtd. 31/1/08, and hence all conditions imposed therein shall be strictly adhered to.
 22. Proposed development shall be strictly undertaken within plinth area of existing structures. Also it shall not exceed existing FSI and existing density.
 23. All setbacks as shown on site plan shall be strictly maintained.
 24. Adequate arrangements shall be made for collection and disposal of solid and liquid wastes generated in the property.
 25. Swimming pool shall be hygienically maintained.
 26. Proposed development shall not effect existing nalla towards western side.
 27. Proposed development shall be in conformity with prevailing CRZ Regulations.
 28. Proposed development shall be restricted within the scope of approvals/clearance granted by ~~Chief~~ Goa Coastal Zone Management Authority.
- ***
- This N.O.C is issued with concurrence of the Chief Town Planner.
29. Parking spaces as shown on the site plan shall be developed and effectively utilised for parking purpose.

File is returned herewith, after retaining a set of plans and documents for this office records.

Yours faithfully,


S. M. Eyad
Town Planner

Encl: as above.

Copy to:

S/S/ S/S/ Tonia Estates & Resorts Pvt. Ltd.,

Raicho Ambo
Raia, Salcete-Goa-

emf/


SECRETARY
Village Panchayat
SERWAGAYIM, VANELIM,
COLVA & GANDOLIM



True Copy

TYPED COPY OF ANNEXURE R-9

OFFICE OF THE SENIOR TOWN PLANNER
TOWN & COUNTRY PLANNING DEPARTMENT
SOUTH GOA DISTRICT OFFICE
B, WING, 4TH FLOOR,
OSLA COMMERCIAL ARCADE, MARGAO-GOA

TPM/CONST/COLVA/23/13 & 17/08/2021

DATE: 19.05.2008

Subject: Application of Tonia Estates and Resorts Beach Pvt. Ltd.
Repair/alteration/renovation to existing resort, Plot No. 23/13 & 17,
Village Colva

Ref. NO. VP/SVCG/443/2008-09 dated 08.05.2008

With reference to the above mentioned subject, this is to inform you that there is no objection over the proposed Repair/alteration/renovation to existing resorts, from planning point of view with the following conditions:

1. The permission is recommended as per the plans hereby annexed.
2. The permission is liable to be revoked if it, is based on false information/wrong plans/calculations/documents or any other accompaniments of the application are found to be incorrect or wrong at stage.
3. Any change to be effected to the approved plans prior permission that has to be obtained.
4. Prior to commencement in development work it will be incumbent upon the application to have Conversion Sanad of use of land as contemplated under Goa Daman and Diu Land Revenue Code, 1968.
5. There should not be any drinking water well within 15 mts. from soakpit, septic tank and vice versa.
6. Ownership of the land and acquisition of land if any, may be seen by Village Panchayat at Municipality before issue of license.
7. Trees if any shall be cut only with prior permission from the concerned authority.
8. The opening of the compound wall gate shall be inwards only.

9. Traditional access if any, passing through the property shall not be blocked.
10. Approval from the technical officer, PWD, Sub Divi. II, WD VII, Fatorda, Margao shall also be obtained on soundness of the structure etc.
11. Neat and clean environment with special reference to drainage, sewerage, garbage, etc shall be maintained.
12. NOC of the Electricity Department shall be obtained prior to starting the construction work.
13. Occupancy certificate should be issued only after obtaining NOC from this office.
14. It is advisable to plant trees suitable to site condition.
15. The building shall have sloping roof with Mangalore Tiles.
16. IN case of compound wall adequate openings at the bottom of the compound wall shall be kept so that no cross drainage is blocked.
17. No hill cutting or filling of low lying area shall be undertaken without obtaining prior permission from the Chief Town Planner under Sec. 17-A of T.P. Act.
18. NOC from all concerned authorities shall be obtained before commencement of the development.
19. F.A.R. coverage and setback shall be strictly maintained as per the Approved plans and as per the rules in force.
20. Verification of ownership with specific reference to Tenancy position as on 02.11.1990 has to be made at your and before issue of license.
21. This NOC is issued based on clearances/approvals granted by the Member Secretary, Goa Coastal Zone Management Authority vide No. GCZMA/S/311/1539 dated 18.05.2006 and vide No. GCZMA/S/311/1545 dated 31.01.2008, and hence all conditions imposed therein shall be strictly adhered too.
22. Proposed development shall be strictly undertaken within plinth area of existing structures. Also it shall not exceed existing FSI and existing density.

23. All setbacks as shown on site plan shall be strictly maintained.
24. Adequate arrangements shall be made for collection and disposal of solid and liquid wastes generated in the property.
25. Swimming pool shall be hygienically maintained.
26. Proposed development shall not effect existing Nalla towards western side.
27. Proposed development shall be in conformity with prevailing CRZ Regulations.
28. Proposed Development shall be restricted within the scope of approvals/clearances granted by Goa Coastal Zone Management Authority.
*** This NOC is issued with concurrence of the Chief Town Planner.
29. Parking spaces as shown on the site plan shall be developed and effectively utilized for parking purpose.

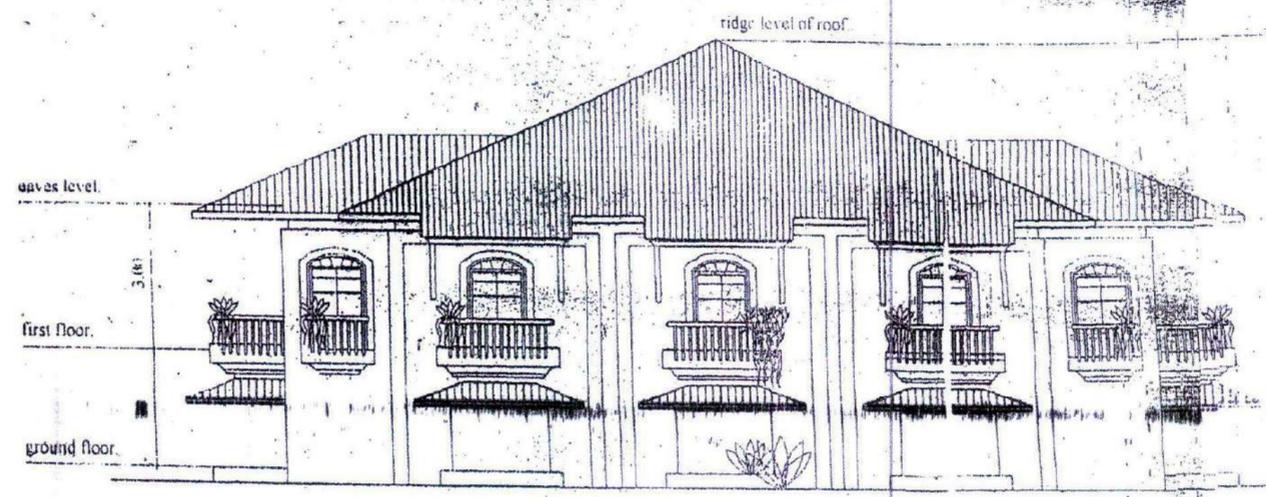
File is returned herewith, after retaining a set of plans and documents for this office records.

Sd/-
Town Planner

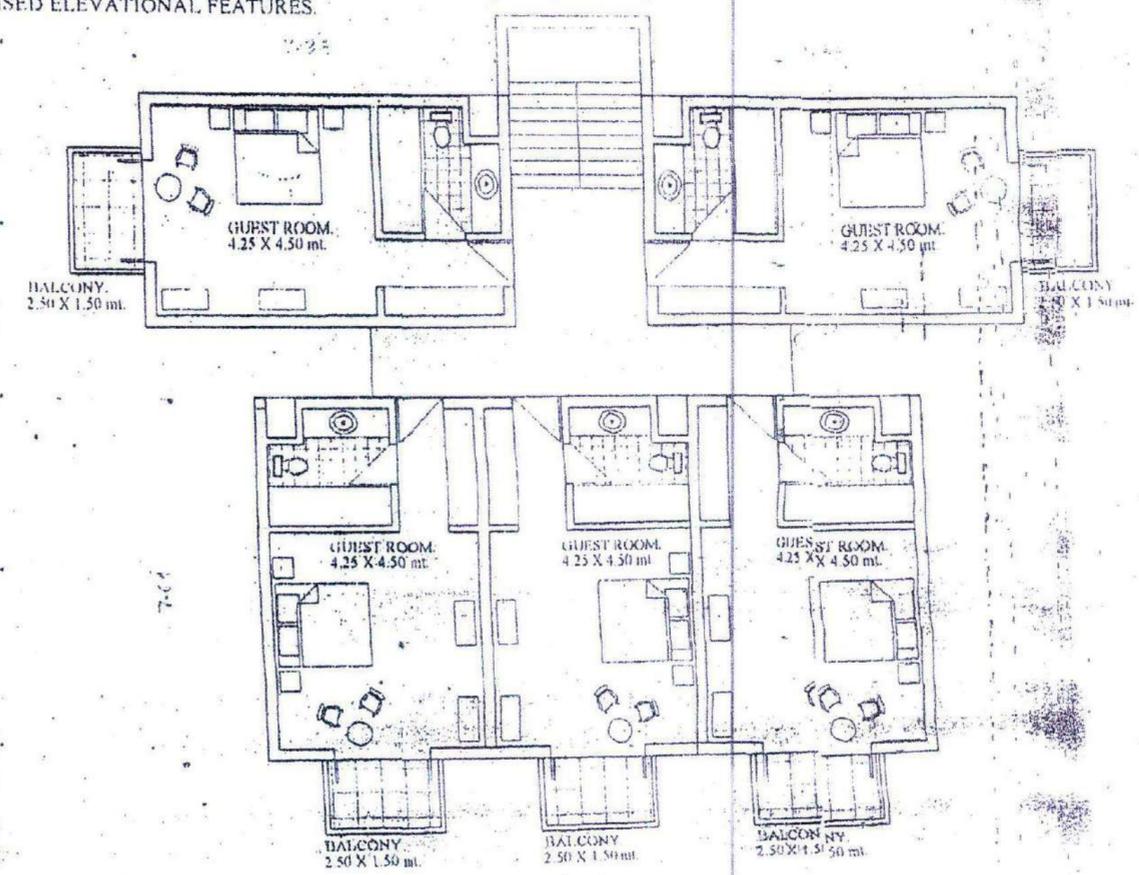
Encl. As above
Copy to
Tonia Estates & Resorts Pvt. Ltd.
Raicho Ambo
Raia, Salcete, Goa

**Secretary
Village Panchayat
Sernabatim, Vanelim,
Colva, Gandaulim**

//True Copy//



ELEVATION - BLOCK B.
REVISED ELEVATIONAL FEATURES.



EXISTING BLOCK B.
TYPICAL GROUND FLOOR AND FIRST FLOOR PLAN.
1:100.

AREA STATEMENT - EXISTING

Total Area of the Plot bearing survey no. 23/13 & 17 : 6,973.60 m²

EXISTING GROUND FLOOR AREA

- type A : 105.00 m² x 1 nos = 105.00 m²
- type B : 120.81 m² x 6 nos = 724.86 m²
- type C : 102.46 m² x 1 nos = 102.46 m²

- TOTAL EXISTING GROUND FLOOR AREA : 2,032.32 M² - EXISTING COVERAGE = 29.14%

TOTAL EXISTING FIRST FLOOR AREA

- type A : 539.53 m² x 1 nos = 539.53 m²
- type B : 202.06 m² x 6 nos = 1,212.36 m²

- TOTAL EXISTING FIRST FLOOR AREA : 1,751.89 M²

- TOTAL EXISTING FLOOR AREA : 3,784.21 M² - EXISTING F.F.A.R. = 54.26%

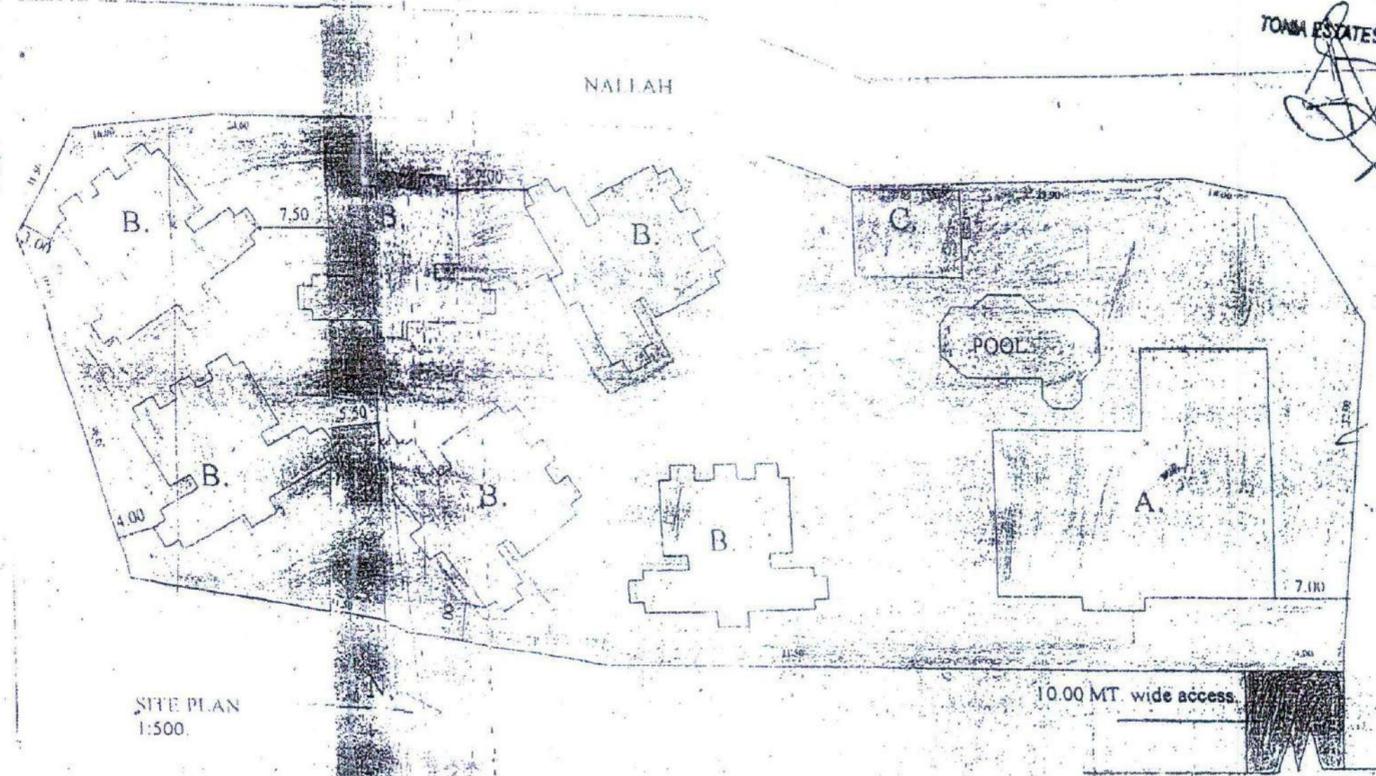


Approved proposed structure
under Lic. No. 19/2016/Const. & Jor-01654
Resolution No. 860

ST. CRETAR
V. P. BERNARDES
VANELIM-COLVA
& GANHAULIM

Please check letter no. *TPM/Const/Colva/23*
dated *19/08/08*
regarding the plans.

Town & Country Planning Dept
Govt. Of Goa
Margao Goa



SITE PLAN
1:500.

Handwritten signature

CHARTERED ENGINEER
Office: Ashoka Bldg.,
Near Bank of India,
Margao, Goa 403 001

EXISTING BEACH RESORT,
on land bearing survey no. 23/13 & 17,
Colva, Salcette, Goa.
Ingr. Pascoal B. Boronha,
1st Floor,
Ashoka Building Near Bank of India,
Margao, Ph. 27 7027.

Office of the Village Panchayat

SERNABATIM, VANELIM, COLVA & GANDAVLIM.

Construction Licence No. VP/SVCG/Const. 13 / 08-09/634

Shy/Sy/KA/ Tonia Estates and Resorts Pvt Ltd from
Raimo Ambo of Rala-Coa, is hereby granted licence for the CONSTRUCTION
Repair/Alteration/Renovation to existing resorts in Sy.No.23/13

& 17, Village Colva, Salcete Taluka.

in terms of
 resolution No. 3(2) taken in the Panchayat meeting dated 24/5/08 as per the
 plans in triplicate/duplicate attached to his/her application under inward No PPO / 01 / VP / Plans
203 dated 19/4/2008 One copy of the Plans concerned with the approval note
 carrying the embossed seal of this Panchayat and duly signed, is returned to the interested party, who
 shall comply with the following conditions

- 1) To limit himself/herself to the plans approved and statements therein.
- 2) The construction shall be as per plans approved by this Panchayat and condition imposed on it.
- 3) To inform the Panchayat after excavation and before laying of plinth foundation.
- 4) To inform the Panchayat when the construction has been completed upto plinth level.
- 5) To inform the Panchayat as soon as the construction is completed.
- 6) Not to inhabit the building without the prior permission of this Panchayat.
- 7) To abide by the other related provision in force.
- 8) That building or construction is carried out as per the alignment given and the plinth level fixed by the Panchayat.
- 9) The construction licence shall be revoked.
 - a) If the construction work is not executed as per the plans approved and statements therein;
 - b) Wherever there is any false statement or any misrepresentation of any material passed, approved or shown in the application on which the permit was passed.
- 10) All setbacks as shown on the site plan shall be strictly maintained.
- 11) The N.O.C is issued based on clearance /approvals granted by Member Secretary, Goa Coastal Zone Management Authority vide No. GCZMA/S/311/1539/ dated 18/5/2008 and vide No. GCZMA/S/311/3545, dated 31/1/2008 and hence all conditions imposed therein shall strictly adhered too.
- 12) Proposed development shall be strictly undertaken within plinth area of existing structures. Also it shall not exceed existing FSI and existing density.

The licence shall be valid for a period of ONE/TWO/THREE years beginning from today He/
 She had paid the respective tax/fees the tune of Rs. 89765/-
 by Receipt No. 0153 dated 11/06/08

This carries the embossed seal of this Panchayat

Office of Village Panchayat of Colva

11/06/2008

SECRETARY
 Village Panchayat
 SERNABATIM, VANELIM,
 COLVA & GANDAVLIM



Cont.....

- 13) Adequate arrangements shall be made for collection and disposal of solid and liquid waste generated in the property.
- 14) Swimming Pool shall be hygienically maintained.
- 15) Proposed development shall not effect existing Nalla towards Western side.
- 16) Proposed development shall be in conformity with prevailing CRZ Regulations.
- 17) Proposed development shall be restricted within the scope of approvals/clearance granted by Goa Coastal Zone Management Authority.
- 18) Parking spaces as shown on the site plan shall be developed and effectively utilised for parking purpose.
- 19) Labourers engaged on the Const. work at the site should have a Compulsory Health Card issued by Health Dept. and it is obligation of the labourer to produce Health Card before the Panchayat Member, Gram Sabha Member & Other Authorities when demanded.
- 20) No labourer should reside on the site except the Security Guard and if the labourers are found on the site without valid permission /Health Card, the licence will be revoked.
- 21) Before starting of the construction activities, N.O.C'S from Water/Electricity Dept. may be obtained if applicable.
- 22) The licence holder have to put a board furnishing all the details of licence issued.
- 23) The Applicant shall install a Common Sewage treatment plant for sewage disposal instead of separate septic tank and Soak pit.
- 24) All the Conditions laid down by Town & Country Planning Dept. vide letter NO., TPM/Const/Colva/23/13 & 17/06/2021, dated 19/5/2008, should be strictly complied.



(RAVENDRA NAIK)
 SECRETARY
 Village Panchayat
 SERNABATIM, VANELIM,
 COLVA & GANDAULIM

SECRETARY
 Village Panchayat
 SERNABATIM, VANELIM,
 COLVA & GANDAULIM



True Copy

ANNEXURE R-11**GOA COASTAL ZONE MANAGEMENT AUTHORITY**

C/o Department of Science, Technology & Environment,
Opp. Saligao Seminary, P.O. Saligao, Bardez, Goa - 403511

Phone (0832) 240, 2407187, 2407189, Fax(0832)2407186

REF. NO.1 GCZMA/S/311/999

DATE:5/12/2011

To,

The Director,

Directorate of Settlement and Land Records,

Collectorate Bldg., Panaji-Goa

**Sub:- Construction in Survey No.23/13 and 23/17 of
Colva Village**

Sir,

A complaint dated 21.11.2011 has been received from Goa Foundation having its Office at G-8, St. Britto's Apartment, Feira Alta, Mapusa, in respect of construction namely "Tonia Resorts", which alleges that there are additional construction over and above existing plinth area being constructed at the said site (copy enclosed).

2. The said site was surveyed by Directorate of Settlement and Land Records (DSLRL) and structures were mapped on survey maps pursuant to the directions of the Hon'ble High Court of Bombay in Writ Petition No.150 of 1998 and Suo Motu Writ Petition No.2 of 2006. This survey was done sometime at the end of November, 2006. Further the was surveyed some time in the year 2009.

3. You are requested to conduct a survey and mapping of existing structures and indentify if any of the structures have

exceeded plinth area vis-à-vis earlier surveys conducted. Report in this respect may be submitted by 22.12.2011.

Yours faithfully,

Sd/-

(Micheal M. D'Souza)

Member Secretary (GCZMA) and
Director/Ex-Officio Jt. Secy, (STE)

Copy to:-

1. P.A. to Principal Secretary (Environment) & Chairman (GCZMA), Secretariat, Porvorim- Goa for kind information.

//TRUE COPY//

True TypedCopy

NO.19/DSLRL/Resurvey Cell/CRZ-Survey/09/09/140203

**Government of Goa, Directorate of Settlement & Land
Records, Panaji-Goa**

Date: 26/12/2011

To,
The Member Secretary,
Goa Coastal Zone Management Authority,
Saligao, Bardez-Goa

Sub:- Construction in Survey No.23/13 & 23/17 of Colva
Village of Salcete Taluka

Sir,

I am directed to refer to your letter NO.GCZMA/S/311/999 dated 05/12/2011 requesting to carry out resurvey of structures in CRZ area in respect of Survey NO.23/13 & 23/17 of Colva Village of Salcete Taluka to verify the present plinth area vis-à-vis survey conducted earlier pursuant to directions of Hon'ble High Court in Writ Petition NO.150/1998 and Suo-Moto W.P. NO.2/2006. In this regard, please find enclosed herewith copy of plan showing structures resurveyed on 15.12.2015 alongwith plinth area of the structures.

Please note that the legality/illegality of all structures shown on the plan enclosed herewith is not known to this Directorate and therefore the plan enclosed shall not be used for any purpose such as development of structures/vacant area shown on this plan, revenue survey matters, obtaining licenses, permissions, conversion of land, etc. and whatsoever other work relating to development of the area. The plan enclosed herewith to particularly issued only for reference and understanding purpose.

Further, it is also informed that this office does not have any information regarding year/duration of construction of newly surveyed structures, i.e. whether constructed prior to 1991 or after 1991 and the structures shown on the plan are features existing during the period of CRZ survey.

Yours faithfully

Sd/-

(D.V. Pednekar)

Supdt. Of Survey & Land

Records Panaji-Goa

Encl.: As above

/// TRUE COPY //



GOVERNMENT OF GOA
Directorate of Settlement and Land Records

PANAJI - GOA

Plan showing structures re-surveyed during survey conducted as per the directions of Goa Coastal Zone Management Authority vide letter No. GCZMA/S/311/999 dtd. 05/12/2011 in Survey No. 23 / 13.17 of Colva village of Salcete Taluka, falling within the distance of 200mts. from High Tide Line extracted from certified CRZ map of village Colva.

Scale 1:1000



NOTE:-

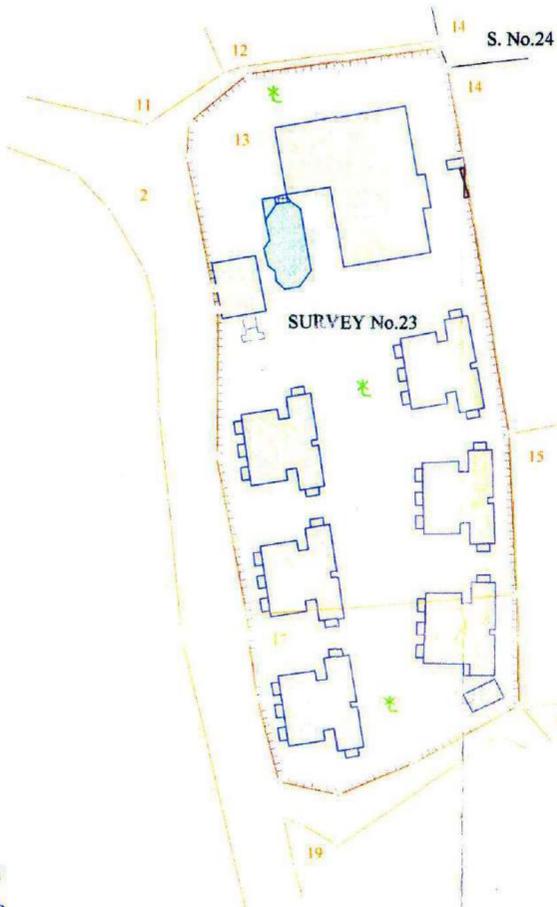
THE LEGALITY / ILLEGALITY OF STRUCTURES SHOWN ON THIS PLAN IS NOT KNOWN AND THEREFORE THIS PLAN SHALL NOT BE USED FOR ANY PURPOSE SUCH AS DEVELOPMENT OF STRUCTURES, REVENUE SURVEY MATTERS, OBTAINING LICENSES, PERMISSIONS, CONVERSION OF LAND, ETC. THIS PLAN SHALL BE USED FOR REFERENCE PURPOSE ONLY.

Superintendent of Survey
Land Records, Panaji
गव्हें मारी मू बरिदेव विविध
पणजी



LEGEND:-

- STRUCTURES RE-SURVEYED DURING SURVEY IN THE MONTH OF DECEMBER, 2011.
- EXISTING SWIMMING POOL.
- POOL DECK
- EXISTING SECURITY CABIN.
- STP UNIT.
- COMPOUND WALL
- GATE



PLINTH AREA DETAILS

TOTAL PLINTH AREA OF ALL STRUCTURES AS PER SURVEY CONDUCTED ON 07/04/2009 = 2117 m ² .	TOTAL PLINTH AREA OF ALL STRUCTURES AS PER SURVEY CONDUCTED ON 15/12/2011 = 2030 m ² .
AREA OF SWIMMING POOL AS PER SURVEY CONDUCTED ON 07/04/2009 = 115 m ² .	AREA OF SWIMMING POOL AS PER SURVEY CONDUCTED ON 15/12/2011 = 115 m ² .

Note :-
This plan shall be read in conjunction with the letter No.19/DSL/Resurvey cell/CRZ-Survey/09/09/140203 dtd. 26/12/2011.

Surveyed on 15/12/2011 by :-
Shri Patrick Gonsalves (H.S.)

Shri Rajesh Harmalkar (F.S.)

Prepared by :- Clancy Fernandes (F.S.)

Computer Generated On 22-12-2011

Compared by :- K. Pangam (Supervisor)

File No.19/DSL/Resurvey cell/CRZ-Survey/09/09

True Copy

ANNEXURE R-13**GOA COASTAL ZONE MANAGEMENT AUTHORITY**

**C/o Department of Science, Technology & Environment,
Opp. Saligao Seminary, P.O. Saligao, Bardez, Goa – 403511**

Phone (0832) 240, 2407187, 2407189, Fax(0832)2407186

REF. NO.1 GCZMA/S/311/482

DATE:23/7/2012

To,

The Director,

Directorate of Settlement & Land Records

Panaji – Goa

Sub:- Repairs and renovation of an existing Beach Resort in Sy.
No. of Colva Village, Salcete Taluka.

- Ref:-
- 1) Approval GCZMA/S/311/1539, dt. 15.5.2006
 - 2) Approval GCZMA/S/3546, dt. 31.1.2008
 - 3) This office letter NO.GCZMA/S/311/999, dt. 5.12.2011
 - 4) Letter NO.19/DSLPR/Resurvey Cell/CRZ-Survey/09/09/140203 dt. 26.12.2011
 - 5) Application made by the project proponent dated 20.6.2012.

Sir,

GCZMA had accorded approval to M/s. Tonia Estates & Resorts Pvt. Ltd. vide approvals dated 18.5.08 (copies enclosed along with plan) for the purpose of Repairs & Renovation and Reconstruction of the existing beach resort in Sy. No.23/13 & 23/17 of Colva Village, Salcete Taluka.

2. Further, pursuant to a complaint made by Goa Foundation, this office had requested yourself vide letter dated 5.12.2011 (ref. of 3 above) to verify whether the structures have been constructed as per plinth area originally existing and as recorded

in your survey/mapping carried out pursuant to direction in Writ Petition No.150 of 98 and Suo Moto Writ Petition 02 of 2006. You have confirmed the same vide your letter dated 26.12.2011 (ref of 4 above).

3. The project proponent has now submitted the site plans with the request to verify the Repairs & Renovation/ Reconstruction carried out and has sought for confirmation for GCZMA.

4. In this regard, it is requested that DSLR may kindly carry out the mapping of the said structures and confirm the details vis a vis your records and those submitted by the project proponent. The Plans submitted may kindly be returned with the report.

5. Report in this regard may kindly be submitted to this Authority.

Yours faithfully,

Sd/-

(Micheal M. D'Souza)
Member Secretary (GCZMA) and
Director/Ex-Officio Jt. Secy, (STE)

Copy to:-

P.A. to Principal Secretary (Environment) & Chairman (GCZMA), Secretariat, Porvorim- Goa for kind information.

//TRUE COPY//

True Typed Copy

Member Secretary
G.C.Z.M.A.
Inward No. 1027/L
Date 03/08/2012

No. 19/DSL/Resurvey Cell/CRZ-Survey/09/09/ 2558
Government of Goa,
Directorate of Settlement &
Land Records, Panaji-Goa.

Date: 30/07/2012.

To,
The Member Secretary,
Goa Coastal Zone Management Authority,
Saligao, Bardez - Goa.

File (Tania)
[Signature]

Sub: Repairs & Renovation /Reconstruction of an existing beach resort
in Survey No. 23/13 & 23/17 of Colva village of Salcete Taluka.

Sir,

I am directed to refer to your letter No.GCZMA/S/311/482 dated 23/07/2012 requesting to carry out mapping of structures in respect of Survey No. 23/13 & 23/17 of Colva village of Salcete Taluka to compare earlier details maintained by this office vis-à-vis maps submitted by project proponent. In this regard, please find enclosed herewith copy of plan showing structures verified and resurveyed on 25/07/2012 alongwith plinth area details given in the tabular column which is self explanatory.

Please note that the legality/ illegality of all structures shown on the plan enclosed herewith is not known to this Directorate and therefore the plan enclosed shall not be used for any purpose such as development of structures/ vacant areas shown on this plan, revenue survey matters, obtaining licenses, permissions, conversion of land, etc. and whatsoever other work relating to development of the area. The plan enclosed herewith is particularly issued only for reference and understanding purpose.

Further, it is also informed that this office does not have any information regarding year/duration of construction of surveyed structures, i.e. whether constructed prior to 1991 or after 1991 and the structures shown on the plan are features existing during the period of present survey.

Yours faithfully,

[Signature]

(Ajit S. Talaulikar)

Supdt. of Survey & Land Records
Panaji - Goa.

MEMBER SECRETARY
GOA COASTAL ZONE MANAGEMENT AUTHORITY
Saligao - Goa

Encl: As above (two copies)

True Copy





GOVERNMENT OF GOA
Directorate of Settlement and Land Records

PANAJI - GOA

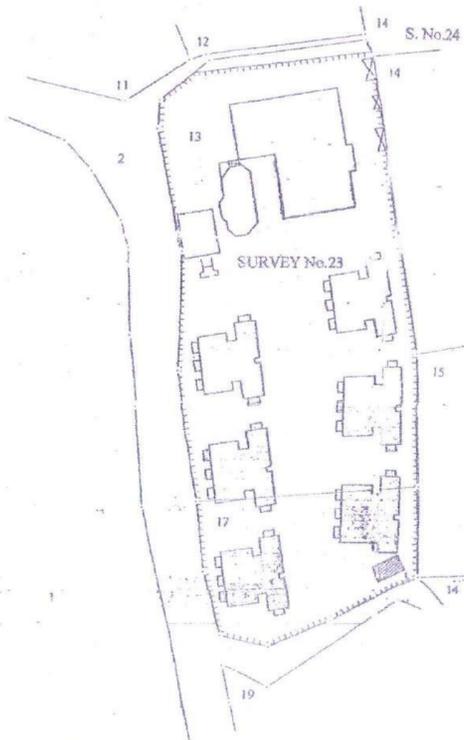
Plan showing structures existing during verification survey conducted as per the directions of Goa Coastal Zone Management Authority vide letter No. GCZMA/S/311/482 dtd. 23/07/2012 in Survey No. 23 / 13, 17 of Colva village of Sakole Taluka, falling within the distance of 200mts. from High Tide Line extracted from certified CRZ map of village Colva.
Scale 1:1000



NOTE:-

THE LEGALITY / ILLEGALITY OF STRUCTURES SHOWN ON THIS PLAN IS NOT KNOWN AND THEREFORE THIS PLAN SHALL NOT BE USED FOR ANY PURPOSE SUCH AS DEVELOPMENT OF STRUCTURES, REVENUE SURVEY MATTERS, OBTAINING LICENSES, PERMISSIONS, CONVERSION OF LAND, ETC. THIS PLAN SHALL BE USED FOR REFERENCE PURPOSE ONLY.

[Signature]
Superintendent of Survey
Land Records, Panaji
ಇಂಜಿನಿಯರ್ ಆರ್ ಎಸ್ ರಾಜೇಶ್ ಹರ್ಮಲರ್
ಇಂಜಿನಿಯರ್



LEGEND:-

- STRUCTURES VERIFIED DURING SURVEY ON 25/07/2012.
- EXISTING SWIMMING POOL.
- POOL DECK
- STP UNIT.
- COMPOUND WALL
- GATE

PLINTH AREA DETAILS

TOTAL PLINTH AREA OF ALL STRUCTURES AS PER SURVEY CONDUCTED ON 07/04/2009 = 2117 m ² .	TOTAL PLINTH AREA OF ALL STRUCTURES AS PER SURVEY CONDUCTED ON 15/12/2011 = 2030 m ² .	TOTAL PLINTH AREA OF ALL STRUCTURES AS PER VERIFICATION SURVEY CONDUCTED ON 25/07/2012 = 2030 m ² .
AREA OF SWIMMING POOL AS PER SURVEY CONDUCTED ON 07/04/2009 = 115 m ² .	AREA OF SWIMMING POOL AS PER SURVEY CONDUCTED ON 15/12/2011 = 115 m ² .	AREA OF SWIMMING POOL AS PER VERIFICATION SURVEY CONDUCTED ON 25/07/2012 = 115 m ² .

Note :-
This plan shall be read in conjunction with the letter No.19/DSL.R/Resurvey cell/CRZ-Survey/09/09/2558 dtd. 30/07/2012.

Surveyed on 25/07/2012 by :-
Shri Patrick Gonsalves (H.S.) *[Signature]*

Shri Rajesh Harmalkar (F.S.) *[Signature]*

Prepared by :- Clancy Fernandes (F.S.) *[Signature]*

Computer Generated On 30-07-2012



Compared by :- K. Pangal (Supervisor) *[Signature]*

File No.19/DSL.R/Resurvey/CRZ-Survey/09/09

MEMBER SECRETARY
GOA COASTAL ZONE MANAGEMENT AUTHORITY
Saligao - Goa

True Copy

47

GOA COASTAL ZONE MANAGEMENT AUTHORITY

C/o Department of Science, Technology & Environment, Govt. of Goa.
Opp. Saligao Seminary, P.O. Saligao, Bardez, Goa - 403 511
Phone: (0832) 2407186, 2407187, 2407189 Fax: (0832) 2407186, 2407176

Ref. No. GCZMA / S / 311 / 583

Date: 23/08/2012

To,
Shri A. A. Azevedo
C/o Tonia Estates & Resorts,
Raichorda, Raia,
Salcete Taluka.

Sub: Repairs & Renovation / Reconstruction of an existing beach resort in Sy. No. 23/13 & 23/17 of Colva village Salcete Taluka.

- Ref: 1) Approval of GCZMA / S / 311 / 1539 dated 15/05/2006
2) Approval of GCZMA / S / 3545 dated 31/1/2008
3) This Office Letter No. GCZMA/S/311/999 dated 05/12/2011.
4) Letter No. 19/DSL/Resurvey Cell/CRZ-Survey/09/09/140203 dt:26/12/2011
5) Your Letter No. NIL dated 20/06/2012
6) Letter No. 19/DSL/Resurvey Cell/CRZ-Survey/09/09/2558 dated 30/07/2012.

Sir,

GCZMA had accorded approval to M/s. Tonia Estates & Resorts Pvt. Ltd vide approvals dated 18/05/2006 and 31/01/08 (*referred at (1) & (2) above*) for the purpose of Repairs & Renovation / Reconstruction of the existing beach resort in Sy. No. 23/13 & 23/17 of Colva Village, Salcete Taluka.

Further, pursuant to a complainant made by Goa Foundation, this Office had requested DSLR vide letter dated 05/12/2011 (*referred at (3) above*) to verify whether the structures have been constructed as per plinth area originally existing and as recorded in DSLR survey / mapping carried out pursuant to direction in Writ Petition No. 150 of 1998 and Suo Moto Writ Petition No. 02 of 2006. The same has been confirmed vide letter dated 26/12/2011 (*referred at (4) above*)

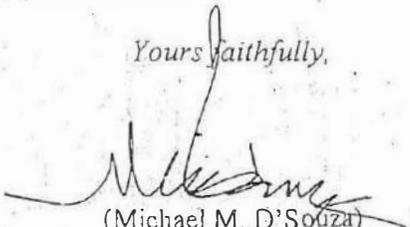
Vide your Letter dated 20/06/2012 (*referred at (5) above*) it was requested to verify that the Repairs & Renovation / Reconstruction carried out is as per the plans and has sought for confirmation from this Authority.



In this regard, DSLR was requested to carry out the mapping of the said structures and confirm the details vis-à-vis the records available and those submitted by the project proponent vide letter dated 20/06/2012. A report in this respect has been received, which confirm that the construction is as per the plans and plinth size submitted to the Authority while obtaining approvals and as per plans submitted vide letter dated 20/06/2012. The approvals conveyed by GCZMA is in terms of Clause 8 (i)(III)(CRZ-III)(A)(ii) of the CRZ Notification, 2011 (earlier CRZ Notification, 1991).

A copy of the Letter and plan is enclosed for your perusal.

Yours faithfully,


(Michael M. D'Souza)
Member Secretary GCZMA &
Director/Ex-Officio, Joint Secretary (STE)

Encl:- As above.

Copy to:

1. The Secretary, Village Panchayat of Colva, Salcete, Goa.
2. The Senior Town Planner, Town & Country Planning Department, Margao-Goa.
3. P.A to Principal Secretary (Environment) / Chairman (GCZMA), Secretariat Alto-Porvorim, Goa, for kind information.

True Copy



TYPED COPY OF ANNEXURE R-15

GOA COASTAL ZONE MANAGEMENT AUTHORITY
 C/O Department of Science, Technology and Environment
 Opp. Saligao Seminary,
 P.O. Saligao, Bardez, Goa-403 511
 Phone (832) 2407186, 2407187, 2407189, Fax-(832) 2407186

Ref. No. GCZMA/S/311/583

Date: 23.08.2012

To

Shri Aleixo Sequeira
 C/o Ermelinda Resorts Pvt. Ltd
 No. 446 (1), Raicho Ambo
 Rai, Salcete, Goa

Subject: Repairs and renovation of an existing beach resort in Survey No. 23/13 & 23/17 of Colva Village, Salcete Taluka.

Ref. No.

- i) Approval of GCZMA/S/311/1539 dated 15.05.2006
- ii) Approval of GCZMA/S/3545 dated 31.01.2008
- iii) This Office letter No. GCZMA/S/311/999 dated 05.12.2011
- iv) Letter No. 19/DSLRL/Resurvey Cell/CRZ-Survey/09/09/140203 dated 26.12.2011
- v) Your Letter No. Nil dated 20.06.2012
- vi) Letter No. 19/DSLRL/Resurvey Cell/CRZ-Survey/09/09/2558 dated 30.07.2012

Sir,

GCZMA had accorded approval to M/s Tonia Estates & Resorts Ltd. vide approvals dated 18.05.2006 and 31.01.2008 (referred at (1) & (2) above) for the purpose of Repairs and Renovation/Reconstruction of the existing beach resort in Sy. No. 23/13 and 23/17 of Colva Village, Salcete, Taluka.

2. Further, pursuant to a complainant made by Goa Foundation, this office had requested DSLR vide letter dated 05.12.2011 (referred at (3) above) to verify whether the structures have been constructed as per plinth area originally existing and as recorded in DSLR survey/mapping carried out pursuant to direction in Writ Petition No. 150/1998 and Suo Moto Writ

Petition No.02/2006. The same has been confirmed vide letter dated 26.12.2011, (Referred at (4) above).

3. Vide your letter dated 20.06.2012 (referred to (5) above) it was requested to verify that the repairs and Renovation/Reconstruction carried out is as per the plans and has sought for confirmation from this Authority.

4. In this regard, DSLR was requested to carry out the mapping of the said structures and confirm the details vis-à-vis the records available and those submitted by the project proponent vide letter dated 20.06.2012. A report in this respect has been received, which confirm that the construction is as per the plans and plinth size submitted to the Authority while obtaining approvals and as per plans submitted vide letter dated 20.06.2012. The approvals conveyed by GCZMA is in terms of clause 8(i)(III)(CRZ-III)(A)(ii) of the CRZ Notification, 2011 (earlier CRZ Notification, 1991).

A copy of the letter and plan is enclosed for your perusal.

Yours Faithfully

Sd/-
(Micheal M. D'souza)
Member Secretary GCZMA
Director/Ex-Officio, Joint Secretary (STE)

Encl. As above

Copy to:

1. The Secretary, Village Panchayat of Colva, Salcete, Goa
2. The Senior Town Planner, Town & Country Planning Department, Margao, Goa
3. PA to Principal Secretary (Environment/Chairman (GCZMA), Secretariat, Alto Porvorim, Goa for kind information.

//True Copy//

True Typed Copy

OFFICE OF THE SENIOR TOWN PLANNER
TOWN & COUNTRY PLANNING DEPARTMENT,
SOUTH GOA DISTRICT OFFICE,
OSIA COMMERCIAL ARCADE, 4TH FLOOR 'B' WING
MARGAO-GOA.

REF.NO. TPM/18491/colva/23/13/2013/1886

DATE:- 16/4/13

COMPLETION ORDER

Completion is hereby certified for:-

1. Repairs & renovation/reconstruction of existing resort (Block A, Block B(6units) & Block C.

Constructed as per Technical Clearance granted by this Department Vide Order No. TPM/18491/Colva/23/13/2013/1868 dtd. 15/4/2013 in survey No.23/13 & 17, of Village Colva of Taluka Salcete-Goa, subject to the following conditions:-

1. The use of the building should be strictly as per the approval.
2. All parking spaces/garages if any should be used for parking of vehicles only and should not be converted for any other use.
3. No attachment/alteration to the building shall be carried out and the building shall not be occupied unless the occupancy certificate is obtained from the concerned Village Panchayat on presentation of this order.
4. This completion certificate is issued subject to final decision of the Hon'ble High Court in W.P. no.751/2008.


(S.P. Surlakar)
Dy. Town Planner

To,
M/s. Tonia Estates & Resorts Pvt.
Ltd.,
Raicho Ambo, Raia,
Salcete-Goa.

Copy for information to:-

The Sarpanch,
Village Panchayat of Sernabatim Colva,
Vanelim & Gandaulim
Salcete-Goa.

Emf/-

True Copy



GOA STATE POLLUTION CONTROL BOARD

गोंय राज्य प्रदुशण नियंत्रण मंडळ

(An ISO 9001-2008 Certified Board)

Phone Nos : 91-832-2438567, 2438528
2438563, 2438550

Tel / Fax No. : 0832-2438528



Email id's :

Member Secretary, GSPCB - ms-gspcb.goa@nic.in
Environment Engineer, GSPCB - ee-gspcb.goa@nic.in
Scientist, GSPCB - scientist-gspcb.goa@nic.in
Asst. Env Engineer, GSPCB - aee-gspcb.goa@nic.in
Asst. Law Officer, GSPCB - alo-gspcb.goa@nic.in

No. 15/5548/12-PCB/10871

Date: 16/05/2013

Consent to Operate under Section 25/26 of the Water (Prevention & Control of Pollution) Act, 1974 & under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981 and Authorization under Rule 5 of the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules 2008

[To be referred as Water Act, Air Act and HW (M, H & T) Rules respectively]

CONSENT TO OPERATE & AUTHORIZATION is hereby granted to:

M/s. TONIA ESTATES & RESORT PVT. LTD.
(Orange Category)

Plot No. 23/13, 23/17,
4th Ward, Colva,
Salacete-Goa.

Located in the area declared under the provisions of the Water Act, Air Act and Authorization under the provisions of HW (M, H & T) Rules, subject to the provisions of the Act and the Rules and the Orders that may be made further and subject to the following terms and conditions:

1. This Consent to operate and Authorization is valid upto 31/05/2016

2. This Consent to operate and Authorization is valid for the operation of:

Sr. No	Description	Capacity
1.	Hotel	60 Rooms
2.	Restaurants	60 Persons (Seating capacity)

3. CONDITIONS REQUIRED TO BE COMPLIED UNDER THE WATER ACT:

(i) The daily quantity of effluent from the hotel (sewage & sullage) shall not exceed 19.35 K.L.D.

(ii) Sewage Treatment Plant:

The hotel shall treat domestic effluent in existing sewage treatment plant (30 KLD Capacity) consisting of primary/ secondary and/ or tertiary treatment as is warranted with reference to influent quality and operate and maintain the same continuously so as to achieve the quality of the treated effluent to the following standards:

Dempo Towers, 1st Floor, EDC Patta Plaza, Panaji, Goa 403 001



pH	Between	5.5 & 9.0
Suspended Solids	Not to exceed	100 mg/l
BOD, 3 days, 27° C	Not to exceed	30 mg/l
COD	Not to exceed	250 mg/l
Oil & Grease	Not to exceed	10mg/l

Other parameters should meet the standards specified in Schedule I Schedule VI [Rule 3(3A)] of the Environment (Protection) Act 1986 for the relevant unit

(iii) **Sewage Disposal:**

The treated effluent shall be recycled to the maximum extent and remaining shall be used on land for gardening. There shall not be any discharge outside the hotel premises.

(iv) The hotel shall provide a proper Oil and Grease Trap for effluent arising from its kitchen and laundry and shall have to comply with the 'General Standards for Discharge of Environmental Pollutants Part-A: Effluents' notified under Schedule-VI

(v) The hotel unit shall at his own cost get the effluent samples collected both before and after treatment and analyse, every month the parameters indicated above from a laboratory recognized by Ministry of Environment and Forest under the Environment Protection Act, 1986 and rules there under and results shall be submitted regularly to this Board.

(vi) A good house-keeping shall be maintained within the hotel premises. All pipes, valves and drains shall be maintained in leak-proof condition. Floor washings shall be maintained to the effluent collection system only and shall not be allowed to find way in open areas.

(vii) **Non-Hazardous Solid Waste:**

All the Solid wastes arising in the hotel premises shall be properly classified and disposed off to the satisfaction of the Board by:

- Landfill, in case of inert materials, care should be taken to ensure that the material does not give rise to leachate which may percolate into ground water or carried away with storm run-off.
- Controlled incineration wherever possible in case of combustible organic matter.
- Composting in case of bio degradable material
- As per the Authorization issued by this Board in case of Hazardous waste.

The total quantity shall be segregated and treated as follows:

Sr. no.	Type of segregated solid waste	Quantity	Disposal
1.	Bio degradable waste	2,400 kg/month	To be composted within premises
2.	Non bio degradable waste	600 kg/month	Sale to scrap dealer

(viii) The applicant should upload monthly statement (below format) regarding the solid waste generation online.

Sr. No.	Date	Quantity of wet/dry waste	Name of agency collecting the wet/ dry waste	Authorized Signatory

R

Member Secretary
Goa State Pollution Control Board



- (ix) The hotel unit shall comply with the provisions of the Water (Prevention & Control of Pollution) Cess Act, 1977, as amended (to be referred as Cess Act) and the Rules there under.

The daily water consumption for the following categories shall not exceed, as under:

Domestic	25.8 KLD
----------	----------

The hotel unit shall submit Water Consumption statement annually by 30th April online in the prescribed format and pay the Cess as specified under Section.3 of the Cess Act.

- (x) The hotel unit should implement rain water harvesting and ground water re-charge measures in consultation and approval of the Water Resource Department, Govt. of Goa and Directorate of Industries, Trade and Commerce, Govt. of Goa.
- (xi) The hotel industry should install/establish machinery/equipment/facility for converting bio-degradable /organic waste generated from the hotel to compost so as to meet the standard for compost prescribed in the Municipal Solid Waste (Management & Handling) Rules, 2000
- (xii) The Industry should have zero discharge policy. i.e. the treated waste water may be re-used in process/green belt development/or any other use as deemed fit by the unit with due permission from the Board.

4. CONDITIONS REQUIRED TO BE COMPLIED UNDER THE AIR ACT:

- (i). The hotel unit shall maintain and operate air pollution control system of adequate capacity for the following equipments

Sr. No.	Name of Equipments/ Installation	No. of Installation	Capacity	SO ₂ Kg/Hr.	NO _x	HC	CO	PM
1.	D. G. Set	1	200 KVA	1.44	9.2	1.3	3.5	0.3
2.	D. G. Set	1	160 KVA	1.08	9.2	1.3	3.5	0.3

- (ii) The hotel unit shall erect the chimney(s) of the following specifications:

Sr. No	Chimney attached to	Height
1.	D. G. Set (for 200 KVA)	6 meters
2.	D. G. Set (for 160 KVA)	6 meters

- (iii) The hotel unit shall observe the following standards:-

Sr. No	Type of fuel	Quantity /hr
1.	H. S. D (for 200 KVA D. G. Set)	40 liters/hr.
2.	H. S. D (for 160 KVA D. G. Set)	30 liters/hr.

- (iv) The Stack Port Hole and Platform is to be designed as per CPCB guidelines Method 1 Part I of Stack Monitoring –Material & methodology for isokinetic sampling.


 Member Secretary
 Goa State Pollution Control Board

- (v) The hotel unit should comply with all the standards for D.G. Sets prescribed at Sr. no. 94, 95 and 96 of Schedule I of the Environment (Protection) Rules, 1986.
- (vi) The hotel unit should carry out emission monitoring from the stacks connected to D.G. Set once in a year from a laboratory recognized by Ministry of Environment and Forest under the Environment Protection Act, 1986 and the result shall be submitted to this Board by the 15th of subsequent month.
- (vii) The hotel unit shall take adequate measures for control of noise levels from its own sources within the premises in respect of noise. The limits are as follows

Category of Area/ Zone	Limits in dB (A) Leq	
	Day time	Night time
Industrial Area	75	70
Commercial Area	65	55
Residential Area	55	45
Silence Zone	50	40

Day time is reckoned between 6 a.m. to 10 p.m. and night time is reckoned between 10 p.m. to 6 a.m.

5. CONDITIONS REQUIRED TO BE COMPLIED UNDER THE HAZARDOUS WASTES (MANAGEMENT, HANDLING AND TRANSBOUNDRY MOVEMENT) RULES 2008:

- (i) The hotel unit is hereby granted authorization to operate a facility for collection, storage and disposal of hazardous wastes as specified below:

Sr. No.	Category	Type of waste	Quantity	Mode of disposal
1	5.1	Used/Spent oil	0.100 MT/Annum	To recycler registered with CPCB and having valid authorization of SPCB

- (ii) The authorization shall comply with the provisions of the Environment (Protection) Act, 1986 and the rule made there under.
- (iii) The person authorized shall not rent, lend, sell or transfer or otherwise transport the hazardous waste without obtaining prior permission of the Goa State Pollution Control Board.
- (iv) Any unauthorized change in personnel, equipment or working conditions as mentioned in the hotel unit by the person authorized shall constitute a breach of his authorization.
- (v) It is a duty of the authorized person to take permission of the Goa State Pollution Control Board to close down the facility.
- (vi) The inner bottom surfaces of the tank shall be impervious enough to prevent leakage or seepage of these wastes into the sub surface soil or ground water.


Member Secretary
Goa State Pollution Control Board

- (vii) The occupier shall maintain a manifest system as per Rule 21 (1) for disposal of hazardous wastes to ensure that these wastes are delivered to the designated facility preventing pilferage and clandestine disposal due to unforeseen events that may occur during transit.
- (viii) The manifest shall be endorsed by the dispatcher, transporter and receiver of hazardous wastes. The endorsed copy shall be furnished to the Goa State Pollution Control Board.
- (ix) Under any circumstances the hazardous waste shall not be disposed to unauthorized facilities.
- (x) The occupier shall maintain the records for collection, storage and disposal of hazardous waste in Form 3 of as per Hazardous Waste (Management, Handling & Transboundary Movement) Rules 2008
- (xi) The occupier shall furnish monthly returns for collection, storage and disposal of hazardous waste through online XGN systems.
- (xii) The hotel unit shall put up an online board (minimum size 6x4 Feet) at prominent location near the main gate providing details as follows in English and Konkani languages:-
- Hazardous Waste category number.
 - Hazardous Waste quantity number.
 - Treatment facility for each category.
 - Mode of disposal for each category.
 - Hazardous Waste Authorization number, date and validity period.
 - Water Consent number, date and validity period.
 - Air Consent number, date and validity period.
 - Quantity and Nature of Hazardous Chemicals being used.
- (xiii) The occupier shall ensure that the Hazardous Wastes are not allowed to be stored for more than 90 days.

6. GENERAL CONDITIONS:

- (i) The hotel unit shall not change or alter the quantity, quality of discharge, temperature or the mode of the effluent/ emission or hazardous wastes or control equipments provided for without previous permission of the Board.
- (ii) The hotel unit shall provide facility for collection of samples of effluent, air emissions and hazardous wastes to the Board staff.
- (iii) An hotel unit in prescribed form along with the prescribed fees for renewal of Consent shall be submitted at least 60 days before the expiry of validity of this Consent. An Hotel unit for renewal of Consent submitted after expiry of the validity shall accompany with penalty of 50% of the Consent fees in addition to the prescribed consent fees.


 Member Secretary
 Goa State Pollution Control Board

- (iv) The Board shall be forthwith informed of any accident or unforeseen event involving discharge of any poisonous, noxious or polluting matter into a stream or well or on land or into the atmosphere, as result of such discharge water/ air is being polluted.
- (v) This Consent to operate and authorization is granted without any prejudice to any of the permission(s) required under any law, by laws and regulations in force.
- (vi) The Board reserves the right to amend or add any conditions in this consent and the same shall be binding on the applicant.
- (vii) The hotel unit shall submit to this office, the Environmental Statement Report in Form V for the Financial Year ending April to March by 30th September of the succeeding year as per the provisions of the rule 14 of the Environment (Protection) (Second Amendment) Rules, 1992.
- (viii) This Consent does not entitle the party to commence activities until and unless all the other Permissions as required under the relevant statutes are obtained by the party and this Consent to Operate is confined to matters arising out of the Air Act and Water Act only.
- (ix) Reliable flow meter shall be installed to maintain record of water consumption/waste water generation per day. The records so maintained shall be made available to the Board officials whenever required



Member Secretary
Goa State Pollution Control Board

To,
M/s. Tonia Estate & Resort Pvt. Ltd.
C/o. Mr. Alexio Sequiera,
H. No. 446, Rain,
Salcete-Goa.

Copy to:-1. The Member Secretary,
Goa Coastal Zone Management Authority,
C/o. Department of Science, Technology & Environment,
Opposite Saligao Seminary,
Saligao, Bardez - Goa.

2. The Director,
of Tourism,
Opposite Nova - Goa,
A.B. Borkar Road,
Panaji - Goa.

3. Accounts Section
4. Concerned File
5. Guard File

Received Consent fee of: The capital Investment of the unit is Rs. 9,75,00,000/-

Challan no.	Amount	Date
5912	Rs. 54,000/- (Water & Air Consent fees)	19/04/2013

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ANNEXURE R-18**BEFORE THE BLOCK DEVELOPMENT OFFICER, SALCETE-II,
MARGAO-GOIA**

Panchayats Appeal No. BDOS/11/2013

M/s Tonia Estates & Resorts Pvt Ltd
Raiche Ambio,
Raia, Salcete-Goa

.....Appellant

V/s

(1) Village Panchayat of Colva,
Salcete-Goa.
(2) The Sarpanch,
V P Colva, Salcete-Goa
(3) The Secretary,
V P Colva, Salcete-Goa.

.....Respondents

**APPEAL UNDER SECTION 201-A OF GOA PANCHAYAT RAJ
ACT, 1994.****JUDGEMENT & ORDER**

1. By this Order I am disposing of the appeal filed by the Appellant under Section 201-A of the Goa Panchayat Raj Act, 1994, which Act is hereinafter referred to as the Act. The Appellants invoked the explanation to Section 201-A for filing this appeal.
2. The Respondents appeared on notice and filed reply, styled as 'Preliminary Objections'. The Appellant has filed his rejoinder to the same.



The Appellant, during the course of proceedings, also filed an application dated 09/07/2013 seeking directions that the Secretary of the Respondent should be directed to file an affidavit in support of certain statements made in the objections filed by the Respondents. After hearing both the sides, this Court allowed the application by a detailed Order dated 17/07/2013 and directed the Secretary to file an affidavit in support of the preliminary objections within a period of 7 days. In utter disregard to the Order of this court, no affidavit has been filed by the Secretary of the Respondent till the conclusion of these proceedings nor have any reasons been given as to why the Order has not been complied with.

4. The Appellant also in the meantime filed an application for amendment of the memo of appeal which has been allowed by this Court.
5. It may also be mentioned that an application for intervention was filed by one Joseph alias Joey D'Souza. After hearing the parties, this Court has rejected the application.
6. With the above history of the proceedings, I now proceed to decide the appeal.
7. The Appellant is seeking a relief that the Respondent Panchayat be directed to forthwith issue Occupancy Certificate to the Appellant.
8. Briefly stated, it is the case of the Appellant that in spite of the fact that the construction of its Hotel project is meeting all the legal requirements and it has secured all necessary permissions, the Respondent Panchayat is not issuing Occupancy Certificate to the said hotel project. The Appellant filed the appeal invoking explanation to Section 201-A on the ground that the Panchayat failed to decide and communicate to it the decision on its application for Occupancy Certificate within a period of 15 days from the date the Appellant submitted the application to Panchayat. Subsequently the Appellant amended the memo of appeal on the ground that on filing of the appeal, the Appellant received a communication from the Village Panchayat informing the Appellant that the Appellant's application for Occupancy certificate has been rejected. The Appellant also placed on record the said letter of the Village Panchayat dated 04/06/2013.

Briefly stated, the case of the Appellant, as initially set out in the memo of appeal is as follows;

That Appellant is the owner in possession of a Property bearing Survey No. 23/17 and 23/13, situated at Colva, Salcete-Goa and a Hotel project therein, which is referred to as the 'Suit Property'; that the Suit Property was initially owned by a Firm/Concern, 'M/S. PROGRESSIVE DEVELOPERS' and that thereafter, the ownership appears to have been transferred in favour of 'PENT HOUSE BUILDERS PRIVATE LIMITED' and that the Hotel project was put up upon the Suit Property between the years 1981 to 1989; that on or about 23/3/1987, 'PENT HOUSE BUILDERS



PRIVATE LIMITED' obtained loan of Rs.61,21,200/- from the EDC Limited, which is a Deemed State Financial Corporation, that the property along with the Hotel Project thereon was mortgaged in favour of EDC Limited vide Deed of Mortgage dated 24/3/1987 and Deeds of Further Charge dated 20/5/1988 and 24/10/1988 as security for repayment of the said loan; that the Loan Documents with EDC Limited, including the Reports from the Inspecting Engineers and Chartered Accountants prepared much prior to 1991, reflects the existence of the Hotel project upon the Suit Property; that the Suit Property was put in Auction by EDC Limited and the same was purchased by one M/s. R. G. Bakhle; that from M/s. R. G. Bakhle, the Appellant herein has purchased the Suit Property vide Sale deed dated 31/3/2008; that in respect of the said Auction and purchase of the Suit Property, a Civil Suit is pending before the Court of Civil Judge, Senior Division, at Margao being Special Civil Suit No. 54/2002; that in the said Suit, the erstwhile owners would not get any Interim relief; that a Writ Petition No. 751/2008 has been filed against the Appellant in respect of the said project which has been purchased by the Appellant; that the said petition is pending before the Hon'ble High Court; that the Appellant has taken a stand before the Hon'ble High Court that the Writ petition is at the instance and behest of original owners as they could not get any interim relief in the suit; that the Appellant is in possession of the following documents which clearly states that the said construction belonging to the Appellant in the Suit Property was constructed in the year 1982 with all the permissions/licenses from the Competent Authorities:-



Construction Licence No. 88/81-82 dated 5/5/1981 issued by the Village Panchayat of Colva, Salcete-Goa, along with renewal letter dated 15/9/1984;

Construction Licence No. 857/85-86 dated 6/3/1986 issued by the Village Panchayat of Colva, Salcete-Goa;

No Objection Certificate dated 5/11/1986 confirming that the construction of Hotel project is a legal construction and there is no objection for release of electrical energy;

No Objection Certificate dated 27/9/1986 for release of water supply connection;

Certificate dated 12/11/1987 for erection of Temporary Bridge over the nullah adjoining the Suit Property;

- Communication dated 27/1/2009 concerning House Tax status.

That the Appellant has obtained following Permissions from the Planning Authorities and other Government authorities/Departments.

Permission/Approval dated 24/2/1986 along with the Plans.

- (b) Communication dated 30/9/1988 from Senior Town Planner to "Pent House Builders Private Limited" confirming approval of Project by the Eco-Development Council.
- (c) Minutes of 7th Ecological Development Council Meeting held under the Chairmanship of His Excellency the Lt. Governor at Cabo Raj Niwas on 30/9/1985.
- (e) Communication dated 23/11/1989 from the Chief Town Planner to the Sarpanch, Village Panchayat of Colva.
- (f) Form of Requisition for supply of electricity dated 6/11/1987.
- (g) Estimate for 3-Phase service connection to installation of "Pent House Builders Private Limited"/Progressive Estate Developers dated 09/11/1987.
- (h) Wiring Contractor's Completion Test Report dated 6/11/1987.
- (i) Application dated 8/4/1988 made by "Pent House Builders Private Limited" for withdrawal of Regular Civil Suit No.389/1988/B instituted against the Government of Goa for release of electricity connection.



- (j) Communication dated 26/11/1987 from "Pent House Builders Private Limited" to the Electricity Department making reference to the pendency of Writ Petition No. 264/1986.
- (k) Requisition for supply of energy dated 13/7/1987.
- (l) Communication dated 11/9/1987 along with feasibility report for release of electricity connection to "Pent House Builders Private Limited", Colva.
- (m) Agreement for supply of energy to "Pent House Builders Private Limited" to the Hotel Project, at Colva dated 20/11/1987
- (n) Letter dated 15/12/1986 issued by the Executive Engineer, PWD directing Assistant Engineer of Sub Division-II to release water connection to the Hotel Project as approved by the Hon'ble Chief Minister.
- (o) Abstract of work for water connection dated 12/1/1987 prepared by PWD, Works Division IX in the matter of release of water connection.
- (p) Installation Bill dated 24/1/1987 issued by the PWD, Works Division IX for release of water supply connection to the Hotel Project.
- (q) Notings from 4/1/1988 onwards confirming completion of buildings and starting of operations by "Pent House Builders Private Limited" in relation to the release of subsidy amount.
- (r) Auditors Report confirming creation/acquisition of assets upto 15/3/1988.
- (s) Disbursement Order No.209 dated 9/6/1988.
- (t) Hotel Contract dated 23/2/1988 between TUI International and Pent House Beach Resort

- (u) Agreements/Bookings from Travel Corporation of India with Pent House Beach Resort dated 9/4/1988.
- (v) Audit Report upto 3/11/1988 of "Pent House Builders Private Limited" reflecting fixed assets.

All these documents have been produced before this Court.

It is further the case that the Appellant have got information that the Hotel Resort, namely Pent House Beach Resort, Colva had been issued Excise Licence for operating a Bar & Restaurant bearing No.RS/FCL/1986 issued by the Commissioner of Excise, Panaji vide letter No.CE/4-2101-87/SAL/74 dated 8/4/1988 and the same was renewed upto the year 2000; that on basis of all the aforesaid documents, it is more than apparent that the Hotel Project had been completed and made operational in the year 1987-1988, i.e. much prior to 19/2/1991; that the Appellant thereafter decided to renovate the said Hotel project in the Suit Property and that the Appellant therefore obtained Permission from the Goa Coastal Zone Management Authority dated 18/5/2006 for carrying out the said repairs and renovation, the permission from the Town & Country Planning Department dated 19/5/2008 was obtained for carrying out repairs, alteration and renovation, the Appellant also obtained Construction Licence dated 11/6/2008 from the Respondent herein to carry out the said repairs, alterations and renovations of 6 independent structures which is renewed on 19/03/2012, ; that the Appellant also obtained permission dated 30/1/2008 from the GCZMA for carrying out renovation/repairs of remaining 3 structures including swimming pool; that accordingly, the said repairs/reconstruction, renovations and alterations have been carried out by the Appellant. ; that the appellant has obtained permission from CRZ Authority of the year 2008 for Blocks A and C; that the Respondent herein issued three Show Cause Notices dated 10/4/2008 in respect of an area of 112 square meters; 99 square meters and 1050 square meters in Survey No. 23/13. It is further the case that thereafter, three Demolition Orders dated 19/1/2009 came to be issued to the Appellants, which Demolition orders came to be revoked in view of the Appellant producing the permissions granted by the various authorities and there being no personal hearing afforded to

the Appellant; that the Appellant filed objections dated 19/1/2009 to the said Demolition orders and that thereafter, the Respondent fixed the matter for personal hearing on 7/2/2009; that the Appellant appeared on the said date and filed Additional Reply along with old documents. Further, the documents were filed on 14/2/2009; that the Respondent has also filed an Affidavit dated 29/6/2009 before the Hon'ble High Court, wherein the Respondent have produced a copy of the Resolution dated 15/6/2009; that in the said Resolution, the Respondent has resolved to withdraw the Show Cause Notices dated 10/4/2008 issued to the Appellant after being satisfied that the said structures were existing prior to the enforcement of the CRZ Notification, i.e. before 19/2/1991 and that in Paragraph 3 of the said Affidavit, the Respondent have specifically made a statement on oath that the said Show Cause Notices were withdrawn because the Respondent was satisfied that the structures were existing prior to 19/2/1991; that the Respondent herein issued Show cause Notice dated 25/8/2012 to the Appellant on the basis of the filed complaint dated 5/7/2012; that in the meanwhile once again the Respondent herein issued another Show Cause Notice dated 30/8/2012 to the Appellant on the ground that the Appellant has carried out extension in Survey Nos. 23/13 and 23/17; that vide Notice dated 27/8/2012, the Appellant informed the Respondent that since the matter is pending before the Hon'ble High Court in respect of the same subject matter in Writ Petition No. 751/2008, the Appellant called upon the Respondent to inform as to whether the Respondent still wishes to continue with the process, more particularly in view of the stand taken by the Respondent before the Hon'ble High Court; that the Appellant informed the Respondent that in case the Respondent wishes to proceed in the matter the Respondent should accordingly inform the Appellant, so that the Appellant can further pursue the matter about the hearing; that similar Notice dated 10/10/2012 was issued in respect of Show Cause Notice dated 30/8/2012; that the Respondent thereafter unilaterally carried out site inspection and issued Order dated 10/12/2012, purporting to revoke the licence dated 11/6/2008; and the renewal dated 19/3/2012 issued to the Appellant; that the Respondent without informing the Appellant, as to whether the Respondent is interested in proceeding with the Show Cause Notices during the pendency of Writ Petition before the Hon'ble High Court, straight away issued Order dated

26/12/2012 ordering demolition of all the structures in Survey Nos. 23/13 and 23/17 within 15 days of receipt of the said Order; that the Appellant predecessors Progressive Developers had requested for construction of Swimming Pool, Kitchen and Restaurant in terms of the plans submitted. This was considered by Eco Development Council in its meeting held on 19/07/1988 and that the EDC approved the construction of the Swimming Pool along with permissible ancillary uses as per plans.

It is further the case that the Appellant has filed an appeal against the order dated 26/12/2012 being Panchayat Appeal No. ADP-I P.A. No. 3/2013 before the Director of Panchayat, Panaji Goa and that by Order dated 15/01/2013, the Director of Panchayat has stayed the operation of the Order dated 10/12/2012 and 26/12/2012; that Appellant in the meanwhile completed the work of repairs/renovation/alteration/reconstruction of the Hotel Project in terms of the approvals granted.

It is the case of the Appellant that however while carrying out the work, there were certain deviations from the approved plans and that the Appellant therefore approached the GCZMA for seeking approval with revised plans and seeking approval for the same; that the GCZMA granted approval by its approval order dated 23/08/2012. The GCZMA, in para 4, observed as follows;

"In this regard, DSLR was requested to carry out the mapping of the said structures and confirm the details vis-à-vis the records available and those submitted by the project proponent vide letter dated 20/06/2012. A report in this respect has been received, which confirm that the construction is as per the plans and plinth size submitted to the Authority while obtaining approvals and as per plans submitted vide letter dated 20/06/2012. The approvals conveyed by GCZMA is in terms of Clause 8 (i) (III) (CRZ-III) (A) (ii) of the CRZ Notifications, 2011 (earlier CRZ Notification, 1991)".

The Appellant has also contended that the Legislative Assembly has enacted a Law governing constructions namely "the Goa (Regulation of Land Development and Building Construction) Act, 2008 and The Goa Land Development and Building Construction Regulations, 2010 and that the

procedure to obtain permission and also the procedure to be followed when there is deviations is now governed under the said Regulations; that the grant of Occupancy Certificate is also provided for by the said Regulations; that Regulation 3.8 (B) provides that if there is any deviations revised approval is required to be obtained as soon as possible or at least at the time of applying for occupancy certificate; that Regulation 3.11 provides that no building shall be occupied until the issue of Completion Order by the Town and Country Planning Department (TCP), as well as Occupancy Certificate by the Village Panchayat; that Regulation 3.11.1 sets out the manner for applying Occupancy Certificate and the documents to be submitted; that it provides that the Completion Order may first be obtained from TCP and thereafter application should be made to the concerned Village Panchayat; that Appellant therefore first approached the TCP and submitted the necessary documents for obtaining the Completion Order; that the Appellant among the documents submitted revised approvals granted by GCZMA for the revised plans; that the TCP, by letter dated 15/1/2013 raised certain queries including that though the NOC was issued for repairs/renovation, actually reconstruction of the structures has been carried out and that location of structures seemed to have shifted/tilted from the approved plans; that Appellant submitted the necessary clarifications to the TCP by letter dated 23/01/2013; that Appellant pointed out that the construction carried out is squarely covered within the scope of the approval granted; that the Appellant further pointed out that the revised plans have now been submitted in view of change in alignment and that GCZMA has already granted the necessary approval to the revised plans on 23/08/2012; that the TCP has issued the Completion Order dated 16/04/2013 and that the Completion Order certified that repairs/renovation/alteration/ reconstruction of existing resorts (Block A), (Block B) (6 units), and (Block C) have been constructed as per technical clearance granted by TCP dated 15/04/2013; that the said technical clearance order dated 15/4/2013 was granted for revised plans.

It is further the case of the Appellant that the Appellant applied vide letter dated 16/04/2013 for Occupancy Certificate with the Respondent and enclosed all the relevant documents, as required under the Regulations. The application was inwarded in the office of the Village

Panchayat on 08/05/2013; that Appellant has not received any reply within a period of 15 days which expired on 23/05/2013, that his inquiries in the office of the Village Panchayat has revealed that Respondent has not taken any decision on the said application and that there is therefore, "refusal" within the meaning of explanation of Section 201-A of the said Act.

10. The Village Panchayat appeared on notice and filed its reply which was styled as "Preliminary Objections". This reply was signed by the Advocate for the Respondent and the Secretary of the Respondent. As stated earlier, in spite of directions from this Court, no affidavit has been filed in support of the statements made in the affidavit. This aspect will be dealt with later.

The Respondents in his reply has raised certain preliminary objections which are as follows;

That the appeal is premature and incorrect, and without substance addressing any ground/ all the grounds raised by the Respondent and is purported to be filed on ground of non-communication when the occupancy sought by Appellant on 08/05/2013 has been rejected on several reasons on 04/06/2013 within a period of 30 days; that proposal of Appellant was put for meeting within the period of 30 days and communicated within period of 30 days; that no case/grounds is/are made out nor did the Appellant agitate any legal point or reply to the fact to the notice of the party to this Appellate Court by the Appellant; that the Appellant has suppressed material facts in his appeal in regards to permission/license/approvals/conversion for all the structures; that the Appellant has come with unclean hands:

On facts, the Respondents case is as follows;

That by Order of 2nd may, 2011 of Hon'ble High Court of Bombay at Goa division bench in the PIL Writ petition no. 15/2011 observed that Colva Panchayat deserves to be restrained from issuing fresh Trade License either for construction or expansion of the restaurants alongside the creek (Colva Creek) of any Hotel project; that the Respondent shall not issue any license for expansion of existing hotels and for setting up new hotels or restaurants in the area which are mentioned in the inspection report and therefore no occupancy for new hotels can be granted; that there is no permission from Respondent to run the structures a Hotel nor is any license

given to the Appellant ; that there is no NOC from Pollution Control Board and Air consent and Water consent for the said Hotel; that the Hotel is in 200 mts. in NDZ area of Colva Creek wherein Hon'ble High Court has come down heavily on all hotels which have no proper waste and garbage management and sewage disposal; that as per license issued for 1st phase there are strict directives from GCZMA like vermin composting units etc. which is mandatory at the time of occupancy which is passed by Hon'ble High Court of Bombay at Goa initially to Municipalities and made applicable to Respondents thereafter; that there is no garbage management system and that on inspection carried out by Health Officer Cansaulim it was observed that drains of appellant's Hotel are blocked by garbage issued notice to remove the same; that the Hon'ble High Court of Bombay at Goa in its earlier Order at condition 10: Made it clear "each council/Corporation shall make setting up of composting station mandatory in all multi-dwelling buildings of more than 20 residential units. This shall be incorporated in the construction license as one of the conditions. Occupancy certificate shall not be issued if no composting station is set up". ; that the construction license has expired and application dated 24/1/2013 for renewal of construction licence is kept in abeyance by letter dated 05/03/2013 and as construction license is not issued therefore the occupancy for the structures cannot be given; that the Respondent has issued Show Cause Notice dated 30/08/2012, under Ref. No. VP/SVC/30/2012-13, whereby Appellant has been directed to show cause as to why action should not be taken against the construction/extension done by M/s Tonia Estate Pvt. Ltd. In survey No. 23/13 and Survey No. 23/17 of Colva Village; that Appellant was also directed to produce consecution license issued before 1991 and after 1991, conversion sanad, approval from GCZMA, approval from TCP and any other document to prove legality of structures existing prior to 1991 and that no such documents were provided to Respondent ; that the Respondent decided to engage a surveyor and to conduct a site inspection along with the Members of V.P. Colva and the survey was conducted by the Colva Respondent on 7th November, 2012 at 3 p.m. by hiring the services of a professional surveyor along with Appellant. It is further the case of the Respondent that the plans prepared by the surveyor along with complaints of Citizen working committee dated 11th April, 2001, Complaint by Ward Panch no.



S (Francisco Cardozo), Complaint dated 29th September, 2012, (inward No. 1614), complaint dated 29/10/2012 by Colva Civil Consumer forum, Complaint by Lourian Fernandes and others dated 06/09/2012, complaint from Colva and Civic Consumer Forum dated 29/4/2012, letter from TCP TPM/Const/Gen.Comp./Colva 16/2012/3745 dated 28/9/2012 and also complaint from Mr. Joey D'souza dated 15th December 2012 and also the later of revocation of license dated 10/12/2012 under no. Vp/SVCG/2106/2012-13 issued to Appellant was placed before the body meeting held on 13/12/2012; that the members present for the meeting unanimously decided to initiate required necessary procedures since there were major discrepancies/illegalities regarding construction licence for renovation, alteration and reconstruction pertaining to construction license No. VP/SVCG/Const.18/2008-09/634 dated 11/06/2008 and illegal construction carried out by M/s Pent House Builders and for violations of CRZ Regulations; that it was found that there were major brazen and glaring discrepancies/illegalities when comparing constructions license No. No. VP/SVCG/Const.18/2008-09/634 dated 11/06/2008 with the original construction license no. No. VP/SVCG/85785-86 dated 6/3/1985 as such not entitling for any leniency nor has any application for regularization been made within the mandate of law to Respondent to consider the same nor any other proper procedure been followed for the construction with respect of Respondent.

It is further the case that the violations observed were as follows;

- a) Firstly an area of 3100 sq. mts. has to be given to the Government as "open space" to be developed for recreational purpose as per the recruitment of planning. This has not been kept and instead, structures "A, C and a swimming pool" have been constructed on it. There are no approved plans/construction license and conversion sanad for the same. Once the land is kept for recreational purposes cannot be taken back as the undertaking was given by the party.



- b) That the open space had been handed over to the erstwhile Progressive Estate Developers alias Penthouse beach resort, it does not entitled the builder to construct on that land without approvals or plans and without obtaining license more so because the land is within 200 mts. of HTL where no construction can be undertaken. There is no construction license which permits the construction structures " A, and C and swimming pool" which are very prominently visible on location and on the construction license for renovation, alteration and reconstruction pertaining to license NO. VP/SVCG/Const. 18/2008-09/634 dated 11/06/2008.

that there is no conversion sanad obtained to facilitate construction activity on the open space of 3100 sq. mts. On land surveyed under No. 23/13 and 23/17 of Colva Village. In its letter addressed to the Under Secretary dated 28/3/1990, the Chief Town planner observed that from 22/08/1986, restrictions for building within 200 mts of HTL came into force and therefore no construction/development could be permitted within the said area. It is also seen that the Chief Town Planner has stated that the High Court in its decision on Ramada Hotels Ltd. Observed " we hope that hereafter Government authorities would ensure that in no case construction or development is made on this stretch of 200 mts. from HTL and the authorities should enforce this rule not only in case of project of Respondent No. 3 but any other project which is undertaken or will be undertaken hereinafter in the State of Goa. Restrictions must be strictly enforced as long as Govt of India has not relaxed the condition of no development zone within the area 200 meters". Hence any constructions done in violation of this Hon'ble Court directions is illegal.

- e) That as per the directives of the Hon'ble High Court in Suo Motu Writ Petition no. 2/2006 the CRZ and Land Survey department in 2006-2007 had conducted a survey of all existing structures from zero to 200 mts of High Tide Line. Show cause notices were then sent to the owners of these structures asking them to prove with documentary evidence that their structures existed prior to 1991 (before the inception of CRZ Coastal Regulation Zone Guidelines). Various documents of all these persons were considered before deciding the fate of their structures.

In the case of m/s Tonia Estates and Resorts Pvt. Ltd. Tonia did not produce the original license NO. Vp/SVCG/857/85/-86 dated 06/03/1986 and the CRZ has fraudulently issued a license for renovation, alteration and reconstruction (on land surveyed under survey no. 23/17 and 23/13 of Colva Village) on the basis of the CRZ and land survey of 2006-2007.

f) That as per the survey conducted by the Colva Panchayat on 07/11/2012 by hiring the services of a professional surveyor, it was found that at various places encroachment are made into the nullan (creek) on the western side and totally new constructions and new compound wall have been erected.

That the construction license and that the plans and plinth size submitted to the Respondent is not in conformity to the approved plans before 1991 and are completely false as per the latest plans which the Respondent has taken by engaging professional survey which clearly certifies that the whole construction is illegal.

h) That the 6 number structures identified as "B" are shifted and reconstructed and not as per plans and has violated construction license Clause 9 (a) and (b) which is constructed by M/s Tonia Estates and Resorts Pvt. Ltd. And are not as per plinth area of the original plan. An illegal compound wall is also built.

The construction license No. V.P./SVCG/Const. 18/08-09/634 dated 11/06/2008 and subsequently renewal of construction license no. VP/SVCG/2468/2011-12 dated 19/3/2012 has been revoked/cancelled as there is no license existing or in fore there cannot be any occupancy.

That the approach road to the actual structures which was to be constructed through the open space of 3100 sq. mts. is now encased within a compound wall and structures A, C and a swimming pool which are completely illegal without an approval which is illegally constructed by M/s Tonia Estates and Resorts Pvt. Ltd.

K) That in view of the above, and considering all complaints and plans/drawings done the surveyor this Respondent body has already come to the conclusion that all structures built by Tonia Estates Pvt. Ltd. are completely illegal, it is also seen that as the approvals are in No Development Zone i.e. within 200 mts. and also as it is a hotel project approvals had to be obtain from "the Ministry of Environment and Forest" and no approval from the ministry has been obtained.

That after noticing the illegalities committed by Appellant demolition notice Ref. no. VP/SVCG/2246/12-13 dated 26/12/2012 the Panchayat of Colva under Resolution No. 4(10) and powers vested under Section 47 (II) and (III) and 66 (a) and (b) of the Goa Panchayat Raj Act issued Appellant notice of the Respondent, in terms of Section 66 of the Goa Panchayat Raj Act, 1994 for demolition which case is still pending and issue of demolition and illegalities of the structure has not been finally decided due to which occupancy has to be rejected and cannot be granted in appeal also.

It is further in the case that the Additional Director of Panchayat Court in Panchayat Appeal no. 3/2013 is seized of the very same dispute or controversy pertaining to the same illegal constructions, as such there is no question of issuing any occupancy in respect of the merits of the controversy as such occupancy is rejected for the above reasons vide resolution no. 2(1) dated 14/5/2013 due to which occupancy has to be rejected and cannot be granted in appeal also.

m) That Conversion sanad for the said hotel is dated 1/6/2011 and is issued only for an area of 2347 sq. mts. For part area i.e. survey no. 23/13 (part) and 17(part) for eastern side property. However the whole area of survey Nos. 23/13 and 17 is 6773.60 sq. mts. and that the Hotel is constructed on an area of 3784.21 m2 as such 1437.21 area on western side of the property is without conversion sanad and is beyond the area for which conversion was granted as such occupancy cannot be granted. Further the construction plan is showing construction and eastern and western side is not correspondence to conversion plan for area permitted to be



constructed on western side which is illegal; that apart from no conversion sanad issued for area permitted to be constructed on western side which is illegal no permission is sought from the Respondent for construction for area 1437.21 on western side; that first phase was originally approved on 05/05/1981 and Town and Country Planning Department subsequently approved revised first phase on 24/2/1986.

It is further in the case of the Respondent that there is no valid permission for the part structures in the second phase because in the extract of 25th GCZMA meeting held on 20th April 2006 at 100 p.m. for repair and renovations of beach resort there is reference that the proposal of repair and renovations of beach resort it was mentioned that 2 structures of the 2nd phase was submitted to Ministry of Environment and Forest (MOEF) Government of India, and that reference was made to get the said approvals; that therefore there are no approvals for 2nd structure; that further as per agenda on the 13th meeting held on 19/07/1988 and decision of 30th EEC At agenda item no. 2.7 there is no mention of grant of any approvals to any structure in second phase constructed in the open space. There is no approval given by any authority and including respondent and TCP and MOEF. There is only mention of grant of permission for swimming pool.

13. The Appellant has filed his rejoinder. It is submitted by the Appellant in his rejoinder that the reply of the Respondent is not to be considered as no affidavit is filed in spite of clear directions of this Court. It is further submitted by the Appellant that the Respondent cannot be permitted to urge new grounds to defend its action and the action can be defended by the Respondents only on the basis of the reasons given in the Impugned Order.

The Appellant has relied upon the decision of the Supreme Court in the case of Mohinder Singh Gill V/s Chief Election Commission (1978) 1 SCC 405 and has annexed a copy of the Judgment to the rejoinder. The Appellant further submitted that the Village Panchayat has not at all applied its mind to the documents submitted by the Appellant after issuance of the demolition notice by the Village Panchayat and submitted that the Village Panchayat was duty bound to consider the aspect. The Appellant has replied to all the preliminary objections raised. The



Appellant further contended that the Village Panchayat is taking a stand contrary to the stand taken by it before the Hon'ble High Court of Bombay in Writ Petition No. 751/2008. Appellant submitted that the hotel project is existing prior to 1991 and the issues raised by the Village Panchayat in that regard are with mala fide motives.

14. Both the parties have filed their written arguments on record.
15. I have gone through the records and I have considered the rival cases as set out in the pleadings. I have duly considered the written arguments filed by the parties.

This appeal is filed under section 201-A of the Act by invoking the explanation to the same.

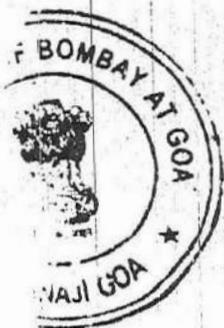
Section 201-A reads as follows:

"201-A. Appeal on miscellaneous matter dealt by the Panchayats:— (1) Where no appeal has been specifically provided in this Act on any miscellaneous matters which is dealt with by the Panchayat or the Village Panchayat Secretary or the Sarpanch, an appeal shall lie to the Block Development Officer within a period of thirty days from the date of refusal of any request by the said authority and his decision on such appeal, subject to the provision of sub-section (2) shall be final."

Explanation:— For the purpose of this section, "refusal" means rejecting of any request in writing or non conveying of any reply to the application within a period of fifteen days from the receipt of application in his office.

(2) A revision shall lie to the Deputy Director against any order passed by the Block Development Officer under sub-section (1) within a period of thirty days from the date of the order.]

17. The Appellant's case is that the Appellant applied for Occupancy Certificate by its application dated 16/4/2013 which was inwarded in the office of the Village Panchayat on 08/5/2013. A copy of this letter is at Exhibit V of the appeal memo. This is not disputed by the Village



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Panchayat. The appeal was filed on 04/06/2013 since, according to the Appellant, he did not receive any reply till 23/5/2013 and that his inquiries in the office of the Village Panchayat revealed that Respondent has not taken any decision on the application. The Appellant submits that this constitutes "refusal" within the meaning of Section 201-A of the Act.

The Appellant thereafter amended the appeal memo on the ground that it received a communication dated 04/6/2013 from the Village Panchayat refusing its application. The appellant stated that the said communication was received by it on 07/06/2013. This fact also is not disputed by the Village Panchayat. In any case, Appellant has placed on record the envelope which shows that the letter was received the Appellant on 07/6/2013. There is therefore no merit in the preliminary objection No. 1 of the respondent that the appeal is premature. In fact, in the said ground 1, the Respondent admits that the application has been rejected on 04/06/2013, though the letter dated 04/06/2013 filed on record by the Appellant shows that the said decision appears to have been taken by the Village Panchayat at its meeting held on 14/5/2013.

The appellant has challenged this decision by amendment on various grounds including on the ground that the resolution has been a manipulated one and if such decision was really taken on 04/06/2013, then the communication to the appellant after filing of his appeal and service of the same on the Secretary on 04/06/2013 would not be justified.

I propose not to go into the issue about manipulation of records raised by the Appellants. However the fact remains that communication was served on the Appellant on 07/6/2013 i.e. after filing of the appeal. The appeal therefore cannot be held as premature.

18. The respondent has relied on order dated 02/05/2013 passed by the Hon'ble High Court of Bombay at Goa in PIL Writ Petition No. 15/201. I have seen the said order annexed to the reply. By the said Order, the Hon'ble High Court has directed the Colva Panchayat not to issue any trade licenses for setting up any restaurant or hotel along the Colva creek and has further directed that the Village Panchayat shall not issue any licenses for expansion of existing hotels and setting up new hotels and restaurants in the area mentioned in the inspection report of the



Goa State Pollution Control Board. This inspection report has not been submitted before me and hence it is not known whether the Appellant's area comes within the purview of the said report. The Village Panchayat should have clearly specified the details in its reply. In any case, the said order of the Hon'ble High court restrains the Village Panchayat from issuing Trade Licenses and licenses for expansion of existing hotels and for setting up new hotels. The Appellant is not seeking any license for expansion of existing hotel or setting up a new hotel which will come under section 70 of the Act. The appellant is seeking a Occupancy certificate for a completed hotel project. Hence the said Order will not be applicable in the present case.

It is further submitted by the Respondent in the preliminary objections that there is no NOC from Goa State Pollution Control Board and Air water Consent for the said Hotel project. Without going into the Appellant's contention that this ground cannot be raised as being not part of the Impugned Order, on facts there is no merit in this ground as the Appellant has in his rejoinder produced the Air and Water consent granted by the Goa State Pollution Control Board.

20. The preliminary objection that the Health Officer has observed that the drains of appellant's Hotel are blocked by garbage and has issued notice, the Appellant has replied stating that there is no case of Appellant's Hotel generating garbage since the Appellant's hotel has not started operations. I have also seen the letter of the Health Officer. In fact this letter issues a direction to the Village Panchayat to clear the drainage. The letter observes that near the construction site of the Appellant's hotel, on both sides of the road, the drainage is blocked by garbage. I agree with the Appellant that this blockage cannot be at the instance of the Appellant since the hotel is yet to commence operations. Besides, the Respondent has not rejected the Occupancy Certificate on this ground.

The Respondent has further in its reply referred to the show cause notice dated 30/4/2012 and the demolition notice issued on 26/12/2012. Respondent has stated that there are violations which have been stated in the reply. The appellant in rejoinder has submitted that all these violations were part of the show cause notice and the demolition notice. Appellant has further submitted that the said demolition notice has been stayed by the Additional Director of



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Panchayat in Appeal no. 3/2013 filed by the appellant challenging the said demolition notice. Appellant has further submitted that in view of the documents produced by him, the Village Panchayat cannot now fall back on the demolition notice to deny to him the Occupancy certificate.

22. I have perused the show cause notice as well as the demolition notice which are on record. It seems that all the statements made by the Village Panchayat are on the basis of the allegations stated in the show cause notice and the demolition notice. Admittedly, the demolition notice has been stayed by the Additional Director of Panchayat. The question therefore is whether such allegations can be taken into consideration by the Village Panchayat to decide the application for Occupancy certificate.

The Appellant has stated that the hotel project was existing prior to 1991 and has produced various documents to prove the same. Appellant has also relied on the affidavit filed by the Village Panchayat before the Hon'ble High Court in Writ Petition No. 751/2008.

24. The Appellant has placed various documents on record to demonstrate that the project existed before 1991. However this Court need not go into this issue. Records shows that the Village Panchayat has issued a show cause notice dated 10/4/2008 to the Appellant's hotel project on the ground that the structure violated CRZ Notifications. This show cause notice was subsequently withdrawn by the Village Panchayat by resolution dated 15/6/2009. The resolution of the Village Panchayat is on record. I will extract the decision of the Village Panchayat as stated in the resolution;

"The reply dated 24/4/2008 was filed by Aleixo Sequeira, Managing Director for Tonio Estates and Resorts Pvt. Ltd. To the show cause notices was placed before the V.P. body and after scrutinizing the documents submitted, it is found that two house Nos. are existing h. no. 424 from the year 1987-88 and House No. 424/1 from 1989-90 respectively.

- b) Approval from Goa Coastal Zone Management Authority for Repairs/Renovation/Alteration has been produced.

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- c) On perusal of Construction license which was issued for Repairs/Renovation/Alteration to the existing Resorts in survey no. 23/13 and 17 of Colva Village wherein Ref. No. VP/SVCC/Const. 18/08-09/634 dated 11/06/08, the structures shown on survey plan submitted by the Directorate of Settlement and Land Survey Records, Panaji were verified with the approved plan and are approved by GCZMA under Ref. no. GCZMA/S/311/1539, dated 19/5/2008 clearly reveals that the structures in question are authorised.

In view of the above, the V.P. body is satisfied that the structures in respect to which Show Cause Notices dated 10/4/2008 were issued and were found legal and therefore the Show Cause Notices under consideration are withdrawn and the proceeding are closed.

This resolution has been filed before the Hon'ble High Court of Bombay by the Village Panchayat vide its affidavit dated 29/6/2009. In para 3 of the affidavit it is stated as follows;



It may be stated that the Village Panchayat body vide resolution no. 2 dated 15/6/2009 has decided to withdraw the abovementioned show cause notice dated 10/04/2008 after taking into consideration the documents produced by Respondents 5 and after being satisfied that the structure existed prior to the enforcement of the CRZ Notification viz 19/2/1991."

26. The Appellant has also relied on the affidavit dated 02/03/2009 filed by the Village Panchayat before the Hon'ble High Court. In this affidavit, the Village Panchayat has referred to the documents produced by the Appellant and has annexed the same to its affidavit and in para 14 it is stated by the Village Panchayat that the decision on the show cause notice will be taken in its next meeting to be held in March 2009. That decision has been placed before the Hon'ble High Court by the second affidavit referred to by me earlier.



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27. It is thus clear that in Writ Petition No. 751/2008 in which the Village Panchayat is a party, the Village Panchayat has on an affidavit stated before the Hon'ble High Court that upon a clear examination of the issue, the Village Panchayat has satisfied itself that the structures existed prior to 19/02/1991 i.e. prior to enforcement of CRZ Notification.
28. In the reply filed before this Court, the Village Panchayat has surprisingly stated that no documents were produced before the Village Panchayat after the Appellant was directed to prove legality of structures as existing prior to 1991 (para 4 of the reply) .
29. In my opinion, the Panchayat is estopped from even raising this issue. In view of the clear affidavit filed by the Village Panchayat before the Hon'ble High Court, more so because despite a direction by this Court to the Secretary to file an affidavit in support of the above statement, no affidavit has been filed.
30. Admittedly, the hotel project is located within 200 mts. of the High Tide Line (HTL). Permission to construct/reconstruct/renovate or repair is a matter entirely covered by the CRZ Regulations and the Authority to grant approvals within CRZ area is the Goa Coastal Zone Management Authority (GCZMA). This Court cannot sit in appeal over the permission granted by the GCZMA. It is for the GCZMA to examine all the relevant aspects while granting permissions and once a permission is granted, this Court will have to go by it.
31. This Court will now consider the case of the Appellant about the entitlement of Occupancy Certificate to the hotel project and whether the Village Panchayat has unjustifiably refused the same.
32. The only reason given by the Village Panchayat to reject Appellant's application is that the appeal filed by the Appellant against the demolition notice is pending before the Additional Director the Panchayat.
33. Though Appellant submits that the Additional Director has granted a stay, I would not find it as a proper answer to the above reasoning given by the Village Panchayat. The stay order shows that the Village Panchayat is directed to maintain status quo which would mean that the Village



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Panchayat cannot implement the demolition notice. If finally the Appellant's appeal is dismissed by the additional Director of Panchayat then the allegation made in the show cause notice and demolition notice would remain.

34. In normal circumstances, Village Panchayat, therefore could not have been faulted for taking this stand though they would not be justified in rejecting the application, but the same would have to be kept in abeyance till the disposal of the appeal by the Additional Director of Panchayat.

35. However the said reasoning cannot be justified in the present case because the Appellant, along with his application for Occupancy certificate submitted before the Village Panchayat the revised plans approved by GCZMA and the Town and Country Planning Department (TCP).

The Impugned Order does not at all show that the Village Panchayat has considered these documents. For considering the grant of Occupancy certificate, it was Village Panchayat's obligation to consider the said documents.

37. The demolition Notice cited deviations from the approved plan.

38. The Appellant has submitted before the Village Panchayat and produced before this Court the following documents;

1. GCZMA approval of revised plans Dated 23/08/2012
2. TCP Technical Clearance of Revised plans 15/04/2013
3. TCP Completion Order dated 16/04/2013

39. In the revised approval granted by GCZMA, in para 4, the GCZMA has observed as follows;

"In this regard, DSLR was requested to carry out the mapping of the said structures and confirm the details vis-à-vis the records available and those submitted by the project proponent vide letter dated 20/06/2012. A report in this respect has been received which confirm that the construction is as per the plans and plinth size submitted to the Authority while obtaining approvals and as per plans submitted vide letter dated



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20/06/2012. The approvals conveyed by GCZMA is in terms of Clause 8 (i) (iii) (CRZ-III) (A) (ii) of the CRZ Notifications, 2011 (earlier CRZ Notification, 1991)".

40. Appellant has drawn my attention to the Goa (Regulation of Land Development and Building Construction) Act, 2008 and The Goa Land Development and Building Construction Regulations, 2010 (hereinafter referred to as Building Regulations) in para 15 and 16 of his written arguments submitted as follows:

"15. The Building Regulations further provide (Regulation 3.8.b) that in case deviation occurs which is within the frame work of the Regulations, the holder has to apply and obtain revised technical approval clearly showing such deviation in the plans as soon as possible or at least at the time of applying for Occupancy Certificate.

16. The Building Regulations 3.11, which pertains to Occupancy Certificate, provides that a building shall not be occupied until the issue of completion order by TCP and Occupancy Certificate by Village Panchayat. The criteria for issuing completion Order and Occupancy Certificate as set out in Regulation 3.11 is that the building conforms in all respects the requirement of the regulations and is as per approved plans and complies with the conditions laid down by the Village Panchayat in the construction license."



41. I have examined the Building Regulations and I agree with the appellant that the criteria for issuing the completion Order and Occupancy Certificate is that the building conforms in all aspects the requirements of the Regulations and is as per the approved plans and complies with the conditions laid down by the Village Panchayat in the construction license.

42. I must say that the Village Panchayat has entirely failed to understand the nature of its statutory duties and the scope of its power. The Village Panchayat is required to follow the law and act in accordance with law. The present matter concerns grant of occupancy certificate. The issue before the Village Panchayat therefore would be whether the construction is an approved construction and whether it has been carried out in accordance with the approved



plans. Once these two criteria are met, the Occupancy certificate is required to be issued subject to compliance with the other conditions in the license issued by the Village Panchayat.

43. The impugned order shows that there is no consideration of these aspects by the Panchayat. The Village Panchayat has not made any reference to the documents referred to by me above nor is it the case of the Village Panchayat that any condition of the construction license has not been complied with.

44. At this stage, a reference is also required to be made to the corrigendum issued by the Village Panchayat to its impugned resolution and amending the earlier decision to include another ground namely that the construction exceeds the converted area by 1437.21 sq. mts. and that the construction of the western side is therefore illegal.

The Appellant, in his additional written arguments has dealt with this issue in para 6 as follows;

"6. The reasons given in the corrigendum has no merit at all. The contention that construction exceeds the converted area by 1437.21 sq. mts. clearly shows the lack of knowledge of Village Panchayat and its non-application of mind. Admittedly, according to the Village Panchayat itself, the conversion is granted for an area of 2347 sq. mts. which thus permits construction on a plinth area of 2347 sq. mts. It is true that the constructed area of the hotel is 3784.21 sq. mts. But the some is built up area. At page 39, the Appellant has annexed the approved plan which shows the area statement. In the area statement, the total area occupied by ground floor of all the blocks is shown as 2032.32 sq. mts. Thus the plinth area covered is much less than 2347 sq. mts. for which conversion is granted. The area covered by first floor is 1751.89 sq. mts. The total floor area therefore is 3784.21 sq. mts. Panchayat agrees that the converted area is 2347 sq. mts. However the Village Panchayat instead of addressing itself to plinth area covered is harping on total floor area. The floor area depends on the FAR available. There cannot be any relation between the floor area covered and area converted for construction purpose. The plinth area covered by construction has to be within the



converted area. According to Village Panchayat itself the converted area is 2347 sq. mts. Admittedly as per the approved plan the plinth area covered is 2032.32 sq. mts."

45. I have seen the approved plan and the area statement. The figures quoted by the Appellant in para 6 extracted above are as per the area statement. I agree with the submissions made in para 6 by the Appellant.

46. I am not considering the submission that this corrigendum is an afterthought. I am also not considering the other submission raised by the Appellant on the interpretation of Section 201-A as the same is not required to be decided in this matter.

47. I have therefore no hesitation in quashing and setting aside the impugned Order passed by the Village Panchayat as conveyed to the Appellant vide letter dated 04/06/2013 and subsequent corrigendum dated 30/06/2013.

48. That brings me now to the relief sought for by the Appellant.

49. I have already held above that the existence of the structure prior to 1991 is no longer open. Further the GCZMA had already granted approvals dated 18/5/2006 and 30/1/2008.

50. Admittedly, accordingly to the Appellant itself, there were deviations while carrying out construction from the plans approved by GCZAM vide approvals dated 18/5/2006 and 30/1/2008, TCP vide NOC dated 19/5/2008 and Village Panchayat vide construction license dated 11/06/2008.

51. The Goa (Regulation of Land Development and Building Construction) Act, 2008 and The Goa Land Development and Building Construction Regulations, 2010. Building Regulations 3.8 b is extracted below;

"(b) in case deviation occurs which, in the opinion of the owner and his Architect/Engineer/ Structural Engineer/Town Planner/Landscape Architect/Urban Designer, is within the framework of these Regulations, the holder may carry out such deviation and should apply and obtain revised approval, clearly showing such deviation in the plans, as soon as possible or at least at the time of applying for occupancy



Certificate. However, this will not apply to Conservation Zone, where no deviation shall be carried without prior approval of the Conservation Committee.

52. The Appellant has produced on record the following documents;

1. GCZMA approval of revised plans Dated 23/08/2012
2. TCP Technical Clearance of Revised plans 15/04/2013
3. TCP Completion Order dated 16/04/2013

Para 4 of the approval dated 23/08/2012 granted by GCZMA and extracted by me above shows that as per the report obtained from the Director of Settlement and Land Records (DSLRL) the construction is as per the plans and plinth size submitted to GCZMA while obtaining approvals and as per plans submitted vide letter dated 23/8/2012.

54. The Technical Clearance Order dated 15/4/2013 issued by TCP Department shows that the revised technical clearance is granted for carrying out repairs and renovation/reconstruction of the hotel project and in para 22 states the same is issued based on the approval issued by GCZMA dated 23/08/2012.

55. The completion Order dated 16/4/2013 issued by TCP Department certifies that the construction is as per Technical Clearance dated 15/4/2013.

56. In terms of the Building Regulations quoted by me earlier, what is necessary to be seen for grant of Occupancy certificate is whether the building conforms with the Regulations and the approved plans whether the conditions of license are met.

57. The TCP Department having certified that the construction is as per the technical clearance dated 15/4/2013, the first issue is satisfied. It is also not the case of the Village Panchayat that the construction is not in accordance with the approved plans. It is also further not the case of the Village Panchayat that any condition of the license has been breached.

I am therefore satisfied that the construction of the hotel project of the appellant has been done with all the necessary approvals as required by law and that the construction is certified by the TCP Department to be in accordance with the revised approved plans, as approved by the technical clearance Order dated 15/4/2013. It is also not the case of the Village Panchayat that any condition of license has been breached.

59. The requirements of Building Regulation 3.8 b are satisfied. The Village Panchayat has unjustly denied the Occupancy certificate to the Appellant.

60. The Appellant is therefore entitled to the relief claimed, namely to issue appropriate directions to the Village Panchayat to issue to the Appellant the Occupancy Certificate.

61. In terms of section 47 of the Act it is the duty of the Secretary to issue the occupancy certificate pursuant to a resolution of the Village Panchayat. Since this Court has now decided that the appellant is entitled to the Occupancy Certificate, a direction will have to be issued to the Secretary of Village Panchayat to issue the Occupancy Certificate.

62. I therefore pass the following Order.

ORDER

Appeal is allowed

V.P. Secretary, V.P. Sernabatim, Vanelim, Colva & Gandaulim is hereby directed to issue Occupancy Certificate to the Appellants hotel Project in Sy. No23/13 & 23/17 of Colva Village within a period of 10 days from today.

Order as to costs.

Given under my hand and seal of this Office on this 20th day of August, 2013.



(M. S. Mardolkar)
Block Development Officer,
Salcete-II, Margao-Goa

True Copy

ANNEXURE R-19

Exhibit RA-7.

OFFICE OF VILLAGE PANCHAYAT
SERNABATIM, VANELIM, COLVA & GANDAULIM,CONSTRUCTION LICENCE

Construction licence No. VP/SVCG/Const. 36/2013-14/ 2092

Date: 14/01/2014

Licence is hereby granted for carrying out the :-

a) Renewal & Revised approval for Repairs & Renovation /Re-Construction of Existing Resort (Block -A, Block B (6 Nos.) & Block C?

B) Change of use of (Building/land) _____ / as per the enclosed approval plan /plans in the property zoned as _____ in the OPD/CDP/Regional plan and situated at Colva Village/ Town bearing survey No.23/13 & 17 chalta No. _____ of PTS No. _____ /Plot No. _____ of approved sub-division reference No. _____ /Development permission Order No. _____.

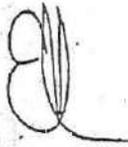
c) Resl.No.2(3) dated 14/01/2014.

The following conditions to be observed :-

1. The applicant shall strictly comply all the conditions imposed in the Development permission (Town and country Planning and Development Authority/Technical Clearance order issued by the Town & Country Planning Department No. TPM/18491/Colva/23/13/2013/1868, dated 15/4/2013.
2. The applicant shall notify the Panchayat for giving the alignment of the building.
3. The construction should maintain the minimum prescribed horizontal & vertical clearances from any overhead electrical line passing adjacent to the construction.
4. All RCC/Structural works shall be designed and supervised by the Engineer who has signed the structural stability certificate submitted to the Panchayat.
5. No material for construction or earth from excavation or any other construction material shall be stacked on the public roads.
6. The building should not be occupied unless the Occupancy certificate is obtained from the panchayat.
7. The construction licence shall be revoked if the construction work is not executed as per the approved plans and the statements therein and whenever there is any false statement or misrepresentation of any material passed approved or shown in the application on which the permit was based.



CERTIFIED BY: _____

SECRETARY
Village Panchayat


SECRETARY
Village Panchayat
SERNHABATIM, VANELIM,
COLVA & GANDAULIM

8. The Applicant should construct a separate soak pit in order to derivate in the sullage water.
9. Any soak pit should be constructed at a minimum distance of 15 meters away from any well.
10. The Ventilation pipe of the septic should be provided with a mosquito net.
11. The applicant shall connect the pipelines from their latrines/ W.C's to the sewage line at their cost, when the sewerage line is commissioned.
12. The applicant shall fix a board at a prominent place whenever the construction is started, indicating the number, the date and the Authority for which the licence for development work has been granted.
13. All the building material and other rubbish should be cleared from the construction site before applying for occupancy certificate.
14. Water storage tanks shall be provided with mosquito proof lids and overflow pipes. The tanks should be provided with access ladders wherever necessary.
15. The drains surrounding the plot if any should be constructed with PCC and should be covered with removable RCC slabs of sufficient thickness.
16. The applicant should gift the road widening area to the village Panchayat before applying for occupancy certificate, if the applicant has utilized the extra FAR in lieu of the road widening affecting the plot.
17. The applicant should provide a dust bin at a convenient place accessible for the Municipal vehicle for collection of garbage.
18. The applicant should plaster and paint the building internally as well as externally before applying for occupancy certificate. Exposed brick, brick/laterite/ concrete/stone/ashlars masonry finish to buildings will also be permitted.
19. Road widening area shall be asphalted to the existing road level before applying for occupancy certificate.
20. Garages and parking areas shown in the approved plan shall be strictly used for parking purpose only and should be easily accessible to vehicles. No commercial activities shall be allowed in these areas.
21. Access up to the entrance of the building is to be paved and is provided with drainage facilities.
22. Space for parking of vehicles is to be clearly demarcated on the ground.
23. No Restaurants/ Bars will be permitted in the shops unless a separate soak pit is provided besides conforming to the rules in force.
24. No commercial activities will be permitted in the shops unless a separate permission is obtained from the Panchayat.
25. Temporary sheds/existing buildings shown to be demolished in the plan are demolished before applying for occupancy certificate.
26. Fire Escape stair cases, if applicable shall be constructed as indicated in the approved plan.



27. All internal courtyards should maintained all existing natural drains in the plot and should not block them at any stage.
28. No soak pit or other structures should come in the road widening area.
29. The applicant should maintain all existing natural drains in the plot and should not block them at any stage.
30. The plot boundary should be cordoned off by continuous sheet fencing either of wood or metal during the construction period.
31. The construction of compound wall should not obstruct any path way or any public access. The applicant shall make necessary arrangements for smooth flow of rain water by keeping adequate openings in the compound wall for the purpose.
32. No gates shall open outwards on to the road.
33. The construction of the compound wall should be as per the approved plan. The applicant shall inform this Panchayat after the completion of the compound wall.
34. Drinking water well should be 15 meters away from any soak pit.
35. Labourer working at the site should not reside after the working hours.
36. Garbage collection & disposal should be done from time to time in your own property.
37. Storm water drain should be constructed along the boundary of the effected plot abutting the road.
38. This N.O.C is Issued based on Clearance /Approvals granted by Member Secretary, Goa Coastal Zone Management Authority Vide No. GCZMA/S/311/1539, dated 18/5/06 and Vide No. GCZMA/S/311/3545/, dated 31/1/08 and hence all conditions imposed therein shall be strictly adhered too.
39. The set backs shown on the site Plan should be maintained.
40. Adequate arrangements shall be made for collection and disposal of solid and liquid waste generated in the property.
41. Swimming Pool shall be hygienically maintained.
42. Proposed Development shall not effect existing Nallah towards Western side.
43. Proposed Development shall be in conformity with prevailing CRZ Regulations.
44. Proposed Development shall be restricted within the scope of approvals, Clearance granted by the Goa Coastal Zone Management Authority.
45. Parking spaces shown on the site Plan shall be developed and effectively utilized for parking purpose.
46. Revised Technical Clearance Order is issued based on the approval issued by the Goa Coastal Zone Management Authority Vide No GCZMA/S/311/583, dated 23/8/12.
47. The N.O.C is Issued with the approval of the Government Vide Note No. Pr.S (TCP)1471689/F, dated 10/4/2013. (TCP Clause)
48. Required N.O.C/Clearance from Health Authority i.e (Primary Health Centre) should be obtained before applying for Occupancy certificate.



49. Occupancy certificate /letter should be obtained from Goa Coastal Zone Management Authority as per the revised Plan.
50. N.O.C/Clearance certificate from Goa State Pollution Control Board Panaji, should be obtained before applying for Occupancy certificate.
51. Separate Electrical Transformer should be installed to have a independent Electric Connection to the said project.
52. This Approval has been issued from Planning point of view and subject to final decision of the Hon'ble Court in Writ Petition No.751/2008.
53. This Revised Plan is issued based on the Order from Addl. Director of Panchayat dated 29/8/2013, Vide Panchayat Appeal No.3/2013..
54. All the Conditions laid down by TCP Dept. dated 15/4/2013, should be strictly complied.

This licence is valid for a period of three years from the date of issue of this Revised licence. Renewal if required shall be applied within the period of the validity of the licence.

He/ She had paid the licence fee to the tune of Rs. _____

(Rupees _____)

By receipt No. _____ dated _____.

This carries the embossed seal of this Panchayat of Sernabatim, Vanelim, Colva

& Gandaulim, dated 16/01/2014

To,
M/S Tonia Estates & Resort Pvt Ltd,
Raicho Ambo, Raia-Goa.



SECRETARY
Village Panchayat
SERNABATIM, VANELIM,
COLVA & GANDULIM

Received.

J. Das.



True Copy

CERTIFIED BY:-

Under R.F.S.
[Signature]
SECRETARY
Village Panchayat
SERNABATIM, VANELIM,
COLVA & GANDULIM

ANNEXURE R-20

Ph: 27884

Office of the Village Panchay

Sernabalm, Vanelim, Colva & Gandaul

Salcete - Goa. Pin Code: 403 708



Ref. No. VP/SVCG/ 2232/13-14

Date 13/2/14

Ref: 1. Construction licence No. VP/SVCG/CONST.18/2009-10/2098, dated 11/6/2008.

2. Construction licence No. VP/SVCG/CONST.36/2013-14/2092, dated 16/01/2014. (Revised)

3. Completion Order No. TPM/18491/Colva /23/13/2013/1886, dated 16/4/2013.

4. Health N.O.C No. PHC/CANS/NOC/13-14/1456, DATED 31/1/2014

5. Goa State Pollution Control Board (Consent to Operate & Authorization) No. 5/5548/12-PCB/10871, dated 16/5/2013. (Valid up to 31/05/2016)

6. Order of the Deputy Director of Panchayats, South, Revision Application No. DDPS/Illeg.-Const/10 of 2013, dated 9th Dec. 2013

7. Resl.No.2(4), dated 06/2/2014.

OCCUPANCY CERTIFICATE

Occupancy Certificate is granted to the Construction of Renewal & Revised approval for Repairs & Renovation /reconstruction of existing Resort (Block A, Block B (6 Units) & Block C, of premises bearing H.No.424/2 & H.No.424/3, approved by this Office, Vide licence No. Construction licence No. VP/SVCG/CONST.36/2013-14/2092, dated 16/01/2014. (Revised)

in plot bearing Survey No.23/13,& 17, Village Colva, Salcete Taluka, subject to the following conditions;

1. All Conditions stipulated in the Completion Order of Technical Clearance from TCP Dept. Margao should be strictly adhered to.
2. Applicant shall construct vermin Composting pits and do the arrangement to dispose of the garbage safely.
3. Not to discharge the waste water into the existing drainage/Nullah/Pond in the Open ground which is unhygienic in the Vicinity.
4. This certificate shall be treated as N.O.C for water & Power Connection (Single/Three Phase) for which the details of the premises referred below.
5. Any Conditions which have not been complied under Const. licence No. referred at Sr.No.2 & 3 should be complied before starting of the said Resort.
6. Order from Deputy Director of Panchayats under Revision Appl.No. DDPS/Illeg.-Const./10/2013/1802, dated 13/12/2013.

Office of the Village Panchayat

Sernabatim, Vanelim, Colva & Gandulim
Salcete - Goa. Pin Code: 403 708Date 13/2/14

Ref. No. VP/SVCG/ —

-2-

7. As per the official Gazette dated 13th August, 1998, Your Resort comes under the Category of 3 to 5 Star Hotel and the minimum rate per room is Rs.600/ per Annum and as per the N.O.C from Pollution control Board, your said Resort consists of 60 Rooms and hence forth the Total fees is Rs.36,000/- as house tax, which is paid under Receipt No. 50/06 dated 13/2/2014.



SECRETARY
Village Panchayat
SERNABATIM, VANELIM,
COLVA & GANDULIM

To,
M/S Tonia Estates & Resorts Pvt Ltd,
Ambo, Raia-Goa.
Raicho

C.C o, 1. The Senior Town Planner, TCP Dept. Margao-Goa.
2. The Asstt. Engineer Electricity Department Margao
IV, Sub.Div.II,
W.Div 3. The Asstt. Engineer, PWD, Monte Margao, W.Div.IV, Div.IX



True Copy

IN THE HIGH COURT OF BOMBAY AT PANAJI GOAWrit Petition No. ⁴⁶⁹ /2014M/s. Tonia Estates and Resorts
Pvt. Ltd.

..... Petitioners

VERSUS

State of Goa and ors.

..... Respondents

SYNOPSIS

- 28/5/2014 Respondent no. 3 files Complaint before National Green Tribunal at Pune (Western Zone) alleging violations under Goa Panchayat Raj act, Goa Land Revenue Code and Coastal Zone Regulations.
- 02/07/2014 National Green Tribunal issues notice on the said application filed by the Respondent no. 3.
- 24/07/2014 Aggrieved by the above notice dated 02/07/2014 issued by Respondent No. 2 i.e. National Green Tribunal at Pune, the Petitioner files the present Writ Petition.

QUESTIONS FOR DETERMINATION:-

1. Whether the Respondent No.2 is a Tribunal with limited statutory jurisdiction; its jurisdiction is restricted to the matters prescribed under Section 14 of the NGT Act; and it can only grant reliefs in

relation thereto and in terms of Sections 15 and 17 of the NGT Act.

In view of a composite reading of Sections 14 to 17 of the NGT Act?

2. Whether Respondent No.2's jurisdiction is limited to civil causes where a substantial question relating to environment arises for consideration?
3. Whether the Issuance of notice dated 2/7/2014 is exercise beyond the jurisdiction of the NGT Act and the proposed enquiry ex-facie is ultra vires the NGT Act?

BOOKS & AUTHORITIES:-

1. Constitution of India.
2. National Green Tribunal Act, 2010

Panaji-Goa.

Date:-24/07/2014

Adv. For the Petitioner

IN THE HIGH COURT OF BOMBAY AT GOA

Writ Petition No. / 2014

1. Tonia Estate and Resorts Pvt. Ltd.,
A Company registered
Under the provisions of the
Companies Act, represented by
It's Managing Director
Shri Alexio A. da Piedade Sequeira
Having registered office at
Raicho Ambo, Raia, Salcete, Goa.
2. Shri. Alexio A. da Piedade Sequeira,
Major of age,
Managing Director of Petitioner No.1
Resident of Raicho Ambo,
Raia, Salcete, Goa.

Petitioners

V/s

1. State of Goa,
Through Chief Secretary,
Having office at,
Secretariat, Porvorim, Goa.
2. National Green Tribunal,
Western Zone,
New Administrative Building,
D Wing, Opp. Council Hall,
Camp, Pune, Maharashtra
3. Colva Civic and Consumer Forum,
Having registered office at
H.No.257/1, Bagdem, Ward 3,
Colva Salcete, Goa
4. The Goa Coastal Zone Management Authority
Through its Member Secretary,
Department of Science
Technology and Environment,
Government of Goa
3rd Floor, Dempo Towers,
Patto, Panaji, Goa
5. Village Panchayat of
Sernabatim, Vanelim, Colva &
Gandaulim through it's
Sarpanch/Secretary, Colva
Salcete Goa.

Respondents

(All the above addresses are registered addresses of the parties)

IN THE MATTER OF ARTICLE 14,
19(1)(g), 226 AND 300A OF
CONSTITUTION OF INDIA

AND

IN THE MATTER OF NOTICE DATED
02/07/2014 IN APPLICATION
NO.66/2014 BEFORE NATIONAL
GREEN TRIBUNAL AT PUNE

AND

IN THE MATTER OF JURISDICTION OF
NATIONAL GREEN TRIBUNAL

AND

IN THE MATTER OF NATIONAL GREEN
TRIBUNAL ACT, 2010

MAY IT PLEASE YOUR LORDSHIPS:

The Petitioner states and submits as under:

DETAILS OF PARTIES:

1. The Petitioner No.1 is a company registered under the provisions of the Companies Act, represented by its Managing Director Shri. Aleixo A. da Piedade Sequeira (Petitioner no. 2) having registered office at Raicho Ambo, Raia, Salcete, Goa. Petitioner no. 2 is authorized to file the petition by a resolution of the Company, annexed and marked as **Exhibit A.**

Petitioner No.1 is in tourism sector and is running hotel business under the name and style "ACACIA PALMS RESORT" at Colva, Salcete, Goa. The Respondent No. 1 is State of Goa.

Respondent No. 2 is a organization at Colva Village functioning purportedly as a non-governmental organization and is a Complainant before the National Green Tribunal (Respondent no. 3). Respondent no. 4 is Government authority for Coastal Zone Management and Respondent no. 5 is the Village Panchayat constituted under the provisions of the Goa Panchayat Raj Act.

2. Petitioner challenges the Notice dated 02/07/2014 issued by National Green Tribunal, Pune (West Zone) (Respondent no.2) on the complaint filed by Respondent 3 i.e. Colva Civic and Consumer Forum. The said complaint has been filed by the Respondent no. 3 on 28/5/2014. A copy of the Notice dated 02/07/2014 and memo of petition annexed as Exhibit B-Colly.
3. The gravamen of the challenge in the petition is that the Respondent no. 2 does not have jurisdiction to entertain the petition and the notice issued on 2/7/2014 is without jurisdiction.
4. The prayers in the complaint are as follows:
 - (a) That this Hon'ble Tribunal may be pleased to direct Respondent nos. 1 and 2 to forthwith and immediately take action in accordance with law against the construction of Respondent no. 3 in survey no. 23/13 and 23/17 of Colva, remove the offending constructions and restore the beach to its original condition; (Respondent No. 1 and 2 before National Green Tribunal (NGT) are Goa Coastal Zone Management Authority and the Village Panchayat)
 - (b) That this Hon'ble Tribunal may be pleased to quash the construction license/renewal of Construction License issued on 16/1/2014 and Occupancy Certificate no.

VP/SVCG/2232/13-14 dated 13/2/2014 issued by Respondent no. 2 in respect of this revised plans of Respondent no.3/4.

- (c) For ad-interim relief in terms of stay of the operation of the orders dated 16/1/2014 and 13/2/2014;
- (d) For costs; and
- (e) For such other and/or further reliefs, as this Hon. Tribunal may deem fit in the facts and circumstance of the case, and as the ends of justice may warrant and/or demand.

5. Prayer (a) seeks an order in nature of mandamus and prayer (b) seeks to challenge the permissions granted by the Panchayat. In para 19 of the Complaint, Complainant avers that there is a violation of the provisions of Goa Land Revenue Code and Coastal Zone Regulations.

6. Petitioner submits that the National Green Tribunal does not have jurisdiction to examine matters of orders passed in relation to Goa Land Revenue Code and Goa Panchayat Raj Act and even if, the complainant has also raised issue about alleged violation of Coastal Zone Regulations, the petition being a composite petition and issues being interlinked. The Tribunal will therefore have no jurisdiction to entertain the petition.

7. In a recent decision of this Hon'ble Court in the case of Parashuram Uparkar v. Union of India (Public Interest Litigation No. 49/2013) passed by the Division Bench of this Hon'ble Court, the High Court has held as follows:

9. In our view, from the aforesaid observations, it is clear that only such cases which fall within the purview of the aforesaid sections and Schedule-I would have to be filed before the

NGT. However, in our humble view, in cases where apart from environmental issues, other reliefs are claimed by the Petitioner which are not covered under the said sections and the matters covered under NGT Act or Schedule-I and the said issues are inseparable then such cases will have to be considered by this Court if a composite Petition is filed where other reliefs claimed are not covered under the NGT Act. For example, if virus of provision is challenged then, in that case, NGT would not have jurisdiction to decide the virus of the provision as is evident from the provisions of the said Act. In such a case, only this Court alone, while exercising writ jurisdiction under Article 226 of the Constitution of India, would be in a position to decide the said question. Such a Petition, therefore, in our view, cannot be transferred to the NGT. Secondly, it is necessary to take into consideration the relevant provisions of the NGT Act. Section 2(c) defines "environment". Under Section 2(m) "substantial question relating to environment" shall include an instance where,- (i) there is a direct violation of a specific statutory environmental obligation by a person by which, - (A) the community at large other than an individual or group of individuals is affected or likely to be affected by the environmental consequences; or (B) the gravity of damage to the environment or property is substantial; or (C) the damage to public health is broadly measurable; (ii) the environmental consequences relate to a specific activity or a point source of pollution. The said definition, therefore, clearly envisages, firstly, that there should be violation of a specific statutory environmental obligation. It is obvious that the said statutory environmental obligation is not only in respect of statutory provision but also in respect of the Notifications which are issued under the Act

or upon directions given by the Government for the purpose of implementation of the said Act. Secondly, as a result of such violation, the consequences have to be as narrated in (A), (B) and (C) of sub-clause (i) of section 2(m) and, thirdly, the environmental consequences must relate to a specific activity or a point source of pollution. Keeping the said definition in view, now the jurisdiction and powers of the NGT have to be taken into consideration.

In para 13, this Hon'ble Court has held as follows:

13. It is possible that in a given case where environmental issue which is otherwise important and the application concerning the said issue has to be filed within a period of limitation as envisaged under section 14(3), and if it is not so filed within the said period of limitation prescribed, a litigant may consider in such cases filing of Writ Petition under Article 226 of the Constitution of India. However, at this stage, we propose to keep this question open so that it can be decided in a case where such question arises. In our view, however, in the present case, taking into consideration the reliefs which are claimed by the Petitioner, the said reliefs being of composite nature, Petitioner would be entitled to agitate his claim in this Court under Article 226 of the Constitution of India. Therefore, the preliminary objection raised by Respondent Nos. 5 and 8 cannot be sustained.

8. In a very recent case of *Shri Balaji Concepts v. State of Goa and ors* (WP No. 450 of 2014), this Hon'ble Court has issued notice to the Respondents in a similar petition like the present case and has granted ad-interim stay of the proceedings before National Green Tribunal at Pune.

FACTS IN BRIEF

9. In the property surveyed under survey no. 23/13 and 23/17 in Colva, there existed a resort consisting of 6 blocks and 3 other structures. Petitioner hereby is furnishing details only to the extent necessary as the legality or illegality of said structure is not an issue in this petition. Suffice it to say that, the structures existed prior to 1990-1991 and Petitioner has sufficient documentary evidence to establish the same.
10. The said structure was financed by the Economic Development Corporation. Subsequently Economic Development Corporation auctioned the said structure on account of default by the borrower. The Petitioner purchased the said structure in the year 2008 in the auction proceedings. Petitioner has now renovated/reconstructed the said structure and which renovation/reconstruction is carried out within the same plinth area which is permissible under Coastal Zone Regulation. It may be mentioned here that the said structure is within 0-200 meters of High Tide Line.
11. The Petitioner has carried out renovation/reconstruction by obtaining all the necessary permissions from the authority which includes:
- A. Goa Coastal Zone Management Authority approvals dated 18/5/2006, 31/1/2008 and 23/8/2012.
 - B. Construction license by Village Panchayat dated 11/6/2008
 - C. Renewed Construction license by Village Panchayat dated 16/01/2014.
 - D. Technical Clearance dated 15/4/2013 by Senior Town Planner, South Goa.
 - E. Completion Order dated 15/4/2013.
 - F. Occupancy Certificate dated 13/2/2014

G: Approved plans.

The Petitioner craves leave of this Hon'ble Court to produce the abovementioned documents at the time of argument in case necessary.

12.The Petitioner has commenced operations in the said resort from February 2014.

13.It is submitted that a Writ Petition no.751/2008 is filed before this Hon'ble Court styled as Public Interest Litigation challenging various permissions granted to the resort. The said public interest litigation is pending for final hearing and no interim relief was granted in the said petition.

14.The Complaint before Respondent no. 2 now makes grievance that the construction did not exist prior to 1991 and hence the same is impermissible in law. The complaint raises certain environmental issues and as stated above seeks a direction to the Authorities to act against construction while also challenging Construction License and Occupancy Certificate granted by the Village Panchayat.

15.It is respectfully submitted that both said reliefs are not within the jurisdiction of National Green Tribunal. Even otherwise, the Petition being a composite petition raising environmental issues as well as challenging the Construction license and Occupancy Certificate granted by the Village Panchayat and both issues being interlinked, the National Green Tribunal will not have jurisdiction to entertain the petition.

16. The requirement under Section 2 (m) of National Green Tribunal Act 2010 provides that:

m. "substantial question relating to environment" shall include an instance where,-

i. There is a direct violation of a specific statutory environmental obligation by a person by which,

A. The community at large other than an individual or group of individuals is affected or likely to be affected by the environmental consequences; or

B. The gravity of damage to the environment or property is substantial; or

C. The damage to public health is broadly measurable;

ii. The environmental consequences relate to a specific activity or a point source of pollution;

17. Being aggrieved by notice dated 02/07/2014 issued by Respondent No. 2 i.e. National Green Tribunal at Pune, the Petitioners are approaching this Hon'ble Court in exercise of its jurisdiction under Article 226 of the Constitution of India, on the following amongst other grounds urged without prejudice to one another

GROUNDS

I

Respondent No.2 is a Tribunal with limited statutory jurisdiction; its jurisdiction is restricted to the matters prescribed under Section 14 of the NGT Act and it can only grant reliefs in relation thereto and in terms of Sections 15 and 17 of the NGT Act. In view of a

composite reading of Sections 14 to 17 of the NGT Act, Respondent No.2's jurisdiction is limited to civil causes where a substantial question relating to environment arises for consideration. Beyond this, Respondent No.2 has no jurisdiction, competence and authority to determine any other civil rights and entitlements.

II

Respondent No.2 has erred in not appreciating that it has no jurisdiction and it is otherwise incompetent to entertain, try and adjudicate upon the impugned application. The impugned application is wholly ultra vires and contrary to the NGT Act, and as such, is incapable of being filed before and entertained by Respondent No.2.

III

The application filed by Respondent no. 3 relates to alleged violations of other statutes Goa Panchayat Raj Act and Goa Land Revenue Code. These are all statutes unconnected with the NGT Act. These allegations are indivisible and inseparable from them on vague and bald allegations of environment pollution raised by Respondent No.3; and the ad interim reliefs sought for in application are stay of the operation of the Construction license dated 16/1/2014 and Occupancy Certificate dated 13/2/2014

IV

Respondent No.3 has filed several litigation proceedings against the Petitioner before this Hon'ble Court seeking reliefs against alleged environmental pollution. Now again under the guise of the application seeks to call upon Respondent No.2 to embark upon an enquiry of alleged violations by Petitioner No.1 of the other Statutes and the validity of permissions granted thereunder. Such exercise is totally mala fide and is not permissible under law. The Petitioner is made to face litigation before every authority. Respondent ought to have not entertained such mala fide application.

V

Issuance of notice dated 2/7/2014 is exercise beyond the jurisdiction of the NGT Act and the proposed enquiry ex-facie is ultra vires the NGT Act. The application therefore, is both ultra vires the NGT Act and Respondent No.2 does not have the competence and jurisdiction to entertain the same.

VI

The Application dated 28/5/2014 raises disputes which are essentially of a civil character. The Respondent No.2 has no jurisdiction to entertain such disputes, since, its jurisdiction is circumscribed to matters contained in Section 14 and 17 of the NGT Act. Further Respondent No. 2 is also not entitled to bifurcate the rival causes of action and reliefs sought in the application as per ruling of this High Court in Public Interest Litigation no. 49/2013.

VII

Respondent No.3. has filed several litigation proceedings against the Petitioner before this Hon'ble Court seeking reliefs against alleged environmental pollution. Now again under the guise of the application seeks to call upon Respondent No.2 to embark upon an enquiry of alleged violations by Petitioner No.1 of the other Statutes and the validity of permissions granted thereunder. Such exercise is totally malafide and is not permissible under law. The Petitioner is made to face litigation before every authority. Respondent ought to have not entertained such malafide application.

V

Issuance of notice dated 2/7/2014 is exercise beyond the jurisdiction of the NGT Act and the proposed enquiry ex-facie is ultra vires the NGT Act. The application therefore, is both ultra vires the NGT Act and Respondent No.2 does not have the competence and jurisdiction to entertain the same.

VI

The Application dated 28/5/2014 raises disputes which are essentially of a civil character. The Respondent No.2 has no jurisdiction to entertain such disputes, since, its jurisdiction is circumscribed to matters contained in Section 14 and 17 of the NGT Act. Further Respondent No. 2 is also not entitled to bifurcate the rival causes of action and reliefs sought in the application as per ruling of this High Court in Public Interst Litigation no. 49/2013.

VII

In addition to above the notice dated 2/7/2014 violates Petitioners' rights under Articles 14, 19(1)(g) and 300A of the Constitution of India, in as much as, the same interfere with the Petitioners' constitutional rights to carry on a lawful trade and/or business and also their rights to hold and enjoy their property.

VIII

Any other necessary ground at the time of argument with the leave of this Hon'ble Court.

18. Petitioners therefore submit that this is a fit case for this Hon'ble Court to exercise its jurisdiction under Article 226 of the Constitution of India and issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction declaring that the Application dated 28/05/2014 is not maintainable before National Green Tribunal and that the Tribunal does not have jurisdiction to entertain the same. Further quashing of proceedings before Tribunal in Application No. 66/2014 on the ground of same being ultravires to the scheme of National Green Tribunal Act 2010.
19. The Petitioners submit that they are entitled to ad-interim reliefs staying the proceedings before the National Green Tribunal in the matter of Application no. 66/2014 (WZ) filed by the Respondent no. 3..
20. The Petitioners submit that this Hon'ble Court has the jurisdiction to entertain, try and dispose of the present Petition as the subject matter is situated within jurisdiction of this Hon'ble Court.

21. The Petitioners have no other alternative or equally efficacious remedy available to them and the reliefs as prayed for herein, if granted, alone would do full and complete justice to the Petitioners;

22. The Petitioners have moved the present Petition with utmost urgency and dispatch. There is no delay and/or laches in instituting the present Petition.

23. The Petitioners have not filed any other Petition either in this Hon'ble Court or in any other High Court or in the Hon'ble Supreme Court of India concerning the subject matter of the present Petition;

24. The Petitioners have paid the requisite court fees on this Petition.

PRAYERS

The Petitioners therefore prays that this Hon'ble Court be pleased to issue a writ of prohibition or writ in the nature of prohibition or any other appropriate writ order and/or direction;

- a. Declaring that the Complaint No. 66/14 (WZ) filed and pending before Respondent No. 2 and Impugned Notice dated 02/07/2014 are illegal, null void and ultravires, to National Green Tribunal Act, 2010 and/or unconstitutional and quash and set aside the same;
- b. Restraining, interfering, prohibiting Respondent No. 2 from proceedings or acting in furtherance of the Impugned Notice dated 02/07/2014 and/or otherwise proceedings with the hearing of the Impugned Application No. 66/14 (WZ).

- c. Pending hearing and final disposal of petition, all further proceedings in Application No. 66/14(WC) pending before Respondent No. 2 be stayed;
- d. Ad-interim relief in terms of prayer clause (C).
- e. Ex-parte Ad-interim order in terms of prayer clause (C);
- f. Such further orders as this Hon'ble Court deems fit.

Petitioner

Panaji, Goa

30/09/2013

Advocate for Petitioner

VERIFICATION

I, Shri Aleixo Sequeira, major of age, Indian National, Managing Director of M/s Tonia Estates and Resorts Pvt. Ltd., the Petitioner No. 1, residing at Raia , Salcete-Goa , do hereby on solemnly verify that the contents of paras 1-4, 5, 7-13(p), 14, 16, 17(p), 21-24 are true to my knowledge and whatever stated in the remaining paras are based on legal submissions.

Panaji, Goa

Date:-24/07/2014

DEPONENT

Identified by me:-

(Adv. Preetam N. Talaulikar)

True Copy

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 469 OF 2014**

TONIA ESTATE AND RESORTS PVT.
LTD., REP. BY ITS DIRECTOR SHRI
ALEXIO A. DA P. SEQUEIRA AND ANR., ... Petitioners
Versus
STATE OF GOA THR. CHIEF SECRETARY
AND 4 ORS., ... Respondents

Mr. Ravi Kadam, Senior Advocate with Mr. Preetam Talaulikar and
Mr. Bhupesh Bandekar, Advocates for the petitioners.
Mr. D. Lawande, Government Advocate for respondents No.1 and 4.

Coram:- RANJIT MORE &
U. V. BAKRE, JJ.

Date:- 28th July, 2014

P.C.:-

Leave to amend. The amendment to be carried out within
one week.

2. Heard Mr. Ravi Kadam, learned Senior Counsel appearing
for the petitioners.

3. The decision in Writ Petition No.751/2008 which is
pending for final disposal in this Court will have bearing on the
proceedings pending before the National Green Tribunal, Western
Zone Bench, Pune in Application No.66/2014(WZ) In the
circumstances, issue notice before admission to respondents,
returnable on 19th August, 2014. Mr. D. Lawande waives notice for

respondents No.1 and 4.

4. Till the next date, there shall be an ad interim relief in terms of prayer clause c. Parties to act on duly authenticated copy of this order.

U. V. BAKRE, J.

RANJIT MORE, J.

ssm.

True Copy

WRIT PETITION NO. 469 OF 2014

TONIA ESTATE AND RESORTS PVT.
LTD., REP. BY ITS DIRECTOR SHRI
ALEXIO A. DA P. SEQUEIRA AND ANR., ... Petitioners
Versus
STATE OF GOA THR. CHIEF SECRETARY
AND 4 ORS., ... Respondents

Mr. Ravi Kadam, Senior Advocate with Mr. V. A. Lawande and Mr. Preetam Talaulikar Advocates for the petitioners.
Mr. A. N. S. Nadkarni, Advocate General with Mr. S. Rebello, Addl. Govt. Advocate for respondents No. 1 and 4.
Mr. A. D. Bhoje, Advocate for respondent No.3.
Mr. C. A. Fereira, Advocate for respondent No.5.

Coram:- R. M. BORDE &
U. V. BAKRE, JJ.

Date:- 28th November, 2014

P.C.:

Rule. To be heard along with Writ Petition No.751/2008.

Respective Counsel for the respondents waive notice.

2. Writ Petition No.751/2008, as well as the instant petition, shall be fixed for final disposal on Board in the week commencing from 12th January, 2015. It will be open for the petitioners to raise appropriate contentions before the Court dealing with the writ petitions, touching the merits of the matters.

3. Ad interim relief granted earlier to continue till next date.

U. V. BAKRE, J.

R. M. BORDE, J.

ssm.

True Copy

1 wps751-08,469-14 dt.19.06.19

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NOS. 751 OF 2008 & 469 OF 2014
WRIT PETITION NO. 751 OF 2008

1. Theodore Fernandes,
major, r/o. Adsulim, Benaulim,
Salcete, Goa,
Secretary of Goencarancho Vorixtte Awaz,
an Association with office at
Casa dos Aliados,
Abade Faria Road, behind
Gomantak Vidya Niketan,
Margao, Goa.

2. Goencarancho Vorixtte Awaz,
Registered Association with office at
Casa dos Aliados,
Abade Faria Road, behind
Gomantak Vidya Niketan,
Margao, Goa, through its
Secretary, Petitioner No.1.

.... Petitioners.

Versus

1. State of Goa,
through its Chief Secretary,
Secretariat, Alto Porvorim, Goa.

2. The Member Secretary,
Goa Coastal Zone Management Authority,
Saligao, Goa.

3. The Senior Town Planner,
Town & Country Planning Department,
South Goa District Office,

D-Wing, 4th Floor,
Osia Commercial Arcade,
Margao, Goa.

4. Village Panchayat of Colva-
Sernabatim-Vanelim-Gandaulim,
through its Sarpach,
Colva, Salcete, Goa.

5. Tonia Estates Resorts Pvt. Ltd.,
through Aleixo Sequeira,
Raicho Ambo, Rai, Salcete, Goa.

..... Respondents.

Mr. Rayan Menezes with Ms. Gina Almeida and Mr. N. Fernandes,
Advocates for the Petitioners.

Mr. Pravin Faldessai, Addl. Govt. Advocate for Respondents No.1, 2
and 3.

Mr. G. Teles, Advocate for Respondent No.4.

Mr. Rafiq Dada, Senior Advocate with Mr. Preetam Talaulikar, Mr.
Bernard Reis & Ms. Olga Pereira, Advocates for Respondent No.5.

WRIT PETITION NO. 469 OF 2014

1. Tonia Estates and Resorts Pvt. Ltd.,
A company registered under the
provisions of the Companies Act,
represented by its Managing Director
Shri Aleixo A. da Piedade Sequeira,
having office at
Raicho Ambo, Rai, Salcete, Goa.

2. Shri Aleixo A. da Piedade Sequeira,
major of age, Managing Director of
Petitioner No.1 Resident of

Raicho Ambo, Rai, Salcete, Goa.

.... Petitioners.

Versus

1. State of Goa,
through its Chief Secretary,
Secretariat, Alto Porvorim, Goa.

2. National Green Tribunal,
Western Zone,
New Administrative Building,
D Wing. Opp. Council Hall,
Camp, Pune, Maharashtra.

3. Colva Civic and Consumer Forum,
having registered office at
H.No.257/1, Bagdem, Ward 3,
Colva, Salcete, Goa.

4. The Goa Coastal Zone Management
Authority, through its
Member Secretary, Department of Science
Technology and Environment,
Government of Goa,
3rd Floor, Dempo Towers,
Patto, Panaji, Goa.

5. Village Panchayat of
Sernabatim-Vanelim, Colva & Gandaulim,
through its Sarpanch/Secretary,
Colva, Salcete, Goa.

Mr. Rafiq Dada, Senior Advocate with Mr. Preetam Talaulikar, Mr.
Bernard Reis & Ms. Olga Pereira, Advocates for the Petitioners.

Mr. Gaurish Agni, with Mr. Tanmai Gawas, Advocates for
Respondent No.3.

Mr. C. A. Pereira, Advocate for Respondent No.5

***Coram : S.C. Gupte &
Prithviraj K. Chavan, JJ.***

Date : 19th/20th June, 2019.

ORAL JUDGMENT : (Per S.C. Gupte, J.)

In this Writ Petition (Writ Petition No.751/2008), the Petitioners pray for a writ of mandamus for cancellation and revocation of various sanctions and permissions granted in the matter of repairs, renovations and alternations carried out to a beach resort at Colva, Salcete Taluka in the State of Goa. These sanctions and permissions have been granted under various statutory instruments, including CRZ Notifications, 1991 and 2011, Goa, Daman and Diu Town and Country Planning Act, 1974 and the Rules and Regulations framed thereunder, and the Goa Panchayat Raj Act, 1994 and the Rules framed thereunder.

2. The Petitioners claim to be espousing public interest in seeking quashing of these permissions and sanctions. Petitioner No.2 claims to be an association of like minded citizens from South Goa, who are particularly residing in coastal areas of Colva, Sernabatim, and other places, and who have formed it, for the purpose of espousing public causes. Petitioner No.1 claims to be the Secretary of Petitioner No.2-Association.

3. The Petitioners have come to the Court with a case that in the property surveyed under Nos.23/13 and 23/17, there existed five cottages, one house structure, one building, one swimming pool, one open restaurant with four sit-outs. These were used as a beach resort under the name and style of Penthouse Beach Resort. The resort was lying in an abandoned condition for the last several years. In or around the first week of September 2008, the Petitioners noticed survey operations being carried out in the property. Upon inquiries made and information sought from authorities, including the Panchayat of Colva, Goa Coastal Zone Management Authority (GCZMA), and Town and Country Planning Department of the State, the Petitioners claim to have learnt that in the guise of sanctions obtained from the authorities for repairs/alternations /renovations, Respondent No.5 (who had in or about 2008 acquired rights to the property) was reconstructing or newly constructing a beach resort at site; the plans of such construction showed total deviation from the plinth of existing structures. Whereas the existing covered area of five cottages and one house was 843.76 sq. metres, the six buildings proposed in their place would have a covered area of 1324.86 sq. metres. So also, the floor area of 1822.08 sq. metres of the existing structures was being increased to 2537.22 sq. metres. It is the Petitioners' case that even the existing structures, which were purportedly being repaired/altered/renovated, were unauthorised and

did not have the requisite approvals from the authorities. The Petitioners claim to have applied to the concerned statutory authorities (Respondent Nos. 2, 3 and 4) for revoking and withdrawing the permissions and since they did not receive positive response, filed the present Petition.

4. The main grievance of the Petitioners is, thus, violation of CRZ Notification, 1991 in the matter of permissions accorded to Respondent No.5 for repairs/renovations/alterations to the beach resort. It is submitted that the resort comes within 200 meters from the High Tide Line, that is to say, within CRZ-III. It is submitted that CRZ-III is earmarked as 'no development zone' under Annexure I to the CRZ Notification, 1991, entitled 'Coastal Area Classification and Development Regulations'. No construction can be permitted on CRZ-III, except for repairs of existing authorised structures and that too without exceeding existing FSI, existing plinth area and existing density. It is submitted that though the original permission applied for was for repairs/renovations of existing authorised structures, the final permission granted by GCZMA, followed by permissions of the planning authority and Panchayat, and the actual construction carried out by Respondent No.5 in pursuance thereof, make it clear that the construction was different from and outside the existing plinth used by the hotel of Respondent No.5. It is submitted that the authorities, whilst granting the impugned permissions, appear to

have merely considered the sanctions/authorisations for the construction existing as of the date of CRZ Notification, 1991, but without reference to any particular plan. It is submitted that if the plans which have been brought out on record by the Petitioners were to be considered, it would clearly appear that the structures, claimed by Respondent No. 5 as existing structures, did not have a proper authorisation and thus would not qualify as 'existing authorised structures' within the meaning of the CRZ Notification.

5. Learned Counsel for the Petitioners has taken us through the plans submitted by Respondent No.5 to GCZMA of the existing structures whilst seeking its permission for repairs/renovation in 2006 and 2008 and contrasted them with the plan approved by the Planning and Development Authority in 1986 in respect of the beach resort. Learned Counsel has also taken us through the report of the Surveyor appointed by the Petitioners to indicate the existing areas, that is to say, the areas of the structures existing as on the date of the first application, i.e. the application for the first phase development of 2006. Learned Counsel has placed strong reliance on the superimposition of the three sets of plans, i.e. approved plan of 1986, approved plans of 2006 and 2008, and finally approved plan of 2012, carried out by an Architect appointed by the Panchayat. Learned Counsel submits that the superimposition shows that the footprints as well as alignments of various structures forming part of

the resort have been materially altered by Respondent No.5 and this aspect was completely lost sight of by the authorities all throughout.

6. Mr. Dada, learned Senior Counsel appearing for Respondent No.5, on the other hand, has taken us through various dates and events, firstly, to allege that the Petitioners are not espousing any public interest, but are in fact seeking to redress their private grievances. Learned Senior Counsel has also taken us through various events both prior to 2005 and post-2005 when the present owners, i.e. Respondent No.5, stepped into the shoes of the erstwhile owners of the beach resort, to indicate that at all stages the statutory authorities had duly applied their mind to the conditions existing at site and invoked correctly the applicable provisions of law for granting statutory permissions/authorisations to Respondent No.5 for its project of repairs/ renovations/alterations of the beach resort.

7. In support of his case of the Petitioners seeking to redress their private grievances under the guise of a PIL, Mr. Dada relied on the history for the suit property and litigation over it. The suit property was once owned by Pent House Builders Pvt. Ltd. In or about January 2001, the property was taken over by Economic Development Corporation ('EDC'), a deemed state financial corporation, under Section 29 of State Financial Corporation, 1951,

and put to auction. It was purchased in auction by one R.G. Bakhle and others. Around that time, the attachment and taking over of the property was challenged by Pent House Builders by filing a writ petition (Writ Petition No.311 of 2001). This was followed by a suit for declaration and perpetual injunction filed by Pent House Builders against M/s. R.G. Bakhle, challenging the auction sale. The application of Pent House Builders for temporary injunction concerning transfer of title to M/s. R.G. Bakhle came to be dismissed. After the present work of repairs/renovations/alterations was undertaken by Respondent No.5 herein, after taking over the property from M/s. R.G. Bakhle, a fresh application for temporary injunction was filed, seeking to restrain Respondent No.5 from undertaking any demolition work or new construction on the property. A status quo order was passed by the Civil Court on that application. Around the time that order was vacated by the Court, Petitioner No.2 Society was registered by Petitioner No.1 and others. Petitioner No.1, who is the President of the Society, was the advocate of Pent House Builders in the aforesaid litigation. Within a few days of the Civil Court vacating the status quo orders, the present Petition, challenging the construction work in the property, was filed by the Petitioners.

8. These facts do suggest a private interest element in the matter. We, however, do not propose to go further into these and

other circumstances which bear on the Petitioners' locus and interest. Considering that the Petition raises substantial questions arising under CRZ law, and considering that the matter has travelled this far resulting into several orders and exercises undertaken by authorities pursuant to these orders, we would rather consider the merits of the controversy and rule on them.

9. On merits, at the very outset, it is important to consider two crucial aspects of the matter. Firstly, it is necessary to consider the mandate of CRZ Notification, 1991, as also of 2011 (the final permission to the project having been accorded by GCZMA under the Regulations of 2011) so far as the permissible activity thereunder is concerned - Whether it is permissible merely to repair an existing authorised structure or is it permissible to renovate the structure, if necessary by alternation and even reconstruct the same and what are the conditions to be observed for such permissible activity. Secondly, it is necessary to consider what is meant by the expression 'not exceeding existing plinth area' used in CRZ Notifications of 1991 and 2011- Whether it means area exceeding the total plinth area of an existing authorised structure or area outside the existing plinth area, that is to say, outside the existing foot print of the plinth.

10. Mr. Menezes, learned Counsel appearing for the Petitioners, contends that what is permissible is merely repairs to an existing

authorised structure. Learned Counsel submits that at the most one may make an allowance for renovation, but only so long as the same is within the footprint of the existing structure. In particular, learned Counsel insists on the existing plinth area being reckoned with reference to the location and alignment of the area and not necessarily only to its area in quantity.

11. On the other hand, Mr. Dada, learned Senior Counsel appearing for Respondent No.5 contends that not only the repairs or renovations, for that matter, which are permissible under the Notifications, but even reconstruction or alteration of an existing authorised structure, is perfectly permissible; the only caveat being that even in that case the conditions prescribed for repairs of an existing structure in Clauses (i), (ii) and (iii) of CRZ Regulation in respect of CRZ-III have to be satisfied.

12. Annexure – 1 to CRZ Notification, 1991, containing coastal area classification and development regulations, make the following provisions for CRZ – III :

“CRZ-III

i) The area upto 200 metres from the HTL is to be earmarked as 'No Development Zone'. [No construction shall be permitted within this zone except for repairs of existing authorised structures not exceeding existing FS1, existing plinth area and existing density, and for permissible activities under the notification including facilities essential

for such activities. A authority designated by the State Government/Union Territory Administration may permit construction of facilities for water supply, drainage and sewerage for requirements of local inhabitants]. However, the following uses may be permissible in this zone— - agriculture, horticulture, gardens, pastures, parks, play fields, forestry and salt manufacture from sea water.

(ii) Development of vacant plots between 200 and 500 metres of High Tide Line in designated areas of CRZ-III with prior approval of Ministry of Environment and Forests (MEF) permitted for construction of hotels/beach resorts for temporary occupation of tourists/visitors subject to the conditions as stipulated in the guidelines at Annexure-II.

(iii) Construction/reconstruction of dwelling units between 200 and 500 metres of the HTL permitted so long it is within the ambit of traditional rights and customary uses such as existing fishing villages and gaothans. Building permission for such construction/reconstruction will be subject to the conditions that the total number of dwelling units shall not be more than twice the number of existing units; total covered area on all floors shall not exceed 33 per cent of the plot size ; the overall height of construction shall not exceed 9 metres and construction shall not be more than 2 floors (ground floor plus one floor).

[Construction is allowed for permissible activities under the notification including facilities essential for such activities. An authority designated by State Government/Union Territory Administration may permit Constitution of public rain shelters, community toilets, water supply, drainage, sewerage, roads and bridges. The said authority may also permit construction of schools and dispensaries, for local inhabitants of the area, for those panchayats the

major part of which falls within CRZ if no other area is available for construction of such faculties].

(iv) Re construction/alterations of an existing authorised building permitted subject to (i) to (iii) above.”

13. On its plain terms, the Regulation makes it clear that what is permissible under CRZ III is not merely repairs or renovation of an existing authorised structure or building, but even reconstruction or alteration of an existing authorised structure or building. In either case, be it a proposal for repairs or renovation or a proposal for reconstruction or alteration, what is necessary is to maintain, that is to say, not to exceed “existing FSI”, “existing plinth area” and “existing density”. There is nothing in the Regulation to suggest that exceeding of plinth area within the meaning of the relevant stipulation, implies either alteration of the plinth or its location or orientation. Learned Counsel for the Petitioners implores us to construe the expression 'not to exceed the existing plinth area', as not to alter the contours of the plinth or change the footprint of the structure in terms of contours or orientation. That, we are afraid, would amount to reading of words into the statute, which is clearly impermissible. When the words used in the statute are clear in themselves, it is not permissible to read words into it and construe the same differently. “Plinth area” is always measured in square feet or square metres and exceeding the existing plinth area would, by a plain grammatical meaning, imply exceeding the total quantity of

plinth area in terms of square feet or square metres, as the case may be. There is no scope to construe this expression as meaning a restriction on change of contours of the plinth or its location or orientation.

14. It may not be out of place to mention here that the National Green Tribunal, concerning itself with environmental laws and, in particular, the coastal zone regulations, has taken a similar view consistently in a couple of matters. In *Pritidas M. Sawant vs. Goa Coastal Zone Management Authority and ors.* (Appeal No.67/2016(WZ)), the National Green Tribunal has observed as follows :

“15. The Respondent No.1-GCZMA while applying the said provision to the facts and circumstances in the present case ought to have considered whether the permission sought by the Appellant for the proposed development or reconstruction of existing authorised structure exceeded existing FSI, existing plinth area and existing density keeping in mind that nowhere this provision made any utterance about the location save only “within NDZ area in CRZ-III”. Pertinently, restrictive term used in the said provision is “not exceeding” but not the term “not beyond”. Use of term “not exceeding” restricts quantity of existing FSI, existing plinth area and existing density but not as it would have restricted spatial limit with the use of term “not beyond” - the location in reference to the said phrase. The Respondent No.1 – GCZMA was also expected to consider whether shifting of the location is within NDZ area and such shifting would in any way

be invitation to dangers of natural hazards in coastal area or promote sea level rise due to global warming, and further ought to have analysed the entire issue on scientific principles governing the same.”

This statement of law to be found in *Pritidas M. Sawant vs. Goa Coastal Zone Management Authority and ors.* (supra) has been reiterated by the National Green Tribunal in the case of *Cedric Bosco Savio Lobo vs. State of Goa and ors.* (Application No.27/2014). The complaint before the National Green Tribunal in *Cedric Bosco Savio Lobo* (supra) was about the shape of the structure being changed in the course of reconstruction. Whereas the original structure had stepped shape, the reconstructed structure had a rectangular shape meaning thereby that there had been change in the shape of the plinth and shifting in its location. This change was countenanced by the National Green Tribunal as within the law, relying on its own observations in the case of *Pritidas M. Sawant* (supra).

15. In the present case, the record of the case clearly bears out that the plinth area of the new construction does not exceed the plinth area of the originally authorised existing structures. The plan submitted by Respondent No.5 for repairs/renovations/alterations of the existing structures and which was approved by GCZMA in August 2006, shows six cottages of type B admeasuring a total plinth area of 1324.86 sq. metres. In addition to these cottages, there were

two more structures referred to as type A and type C, respectively, admeasuring 605 sq. metres and 102.46 sq. metres, making the total existing plinth area as 2032.32 sq. mtres. There is substantial material on record, and which appears to have been considered by the authorities whilst approving the subject plan, putting the total plinth area at 2032.32 sq. metres. When the initial construction plan (Phase-I) was before the authorities for consideration around the year 1986, the Eco Control Committee (ECC) of the State had scrutinized the plan and observed that the project was fulfilling the guidelines and norms prescribed by Eco Development Council (EDC) and decided to recommend the project for final decision. There is also on record a letter addressed by the Chief Town Planner to the Member Secretary of EDC, confirming that the project fulfilled the guidelines and norms specified by EDC and forwarding the file containing construction plans for the latter's approval. It is also on record that the original Phase I development was approved subject to the condition that the remaining land in the northern part of the plot shall be ceded to the Government. On that condition, the approval was conveyed to the predecessor of Respondent No.5 in 1986. The predecessor of Respondent No.5, thereafter, submitted plans for Phase II development, which was proposed within that part which was required to be ceded to the Government according to the original sanction. An in-principle approval was granted by EDC/ECC to this proposal, which was conveyed to the applicant

sometime in 1988-1989. The minutes of meeting of EDC in this behalf (minutes of 28th ECC meeting held on 28th April, 1988) are on record. So also, is on record a communication of the Senior Town Planner, communicating such in-principle approval to the predecessor of Respondent No.5. Also on record is a letter of the Under Secretary to the Government of Goa (Tourism Department) informing the Chief Town Planner that the Government had decided to withdraw the condition regarding ceding of land (originally made part of the sanction for Phase I development). There is a communication from the Chief Town Planner, in turn, to Respondent No.4 about the Government decision to withdraw the condition regarding ceding of land. All this does show that further construction of Phase II development in respect of the areas denoted as A and C types was sanctioned by the authorities. In other words, there is ample material on record to show that these two types of structures, which were claimed as existing authorised structures, in fact did have authorisation.

16. Apart from this authorisation, there is also evidence of lawful existence of the structures acknowledged by statutory authorities and, in fact, the structures being assessed to Panchayat tax on that basis. There is on record a house tax assessment on the part of Respondent No.4-Panchayat, showing construction of House No.424 in 1986 and House No.424(1) later, clearly suggesting that

not only were B type structures existing as authorised structures, but even the structures designated as A and C types had always existed, as authorised structures, much prior to 1991. There are on record aerial photographs of Colva village in respect of the particular area where the beach resort was situated, showing all these structures as of 1991 and 1993. The existing structures find an endorsement on the part of GSCCE in its meeting (8th Meeting) dated 30.6.1995. Then there is a letter addressed to the Chief Engineer, Irrigation Department, by the Chief Town Planner on 12th March, 1996 indicating that the resort had been in existence since 1987 along with the site plan showing all structures. This communication was followed by a communication from the Director of Tourism to the Chief Town Planner conveying compliance of environmental guidelines by the beach resort and its construction in accordance with the permissions obtained from EDC/ECC from time to time. There is, accordingly, preponderance of evidence to suggest that not only were all structures, claimed in the plans submitted by Respondent No.5 in 2006, in existence, but they were also authorised.

17. As regards the plinth area of the existing authorised structures, there is once again abundance of material to show that the area was at least 2030 sq. metres plus swimming pool of 115 sq. metres. There is a survey report by Government of Goa, Directorate of Settlement and Land Records, (DSLRL) Panaji, Goa giving plinth

area details according to (i) the survey conducted on 4th July, 2009 (stating the area to be 2117 sq. metres), (ii) as per the survey conducted on 15th December, 2011 (as 2030 sq. metres) and (iii) as per verification survey conducted on 25th July, 2012 (as 2030 sq. mtres.). Even the Petitioners' own surveyor's report shows that buildings A and C and the swimming pool in the construction licence were substantially in conformity with the existing structures. All this material shows not only authorisation of B type structures, which is a matter of admission on the part of the Petitioners (in para 18 of the rejoinder, the Petitioners have accepted this), but even the other structures designated as A and C and the swimming pool were also existing at site and were duly sanctioned by the concerned authorities and that the plinth area of the structures in all was 2030 sq. metres.

18. It is nobody's case that the plinth of the new structures, which are finally sanctioned by the Chief Town Planner in 2012, exceeds 2030 sq. mtres. In other words, the work of repairs/renovations/alterations carried out by Respondent No.5 at site, does not exceed the plinth area of the existing authorised structures. The only real grievance, if at all, in this behalf, as noted above, is that the location of the plinth and in particular, its orientation *vis-a-vis* the plot has been changed. That, as we have noted above, does not amount to any breach or violation of either of the two CRZ

Notifications of 1991 and 2011.

19. The other submission of learned Counsel for the Petitioners is that there is no authorisation of GCZMA so far as the plans submitted by Respondent No.5 in 2012, based on actual construction carried out at site, are concerned. It is submitted that GCZMA, in its communication dated 23 August 2012, had simply considered a DSLR report of mapping of the existing structures, i.e. the structures actually constructed at site and existing in 2012. It is submitted that the DSLR Report merely confirms what was actually repaired/renovated/altered and was existing at site. The submission is that there is no reference to the decision taken by the body on whether or not to allow revision of plans, that is to say, the alteration between sanctioned plans of 2006 and 2008, on the one hand, and those submitted in 2012 in accordance with the actual construction, on the other. A letter addressed by GCZMA to Respondent No.5 on 23rd August, 2012 clearly belies this submission. The letter explicitly states that the project has been approved by GCZMA in terms of clause (8)(i),(iii)(CRZ-III)(A)(ii) of the CRZ Notification, 2011, (earlier Notification, 1991). In other words, not only has GCZMA considered the report of DSLR showing actually constructed structures at site to be in accordance with the plan of 2012, but that there was a consideration of whether the plans should be approved and that approval was duly accorded by GCZMA in terms of the

applicable notification.

20. The correctness and propriety of the plans submitted by Respondent No.5 have been scrutinized by the authorities on a number of occasions and found to be in order. The plans were first approved for structures B and swimming pool by GCZMA on 18th May, 2006. This was after the decisions were duly taken in the meeting of GCZMA, minutes of which are on record. In its 38th meeting held on 12.12.2007, GCZMA granted approval for repairs and renovation of the structures marked as blocks A and C. Communication of such grant of approval by GCZMA to Respondent No. 5 is of 30-31st January, 2008. A saga of show cause notices/demolition notices, appears to have followed thereafter, presumably at the instance of the Petitioners herein and other interested parties. Respondent No.4-Panchayat issued show cause notices and even passed demolition orders. Whilst all this was being debated and the matter was already in Court, Respondent No.5 had proceeded to obtain a technical approval from PWD (15.5.2009), inspection report by the Senior Town Planner (15.5.2008), NOC of the Town Planner (19.5.2009), licence for repairs/alterations/renovations granted by the Panchayat (11.06.2008). Notices issued by Respondent No.4-Panchayat were withdrawn on 15 June 2009. This was followed by a complaint made by Goa Foundation to GCZMA, alleging that the construction was being carried out

without environmental clearance. At that stage, GCZMA directed DSLR to conduct an inspection of the site and verify whether the structures were being constructed as per the plinth area originally in existence. This was by a communication dated 5.12.2011. The DSLR appears to have conducted the survey of the structures and the plinth area was found to be 2030 sq. metres. The DSLR, by its communication dated 26th December, 2011, confirmed, based on its survey, that the construction was within the plinth area originally existing. It was after all these considerations that GCZMA granted its final approval to revised plan as of 30th August, 2012. There is nothing to suggest that all this was done without following due process of law.

21. Even after this, there was a further show cause notice issued by the Respondent Panchayat, on the basis of a complaint by Respondent No.3 in the companion petition (Writ Petition No.469/2014). A reply was filed to that show cause notice by Respondent No.5. This was followed by a Misc. Civil Application in *Suo Motu* Writ Petition No.2/2006 by Respondent No.3-Colva Civic and Consumer Forum. Once again, in response, a show cause notice was issued by the Panchayat to Respondent No.5, which led to rejection of the construction licence and its renewal by Respondent No.4 Panchayat and a demolition order in pursuance thereof. This was challenged by Respondent No.5 before the Additional Director

of Panchayats, who directed Respondent No.4 Panchayat to maintain status quo at site. The matter was once again heard at length by the Additional Director, who, by his order dated 29th August, 2013, passed an order quashing the show cause notices and demolition orders issued by Respondent No.4-Panchayat.

22. In the meantime, there were (i) technical clearance order by the Department of Town and Country Planning (15.4.2013) and (ii) completion order by the Department of Town and Country Planning (16.4.2013).

23. Even thereafter, the matter was carried by Respondent No.3 to the companion Petition before the National Green Tribunal. The National Green Tribunal, by its order dated 3rd May, 2013, directed the Ministry of Environment and Forests to constitute an inquiry committee. The committee was duly constituted. It heard the parties at length, allowing them to produce material before it, and finally, by its report dated 19th October, 2015, observed that the approvals were in order; that the construction was carried out in accordance with the approvals; and that the structures were existing and in accordance with law. The inquiry committee's report was considered by GCZMA. Once again, at that stage, all stakeholders were heard at length by GCZMA. (The Petitioners in Writ Petition No.751/2008 were not parties before the Authority, at that stage).

In its 181st Meeting, GCZMA accepted the inquiry committee report and noted that the reconstruction/repairs were duly carried out of authorised structures existing prior to 1991 within the area of 200 metres from the High Tide Line in CRZ III area and the plinth area was within the existing plinth area. The Petitioners submit that the inquiry committee did not go back to 1986, or before 1991 and concerned itself merely with what happened after 2006. We are not impressed by this argument. The matters of sanction of B type structures in Phase I and of A and C type structures in Phase II prior to 1991, were debated before the committee and were taken into account by it whilst preparing its report.

24. An upshot of the above discussion is that matters such as (i) character of the existing structures as of the date of CRZ Notification, 1991 – whether in existence and whether authorised or unauthorised, (ii) compliance by the owner in the work of repairs/renovations/alterations with the CRZ Notifications, 1991 and 2011 and, in particular, the restriction of the renovated/altered structures having to be within the existing plinth area; (iii) change of the footprint or alignment or orientation of the original plinth – whether it made any difference in the matter, were all considered by the concerned authorities from time to time and after hearing all concerned parties and assessing relative merits of the rival cases at length.

25. As a writ Court, we are not expected to minutely scrutinize the rival contentions of the parties on merits of the decision as a civil Court would normally be expected to do. The Petitioners herein make allegations regarding authenticity of plans relied upon by Respondent No.5 for the work of repairs/renovations/alterations. For example, they submit that the plan relied upon for Phase II development (structures of A and C types) does not bear the stamp of the authority approving it or reference number. We are not going to make this type of inquiry; that really would entail taking of evidence. For our purposes, it is sufficient that there is abundance of material to show, even otherwise, that 'A' and 'C' type of structures were authorised and were in existence, as we have indicated above. This material clearly suggests that the conclusion of the authorities is fair and reasonable, capable of being sustained in any judicial review by the writ court. We have to merely apply Wednesbury principles to the decisions of the authorities. We have to simply see if the authorities have duly considered all relevant and germane materials and circumstances, whether any irrelevant or non-germane material or circumstance has been considered and whether the view taken by the authorities can be termed as perverse or whether it is a possible view. By all these yardsticks, we do not find any infirmity in the orders impugned before us. All relevant and germane materials and circumstances appear to have been duly considered and no irrelevant

or non-germane material or circumstance appears to have been taken into account whilst deciding the matters and the decisions themselves are perfectly possible views and do not suggest any perversity.

26. Before we close this order, we must note one more important aspect of the matter. The Petition is claimed to have been filed in *bona fide* public interest. As a writ court, as we have noted above, our mandate is to scrutinize if the authorities have acted within the bounds of their jurisdiction and not rendered a perverse decision whilst so acting. Additionally, as a constitutional Court considering a PIL, our attention must be focused on the public interest aspect urged before us. The Supreme Court in its felicitous judgment in *State of Uttaranchal vs. Balwant Singh Chauhal*, reported in (2010) 3 SCC 402, has held that the Courts, before entertaining a PIL, should ensure that the PIL is aimed at redressal of genuine public harm or injury. As our Court observed in *Sadanand s. Varde vs. State of Maharashtra*, reported in 2001 (1) Bom. C.R. 261; 2000 (4) ALL M.R. 510, a Public Interest Litigation is not adversary in nature, but is intended to focus on the public interest aspect before the Court; if the Court is apprised of substantial injury to public interest, the Court is empowered and duty bound to interfere to do justice to the inarticulate public whose interest is projected as affected. Let us guide our gaze to this particular aspect

of the matter. As noted above, the long and short of the Petitioners' objection seems to be nothing but a slight changing of the location and alignment of the originally existing plinth of structures authorised and existing since before 1991, i.e. the date when the first CRZ Notification came into force. As we have shown above, the constructed area is within the total area occupied by the earlier plinth. The structures have now been fully constructed and the resort has been operating. (No doubt, the petition was filed when the construction was on-going, but, anyway, the Court did not deem it fit to stop it and instead allowed it to proceed, but subject to final orders in the Petition.) We wonder what public interest would be served to now order demolition of the resort on the mere ground that its plinth is slightly relocated and differently oriented to the plot than what was earlier existing at site, though within the overall area in terms of square metres. The construction now existing at site does not fall foul of either of the three requirements of CRZ Notification; it does not exceed the existing plinth area or existing FSI or the existing density. Is there any adverse effect on public interest or genuine public harm or injury, then, if the resort is allowed to function on the basis of all sanctions and permissions obtained so far. We find none and that is one more reason why we ought not to interfere with the sanctions and permissions.

27. In the premises, we do not find any merit in the challenge

to the various decisions of the authorities impugned before us. No interference is, accordingly, warranted.

28. The companion Petition (Writ Petition No.469/2014) is filed by Respondent No.5 to the main Petition discussed above. It seeks to challenge basically continuation of the appeal filed by Respondent No.3 to the Petition before the National Green Tribunal. The challenge is, *inter alia*, on the basis that the National Green Tribunal has no jurisdiction to rule on matters other than environmental issues, *i.e.* only those matters which are covered under Schedule I of the National Green Tribunal Act, 2010. Mr. Dada, learned Senior Counsel appearing for Respondent No.5 (in the companion petition) relies on a judgment of a Division Bench of our Court in the case of ***Parshuram Uparkar vs. Union of India and ors.*** (Public Interest Litigation No.49/2013) in support of his submission.

29. Since we have examined the merits of the controversy and have ruled on the entire controversy involved in the present petition (Writ Petition No. 751/2008), we do not deem it fit to pass any order in the companion petition (Writ Petition No.469/2014) filed by Respondent No.5. It will be for Respondent No.5 to now approach the National Green Tribunal and seek disposal of the appeal based on the observations of this Court above. The Petition may be disposed

of by reserving such liberty.

30. In the premises, Writ Petition No.751/2008 is dismissed. *Ad hoc* deposit of costs, made by the Petitioners in terms of the order passed by this Court on 11th August, 2009, shall be appropriated as costs and made over to the Goa State Legal Services Authority.

31. The companion Petition (Writ Petition No.469/2014) is disposed of, by reserving liberty to the Petitioners to seek disposal of the pending appeal from the National Green Tribunal on the basis of the order passed herein, as noted above.

Prithviraj K. Chavan, J.

S.C. Gupte, J.

True Copy

IN THE SUPREME COURT OF INDIA
(UNDER ORDER XXI RULE 3 (1) (A))
CIVIL APPELLATE JURISDICTION
SPECIAL LEAVE PETITION
(UNDER ARTICLE 136 OF THE CONSTITUTION OF INDIA)
SPECIAL LEAVE PETITION (C) NO. /2019

IN THE MATTER OF:

BETWEEN	POSITION OF PARTIES	
	Before the Hon'ble High Court	Before this Hon'ble Court
Colva Civic and Consumer Forum Through its Secretary, Having registered office at H.No 257/1, Bagdem, Ward-3, Colva, Salcete, Goa.	Respondent No. 3	Petitioner
VERSUS		
1. Tonia Estates and Resorts Pvt. Ltd., A Company Registered under the Provisions of the Companies Act. Represented by its Managing Director Shri Aleixo A. da Piedade Sequeira Having office at: Raicho Ambo, Rai, Salcete, Goa	Petitioner No.1	Contesting Respondent No.1
2. Alexio A. da Piedade Sequeira Managing Director of Tonia Estates and Resorts Pvt. Ltd R/o Raicho Ambo, Rai Salcete, Goa.	Petitioner No.2	Contesting Respondent No.2
3. State of Goa Through the Chief Secretary, Secretariat, Porvorim, Goa.	Respondent No.1	Contesting Respondent No.3
4. The Goa Coastal Zone Management Authority Through its Member Secretary, Department of Sciences, Technology & Environment.	Respondent No.4	Contesting Respondent No.4

Government of Goa. 3 rd Floor. Dempo Towers. Patto, Panaji. Goa		
5.Village Panchayat of Sernabatim, Vanelim. Colva & Gandaulim Through its Sarpanch/Secretary. Colva, Salcete - Goa	Respondent No.5	Contesting Respondent No.5
6.National Green Tribunal Western Zone New Administrative Building D wing Opp. Council Hall Camp. Pune Maharashtra	Respondent No.2	Performa Respondent No.6

TO,
THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUDGES OF THE
HON'BLE SUPREME COURT OF INDIA

THE HUMBLE PETITION ON
BEHALF OF THE ABOVE
NAMED PETITIONER.

MOST RESPECTFULLY SHOWETH:

1. That the Petitioner submits the present special leave petition seeking leave to appeal against the impugned order dated 19.06.2019 in the matter of Tonia Estates and Resorts Pvt. Ltd. v. State of Goa & Ors. (W.P. No. 469 of 2014) passed by the Hon'ble High Court of Bombay at Goa.
- 1A. That the impugned order was dictated in court on 19th and 20th of June 2019. Hence, the certified copy of the same shows 19th/20th June 2019 as the date of the judgment. For the sake of convenience, the Petitioner herein has taken the date of the impugned order as 19.06.2019.

2. SUBSTANTIAL QUESTIONS OF LAW:

The present Special Leave Petition raises the following **substantial** questions of law for the consideration of this Hon'ble Court:-

- A. Whether the Hon'ble High Court erred in entertaining the Writ Petition since the matter pertained to violation of CRZ Notification, 1991 and 2011 and therefore the Ld. National Green Tribunal would have the jurisdiction to consider the matter being a specialised expert Tribunal constituted to look into substantial questions relating to environment under the provisions of the National Green Tribunal Act, 2010?
- B. Whether the Hon'ble High Court ought to have transferred to the Ld. National Green Tribunal which is a, especially in light of the expected that *“As a writ Court, we are not expected to minutely scrutinize the rival contentions of the parties on merits of the decision as a civil Court would normally be expected to do.”*?
- C. Whether the Hon'ble High Court failed to consider the fact that the Resort in question did not have any authorisation as on 1991 and thus no permission for repairs could have been granted by the authorities under the CRZ Notification, 1991 or 2011?
- D. Whether the Hon'ble High Court failed to consider that as per the provisions of the CRZ Notification, 1991, only “repairs to existing authorised structures” is permitted within the 200m No Development Zone in CRZ-III area and reconstruction is not a permissible activity?
- E. Whether the Hon'ble High Court erred in observing that *“In the present case, the record of the case clearly bears out that the plinth area of the new construction does not exceed the plinth area of the originally authorised existing structures”* when the Petitioner had

clearly demonstrated in the Original Application filed before the Ld. National Green Tribunal that the Respondent No. 1 and 2 had constructed several new structures, which was in excess of the plinth area as existing in 1991?

- F. Whether the Hon'ble High Court erred in concluding that there is *“preponderance of evidence to suggest that not only were all structures, claimed in the plans submitted by Respondent No.5 in 2006, in existence, but they were also authorised.”*?
- G. Whether the Hon'ble High Court failed to consider the fact that the Respondent No.1 /2 had essentially constructed an entirely new resort in the name of repairs and renovation of existing structures in complete violation of the CRZ Notification, 1991?
- H. Whether the Hon'ble High Court erred in concluding that CRZ Notification permits shifting of location or orientation of the structure, as long as it does not exceed the authorised plinth area?
- I. Whether the Hon'ble High Court erred in not hearing the petitioner, and thereby violated the rule of *audi alterem partem*, principle of natural justice?

3. DECLARATION IN TERMS OF RULE 3 (2)

That the Petitioner states that no other petition seeking leave to appeal against the impugned order dated 19.06.2019 in the matter of Tonia Estates and Resorts Pvt. Ltd. & Anr. v. State of Goa & Ors. (WP No. 469 of 2014) passed by the Hon'ble High Court of Bombay at Goa.

4. DECLARATION IN TERMS OF RULE 5

The Annexures P- 1 to P- 8 produced along with the present Special Leave Petition are true typed/translated copies of the pleadings/documents which formed the part of records of the case in the Court (s) below against whose order the Special Leave to Appeal is sought for in this Special Leave Petition.

5. GROUNDS:

- A. Because the Hon'ble High Court failed to consider the fact that the resort in question as it exists today, did not exist before 1991 and that said structures did not have any valid sanctions from the relevant authority. Thus, no permission for "repairs and renovations" could have been granted by the GCZMA or the Village Panchayat of Sernabatim, Vanelim, Colva and Gandolim under the CRZ Notification, 1991 or 2011.
- B. Because as per the provisions of the CRZ Notification, 1991 as well as 2011, no new construction or reconstruction is permissible within 200 m from the High Tide Line in CRZ-III Area except for *repairs of existing authorised structures not exceeding existing FSI, existing plinth area and existing density* (emphasis supplied). The Hon'ble High Court in the impugned judgment has erred in concluding that the structures in question were authorized as on 1991 and therefore were having valid permissions for repair and renovations from the authorities.

C. Because the Hon'ble High Court failed to follow its own dictum laid down in the matter of **Goa Foundation v. Goa Coastal Management Authority & Ors. (2018 SCC OnLine Bom 2250)** wherein the Hon'ble Court observed as follows with respect to the obligation of the State Authorities to ensure compliance of environmental norms, in specific context of the CRZ Notification:-

"5. ...It is necessary to advert to the concept of the Coastal Zones. India has a rich coastal and marine ecosystems. The already fragile ecology of the coastal regions of seas, bays, estuaries, creeks, rivers, and backwaters if not protected, is vulnerable to abuse. The degradation of the coastal zone affects the livelihood of the millions. This, in turn, has an impact on the economic growth. Thus the Coastal ecosystems have economic as well as a social value. A large number of people living by the coast depend on the natural resources for their livelihood. Poor planning and a lackadaisical approach can threaten the coastal ecosystems. The coastal areas had not received adequate protection inspite of their ecological diversity and the contribution to the national economy. Acknowledging this position, the Central Government issued a Notification on 19 February 1991 under the Environment Protection Act 1986 in respect the Coastal Regulation Zone. The CRZ Notification regulates and restricts the activities in the Coastal Regulation Zones. These regulations protect the ecological balance in the coastal area. The CRZ Notification has provided a categorisation of the coastal stretches into CRZ I, II, III and IV and has varying degrees of restrictions. 6. The Supreme Court has recognized and has emphasized the need to protect the coastal zones, through various decisions, such as Indian Council for Enviro-legal Action v. Union of India¹, S. Jagannath v. Union of India², and Vaamika Island v. Union of India³. Some of the principles laid down are that the State has a legal obligation to protect the coastal environment. Any development within the Zones must be as per the Notification. Those who seek to construct in such an areas have to demonstrate that the construction will not harm the environment. Such an entity must produce all the relevant material. A failure to disclose the appropriate content and information will invalidate the grant of sanction."

(Emphasis Supplied)

D. Because the Hon'ble High Court failed to follow the dictum laid down by this Hon'ble Court in the matter of *Anil Hoble v. Kashinath Jairam Shetye* reported in (2016) 10 SCC 701, wherein this Hon'ble Court has held that any illegal structure falling within the "No Development Zone" in a CRZ-III area would have to be demolished and even the permission granted by the Coastal Zone Management Authority was of no avail. The relevant extracts from the said judgment are reproduced hereunder:-

"12. ...Sub-clause (i) plainly mandates that "no construction" of any kind be permitted within 200 m from the high tide line. That area has to be treated as "No Development Zone", except for repairs of "existing authorised structures" (on the date of the Notification i.e. 19-2-1991) and not exceeding the permissible FSI, plinth area and density and for permissible activities. Sub-clause (iii) deals with CRZ area between 200 to 500 m of the high tide line with which we are not concerned in the present case. Inasmuch as, the finding of fact by the Tribunal about the location of the plot is that the plot was within 100 m from the high tide line. There is nothing to doubt the correctness of this finding."

E. Because the Hon'ble High Court failed to follow the dictum of this Hon'ble Court in the matter of *S. Jagannath v. Union of India*, reported in (1997) 2 SCC 87 wherein this Hon'ble Court has held that CRZ Notification must be given overriding effect:-

"48. At this stage we may deal with a question which has incidentally come up for our consideration. Under para 2 of the CRZ Notification, the activities listed thereunder are declared as prohibited activities. Various State Governments have enacted coastal aquaculture legislations regulating the industries set up in the coastal areas. It was argued before us that certain provisions of the State legislations including

that of the State of Tamil Nadu are not in consonance with the CRZ Notification issued by the Government of India under Section 3(3) of the Act. Assuming that be so, we are of the view that the Act being a Central legislation has the overriding effect. The Act (the Environment Protection Act, 1986) has been enacted under Entry 13 of List I Schedule VII of the Constitution of India. The said entry is as under:

“Participation in international conferences, assessment and other bodies and implementing of decisions made thereat.”

*The preamble to the Act clearly states that it was enacted to implement the decisions taken at the United Nations' Conference on the Human Environment held at Stockholm in June 1972. Parliament has enacted the Act under Entry 13 of List I Schedule VII read with Article 253 of the Constitution of India. **The CRZ Notification having been issued under the Act shall have overriding effect and shall prevail over the law made by the legislatures of the States.**”*

(Emphasis Supplied)

F. Because the Hon'ble High Court ought to have considered the dictum of this Hon'ble Court in the matter of *Piedade Filomena Gonsalves v. State of Goa*, reported in (2004) 3 SCC 445 wherein this Hon'ble Court had upheld the order of the High Court which held constructions in CRZ-III NDZ area to be illegal and in violation of the provisions of the CRZ Notification, 1991. The relevant part of the judgment is reproduced hereunder:

“4. We do not think that any fault can be found with the judgment of the High Court and the appellant can be allowed any relief in exercise of the jurisdiction conferred on this Court under Article 136 of the Constitution. Admittedly, the construction which the appellant has raised is without permission. Assuming it for a moment that the construction, on demarcation and measurement afresh and on HTL being determined, is found to be beyond 200 metres of HTL, it is writ large that the appellant has indulged in misadventure of raising a construction without securing permission from the competent authorities. That apart, the learned counsel for the respondents has rightly pointed out that the direction of the High Court in the matter of demarcation and determination of HTL is based on the

amendment dated 18-8-1994 introduced in the notification dated 19-2-1991 entitled the Coastal Regulation Zone Notification issued in exercise of the power conferred by Section 3(1) and Section 3(2)(v) of the Environment (Protection) Act, 1986, while the appellant's construction was completed before the date of the amendment and therefore, the appellant cannot take benefit of the order dated 25-9-1996 passed in Writ Petition No. 102 of 1996.

5. It is pertinent to note that during the pendency of the writ petition, the appellant had moved two applications, one of which is dated 11-7-1995, for the purpose of regularisation of the construction in question. The Goa State Coastal Committee for Environment, the then competent body constituted a sub-committee which inspected the site and found that the entire construction raised by the appellant fell within 200 metres of HTL and the construction had been carried out on existing sand dunes. The Goa State Coastal Committee for Environment, in its meeting dated 20-10-1995, took a decision *inter alia* holding that the entire construction put up by the appellant was in violation of the Coastal Regulation Zone Notification.

6. **The Coastal Regulation Zone Notifications have been issued in the interest of protecting environment and ecology in the coastal area. Construction raised in violation of such regulations cannot be lightly condoned. We do not think that the appellant is entitled to any relief. No fault can be found with the view taken by the High Court in its impugned judgment.**

7. *The appeals are held devoid of any merit and are dismissed accordingly.*

(Emphasis Supplied)

G. Because the Hon'ble High Court failed to consider the recent judgment of this Hon'ble Court which is relevant to the present case also with regard to demolition of illegal structures in the CRZ-III NDZ. Area in the matter of ***Kerala State Coastal Zone Management Authority v. State of Kerala***, reported in (2019) 7 SCC 248.

5. **The area in which the respondents have carried out construction activities is part of the tidally influenced water body and the construction activities in those areas are strictly restricted under the provisions of the CRZ notifications. Uncontrolled construction activities in these areas would have devastating effects on the natural water flow that may ultimately result in severe natural calamities.**

The expert opinions suggest that the devastating floods faced by Uttarakhand in recent years and Tamil Nadu this year are the immediate result of uncontrolled construction activities on river shores and unscrupulous trespass into the natural path of backwaters. The Coastal Zone Management Plan (in short "CZMP") has been prepared to check these types of activities and construction activities of all types in the notified areas. The High Court has ignored the significance of approved CZMP.

6. As per the appellant, these construction activities are taking place in critically vulnerable coastal areas which are notified as CRZ-III. The Panchayats have issued these permissions in violation of relevant statutory provisions and CRZ notifications. The Vigilance Section of Local Self-Government Department, Government of Kerala detected these violations and anomalies in the issue of building permits and hence directed the bodies concerned to revoke all the flawed building permits exercising its powers under Rules 16 and 23 of the Kerala Municipality Building Rules, 1999 (in short referred to as "the 1999 Rules").

...

11. It is apparent that at the relevant time when the construction has been raised by the respondents in the matters, the area was within CRZ-III. With respect to CRZ-III, the relevant Notification dated 19-2-1991 indicates that the area of 200 m from the high tide line is no-development zone. No construction shall be permitted within this zone except for repairs of the authorised structures not exceeding existing FSI.

...

13. It is necessary for the local authority to follow the restrictions imposed by the notification, as amended from time to time. ...

14. This Court in Vaamika Island (Green Lagoon Resort) v. Union of India [Vaamika Island (Green Lagoon Resort) v. Union of India, (2013) 8 SCC 760] , has observed: (SCC pp. 767-68, paras 26-28)

"26. The petitioner had effected the construction in violation of the provisions of 1991 and 2011 Notifications as well as Map No. 32-A, so found by the High Court [Ratheesh K.R. v. State of Kerala, 2013 SCC OnLine Ker 14359 : (2013) 3 KLT 840] . The factual details of the same and where actually the portion of some of the properties of the petitioner in Vettila Thuruthu will fall, has been elaborately dealt with by the High Court in its judgment in paras 109 to 119. We notice that the High Court has dealt with the issue pointing out that so far as buildings which have been constructed by the petitioner during the currency of the Notification issued in 1991 are concerned, they are clearly in violation of this

notification, hence, action has to be taken for the removal of the same. The Director of Panchayat also vide letters dated 7-3-1995, 17-7-1996 directed all the Panchayats to strictly follow the provisions of CRZ notification which it was found not followed by granting permission. The High Court has also found on facts that reconstruction work appeared to have been done during the currency of the 2011 Notification and two buildings (193/D and 193/E) were also constructed illegally. The High Court has also noticed another new construction underway. These all are factual findings which call for no interference by this Court. The High Court has clearly noticed that reconstruction work has been done contrary to the 1991 as well as 2011 Notifications and the report of the Expert Committee constituted by the Kerala State Council for Science, Technology and Environment (KSCSTE) was accepted.

27. We are of the considered view that the above direction was issued by the High Court taking into consideration the larger public interest and to save Vembanad Lake which is an ecologically sensitive area, so proclaimed nationally and internationally. Vembanad Lake is presently undergoing severe environmental degradation due to increased human intervention and, as already indicated, recognising the socio-economic importance of this waterbody, it has recently been scheduled under "vulnerable wetlands to be protected" and declared as CVCA. We are of the view that the directions given by the High Court are perfectly in order in the abovementioned perspective.

*28. Further, the directions given by the High Court in directing demolition of illegal construction effected during the currency of the 1991 and 2011 CRZ notifications are perfectly in tune with the decision of this Court in *Piedade Filomena Gonsalves v. State of Goa* [*Piedade Filomena Gonsalves v. State of Goa*, (2004) 3 SCC 445], wherein this Court has held that such notifications have been issued in the interest of protecting environment and ecology in the coastal area and the construction raised in violation of such regulations cannot be lightly condoned."*

(emphasis supplied)

...

18. In the instant case, permission granted by the Panchayat was illegal and void. No such development activity could have taken place in prohibited zone. In view of the findings of the Enquiry Committee, let all the structures be removed forthwith within a period of one month from today and compliance be reported to this Court.

19. The appeals are accordingly allowed with the aforesaid direction. Interlocutory applications, if any, stand disposed of."

(Emphasis Supplied)

H. Because the Hon'ble High Court ought to have transferred the matter for adjudication to the Ld. National Green Tribunal, and therefore erred in staying the proceedings before the Ld. Tribunal and thereby hindering the Original jurisdiction of the Ld. Tribunal under Section 14 of the NGT Act, 2010 which states as follows:-

"4. Tribunal to settle disputes. -

(1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I.

(2) The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settle such disputes and pass order thereon."

(Emphasis Supplied)

The Petitioner herein had raised substantial questions related to environment arising out of blatant violation of the provisions of the CRZ Notification, 1991 as well as 2011 which has been issued under the provisions of the Environment (Protection) Act, 1986 which is part of the Schedule to the NGT Act, 2010. It is pertinent to note that the Ld. Tribunal is a specialized, expert Tribunal constituted to look into technical issues relating to environment, and therefore consists of expert as well as judicial members. The Hon'ble High Court failed to consider its own judgment in the matter of wherein the Hon'ble Court had taken a view that in light of the fact that there is a specific

remedy available under the NGT Act, 2010, High Courts should not entertain such petitions. The relevant observation of the Hon'ble Court is reproduced hereunder:-

“2. The National Green Tribunal Act, 2000 (the Green Act) is for the purpose of preserving ecology and environment and to promote remedies for damages to environment and its constituents. It required specialised environmental courts/tribunals, therefore, the National Green Tribunal has been constituted for different places and sitting including Pune for Western Zone, having territorial jurisdiction to settle disputes, and to grant reliefs, compensation and restitution as provided under the Green Acts (S. 14 to 15). The Tribunal have appellate jurisdiction also. The statutory appeal to Supreme Court is available against the award, order and decision taken/passed by the Tribunal. The Tribunal, in the present case, as have territorial jurisdiction, for the settlement of issue/dispute raised at Goa, but as sitting was at Pune, therefore, heard the matter and passed the impugned order.

...

6. ...But at the same stroke, it is necessary to consider the scheme and object of the Act and so also conduct of the parties. There is no specific cause of action arose within the jurisdiction of this Court, except the hearing and order by the Tribunal at Pune. The tribunal constituted for the convenient of all the parties having jurisdiction to deal with the matters arising out of the Green Act within the States including of Goa. It is settled that while exercising its power of 226 of the Constitution of India, the High Court can after considering the facts and circumstances exercise its discretion. In the present case, we are not entertaining the writ petition in this High Court at Mumbai for the above reasons as no exceptional or special case is made out or need of justice demands to entertain such petition.

7. We have to consider totality of the matter, and in the present case, as admitted position shows that it is in the interest of all the parties including the respondents and specifically when the Tribunal is constituted to deal with the subject matter which governed under the provisions of the Green Act for all the purposes and for an appropriate supervision of various issues; and for appropriate adjudication of dispute so initiated and to implement the provisions of the Act. In the interest of justice, we declined to entertain the writ petition. The preliminary objection is decided accordingly. It is made clear that we have not expressed anything on the merits of the matter, including the

availability of the statutory appeal against the impugned order in view of above reasons.”

(Emphasis Supplied)

I. Because the Hon'ble High Court ought to have heard the Petitioner herein, especially in light of the fact that vide order dated 22.07.2014, the Hon'ble Court had stayed the proceedings initiated by the Petitioner herein before the Ld. National Green Tribunal, Western Zone Bench, Pune. The Hon'ble High Court thus failed to uphold the principle of audi alterem partem by not hearing the Petitioner. In the matter of **Managing Director, ECIL, Hyderabad & Ors. v. B. Karunakar & Ors.** reported in (1993) 4 SCC 727, this Hon'ble Court has held thus:-

“61. It is now settled law that the proceedings must be just, fair and reasonable and negation thereof offends Articles 14 and 21. It is well-settled law that the principles of natural justice are integral part of Article 14. No decision prejudicial to a party should be taken without affording an opportunity or supplying the material which is the basis for the decision.”

(Emphasis Supplied)

Further in the matter of **Dharampal Satyapal Ltd. v. CCE,** reported in (2015) 8 SCC 519, this Hon'ble Court has held that right to be heard is an intrinsic part of the principle of natural justice. The relevant part of the judgment is reproduced hereunder:

“21. In Common Law, the concept and doctrine of natural justice, particularly which is made applicable in the decision-making by judicial and quasi-judicial bodies, has assumed a different connotation. It is developed with this fundamental in mind that those whose duty is to decide, must act judicially. They must deal with the question referred both without bias and they must give (sic an opportunity) to each of the parties to adequately present the case made. It is perceived that the practice of aforesaid attributes in mind

only would lead to doing justice. Since these attributes are treated as natural or fundamental, it is known as "natural justice". The principles of natural justice developed over a period of time and which is still in vogue and valid even today are: (i) rule against bias i.e. nemo debet esse iudex in propria sua causa; and (ii) opportunity of being heard to the party concerned i.e. audi alteram partem. These are known as principles of natural justice. To these principles a third principle is added, which is of recent origin. It is the duty to give reasons in support of decision, namely, passing of a "reasoned order".

...

24. The principles have a sound jurisprudential basis. Since the function of the judicial and quasi-judicial authorities is to secure justice with fairness, these principles provide a great humanising factor intended to invest law with fairness to secure justice and to prevent miscarriage of justice. The principles are extended even to those who have to take an administrative decision and who are not necessarily discharging judicial or quasi-judicial functions. They are a kind of code of fair administrative procedure. In this context, procedure is not a matter of secondary importance as it is only by procedural fairness shown in the decision-making that a decision becomes acceptable. In its proper sense, thus, natural justice would mean the natural sense of what is right and wrong."

(Emphasis Supplied)

- J. Because the Hon'ble High Court ought to have considered the fact that the GCZMA and the Village Panchayat could not have granted any clearance or construction license as the said authorities can permit only those activities which are permissible under law, i.e. provisions of the CRZ Notification, 1991 and 2011. There is a catena of decisions of this Hon'ble Court wherein it has been held that the powers of the statutory bodies are derived, controlled and restricted by the Statutes which create them and the Rules and Regulations framed thereunder (*Delhi Transport Corporation v DTC Mazdoor Congress & Ors.*, ((1991) Supp 1 SCC 600)). In the matter of

V.K. Ashokan v. CCE, reported in (2009) 14 SCC 85, this

Hon'ble Court has held as follows:-

"52. ...Where the statutory authority, it is well known, exercises its jurisdiction conferred on it by a statute, it has to apply its own mind and the procedures laid down therefor must be scrupulously followed.

53. In Ramana Dayaram Shetty v. International Airport Authority of India [(1979) 3 SCC 489 : AIR 1979 SC 1628] this Court held: (SCC pp. 503-04, para 10)

"10. ... It is a well-settled rule of administrative law that an executive authority must be rigorously held to the standards by which it professes its actions to be judged and it must scrupulously observe those standards on pain of invalidation of an act in violation of them. ...

It is a rule of administrative law which has been judicially evolved as a check against exercise of arbitrary power by the executive authority. ...

54. It is furthermore a well-settled principle of law that a statutory authority must exercise its jurisdiction within the four corners of the statute. Any action taken which is not within the domain of the said authority would be illegal and without jurisdiction."

Further, it is a settled principle of administrative law that discretionary powers has to be exercised with circumspection within the limitation of the statute- **Vijayabai v. Shriram Tukaram reported in (1991) 1 SCC 69**

K. Because this Hon'ble Court in the matter of **Indian Council for Enviro-Legal Action v. Union of India & Ors. ((1996) 5 SCC 281)** has stressed the need to enforce the environmental regulations. It was held as following:-

"26. Enactment of a law, but tolerating its infringement, is worse than not enacting a law at all. The continued infringement of law, over a period of time, is made possible by adoption of such means which are best known to the violators of law. Continued tolerance of such violations of law not only renders legal provisions nugatory but such tolerance by the enforcement authorities encourages lawlessness and adoption of means which cannot, or ought not to, be tolerated in any civilized society. Law should not only be meant for the law-abiding but is meant to be obeyed

by all for whom it has been enacted. A law is usually enacted because the legislature feels that it is necessary. It is with a view to protect and preserve the environment and save it for the future generations and to ensure good quality of life that Parliament enacted the anti-pollution laws, namely, the Water Act, Air Act and the Environment (Protection) Act, 1986. These Acts and Rules framed and notification issued thereunder contain provisions which prohibit and/or regulate certain activities with a view to protect and preserve the environment. When a law is enacted containing some provisions which prohibit certain types of activities, then, it is of utmost importance that such legal provisions are effectively enforced. If a law is enacted but is not being voluntarily obeyed, then, it has to be enforced. Otherwise, infringement of law, which is actively or passively condoned for personal gain, will be encouraged which will in turn lead to a lawless society. Violation of anti-pollution laws not only adversely affects the existing quality of life but the non-enforcement of the legal provisions often results in ecological imbalance and degradation of environment, the adverse effect of which will have to be borne by the future generations.

...

28...The courts are ill-equipped and it is not their function to see day-to-day enforcement of law. This is an executive function which it is bound to discharge. A public interest litigation like the present, would not have been necessary if the authorities, as well as the people concerned, had voluntarily obeyed and/or complied with the main Notification or if the authorities who were entrusted with the responsibility, had enforced the main Notification. It is only the failure of enforcement of this notification which has led to the filing of the present petition. The effort of this Court while dealing with public interest litigation relating to environmental issues, is to see that the executive authorities take steps for implementation and enforcement of law. As such the court has to pass orders and give directions for the protection of the fundamental rights of the people. Passing of appropriate orders requiring the implementation of the law cannot be regarded as the court having usurped the functions of the legislature or the executive. The orders are passed and directions are issued by the court in discharge of its judicial function, namely, to see that if there is a complaint by a petitioner regarding the infringement of any constitutional or other legal right, as a result of any wrong action or inaction on the part of the State, then such wrong should not be permitted to continue. It is by keeping the aforesaid principles in mind that one has to consider as to what directions should be issued to ensure, in the best

possible manner, that the provisions of the main Notification which has been issued for preserving the coastal areas are not infringed."

PRAYER:

It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to:

- i. Grant Special Leave to Appeal against the impugned order dated 19.06.2019 in the matter of Tonia Estates and Resorts Pvt. Ltd. & Anr. v. State of Goa & Ors. (WP No. 469 of 2014) passed by the Hon'ble High Court of Bombay at Goa.
- ii. Pass such other and further order or orders as may be deemed fit and proper in the interest of justice.

PRAYER FOR INTERIM RELIEF:

It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to:

- i. Grant stay on all commercial activities by Respondent No. 1 and No.2 at the illegal resort in question.
- ii. Stay the impugned order dated 19.06.2019 in the matter of Tonia Estates and Resorts Pvt. Ltd. & Anr. v. State of Goa & Ors. (WP NO. 469 of 2014) passed by the Hon'ble High Court of Bombay at Goa.

Drawn by:

Rahul Choudhary
Meera Gopal
Advocates

Filed by:

**MS. SRISHTI AGNIHOTRI
ADVOCATE FOR THE PETITIONER**

IN THE SUPREME COURT OF INDIA
(CIVIL APPELLATE JURISDICTION)

SPECIAL LEAVE PETITION (C) NO. OF 2019

IN THE MATTER OF:-

Colva Civic and Consumer Forum ...Petitioner

Versus

Tonia Estates and Resorts Pvt. Ltd & Ors. ...Respondents

CERTIFICATE

Certified that the Special Leave Petition is confined only to pleadings before the Court/Tribunal whose order is challenged, and the other documents relied upon in those proceedings. Certain additional facts, documents or grounds have been taken or relied upon in the Special Leave Petition. However, it is clarified that the said documents were part of the record of the Ld. National Green Tribunal in OA No. 66/2014 (WZ). The proceedings in the said matter, was challenged before the Hon'ble High Court in Writ Petition No. 469 of 2014. Thus, the said documents are necessary for proper adjudication of the present SLP. It is further certified that the copies of the documents/annexures attached to the Special Leave Petition are necessary to answer the question of law raised in the petition or to make out grounds urged in the Special Leave Petition for consideration of this Hon'ble Court. This certificate is given on the

basis of the instructions given by the petitioner/persons authorized by the petitioner whose affidavit is filed in support of the SLP.

Place: New Delhi

Date: __.10.2019

Advocate for the Petitioner

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (C) NO. /2019

IN THE MATTER OF:-

Colva Civic and Consumer Forum ... Petitioner

Versus

Tonia Estates Resorts Pvt. Ltd. &Ors ... Respondents

AFFIDAVIT

I, Mrs. Judith A.B. Almeida, D/o Late Mr. Joseph Henry Baptista, R/o H.NO. 257/1, Bagdem, 3rd Ward, Colva, Salcete- Goa, do hereby solemnly affirm and state as under:-

1. That I am the Secretary and authorised representative of the Petitioner in the aforementioned Petition, and I am well conversant with the facts of the case. I am competent to swear this Affidavit.
2. That the contents of the para 1 to para pages to of this Special Leave Petition, list of dates at page 'B' to , and the Interlocutory Applications therein are true to the best of my knowledge, information and belief.
3. That the Annexures P.1 to P. at pages to are true and correct copies of their respective originals.
4. I say that the facts stated in this Affidavit are true and correct, no part of it is false and nothing material has been concealed therefrom.



J. Almeida

DEPONENT

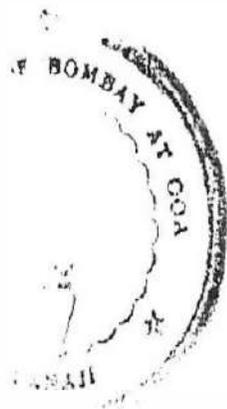
VERIFICATION:-

I, the deponent above-named, do hereby state on solemn affirmation that the contents of the paras 1 to 4 are true and correct to my knowledge and I believe the same to be true and that nothing material has been concealed there from.

Verified at Goa on 18th day of September, 2019.

A. S. Almeida

DEPONENT



solemnly affirmed before me
by *Just. Justice A.S. Almeida*
who is identified before me
by her Pan card no. *AKP8A01422*
whom I personally know
Dated this 18th day of September
2019.

M. J. J.
18-9-19
Asst. Registrar
High Court of Bombay at Goa
Panaji, Goa

True Copy

ITEM NO.62

COURT NO.13

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(s). 27545/2019

(Arising out of impugned final judgment and order dated 19-06-2019 in WP No. 469/2014 passed by the High Court Of Judicature At Bombay At Goa)

COLVA CIVIC AND CONSUMER FORUM

Petitioner(s)

VERSUS

TONIA ESTATES AND RESORTS PVT. LTD. & ORS.

Respondent(s)

(IA No. 171459/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 03-10-2023 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE J.K. MAHESHWARI
HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Petitioner(s) Ms. Anitha Shenoy, Sr. Adv.
Ms. Srishti Agnihotri, AOR
Ms. Sanjana Grace Thomas, Adv.
Ms. Ayushma Awasthi, Adv.
Ms. Namrata Sarah Caleb, Adv.
Ms. Tara Kurien, Adv.

For Respondent(s) Mr. N. K. Kaul, Sr. Adv.
(Name not shown in the appearance)
Mr. Huzefa Ahmadi, Sr. Adv.
Ms. Nina R Nariman, Adv.
Mr. Pritam Talaulikar, Adv.
Mr. Bernard Reis, Adv.
Mr. Dcosta Ivo Manuel Simon, AOR

Mr. Krishnan Venugopal, Sr. Adv.
Mr. Shridhar Y Chitale, Adv.
Mr. Pranay Chitale, Adv.
Ms. Sujata Kurdukar, AOR

Ms. Anshula Vijay Kumar Grover, AOR

Ms. A. Subhashini, AOR

Mr. Carlos A. Ferreira, Adv.
Mr. Ujjawal Anand Sharma, Adv.
Mr. Tushar Saigal, Adv.

Mr. D. Kumanan, Adv.

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

During the course of hearing, we find that Original Application No. 66 of 2014 is pending before the National Green Tribunal, Western Zone at Pune, Maharashtra.

Therefore, we defer the hearing of this case for a period of six months.

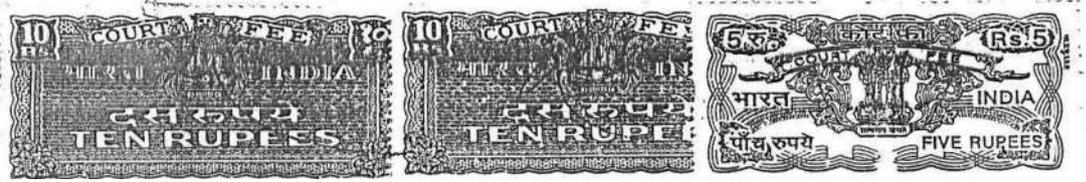
In the meantime, we request the National Green Tribunal to decide the said application, as expeditiously as possible. The parties are at liberty to raise all contentions, objections as are available under law and file the replies and documents, if any, before the National Green Tribunal.

Re-list after six months.

(JAYANT KUMAR ARORA)
ASTT. REGISTRAR-cum-PS

(VIRENDER SINGH)
BRANCH OFFICER

True Copy



IN THE HIGH COURT OF BOMBAY AT GOA

MCA NO. 685 /2012

IN

SUO MOTO WRIT PETITION NO. 2/2006

THE COLVA CIVIC AND CONSUMER FORUM

With its office at H. No. 257/1,

Bagdem, Ward 3, Colva,

Salcete – Goa.

Through it's Secretary

Mrs. Judith A. B. Almeida

Major, r/o H No. 257/1, Bagdem

Colva, Salcete, Goa.

.....APPLICANT

IN SUO MOTO WRIT PETITION NO.2/06

V/S

1. The Union of India,
Through the Ministry of Environment & Forest
Paryavaran Bahavan , CGO complex,
Lodi Road, New Delhi 110003
2. The Goa Coastal Zone Management Authority
Through its Member secretary
Saligao, Bardez, Goa.
3. The State of Goa
Through its Chief Secretary
Secretariat
Porvorim, Bardez, Goa.
The Village Panchayat of
Colva – Sernabatim – Vanelim
And Gandaulim
Through its secretary
Colva, Salcete, Goa

.....RESPONDENTS

(All registered addresses)



APPLICATION FOR INTERVENTION IN
SUO MOTO WRIT PETITION NO. 2/2006

MAY IT PLEASE YOUR LORDSHIPS: -

1. The Petitioner is a Forum comprising of citizens of the Villages of Colva, Vanelim, Sernabatim and Gaundalim, who are concerned about the large scale illegal and unplanned construction and development that is being undertaken in their Villages. The forum has been formed with a view to protect and preserve civic and consumer rights and also to protect the villages from destruction due to unplanned and illegal construction and development and to represent the Villagers before the various authorities concerned with granting of licenses and permissions for construction and development in the said Villages. The forum has been engaged since the last two years in movements against unplanned mega housing and building projects coming up in the villages of Colva, Vanelim, Sernabatim & Gaundalim by educating the villagers about their rights, it has been instrumental in getting the issue of the mega building projects discussed at the Gram Sabha meetings of the Panchayat resulting in resolutions being passed at the Gram Sabha meetings that no such files pertaining to mega housing and building projects should be approved without the files being placed before the Gram Sabha for deliberation. The Petitioner has been also actively involved in issues concerning the health and



sanitation in the villages of Colva, Vanelim, Sernabatim & Gaundalim.

2. The Applicant is registered as a society under the Societies Registration Act, 1860 under registration No. 268/Goa/2009.
3. The applicant has filed 5 writ petitions before this Hon'ble Court in public interest namely writ petition nos. 297/09, 415/09, 843/09, 150/10, PIL writ petition no. 15/11 and contempt Petition no. 2/12 pertaining to issues relating to the environment, illegal development and construction and pollution caused to the village of Colva, the Colva beach due to rampant dumping of garbage in open spaces fields, and the Colva Creek, discharge of sewage and waste into the Colva creek and the inaction of the village Panchayat of Colva in sorting out the garbage problem plaguing the village.
4. The applicant has give to understand that in this suo moto writ petition this Hon'ble Court has taken cognizance of the rampant illegal constructions that have come up in the coastal areas particularly in the no-development zone (NDZ) which the authorities had neglected to act upon.

The applicant has learnt that the villages of Colva, Sernabatim, Vanelim and Gandaulim are also subject matter of the petition.

5. The applicant by this application seeks to bring to the notice of this Hon'ble Court various blatantly illegal constructions that that have come up within 200 meters of the high-tide line in Colva and



Sernabatim which the respondents 1 & 2 have conveniently neglected and allowed to flourish.

6. The applicant is annexing herewith a chart showing the details of the illegal constructions with the names of the violators, survey nos. details of show-cause notices if any issued by the Panchayat, documents referred to as proof of illegal constructions done and nature of violations, the Chart is annexed herewith as **annexure A**.
7. The applicant states that all these illegal construction are well within the knowledge of the respondents 1 & 2, however no concrete action has been taken to have the same removed besides issuing them show-cause notices.
8. The applicant therefore seeks to bring these gross violations to the notice of this Hon'ble Court with the humble request that this Hon'ble Court be pleased to direct the respondents 1 & 2 file an action-taken report before this Hon'ble Court citing details of the action taken as on date to have the said illegal constructions removed/demolished.
9. The applicant has through the Amicus Curiae appointed in this matter Mrs Norma Alvares obtained A copy copies of the plan prepared by the Directorate of Settlement and Land Records, after mapping the structures existing within the no-development zone in village Colva, between 04/09/2006 and 05/09/2006. The new buildings that have come up after the enforcement of the CRZ notification in the year 1991 have been shown in brown on the said



plan. The applicant states that in the said plan, there are large new constructions/buildings seen in survey nos. 70, 69, 52/1, 53, 51, 50, 39, 49, 40, 41, 37, 24, 28, 23 of village Colva, all within the NDZ and some of them are almost on the beach such as the development of Ms. Tonia Estates and Resorts Pvt. Ltd. In Survey nos. 23/13 and 23/17 of village Colva adjacent to the Colva Creek. The beach shacks/restaurants which have been converted into permanent structures existing in Survey nos. 37/5 and 37/6, 23 subdiv 7, 10 & 11. The copies of the plans annexed herewith and marked **annexure B-colly**.

10. The applicant states that in survey no. 97/1-A of village Betalbatim bordering Colva Village, there is an illegal structure erected on the primary sand-dune which is being used as a restaurant called (Mickey's Restaurant). Photographs of the said structure along with those of other illegal structures in the NDZ are annexed herewith and marked **annexure C- colly**.

11. The applicant states that in the village of Sernabatim- Salcete in survey nos. 12/1 to 12/5 there are a number of illegal structures in the NDZ which are all permanent constructions. The applicant has been handed over by one Mr. Rabindra Dias, copy of a report dated 7/6/12 prepared by the respondent no. 1 pursuant to a survey conducted at site in survey nos. 12/1 to 12/5 of village Sernabatim on 02/05/2012 which shows a number of new illegal constructions all in the NDZ. This report the applicant is given to understand has been filed before the Learned Single Judge of this Hon'ble Court



in Contempt Petition no. 43/10 filed by the said Mr Rabindra Dias. The applicant states that besides the structures mentioned hereinabove in survey No. 12/3 of village Sernabatim there are other illegal structures existing which are all commercial structures used as tourist guest-houses such as Quinsan, JB Resthouse, Furtado Resthouse within 200 meters of the High Tide line. In survey no. 17/10 of village Sernabatim, there is a large illegal structure nearly on the beach belonging to Hotel Baywatch. The applicant states that all these illegal structures have come up with active connivance of the village Panchayat of Colva. The respondent no.1 seems to have taken no action with regard to the same. The plan dated 07/06/2012 prepared by the respondent no. 1 and submitted in contempt petition no. 43/2010 before this Hon'ble Court is annexed herewith as **Annexure D**.

12. The applicant therefore prays that

- A) The applicant be permitted to intervene in this petition and file an affidavit with documents in support of its case.
- B) The respondents 1 and 2 be directed to take immediate action with regard to the illegal constructions in the No-Development Zone in the villages of Colva and Sernabatim enlisted in the Annexure A hereto.

Panaji, Goa

Dated: 13/7/12



(The applicant through its secretary)





AFFIDAVIT

I, Mrs. Judith A.B Almeida, major, daughter of late Mr. Joseph Henry Baptista, resident of H. No. 257/1, Badgem, 3rd ward, Colva, Salcete - Goa, the secretary of the Petitioner herein, do hereby on solemn affirmation state that the contents of paragraphs 1 to 11 of this application are true and correct to my own knowledge and the contents of Paragraph 12 are submissions based on legal advice received which I believe to be true.

Solemnly affirmed at Panaji on this 13th day of ~~January~~ ^{July} 2012 *JH*

JH Almeida

Deponent

Identified by me:

Mana Maler
(Advocate for the Petitioner)
(Adv. Manā Maler)

Solemnly affirmed before me on this 13th day of July 2012 by *JH Almeida* who is *Adv. Manā Maler*

JH Almeida
Section Officer
High Court of Bombay at Goa
Panaji (Goa)



True Copy

SUO MOTU WRIT PETITION NO. 2 OF 2006

-
Versus

... Petitioner

UNION OF INDIA THROUGH ITS
SECRETARY AND 28 ORS.,

... Respondents

Ms. N. Alvares, Amicus Curiae.
Mr. A. D. Bhobe, Advocate for respondent no.9.
Mr. D. Shirodkar, Advocate for respondent no.11.
Mr. J. Godinho, Advocate for the respondent no.15.
Mr. M. Salkar, Government Advocate for respondent no.16.
Mr. S. Redkar, Advocate for the respondent nos.26 and 27.
Mr. V. Parsekar, Advocate for respondent no.19.
Mr. O. Gaonkar, Advocate for respondent nos. 14, 18, 20, 21 and 22.
Mr. Nigel Da Costa Frias, Advocate for the intervenor.

Coram:- F. M. REIS &
K. L. WADANE, JJ.

Date:- 12th January, 2015

P.C.

Ms. N. Alvares, learned Amicus Curiae has produced a list of pending structures which according to her no action has been taken. The structures are essentially concerning the respondent no.9 Anjuna Village Panchayat; the respondent no.10 Calangute Village Panchayat; the respondent no.17 Majorda Village Panchayat; and the respondent no.18 Betalbatim Village Panchayat.

2. The respondent nos. 9, 10, 17 and 18 are accordingly directed to file an additional affidavit disclosing the action taken in respect of such structures referred to in the said list which is marked 'X' for identification.

3. With regard to the respondent no.19, Village Panchayat of Colva, it is the contention of the learned Amicus Curiae that GCZMA has directed the local village panchayat to examine the legality of 19 structures which were referred to in the application for intervention filed by the intervenor. The learned counsel appearing for the local village panchayat has pointed out that there is material on record to suggest that the structures are not illegal.

4. Hence, the respondent no.19/village panchayat of Colva is called upon to furnish such material before the GCZMA and such Authorities/the respondent no.16 shall examine such material after hearing the parties in accordance with law.

5. Mr. Salkar, learned Government Advocate states that such exercise shall be completed within six weeks from the receipt of such material from the respondent no.19 who shall produce the material within one week from today before the GCZMA.

6. With the above directions, place the matter for further consideration after eight weeks.

K. L. WADANE, J.

F. M. REIS, J.

at*

True Copy

Secretary
 M.A. 3101/L
 Inward No. 19110/15
 Date 19/10/15

BEFORE THE INQUIRY COMMITTEE

GCZMA

Case No. GCZMA/GEN/MISC/13-14/

In the matter of Order dated 15-01-2015 of the Hon'ble High Court in *Suo Moto* W.P. No.2/2006 directing GCZMA to examine the documents relied by the Village Panchayat of Colva in respect of structures existing in No Development Zone of CRZ-III.

REPORT

1. As the direction was to examine the documents only personal hearing was given to the concerned parties. This case pertains to M/s Tonia Estates and Resorts Pvt.Ltd (to be referred as "the affected party") situated in the property surveyed under Sy.No. 23/13 and 23/17 of Village Colva. Mrs. Judith Almeida appeared for Colva Civic and Consumer Forum. Adv. Sahish Mahambrey for the affected party submitted the reply and documents.
2. In the reply the affected party states that the affected party is not a party in *Suo Moto* W.P. No.2/2006, that the GCZMA has itself come to the conclusion that the existing structure in survey no.23/13 and 23/17 of Colva Village were prior to 19-02-1991 that the GCZMA has granted approval for repairs/reconstruction of the existing structure by permission dated 18-05-2006 and 31-01-2006 that the permission granted by GCZMA has been questioned by one Theodore Fernandes in W.P.No.751/2008 filed before the Hon'ble High Court in which there is also a challenge to repairs/reconstruction carried out by the affected party; that there is another W.R.No.469/2014 pending before the Hon'ble High Court wherein the proceeding filed by Colva Civic and Consumer Forum before the National Green



Public Information Officer
 (GCZMA)

Tribunal against the affected party in respect of same subject matter are stayed and that Colva Civic and Consumer Forum is a party in the said Writ Petition.

3. The letter dated 18-05-2006 of GCZMA is in respect of approval of proposed repairs and renovation of an existing Beach Resort in survey no.23/13 and 23/17 of Village Colva. The letter dated 18-05-2006 along with approved plan are marked as Annexure A (Colly). As GCZMA did not considered the approval for repairs and reconstruction of two existing structures marked Block A & C in the plan attached to letter dated 18-05-2006 Annexure A (Colly), by letter dated 30-01-2008, GCZMA granted approval for repairs and reconstruction of two structures Block A and Block C in survey no.23/13 and 23/17 c. Village Colva. The letter dated 30-01-2008 is marked as Annexure B.

4. The affected party produced extracts of the Minutes of the 25th GCZMA meeting held on 20-04-2006 and the Case no.3 is in respect of proposed repairs and renovation of an existing Beach Resort in survey no.23/13 & 17 of Colva Village. The extracts of 25th meeting are marked as Annexure C (Colly). There is reference to the decision on the Case no.3 stating that the proposed repairs and renovations of the 1st phase of the existing resort which is in a dilapidated condition was approved by examining the original approvals granted in the year 1981, 1986 and 1988 i.e. prior to the enforcement of the CRZ Notification of 1991. In the extracts at Annexure 'C colly' there is reference to the background of the proposed repairs and renovations stating that the first phase of the Resort was originally approved on 05-05-1981 by the Colva Panchayat. The Town and Country Planning Department subsequently approved the revised first phase plan on 24-02-1986 and that the erstwhile Ecological Development Council (EDC) in its 13th Meeting approved the swimming pool alongwith ancillary items on 19-07-1988.



25/04/2006
 Public Information Officer
 (GCZMA)

5. The affected party produced letter dated 23-08-2012 of GCZMA and letter dated 30-07-2012 alongwith survey plan of DSLR which are marked as Annexure D (Colly). The letters and plan at Annexure D (Colly) confirms that repairs and renovation were carried as per approved plan and within the plinth area. The affected party produced the Technical Clearance Order dated 15-04-2013 by which revised Technical Clearance is granted by the Town and Country Planning Department for carrying out the work of repairs and renovation/reconstruction of existing resorts Block A, Block B (6 nos.) and Block C in survey no.23/13 and 23/17. The Technical Clearance Order dated 15-04-2013 along with approved plans are marked as Annexure E (Colly).
6. The affected party produced the Completion Order dated 16-04-2013 of Town and Country Planning Department certifying the completion of repairs, renovation/reconstruction of existing resort (Block A; Block B (6 units) and Block C. The completion order dated 16-04-2013 is marked as Annexure F. The Village Panhayat of Colva granted Occupancy Certificate to the Construction of Renewal and Revised approval for repairs and renovation/reconstruction of existing Resort (Block A, Block B (6 units) and Block C of premises bearing H.No.424 and H.No.424/1. The occupancy certificate dated 13-02-2014 is marked as Annexure G.
7. The existing Beach Resort at Colva falls within the area of 200 mtrs from the HTL in the No Development Zone of CRZ-III. By taking into considerations that within the area of 200 mtrs from HTL in No Development Zone, repairs and reconstruction of existing structure is permissible but without exceeding the plinth area; that the repairs and renovation/reconstruction were carried in the existing Beach Resort and within the plinth area; that the affected party obtained approvals from GCZMA at Annexure B (Colly), Minutes of GCZMA Meeting Annexure C



INFORMATION SYSTEMS DIVISION

(Colly), survey plan of DSLR at Annexure D (Colly), Technical Clearance Order of Town and Country Planning Department at Annexure E (Colly), Completion order of Town and Country Planning Department at Annexure F and Occupaney Certificate of Village Panchayat of Colva at Annexure G, the repairs and renovation/reconstruction of existing Resort Block A, Block B (6 units) and Block C in survey no.23/13 and 23/17 of Village Colva and having H.No.424 and H.No.424/1 were carried within the plinth area and in accordance with law.

Dated: 19 /10/2015.

15/10/2015
Public Information Officer
(GOZMA)
Afonso Araujo
CHAIRMAN

(Kanchan M. Lottikar)
MEMBER

(Caetano Joaquim de Braganza)
MEMBER

True Copy



**MINUTES OF THE 179TH MEETING OF THE GOA COASTAL ZONE MANAGEMENT
AUTHORITY (GCZMA) HELD ON 19/07/2018 (THURSDAY) AT 3:30 P.M. IN THE
CONFERENCE HALL, 2ND FLOOR, SECRETARIAT, PORVORIM – GOA.**

The 179th meeting of the Goa Coastal Zone Management Authority (GCZMA) was held under the Chairmanship of the Secretary (Environment), on 19/07/2018 (Thursday) at 3:30 p.m. in the conference hall, 2nd floor, Secretariat, Porvorim L Goa.

The following members were present for the meeting:

1. Principal Secretary (Environment) / Chairman (GCZMA).
2. Representative on behalf of Director, Directorate of Panchayats, Government of Goa.
3. Representative on behalf of Director, Directorate of Tourism, Government of Goa.
4. Representative on behalf of Director, Director, Directorate of Settlement & Land Records, Panaji, Goa.
5. Representative on behalf of Chief Engineer, Water Resources Department (W.R.D), Government of Goa.
6. Shri. Audhut J. Bhounsule, Expert Member (GCZMA).
7. Shri. SuhasGodse, Expert Member (GCZMA)
8. Shri. SrirangJambhale, Expert Member (GCZMA)
9. Member Secretary (GCZMA).

Item No. 1:

Case No. 1.1

**To discuss and deliberate upon matter filed by Cavelossim villagers Forum v/s
M/s Gaffino Venture Pvt. Ltd bearing Original Application no.97/2018.**

The office of GCZMA was earlier in receipt of a complaint dated 26/12/2017 from Cavelossim villagers Forum interalia stating alleged illegal construction of temporary structures in No Development Zone are in property bearing Syno.113/8 of village Cavelossim, Salcete carried out by Grand GiGi beach lawns and Event Venue (GaffinoVenture Pvt. Ltd).

Proceeding: Representative on behalf of complainant (Cavelossim villagers Forum) remained present for the hearing. Respondent through authorised representative Adv. A. Bhobe remained present.

Representative on behalf of complainant submitted written submission before the authority and stated that respondent had destroyed sand dunes and not restored.

Respondent interalia submitted compliance before the authority and stated that structures erected are temporary in nature and which have been removed.

Decision: The authority heard and perused the written submissions made by both the parties and considering site inspection report by the expert member of GCZMA concluded that M/s Gaffino (Grand GiGi Beach Lawn and Event Venue) has complied with the observations of Expert Members by demolition of the temporary structures in Survey No. 113/8 of village Cavelossim. In so far as allegation of destruction of sand dunes is concerned the inspection report by Expert Members of GCZMA has not observed any such violation in the said Survey No. Accordingly, the Authority decided to drop the proceedings and dispose the case.

Case No. 1.2

To discuss and deliberate upon complaint filed by Cavelossim villagers Forum v/s M/s Village Panchayat Cavelossim bearing Original Application no.98/2018.

Background:

The office of GCZMA was earlier in receipt of an complaint dated 26/12/2017 from Cavelossim villagers Forum interalia stating alleged illegal construction of two structures and a Sewage Treatment Plant (STP) in NDZ in property bearing Survey No.109/1(P) of village Cavelossim, Taluka Salcete carried out by Byke Resort.

The authority called the parties for personal hearing during its previous meeting i.e.178th GCZMA meeting held on 10/07/2018 wherein the authority decided to direct the Goa State Pollution Control Board to ascertain the efficiency of the operation of the STP and leakage of the STP and its existence at the present site based on the records available in their office .The Authority directed the respondent to remove the poles and foundations existing at site and clear the site and submit a compliance report within a week. Also authority directed respondent to show documentary evidence of lease agreement between Byke resort and M/s Dalmia resort as all the permissions submitted are in favour of Dalmia resort thereafter the authority will conduct fresh inspection to ascertain the compliances, Further the Authority decided to request Goa Biodiversity board to submit a proposal for restoration of sand dunes and the matter is adjourned on 18/07/2018.

Proceeding: complainant was absent, however representative who was present for the matter of Gaffino stated that he has not instructed to appear in the Byke matter.

Advocate Pulkit Bandodkar remained present on behalf of respondent and submitted documents before the authority further he stated that the STP is pre-1991 and GSPCB had directed the respondent to complete the work within 3 months hence permission was not required during that time. He further submitted that poles and foundation are removed and submitted the photographs of the same before the authority, further he stated that if there is any destruction of sand dunes at the site assessment of sand dune restoration will be done on basis of report.

Decision: The authority heard and perused the written submissions made by both the parties. Authority noted that compliance with respect to the direction issued to the respondent in the 178th Meeting of GCZMA has been done in respect of removal of the poles and submission of sale deed to establish the relationship between Byke resort and Dalmia resort. In respect of restoration of the sand dunes at the site, the Authority decided to communicate to Goa State Biodiversity Board to submit a proposal for restoration of sand dunes after site inspection. The cost of restoration shall be borne by Byke resort. Authority also resolved to direct Goa State Pollution Control Board to submit a comprehensive report on the working of STP in the premise of Byke resort specifically mentioning the date of operation, capacity and compliance of statutory norms.

Case No. 1.3

To discuss and deliberate upon order dated 15/02/2012 directing demolition of 18 structures in Syno.242/1 (part), village Calangute constructed by Mr. Sylvester D'souza c/o Sunset cottages, r/o SauntaVaddo, Calangute, Bardez-Goa.

Background: The Office of the GCZMA earlier pursuant to exhaustive hearing and inquiry was pleased to pass an order dated 15/02/2012 directing demolition of 18 structures in Syno.242/1 (part), village Calangute constructed by Mr. Sylvester Disouza c/o Sunset cottages, r/o Saunta Vaddo, Calangute, Bardez-Goa in violation CRZ notification. The respondent violator being aggrieved by said order dated 15/02/2012 filed an Writ Petition bearing no. no.97/2018 before Honible High Court of Bombay at Goa interalia alleging violation principles of natural justice. The matter was disposed by the Hon:ble High Court of Bombay at Goa vide judgement/order dated 22/03/2018 interalia dismissing the petition and granting four weeks time to the petitioner to seek alternate remedies. The petitioner being aggrieved by judgment/order dated 22/03/2018 dismissing the Writ Petition bearing no. no.97/2018 filed a review application bearing no.8/2018 in Writ Petition bearing no. no.97/2018. The said application was dismissed by the Honible High Court of Bombay at Goa vide order dated 13/04/2018. The petitioner being aggrieved by judgment/order dated 13/04/2018 filed a Special Leave to Appeal no.13457-13458/2018 before the Honible Supreme Court, New Delhi. The Honible Supreme Court, New Delhi vide order dated 25/05/2018 has interalia observed as under:-*"We are not inclined to interfere with the judgment of the High Court which is impugned in these special leave petitions. We make it clear that in view of the order dated 15th February, 2012 passed by the Goa Coastal Zone Management Authority (Annexure P-26) holding that no prior permission has been taken in regard to the subject structures having become final, it will be open to the authorities to proceed on the basis of the said order in accordance with law. While doing so, the authority may take into account the efficacy of Resolution dated 20th February, 2012 (Annexure P-27) passed by the Village Panchayat purporting to regularize the subject structure. The*

effect of that Resolution may be taken note of as per law. Needless to observe that the authorities may give opportunity to both the parties, if necessary, as permissible in law”.

Proceeding: The applicant Mr. DiSouza was not present. The applicant has filed an application dated 18/07/2018 seeking additional time of one month to appear before the Authority for Personal hearing.

Decision: The Authority remarked that the application of Mr. DiSouza seeking time of one month cannot be allowed as this hearing has not been granted as a de novo hearing in the matter but only limited to the observation made by Honble Supreme Court to consider the resolution of Village Panchayat dated 20/2/12. As such, the Authority decided to grant a final opportunity to the applicant to appear before the Authority in its next meeting on 31/07/18. The Authority also noted that the one Mrs. Nalini da Rosa Fernandes has also filed letter/ representation interalia objecting the representation made by Mr. Sylvester DiSouza and seeking hearing in the matter. Accordingly, the Authority decided to call Mrs. Nalini Fernandes for hearing in the next meeting.

Case No. 1.4

To discuss and deliberate on alleged illegal development of plots in Property Bearing Sy. Nos. 275/1, 1-B and 1-C in Paddy Field at Morambi-O-Grande, Village Mercas, Tiswadi, Goa.

Background

GCZMA received three complaints, one from the Village Panchayat of Mercas, dated 29/03/2016, regarding alleged illegal development of plots in property bearing Sy. Nos. 275/1, 1-B and 1-C; second from Mr. Jose Oliveira from Mercas dated 06/04/2016 regarding the said illegal development. The third complaint was from Mr. Sudesh Kalangutkar, President of Mercas Welfare Association dated 18/04/2017 with regard to alleged illegal conversion of land, filling of mud and construction of houses and also cutting of mangroves in property bearing Sy. Nos., 275/1, 275/1-B and 275/1-C, 274/1 and 274/2 of village Morambi-O-Grande, Tiswadi within CRZ area by Mr. Johny Fernandes and Mr. Shane Fernandes. A site inspection was therefore fixed to see the site, verify the CRZ zoning of the area, the constructions done and to take the stock of the situation.

Decision: The Authority noted that the said matter was discussed and deliberated during 171st GCZMA meeting held on 10/04/2018. In the said meeting the Authority had resolved to issue demolition order against Mr. Johny Fernandes and Mr. Shane Fernandes having property bearing Sy. Nos. 275/1, 275/1-B, 275/1-C, 274/1 and 274/2 of village Morambi-O- Grande Tiswadi. The Authority further noted that both the parties were not heard while arriving at the decision of demolition of structures in the above

Survey Nos. Accordingly, in terms of principles of natural justice, GCZMA resolved to call the parties for personal hearing in the next meeting to be held on 31/07/2018.

Case No. 1.5

To discuss and decide on a complaint dated 22/11/2017 from Mr. Rameshwar Khorjuvekar regarding misuse of NOC issued by GCZMA to Prashant Khorjuvekar dated 01/08/2017.

Background: This office had earlier issued NOC /Permission for proposed repair and renovation of residential house bearing H. No. 16 in the plot bearing S.Y No. 384/11 Anjuna, Bardez, Goa to Smt. Rukmini Khorjuvekar represented by Prashant Khorjuvekar bearing no. GCZMA/N/14-15/161/811 dated 01/08/2017. Office is in receipt of Complaint dated 22/11/2017 from Mr. Rameshwar Khorjuvekar regarding misuse of NOC issued by GCZMA to Prashant Khorjuvekar dated 01/08/2017. In the said complainant, Shri. Rameshwar Khorjuvekar has alleged that Smt. Rukmini Khorjuvekar have extended the construction of house by constructing toilet and bathroom with soak pit towards his house and also that you have blocked the access to his house due to construction of RCC structure (extension of house) compound wall gallery attached to the existing house which constitute violation of clause 7 and clause of the said permission dated 01/08/2017 issued to Smt. Rukmini Khorjuvekar represented by Prashant Khorjuvekar. Shri. Prashant Khorjuvekar has violated the clauses stipulated in the said permission issued by the GCZMA bearing no. GCZMA/N/14-15/161/811 dated 01/08/2017.

Decision: The Authority perused the Agenda note and concluded that the constructions done to the said house are within the NDZ of river on the strength of NOC given by GCZMA on 01/08/2017. The inspection report by Expert members has established that Mr. Prashant Khorjuvekar has undertaken new construction in violation of the repair and renovation NOC of GCZMA. In view of the same the authority decided to conduct survey by DSLR to ascertain the extent of new construction undertaken. If any excess area is found with respect to the structure shown in re-survey map of 2003, it will amount to a new construction/extension and lead to the violation of NOC issued by GCZMA and ultimately amount to the violation of CRZ regulation.

Case No. 1.6

Letter /representation dated 25/06/2018 (enclosing emails dated 18/06/2018 and 19/06/2018) made by Judith Almeida to include additional survey nos. 567/29, Village Curtorim, Salcete, Goa in the order dated 15/06/2018 passed by GCZMA.

Background: The Office of the Goa Coastal Zone Management Authority was earlier in receipt of complaint letter dated 15/06/2015 as referred above from Mr. Jaime

Rodrigues r/o.H.no.421,Bandol,Curtorim,Salcete-Goa regarding alleged illegal construction of room shed, stage and dancing floor on the Bank of Zuari carried out by Mr. Armando Barreto r/o of H.no.409/A, Suclem, Curtorim, Salcete-Goa in Sy.No 568/1 & 568/1 of village Curtorim, Salcete-Goa. Further, authority was in receipt of a representation dated 05/08/2015 regarding earlier complaint dated 15/06/2015 filed against Mr. Armando Barreto pertaining to illegalities carried out in Sy. No. 568/1 & 568/2 village Curtorim and requested to conduct site inspection and action in the said matter.

The GCZMA fixed site inspection of the above mentioned site/area on 18/08/2015. The site under reference was inspected by Technical Officer GCZMA and Jr. Scientific assistant GCZMA and submitted an inspection report dated 18/08/2015. taking into consideration complaint dated 15/06/2015 and the site inspection report dated 18/08/2015 submitted by officials of GCZMA, a Show Cause Notice cum Stop Work Order bearing Ref.no.GCZMA/S/ILLE-Compl/15-16/20/1574 dated 23/09/2015 was issued to Mr. Armando Barreto for alleged illegal construction of path way, room/shed, bar counter, toilets, stage and dance floor with regard to survey no.568/1 and 568/2 of Curtorim village.

The Authority was further in receipt of another representation from Judith Almeida, r/o.257/1,Bagdem, 3rd ward, Colva, Salcete-Goa 22/03/2015 producing documents depicting illegalities of structures in Sy.No.567/29, 568/1,2 in Curtorim village ,Salcete-Goa adjacent to the river Zuari done by Mr. Armando Barreto.

The said matter was discussed and deliberated during 173rd GCZMA meeting held on 24/04/2018, wherein the Authority after detailed discussion and deliberation decided to conduct joint site inspection by Expert Members of GCZMA along with officials from DSLR-Panaji, Captain of Ports Department, Panaji and Deputy Collector & SDO Margao on 27/04/2018. Accordingly site inspection was conducted on 27th April 2018 by the officials and submitted the site inspection report.

Decision: The Authority after detailed discussion and deliberation decided to issue Show Cause Notice to Mr. Armando Barreto for additional survey nos. 567/29, village Curtorim, Salcete, Goa.

Case No.1.7

CRZ Clearance for proposed beach resort on land bearing survey No.123/1 (Part A) of Morjim village in North Goa by M/s Chakshu Properties Pvt. Ltd req

Background:

This office is in receipt of letter from Ministry of Environment of Forests & Climate Change (MoEF& CC) dated 31/01/2018 regarding CRZ Clearance for proposed beach resort on land bearing survey No.123/1 (Part A) of Morjim village in North Goa by M/s Chakshu Properties Pvt. Ltd from Goa Investment Promotion & Facilitation Board (Goa-IPB) in order to seek the views of this Authority on the status of clearance accorded by

MOEF on the basis of recommendation and Show cause Notice issued to by this Authority to M/s Chakshu Properties Pvt. Ltd. The said matter was placed before Authority during its 169th GCZMA meeting held on 1/03/2018 wherein the Authority decided to revoke the said recommendation/approval dated 22/02/2016 granted to the proponent.

The said matter was placed before Authority during 174th GCZMA meeting held on 08/05/2018 for grant of personal hearing to the parties. Wherein Complainant Dr. Claude Alvares submitted that notice of hearing is irregular and is not interested in matter as he has already filed the matter before Hon'ble high Court of Bombay at Goa. He further submitted that the notice of hearing to the complainant may be dropped and the Authority may file an affidavit before the Hon'ble High Court of Bombay at Goa.

Representative appeared on behalf of M/s Chaksu properties Pvt Ltd submitted request letter to grant additional time for hearing till 19th May 2018 alongwith documents which was taken on record. The Authority heard both the parties and after going through the written submissions made by both the parties, the authority after detailed discussion and due deliberation decided to hear M/s Chaksu Properties Pvt. Ltd. on 22nd May 2018 and file affidavit accordingly in the Hon'ble High Court of Bombay at Goa. Accordingly said matter was placed before Authority for grant of personal hearing to the respondent.

Accordingly the said matter was placed for hearing to the applicant during 175th GCZMA meeting held on 22/05/2018. The authority after taking into consideration oral and written submission made by the party and material on record concluded that the issue to be decided are two folds:

- 1) Whether the NOC issued by GCZMA in such cases is dependent on the NOC issued by Goa Investment promotion Board (Goa-IPB).
- 2) Is the proposed property in violation of the CRZ norm as notified by Ministry of Environment & Forest and Climate Change (MOEF &CC).

As far as issue no. 1 is concerned it is settled that NOC issued by GCZMA is independent of NOC issued under any other statute of the government. Regarding issue No.2 the location of the area with respect to HTL is to be ascertained through DSLR survey plan with HTL 200mt and 500mt superimposed on the applicant is directed to approach the office of DSLR to get a copy of survey plan and submit to GCZMA at the earliest. Thereafter, a team comprising of expert member (GCZMA) representative/surveyor of DSLR and official from Department of Forest will inspect the site to ascertain the facts of the matter. Accordingly joint site inspection was conducted by the officials on 15/06/2018 and submitted the detailed report.

The said matter was placed for hearing to the applicant during 177th GCZMA meeting held on 26/05/2018 wherein the Authority noted the joint site inspection report submitted by the Expert member (GCZMA) the proposed and present construction activities in the survey No.123/1(part A) of Morjim are beyond 200mt from the HTL line. This has been

established by DSLR maps as well. Forest Department in its report has remarked that the project site is 700m away from the protected turtle nesting area and that the protected area for nesting shifts if the nesting takes place outside the protected area. In view of the above, the Authority resolved to forward the report from Forest Department to Chief Wildlife Warden, Government of Goa for comments so as to ascertain the extent of mandatory buffer zone beyond the turtle nesting site.

In view of the same this office has received a letter dated 17/07/2018 from the office of Principal Chief Conservator of Forests/Chief Wildlife Warden stating *“that the project site is around 700mt away from north of the turtle nesting site at Morjim beach. There is no buffer zone beyond the turtle nesting site. In cases where sporadic turtle nesting happens outside the identified turtle nesting part of the beach, the eggs are shifted and placed in a nursery for safety for hatching, located in the turtle nesting part of the Morjim beach on its southern end”*.

Decision:1) The Authority noted that during joint site inspection carried out by expert member (GCZMA), representative/surveyor of DSLR and official from Department of Forest that the construction of the proposed Beach resort is being carried out beyond 200mt NDZ HTL as per the clearance granted by Ministry of Environment of Forests & Climate Change (MoEF& CC).

2) The Authority further noted the clarification received from the office of Principal Chief Conservator of Forests/Chief Wildlife Warden stating that the project site is around 700mt away from north of the turtle nesting site at Morjim beach. There is no buffer zone beyond the turtle nesting site. In cases where sporadic turtle nesting happens outside the identified turtle nesting part of the beach, the eggs are shifted and placed in a nursery for safety for hatching, located in the turtle nesting part of the Morjim beach on its southern end.

Taking above two points into consideration the Authority decided to uphold its recommendation to the project of M/s Chakshu Properties Pvt. Ltd to Ministry of Environment of Forests & Climate Change (MoEF& CC) in terms of earlier minutes of 116th GCZMA meeting held on 26/05/2015 and also to convey this decision/clarification in response to the letter received from Ministry of Environment of Forests & Climate Change (MoEF& CC) dated 31/01/2018.

Item No. 2

Case No.2.1

To discuss and decide Writ Petition No. 604/2017 challenged by Mr. Caesar Vaz before Hon’ble High Court and an application received from Mr.CaesarVaz and Mr. Walter Moraice dated 31/08/2017 regarding proposed reconstruction of house bearing H.No. 457 (New), H.No. 141 (old) located in the property bearing Sy.No. 39/3-A of Colva Village, Salcete-Goa.

Background:

The Office of GCZMA was in receipt of application/ Proposal dated 31/08/2016 from Mr. Caesar Vaz and Mr. Walter Moraice regarding proposed reconstruction of house bearing H.No. 457 (New), H.No. 141 (old) located in the property bearing Sy. No. 39/3-A of Colva Village, Salcete-Goa.

The Authority noted that the applicant has been granted permission for reconstruction of existing house in Survey No. 39/3-A for a plinth area of 144.37 Sq mt in GCZMA's 142nd Meeting held on 28/02/2017. The said NOC was withdrawn in 150th GCZMA meeting held on 23/05/2017. The said revocation was challenged by the applicant before Honible High court of Bombay at Goa, wherein, the Honible High court of Bombay was pleased to keep the said revocation in abeyance till the matter is disposed after granting personal hearing. Subsequently Authority in its 169th Meeting held on 01/03/2018 resolved to consider the proposal of reconstruction of existing house in the same survey No. for an area of 125 Sq.mt only and directed the applicant to submit a revised plan. Accordingly, the Authority in its 177th meeting held on 26/06/2018 noted that the proposal does not exceed the existing FSI, plinth area and is permissible in view of NGT in Appeal No.67/2016 dated 29th March 2017. Therefore, the proposal is approved for revised plan.

Now this office is in receipt of a letter dated 10/07/2018 from Deputy Town planner ,Margao, Salcete, Goa stating that *the TCP officials conducted site inspection 21/06/2018 wherein it was observed that construction is carried out upto plinth level to a height of about 0.90mts from ground level. The construction of plinth carried out on site is not in accordance with Technical clearance granted by this office for revised plans. The alignment of plinth has been changed on site. The location of structure shown survey plan and actual construction carried out on site do not tally*".

Decision: The Authority noted that GCZMA has granted the NOC for reconstruction in Sy No. 39/3-A of Colva village to Mr. Caesar Vaz by its resolution of 142nd meeting dated 28/02/2017. The said NOC was withdrawn in 150th GCZMA meeting held on 23/05/2017. However, subsequent to the orders from Honible High Court of Bombay at Goa and personal hearings thereafter, the said NOC has been re-affirmed by resolution of GCZMA in 169th held on 01/03/2018 with a revision of reconstruction area to 125 Sq. mt. The applicant was also directed to submit a revised plan in 169th meeting held on 01/03/2018. Further, GCZMA in its 177th meeting held on 26/6/2018 had approved the revised plan submitted by the applicant. Therefore, Authority held that any construction beyond the approved area of 125 sq. mt and the plan would be illegal. The Authority also resolved to issue directions to VP, Colva and Town and Country Planning (TCP) to ensure that no construction beyond the approved area and plan is carried out by the applicant. Necessary steps be taken to ensure compliance and any violation of these directives be brought to the knowledge of the Authority.

Case No.2.2**NOC for Proposed Construction of compound wall located in the property bearing survey No. 119/4-A-7-A of Morjim village Pernem Taluka by Mrs. Emilia Sebastian Lobo (area between 200 m to 500 m from HTL).**

Background: The project proponent has sought permission for construction of compound wall. The proponent has submitted the copy of the Deed of Sale. The base map showing 200 m line. The proponent's name is reflected in Form I & XIV. The proposed area of compound wall falls between 200 m to 500 m from HTL as per plan produce by the project proponent.

Decision: The Authority after detailed discussion and deliberation decided to approve the proposed Construction of compound wall located in the property bearing survey No. 119/4-A-7-A of Morjim village Pernem Taluka as the said construction is permissible as per the para (VIII) of the CRZ Notification 2011.

Case No.2.3**To discuss and decide on the applications received for erection of Temporary seasonal structures such as Shacks/Huts/Tents/ structures in CRZ area in the Private Properties.**

Background: The CRZ Notification 2011 provides for clause 8(V) 3 (iii) (*Goa specific provision*) for erection of purely temporary and seasonal structures customarily put up between the months of September to May. The GCZMA is the competent authority to grant permissions to such structures as envisaged in the Notification. An application bearing no. 03/2014 filed by Aleixo Pereira before the Honble NGT, Pune (WZ) inter alia sought to challenge the legality and property of the Tourism policy for erection of temporary seasonal structures, beach, shacks, huts 2013-2016 (shack policy) more specifically the Para C Terms and conditions for erection of temporary structures in private properties. The application was disposed off by Honble NGT vide order dated 17/12/2014 with a direction to GCZMA to study and assess the carrying capacity of different beaches in the state of Goa. Accordingly, Beach Carrying Capacity Report was prepared and submitted by National Centre for Sustainable Coastal Management (NCSCM) in respect of the beaches of Goa pertaining to erection of Temporary Seasonal structures in the CRZ area.

Now, GCZMA is in receipt of proposals for erection of temporary seasonal structures such as Shacks / Huts / Tents during the year 2017-18 from various project proponents / Applicants in the private properties at various locations in the State of Goa. All these applications were discussed in 160th, 161st, 162nd, 163rd, 167th, 168th GCZMA meeting respectively. The Authority in its 168th GCZMA meeting held on 24/01/2018 decided not to consider applications of applicants who have already built or were in the process of building Shacks / Huts / Tents during the inspections by the expert member of GCZMA. Further, the authority decided to direct such applicants who have already built or were in

the process of erecting such Shacks / Huts / Tents to remove/dismantle the structures and submit compliance for further consideration. In case such applicants who had already built or were in the process of building such Shacks / Huts / Tents during inspection by this Authority failed to remove/dismantle such structures and report compliance. The concerned Deputy Collector/S.D.O to be directed to remove/ dismantle such structures by 15th March 2018 and recover the cost incurred from such applicants as land revenue and submit a compliance report to this Authority. Further, the authority had granted personal hearing to the applicants in its 171st GCZMA meeting held on 10/04/2018, wherein the Authority after hearing the applicants directed them to dismantle the structures and submit a compliance report. Accordingly, the applicants have dismantled the structures like Shacks / Huts / Tents and submitted the compliance report to the authority. The compliance reports were taken into consideration and all the applications were scrutinised and examined as per Beach Carrying capacity Report. The same is placed before the Authority for decision.

Decision:

The authority took note of the applications pending with GCZMA and resolved as per following-

1. The permissions would be granted to only those applications whose applications are complete in all aspects and have cleared their site as per the decisions of GCZMA. All other private property shacks/huts without prior permission of GCZMA would be deemed illegal and appropriate action as per law would be started against them. The maximum area that can be applied for erection of temporary structure would be 33% of plot area (to be calculated as inclusive of the existing structure in the plot).
2. For beaches where the total area applied by the applicants for private property shack and huts is exceeding the Beach carrying Capacity as per the Report submitted by NCSCM, Chennai, no new application for the allotment of huts and shacks in private property between survey boundary to 200m of HTL would be entertained by the Authority. The following area stretches fall in this category- **Agonda, Cavellossim-Mobor, Varca, and Arambol.**
3. For beaches where the total area applied by the applicants for private property shack and huts is exceeding the Beach carrying Capacity as per the Report submitted by NCSCM, Chennai, the area applied for would be divided by the Beach Carrying Capacity of the concerned beach to arrive at a factor X. This ratio would be further multiplied by a buffer factor of 20% i.e. 1.20 so as to have an additional buffer of 20% in the beach carrying capacity as per precautionary principle. Actual area for allotment for each applicant would be determined by dividing the area applied for by a multiple of 1.2X.
4. For beaches where the total area applied by the applicants for private property shack and huts is not exceeding the Beach carrying Capacity as per the Report

submitted by NCSCM, Chennai, the area applied for would be divided by 1.20 so as to have an additional buffer of 20% in the beach carrying capacity as per precautionary principle. Actual area for allotment for each applicant would be determined by dividing the area applied for by a factor of 1.20. As on date, the following area stretch fall in this category- **Nagarcem-Palolem/Patnem/Colomb/Raj Bagh, Cabo de Ram, Cansaulim/Arossim, Anjuna, Naquerim, Benaulim, Colva/Sernabatim, BetaBatim, Majorda, Candolim, Calangute, Morjim, Mandrem, Paliem- Khalchawada, and Querim.**

5. Further, no allotment shall be considered for Galgibag/Talpona/Poinguinim stretch as the area available as per the Beach carrying capacity report is only 160 Sqmt. and the entire area is resolved to be maintained as buffer in the carrying capacity as per precautionary principle.
6. All the structures shall be of ground floor in nature.
7. For private plots abutting the beach, a minimum set back of 3mts from the survey boundary shall be kept by the applicant.
8. In case of hotel establishments only 1 shack would be permissible for the entire area of the hotel. No permission for temporary structures would be granted in the plot areas belonging to the hotel establishments wherein area otherwise belonging to the hotel establishments (and part of the hotel area plot) is leased out to a third party to get permissions for huts and cottages.
9. For the beaches with turtle nesting sites, the allotment in private plots abutting the beach would be done in consultation with Forest department.
10. All the other conditions as mentioned in Beach Carrying Capacity report w.r.t FAR, construction material, spacing between huts, consent to establish from SPCB etc. shall have to be followed by the applicant.
11. Those applicants who have not complied with the demolition notice/ are existing without any permission would be demolished through District administration and would be barred from getting permission from Authority for one year.

ADDITIONAL AGENDA ITEMS

Case No.2.4

NOC for the Construction of Slipway in Sy.No. 17/5 of Khorjuvm Village, Goa.

Background

Mr. Benedict De Souza from Bambolim, Goa submitted an application to GCZMA on 18/04/2018 requesting for a NOC for the construction of a Slipway in his property in Sy. No. 17/5 of Khorjuvem village. So, a site inspection was fixed to see the site, verify the zoning of the area and the documents.

Decision: The authority after perusing the site inspection report submitted by the expert member (GCZMA) and after detailed discussion and deliberation decides to direct the

applicant to conduct rapid EIA of the proposed construction of slipway and also to submit NOC from the Captain of Ports, Panaji, Goa.

Case No.2.5

Appointment of Chartered Accountant(CA) in the office of GCZMA.

Background:

Presently Mr. Jairam Kholkaris working as a chartered accountant for GCZMA. However, accounts of past years are yet to be finalized which has delayed submission of UCs to the State Government. As such, his performance is found to be unsatisfactory. It is therefore, proposed to appoint new chartered accountant for GCZMA on same terms and conditions which were applicable to Mr. Jairam kholkar.

Decision: The Authority after detailed discussion and deliberation decided to appoint a new Chartered Accountant (CA) in the office of the GCZMA with the same terms and conditions.

Case No.2.6

NOC for Reconstruction of the Existing Club House Bearing No. 150 and Located in Sy. No. 40/1 of Talaulim Village, Tiswadi Taluka, under the MPLADS Raja Sabha.

Background

The General Secretary of the Santana Sports Club, Talaulim, Mr. Jerry Demelo submitted an application to GCZMA on 04/04/2018 requesting for a NOC for reconstruction of existing club house in Sy. No. 40/1 of Talaulim village of Tiswadi Taluka. So, a site inspection was conducted to see the site, verify its CRZ zoning and the documents. Accordingly Expert member of GCZMA submitted the site inspection report.

The said matter was deliberated during 175th GCZMA meeting held on 22/06/2018 wherein the authority declined the proposed reconstruction/construction of the existing club house bearing no. 150 in survey no. 40/1 of Talaulim, village, Tiswadi, Goa by Mr. Jerry Demelo. However the applicant has now submitted a representation saying that the said project is beyond CRZ as per site inspection report by Expert member (GCZMA).

Decision: The Authority noted that as per the site inspection report of the Expert Member (GCZMA) the site is indeed not lying in CRZ area. As such, it is not under the purview of CRZ Notification 2011(as amended) from time to time. The resolution for rejection of application in 175th meeting held on 22/06/2018 thus requires a correction. Accordingly, Authority resolved to issue a corrigendum permitting the above work.

Case No.2.7

To discuss and decide on the reports submitted by the Inquiry committee of the GCZMA after completing its inquiry and has submitted 18 reports interalia stating its recommendations.

Background: The present matter is part of Suo moto WP No. 02/2006 of Honible High Court of Bombay at Goa. The matter was earlier placed in 115th GCZMA meeting held

on 04/04/2015 wherein, the case was referred to Inquiry committee of GCZMA for detailed report.

The Honble High Court of Bombay at Goa, Panaji vide its order dated 12/01/2015 passed in the matter of Suo Moto Writ Petition no.02/2006 had interalia directed the respondent no, 19 village panchayat of Colva to furnish the material on record to suggest the structures are not illegal before the GCZMA and such authorities shall examine such material after hearing the parties in accordance with law. the said Village Panchayat of Sernabatim, Vanelim, Colva and Gandaulim produced its action taken report along with all material record of relevant copies of the parties etc to the office of GCZMA vide letter dated 19/01/2015 The Action taken report was filed by the Village Panchayat of Sernabatim, Vanelim, Colva before the Honble High Court of Bombay at Goa with two additional affidavits annexing all the documents of the structures pointed out by the intervenor (Colva Civic Forum) in its intervention application dated 13/07/2012 bearing MCA no.635/2012. The matter was placed in the 115th GCZMA meeting held on 04/04/2015 wherein the authority after detailed discussion and due deliberations, decided to refer the matter to the Inquiry Committee of GCZMA to examine all the documents on record and hear the parties if required and submit the detailed report to the GCZMA within 30 days. the concerned file was forwarded to the Inquiry Committee of GCZMA for necessary action vide letter dated 15/05/2015 as referred to above at Sr.no.4. In this regard the Inquiry Committee of GCZMA completed its inquiry and submitted its report dated 19/10/2015. the matter came up for hearing before the Honble High Court of Bombay at Goa on 21/06/2016 and was pleased to dispose off the matter interalia with a direction which can be seen as follows:- Besides the above directions, the Anjuna as well as the Colva Panchayats namely respondent no.9 and 19 and the GCZMA are directed to take necessary action with regard to the structures identified in the report of the GCZMA and proceed to take necessary action in accordance with law within three months from today and file a compliance report with that regard. In the while the term of GCZMA expire and the matter was placed before the Committee to decide on CRZ matters as per Notification no.GCZMA/CONST/05/STE/98 dated 03/08/2016. The matter was placed for personal hearing on 08/09/2016 before the said Committee, the meeting was adjourned.

The said reports submitted by the Inquiry committee of the GCZMA can be briefly seen as under:-

Serial no	Alleged violator/owner of the property	Nature of construction in CRZ Area and Recommendations findings of the Inquiry committee of the GCZMA.
1.	Mr. Ashok Kumar Vaid	Bungalow in Sy no.53/2 Colva Village Report dated:- 21/12/2015 The party though duly served didnt appear before the Inquiry Committee of GCZMA. There is a structure having an area of 119sqmts and is for commercial

		<p>purpose. There are no documents in the file of Village Panchayat to substantiate the construction is in accordance with law.</p> <p>Recommended the GCZMA to demolish the entire structure M having area of 119sqmts existing in Sy no.53/2 of Colva Village and restore the land to its original condition.</p>
2.	Captain J.P.Dias	<p>Bungalow in Sy no.23/9 Colva Village Report dated 22/12/2015</p> <p>The Inquiry Committee GCZMA considered following documents:-</p> <p>a) conversion sanad order issued by Collector, Goa dated 30/06/1977 granted for area admeasuring 183.70 sqmts in Sy no.23/9, Colva Village;</p> <p>b) Letter dated 9/02/1995 issued by the Office of Chief Town planner Town and Country planning Department, Panaji-Goa indicating approval of construction of residential bungalow in Sy.23/9, village Colva in 5th meeting of Goa State Committee on Coastal Environment (GSCCE) held on 1/9/1994.</p> <p>c) N.O.C for modification of the existing dwelling unit in Sy no.23/9, Colva village, granted by GCZMA vide letter dated 14/06/2004.</p> <p>d) Construction license bearing no. VP/SVCG/CONST.52/ 2004-05/1827 dated 17/02/2005 issued by Office of Village Panchayat Sernabatim, Vanelim, Colva & Gandaulim for modification of the existing dwelling unit in Sy no.23/9, Colva village</p> <p>Recommended the GCZMA to withdraw the show cause notice, if any issued to the affected party.</p>
3.	Ashok Vikhe Patil	<p>Bungalow in Sy no.53/1 Colva Village Report dated 23/12/2015</p> <p>The Inquiry Committee GCZMA considered that the affected party had purchased an area of 575 sq mts along with a residential bungalow existing therein in the year 1992 (i.e vide sale deeds dated 11/11/92 and 11/09/95) and the residential bungalow is having Hno.290/4 from the year 1991 in the previous owners name, the structure of residential bungalow in area of 575 sq mts of Plot B in the Syno.53/1 of Village Colva is accordance with Law. Recommended the GCZMA to</p>

		withdraw the show cause notice , if any issued to the affected party.
4.	M/s Crasto Guest House	Structure in Syno. 12/1 Sernabatim village Report dated :24/12/2015 The Inquiry Committee of GCZMA has considered that affected party relied upon order dated 31/12/2008 passed by the GCZMA thereby dropping show cause notice in respect of structure in Syno.12/1 and recommended closing of proceedings
5.	M/s J.B Guest House	Structure in Syno.12/4 of Colva village Report dated: 24/12/2015 The Inquiry Committee of GCZMA has interalia considered that the affected party claims to be a mundkar of the property which case is pending before the Mamlatdar Salcete. Further that said house was in the name of Custodio Fernandes from the year 1982-83 (i.e as per Form 7 assessment register) and later transferred in the name of the affected party in the year 2000-2001 (ie evident from certificate issued by Village panchayat dated 3/5/2008. Further it is the case of the affected party that the he belongs to kharvi community. Recommended the GCZMA to withdraw the show cause notice, if any issued to the affected party.
6.	M/s Shamiraj Hotels	Structure is situated in Sy no.24/1 of Colva Village Report dated 14/9/2015 The Inquiry Committee of GCZMA has interalia considered that the tourist cottages and structures in Sy.no.24/1 of Colva village were existing in the year 1979 before the date of CRZ Notification 19/2/91, Goa State Committee for Coastal Environment (GSCCE) has granted approval dated 1/12/95 for reconstruction of traditional building and further license dated 13/12/95 from Village Panchayat Colva and also considered the contention of the complainant the structures have been illegally approved and DSLR plan 31/11/2006 existing structure is extended beyond plinth Recommended that reconstruction of the traditional building is as per law.
7.	Colva Residency	Structures situated in Sy no.37/1, 3, 4 and 5 of Colva Village Report dated:15/9/2015.

	Goa Tourism Development Corporation (GTDC)	<p>The Inquiry Committee of GCZMA has interalia considered that tourist cottages were inaugurated on 19/4/68 ;that the schematic drawing of the expansion of accommodation was prepared for approval in the year 1976; that the drawing of expansion of accommodation is of the year 1977; that the order of administrative and financial sanction for the construction of 6 cottages and restaurant of expansion of tourist accommodation was accorded in the year 1978;the assets of the tourist cottages under construction was transferred to GTDC in the year 1984 and also rival contentions of the complainant that the affected party has failed to produce approval plans and plans are not registered and without any stamps or reference or dated and it would be proper to conduct inspection with the DSLR to map verify the structures.</p> <p>Recommended Colva Residency Goa Tourism Development Corporation (GTDC) was existing prior to CRZ Notification 19/2/91.</p>
8.	Hotel Baywatch	<p>Situated in Sy no. 16/3, 17/4,5,7 and 8, Sernabatim Village Report dated:15/9/2015.</p> <p>The Inquiry Committee of GCZMA has interalia considered that the repairs and reconstruction are without increasing the plinth of the existing structure is permissible within area of 200 mts from H.T.L(NDZ) of CRZ III area and the affected party has obtained approval from GCZMA repair and renovation dated (i.e 8/7/2005) carried in the structures Hno.106 and Hno.106/2 in Sy no.16/3, 17/4, 5, 7 and 8 of the Sernabatim village and also rival contentions of the complainant that the affected party has only produced the N.O.C letter and not the approved plan and that earlier vide GCZMA order dated 17/11/2004 structures were ordered to be demolished and compliance report dated 20/9/2005 states that structures in Syno,17/7 are demolished and hence site inspection is required to map the structures with the help of DSLR and that the approval of repairs and renovation is without approval from MOEF.</p> <p>Recommended the structures are as per Law.</p>
9.	Soul Vacations-	Structure situated in Syno.40/4 of village Colva

	Colmar Condominium	<p>Report dated:28/09/2015.</p> <p>The Inquiry Committee of GCZMA has interalia considered that in the year 1995 the Goa State Committee for Coastal Environment (GSCCE) approved the construction of residential complex; that the village Panchayat also granted licence on 14/11/95; sanad was also obtained from Dy. Collector & SDM Margao on 18/09/98; GCZMA also granted approval for construction of compound wall on 12/5/99; that occupancy certificate was issued by the village Panchayat on 07/04/99 and also rival contentions of the complainant that the affected party has illegal approval for reconstruction of residential complex (six cottages) from chief town planner and GSCCEE on 6/7/95 ;that N.O.C from Town and Country planning is not produced; that the sanad is granted for residential house; that the DSLR plan dated 31/11/2006 shows the existing structures have been extended beyond the original plinth ; no permission for swimming pool; approval granted was for construction beyond 200 mts H.T.L however the same is done within 200 Mts H.T.L without approval from MOEF.</p> <p>Recommended the structures are as per Law.</p>
10.	Hotel Silver Sands	<p>Structure is situated in Syno.23/12 of village Colva</p> <p>Report dated 19/10/2015.</p> <p>The Inquiry Committee of GCZMA has interalia considered that the Town and country Planning Department had issued N.O.C dated 17/1/78; further construction licence of Village Panchayat was issued in the year 1978 and occupancy certificate was issued in the year 1981 to structure identified as LML is DSLR plan the same is existing prior to Notification 19/2/1991 hence in accordance with law.</p> <p>The Inquiry committee GCZMA perused the survey plan submitted by the Panchayat and observed that there are new structures denoted LNL, LOL, LPL and LQL existing within 200 mtrs of H.T.L and have no documents to indicate the same constructed with any permission or any licensing authority and hence further recommended removal of structures denoted LNL, LOL,</p>

		I.PL and IQL in syno.23/12 Colva Village.
11.	M/s Tonia Estates and Resorts Pvt Ltd	<p>Structures are situated in Syno23/13 and 23/17 of village Colva.</p> <p>Report dated 19/10/2015</p> <p>The Inquiry Committee of GCZMA has interalia considered that the affected party has obtained approvals from GCZMA; placed on record the GCZMA minutes approving the said project, survey plan of DSLR confirming the construction as per plans, technical clearance from the TCP department ;occupancy certificate from the concerned village Panchayat and repair and renovation/reconstruction of existing resort block A, B(6 units) and Block C in Sy no.23/13 and 23/17 having house no.424 and Hno.424/1 were carried out within plinth.</p> <p>Recommended the construction is as per law.</p> <p>Note: <u>There are two writ petitions bearing no. Wp no.751/2008 filed by Theodore Fernandes and Wp no.469/2014 filed by the Colva Civic Consumer Forum (in the latter case the proceedings filed in NGT, Pune were stayed)</u></p>
12.	M/s Boomerang Bar Restaurant	<p>Structure is situated in survey no.39/1 of village Colva</p> <p>Report dated: 11/9/2015.</p> <p>The Inquiry Committee of GCZMA has interalia considered that the village Panchayat has granted N.O.C dated 3/10/87 for repair of existing structure to one Max Rodrigues; registration certificate of the establishment <u>Sunset Restaurant</u> is of the year 1985 and renewed up to 1988; Trade tax receipts and challans of registration fees are of the years 1986, 1987, 1988, certificate of registration is of the year 1990; tax assessment and notice for the same is of the year 1993; sale deed cum mortgage of the year 1996 plot along with two structure was sold to Peter Coutinho ; N.O.C of the village Panchayat for release of electricity to hno.468/1 ; registration certificate of was renewed on 27/7/98, 15/7/97 to 31/12/98, renewal on 4/4/2008 for the period of 1/1/99 to 31/12/2008 , also considered the rival contentions of the complainant who stated that all the documents submitted by the affected</p>

		<p>party are post 19/2/91 ;that one Max Rodrigues was granted licence by the Excise department for selling liquor on his temporary stall and he has converted the same into permanent illegal construction and produced letter dated 16/9/1965 of Village Panchayat Colva and survey plan of the Syno.39/1, 2 & 3 of the Colva village. Recommended that the structure was existing prior to the CRZ Notification 19/2/91 and in accordance with law.</p>
13.	Colmar Beach Resort	<p>Structure is situated in Sy no. 40/4 of village Colva Report dated 7/10/2015</p> <p>The Inquiry Committee of GCZMA has interalia considered that the affected party obtained construction licence in the year 1980; the village panchayat increased the tax in the year 1987; the Goa State Committee on Coastal Environment (GSCCE) granted approvals in the year 1997; the District judge vide judgement dated 31/12/2004 observed that plan of 19/2/2003 is tallying with plan of 18/11/2002 and also further considered rival contentions of the complainant who stated that affected party has not produced any documents, plans showing original structures and civil court has no jurisdiction in CRZ issues and the existing structure are extended beyond the original plinth in the NDZ area.</p> <p>Recommended that the structure was existing prior to the CRZ Notification 19/2/91 and in accordance with law.</p>
14.	M/s Quinsan Cottages	<p>Situated in Syno.12/3 of village Sernabatim Report dated 5/10/2015</p> <p>The Inquiry Committee of GCZMA has interalia considered that the affected party sought permission from village panchayat to reconstruct huts in the year 1985; Repair permission was granted for Hno.107/4 in the year 1986, N.O.C granted by village panchayat to register the cottages with tourism department of the year 1988, N.O.C granted by village panchayat to open bar and restaurant in the year 1997; payment of house tax ,light tax from the year 1986 -87 till 1991-92 in respect of houseno.107/4 and from 1992-93 till date in respect of new hno.107/1 to the panchayat; and also</p>

		<p>considered the rival contentions of the complainant that there is no stamp in the letter dated 25/6/85 addressed to the panchayat permission to reconstruct the hut with laterite stones; that the permission dated 8/7/88 is for repairing /maintenance work of a temporary shed and no construction plans or permissions from TCP or GCZMA has been produced.</p> <p>Recommended that the structure was existing prior to the CRZ Notification 19/2/91 and in accordance with law.</p>
15.	M/s Longinhos Beach Resorts	<p>Structures are situated in syno. 51/2/B and 50/2-A of village Colva</p> <p>Report dated 14/9/2015</p> <p>The Inquiry Committee of GCZMA has interalia considered that the ecological development Council of Goa gave no objection to the Hotel project in the year ; the said clearance was based in Environment impact assessment report ;construction licence was granted by panchayat in the year 1984 and 1987;occupancy certificate was issued by the panchayat in the year 1986 and 1989.</p> <p>Recommended that the structure was existing prior to the CRZ Notification 19/2/91 and in accordance with law.</p>
16.	Department of Tourism	<p>Structures are situated in Sy no.37/5 & 6 and 37/11 of village Colva</p> <p>Report dated 14/9/2015</p> <p>The Inquiry Committee of GCZMA has interalia considered that the all the 30 stalls were taken over by the Tourism Department in the year 1988, and further rival contention of the complainant that affected party has not produced approved plans of the structure; that the structures are permanent in nature with extensions; plans produced are unsigned without any stamps or reference number and date and a site inspection to be conducted with the assistance of DSLR to map and verify the structures and the plinth.</p> <p>Recommended that the structure were existing prior to the CRZ Notification 19/2/1991 and in accordance with law.</p>
17.	M/s Lucky Star	Structures are located in the property in Sy no.50/2 of

	<p>Ventura Fernandes</p>	<p>village Colva Report dated 9/9/2015</p> <p>The Inquiry Committee of GCZMA has interalia considered that the house tax receipts of the Hno.102(old), 294(new) Hno.102/2 (old), 294/1 (new) and 295 are of the years 1973, 1974, 1977, 1978, 1988, 1990, certificate of registration of guest house unit Beach Villa ventura in Hno.295 was of the year 1988, Tourism registration fees is for year 1989-90, 1990-91; inspection report of the Department of Tourism in respect of Hotel lucky star is of the year 1988; Challan payments of registration fees of Hotel Lucky Star are of year 1988;predecessor in title of the affected party filed application for registration of Hotel Lucky Star are of the year 1990 and 1992, Liquor licence predecessor in title of the affected party is from the year 1980; Registration of Hotel by predecessor in title of the affected party under Tourist Trade Act is of the year 1990-91, 1992-93, 1993-94 is for Hotel Lucky Star, Bar and Restaurant and guest house.</p> <p>Recommended that the structures were existing prior to the CRZ Notification 19/2/91 and in accordance with law.</p>
18.	<p>M/s Mickey Bar and Restaurant</p>	<p>Structures in Syno.96/1 of Village Betalbatim Report dated 19/5/2016</p> <p>The Inquiry Committee of GCZMA has interalia considered that survey plan prepared in the year 1972-73 shows existence of the structure; that the sale deed dated 28/4/2000 refers to the house existing in Syno.96/1; that affected party purchased the property by sale deed dated 11/10/10; that affected party constructed the residential house on the eastern side leaving open the area on the northern side; that the plinth area of structure M is less than the plinth area of structure P; that the village panchayat allotted Hno. 46 and imposed house tax to the structure Hno.46 and the resolution of the panchayat revoking the allotment of house number was quashed and set aside.</p> <p>Recommended to regularize the structure of residential house having Hno.46 in Syno. 96/1 of village panchayat marked [N] in the site plan and deal with structure [M]</p>

		& to allow the shed in accordance with rules governing erection of temporary seasonal structure in CRZ area
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Decision: The Authority decided to issue personal hearing notices to all the parties including complainant to appear before it on 31/07/2018. The authority further noted that a lot of time has passed in the matter and it needs to be disposed expeditiously in accordance with law.

The meeting ended with a vote of thanks to the chair.

Sd/-
(Ravi Jha, IAS)
Member Secretary, GCZMA



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ANNEXURE R-31

**MINUTES OF THE 180TH MEETING OF THE GOA COASTAL ZONE
MANAGEMENT AUTHORITY (GCZMA) HELD ON 31/07/2018
(TUESDAY) AT 3:30 P.M. IN THE CONFERENCE HALL, 2ND FLOOR,
SECRETARIAT, PORVORIM – GOA.**

The 180th meeting of the Goa Coastal Zone Management Authority (GCZMA) was held under the Chairmanship of the Secretary (Environment), on 31/07/2018 (Tuesday) at 3:30 p.m. in the conference hall, 2nd floor, Secretariat, Porvorim L Goa.

The following members were present for the meeting:

1. Principal Secretary (Environment) / Chairman (GCZMA).
2. Representative on behalf of Director, Directorate of Panchayats, Government of Goa.
3. Representative on behalf of Deputy Conservator of Forests, Department of Forests, Government of Goa.
4. Representative on behalf of Director, Directorate of Tourism, Government of Goa.
5. Representative on behalf of Director, Director, Directorate of Settlement & Land Records, Panaji, Goa.
6. Shri. Audhut J. Bhounsule, Expert Member (GCZMA).
7. Shri. SuhasGodse, Expert Member (GCZMA)
8. Shri. SrirangJambhale, Expert Member (GCZMA)
9. Dr.PrabhakarShirodkar Expert Member (GCZMA)
10. Dr.NandkumarSawant Expert Member (GCZMA)
11. Member Secretary (GCZMA).

Item No. 1:

Case No. 1.1

To discuss and deliberate upon order dated 15/02/2012 directing demolition of 18 structures in Syno.242/1 (part), village Calangute constructed by Mr. Sylvester D'souza c/o Sunset cottages, r/o SauntaVaddo, Calangute, Bardez-Goa.

Background: The Office of the GCZMA earlier pursuant to exhaustive hearing and inquiry was pleased to pass an order dated 15/02/2012 directing demolition of 18 structures in Syno.242/1 (part), village Calangute constructed by Mr. Sylvester Disouza c/o Sunset cottages, r/o SauntaVaddo, Calangute, Bardez-Goa in violation CRZ notification. The respondent violator being aggrieved by said order dated 15/02/2012 filed a Writ Petition bearing no. no.97/2018 before Hon'ble High Court of Bombay at Goa inter alia alleging violation principles of natural justice. The matter was disposed by the Hon'ble High Court of Bombay at Goa vide judgement/order dated 22/03/2018 inter alia dismissing the petition and granting four weeks time to the petitioner to seek alternate remedies. The petitioner being aggrieved by judgment/order dated 22/03/2018 dismissing the Writ Petition bearing no. no.97/2018 filed a review application bearing no.8/2018 in Writ Petition bearing no. no.97/2018. The said application was dismissed by the Hon'ble High Court of Bombay at Goa vide order dated 13/04/2018. The petitioner being aggrieved by judgment/order dated 13/04/2018 filed a Special Leave to Appeal no.13457-13458/2018 before the Hon'ble Supreme Court, New Delhi. The Hon'ble Supreme Court, New Delhi vide order dated 25/05/2018 has inter alia observed as under:- *"We are not inclined to interfere with the judgment of the High Court which is impugned in these special leave petitions. We make it clear that in view of the order dated 15th February, 2012 passed by the Goa Coastal Zone Management Authority (Annexure P-26) holding that no prior permission has been taken in regard to the subject structures having become final, it will be open to the authorities to proceed on the basis of the said order in accordance with law. While doing so, the authority may take into account the efficacy of Resolution dated 20th February, 2012 (Annexure P-27) passed by the Village Panchayat purporting to regularize the subject structure. The effect of that Resolution may be taken note of as per law. Needless to observe that the authorities may give opportunity to both the parties, if necessary, as permissible in law".*

The said matter was placed for the grant of personal hearing during 179th GCZMA meeting held on 19/07/2018 wherein the Authority deliberated on the said matter and also took note that an application dated 18/07/2018 was filed by Mr. Sylvester Disouza seeking time of one month and thereafter remained absent for meeting. Extension of time was denied

and a final opportunity was given. The Authority had also decided to call Mrs. Nalini da Rosa Fernandes for personal hearing in the matter.

Proceeding: Respondent Mr. Mr. Sylvester Disouzawas present in person along with Advocate S. Lotlikar to defend his matter. Mrs. Nalini Fernandes was present in person along with Advocate Abhijit Dessai.

The complainant interalia submitted that the order of demolition issued has attained its finality. The Honble Supreme Court, interalia has stamped demolition order. The village Panchayat is acting under Panchayat Raj Act. The present Authority has already acted in terms of CRZ Notification and passed demolition order. Further, he cited a judgement on conflicting legislation. If a structure is under violation of CRZ Notification then the said structure should be demolished as Panchayat Raj Act and CRZ Notification are independent statutes. Further, the advocate submitted that the resolution passed by village panchayat has no relevance and also all the structures and extension of the same structures are without any permission from the CRZ Authority.

The respondent interalia cited the order of Honble Supreme Court, New Delhi. He further submitted that the Authority should take into account the efficacy of resolution of village Panchayat. He submitted that there exists structures which are prior to 1991 and no extension is carried out after 1991. Further, the Advocate on behalf of respondent read out the resolution passed by village Panchayat, no finding that extension of structure are post 1991. The Panchayat are empowered to grant regularisation in terms of law. Further, the respondent submitted receipts and house tax documents which were taken on record.

Decision: The Authority noted that the orders in question of Honble Supreme Court is only limited to efficacy of the village panchayat resolution dated 20/2/2012 regularizing the structures of Mr. Disouza in the Survey No 242/1 (part). The regulation of permissible activity in CRZ areas is under the purview of GCZMA as has been defined under CRZ notification, 2011(as amended from time to time) and orders of constitution of the Authority as issued by the Central Government. In view of this, the resolution of village panchayat to regularize the structures in CRZ area, which have been adjudicated as illegal after detailed hearing by the

Authority is untenable and would not have any bearing on the findings of GCZMA. Accordingly, the Authority reaffirmed its earlier demolition order dated 15/02/2012 and disposed the matter.

Case No. 1.2

To discuss and deliberate on alleged illegal development of plots in Property Bearing Sy. Nos. 275/1, 1-B and 1-C in Paddy Field at Morambi-O-Grande, Village Mercês, Tiswadi, Goa.

Background

GCZMA received three complaints, one from the Village Panchayat of Mercês, dated 29/03/2016, regarding alleged illegal development of plots in property bearing Sy. Nos. 275/1, 1-B and 1-C; second from Mr. Jose Oliveira from Mercês dated 06/04/2016 regarding the said illegal development. The third complaint was from Mr. Sudesh Kalangutkar, President of Mercês Welfare Association dated 18/04/2017 with regard to alleged illegal conversion of land, filling of mud and construction of houses and also cutting of mangroves in property bearing Sy. Nos., 275/1, 257/1-B and 275/1-C, 274/1 and 274/2 of village Morambi-O-Grande, Tiswadi within CRZ area by Mr. Johnny Fernandes and Mr. Shane Fernandes. A site inspection was therefore fixed to see the site, verify the CRZ zoning of the area, the constructions done and to take the stock of the situation and report submitted by Expert Member (GCZMA).

The said matter was discussed and deliberated during 171st GCZMA meeting held on 10/04/2018 wherein the Authority after perusing the site inspection report by the Expert Member and noted that violators have also cut many Mangrove trees within the area without obtaining any permission from the concerned authority after detailed discussion and deliberation decided to issued demolition order to the Mr. Johnny Fernandes and Mr. Shane Fernandes having property bearing Sy. Nos., 275/1, 257/1-B and 275/1-C, 274/1 and 274/2 of village Morambi-O-Grande, Tiswadi within CRZ area. The said matter was placed again before the Authority in its 179th GCZMA meeting held on 19/07/2018, wherein the Authority noted that both the parties were not heard while taking the decision in its 171st GCZMA meeting and hence the authority decided to call the parties for personal hearing in terms of principles of natural justice.

Proceeding: Complainants were remained present through their Advocates, also village Panchayat duly represented through Advocate. Respondent was absent.

The complainant relied upon the site inspection report by expert members of GCZMA and further requested the authority to conduct DSLR survey and to carry out restoration of environmental damage caused by the violator.

Decision: The Authority took note of the plea of the complainant. It also noted that the respondents have not appeared despite the personal hearing notices issued to them. However, after detailed discussion and deliberation, GCZMA decided to grant final opportunity to the Respondents to present its case. The matter was adjourned to 14/08/2018 giving final opportunity to the respondents in terms of principle of natural justice.

Case No. 1.3

To discuss and decide on the reports submitted by the Inquiry committee of the GCZMA after completing its inquiry and has submitted 18 reports interalia stating its recommendations.

Background: The present matter is part of Suo moto WP No. 02/2006 of Hon'ble High Court of Bombay at Goa. The matter was earlier placed in 115th GCZMA meeting held on 04/04/2015 wherein, the case was referred to Inquiry committee of GCZMA for detailed report.

The said reports submitted by the Inquiry committee of the GCZMA can be briefly seen as under:-

Serial no	Alleged violator/owner of the property	Nature of construction in CRZ Area and Recommendations findings of the Inquiry committee of the GCZMA.
1.	Mr.Ashok Kumar Vaid	Bungalow in Sy no.53/2 Colva Village Report dated:- 21/12/2015 The party though duly served didn't appear before the Inquiry Committee of GCZMA. There is a

		<p>structure having an area of 119sqmts and is for commercial purpose. There are no documents in the file of Village Panchayat to substantiate the construction is in accordance with law.</p> <p>Recommended the GCZMA to demolish the entire structure M having area of 119sqmts existing in Sy no.53/2 of Colva Village and restore the land to its original condition.</p>
2.	Captain J.P.Dias	<p>Bungalow in Sy no.23/9 Colva Village</p> <p>Report dated 22/12/2015</p> <p>The Inquiry Committee GCZMA considered following documents:-</p> <p>a) conversion sanad order issued by Collector, Goa dated 30/06/1977 granted for area admeasuring 183.70 sqmts in Sy no.23/9, Colva Village;</p> <p>b) Letter dated 9/02/1995 issued by the Office of Chief Town planner Town and Country planning Department, Panaji-Goa indicating approval of construction of residential bungalow in Sy.23/9, village Colva in 5th meeting of Goa State Committee on Coastal Environment (GSCCE) held on 1/9/1994.</p> <p>c) N.O.C for modification of the existing dwelling unit in Sy no.23/9, Colva village, granted by GCZMA vide letter dated 14/06/2004.</p> <p>d) Construction licence bearing no. VP/SVCG/ CONST.52/ 2004-05/1827 dated 17/02/2005 issued by Office of Village Panchayat Sernabatim, Vanelim, Colva&Gandaulim for modification of the existing dwelling unit in Sy no.23/9, Colva village</p> <p>Recommended the GCZMA to withdraw the show cause notice, if any issued to the affected party.</p>
3.	Ashok	Bungalow in Sy no.53/1 Colva Village

	VikhePatil	<p>Report dated 23/12/2015</p> <p>The Inquiry Committee GCZMA considered that the affected party had purchased an area of 575 sqmts along with a residential bungalow existing therein in the year 1992 (i.e vide sale deeds dated 11/11/92 and 11/09/95) and the residential bungalow is having Hno.290/4 from the year 1991 in the previous owners name, the structure of residential bungalow in area of 575 sqmts of Plot B in the Syno.53/1 of Village Colva is accordance with Law. Recommended the GCZMA to withdraw the show cause notice , if any issued to the affected party.</p>
4.	M/s Crasto Guest House	<p>Structure in Syno. 12/1 Sernabatim village</p> <p>Report dated :24/12/2015</p> <p>The Inquiry Committee of GCZMA has considered that affected party relied upon order dated 31/12/2008 passed by the GCZMA thereby dropping show cause notice in respect of structure in Syno.12/1 and recommended closing of proceedings</p>
5.	M/s J.B Guest House	<p>Structure in Syno.12/4 of Colva village</p> <p>Report dated: 24/12/2015</p> <p>The Inquiry Committee of GCZMA has interalia considered that the affected party claims to be a mundkar of the property which case is pending before the Mamlatdar Salcete. Further that said house was in the name of CustodioFernandes from the year 1982-83 (i.e as per Form 7 assessment register) and later transferred in the name of the affected party in the year 2000-2001 (ie evident from certificate issued by Village panchayat dated 3/5/2008. Further it is the case of the affected party that the he belongs to</p>

		<p>kharvicommunity.</p> <p>Recommended the GCZMA to withdraw the show cause notice, if any issued to the affected party.</p>
6.	M/s Shamiraj Hotels	<p>Structure is situated in Sy no.24/1 of Colva Village Report dated 14/9/2015</p> <p>The Inquiry Committee of GCZMA has interalia considered that the tourist cottages and structures in Sy.no.24/1 of Colva village were existing in the year 1979 before the date of CRZ Notification 19/2/91, Goa State Committee for Coastal Environment (GSCCE) has granted approval dated 1/12/95 for reconstruction of traditional building and further license dated 13/12/95 from Village Panchayat Colva and also considered the contention of the complainant the structures have been illegally approved and DSLR plan 31/11/2006 existing structure is extended beyond plinth</p> <p>Recommended that reconstruction of the traditional building is as per law.</p>
7.	Colva Residency Goa Tourism Development Corporation (GTDC)	<p>Structures situated in Sy no.37/1, 3, 4 and 5 of Colva Village Report dated:15/9/2015.</p> <p>The Inquiry Committee of GCZMA has interalia considered that tourist cottages were inaugurated on 19/4/68 ;that the schematic drawing of the expansion of accommodation was prepared for approval in the year 1976; that the drawing of expansion of accommodation is of the year 1977; that the order of administrative and financial sanction for the construction of 6 cottages and restaurant of expansion of tourist accommodation was accorded in the year 1978;the assets of the tourist cottages under construction was transferred to GTDC in the year 1984 and also rival contentions of the complainant that the</p>

		<p>affected party has failed to produce approval plans and plans are not registered and without any stamps or reference or dated and it would be proper to conduct inspection with the DSLR to map verify the structures.</p> <p>Recommended Colva Residency Goa Tourism Development Corporation (GTDC) was existing prior to CRZ Notification 19/2/91.</p>
8.	Hotel Baywatch	<p>Situated in Sy no. 16/3, 17/4,5,7 and 8, Sernabatim Village Report dated:15/9/2015.</p> <p>The Inquiry Committee of GCZMA has interalia considered that the repairs and reconstruction are without increasing the plinth of the existing structure is permissible within area of 200 mts from H.T.L(NDZ) of CRZ III area and the affected party has obtained approval from GCZMA repair and renovation dated (i.e 8/7/2005) carried in the structures Hno.106 and Hno.106/2 in Sy no.16/3, 17/4, 5, 7 and 8 of the Sernabatim village and also rival contentions of the complainant that the affected party has only produced the N.O.C letter and not the approved plan and that earlier vide GCZMA order dated 17/11/2004 structures were ordered to be demolished and compliance report dated 20/9/2005 states that structures in Syno,17/7 are demolished and hence site inspection is required to map the structures with the help of DSLR and that the approval of repairs and renovation is without approval from MOEF.</p> <p>Recommended the structures are as per Law.</p>
9.	Soul Vacations- Colmar Condominium	<p>Structure situated in Syno.40/4 of village Colva Report dated:28/09/2015.</p> <p>The Inquiry Committee of GCZMA has interalia</p>

			<p>considered that in the year 1995 the Goa State Committee for Coastal Environment (GSCCE) approved the construction of residential complex; that the village panchayat also granted licence on 14/11/95; sanad was also obtained from Dy. Collector & SDM Margao on 18/09/98; GCZMA also granted approval for construction of compound wall on 12/5/99; that occupancy certificate was issued by the village panchayat on 07/04/99 and also rival contentions of the complainant that the affected party has illegal approval for reconstruction of residential complex (six cottages) from chief town planner and GSCCEE on 6/7/95 ;that N.O.C from Town and Country planning is not produced; that the sanad is granted for residential house; that the DSLR plan dated 31/11/2006 shows the existing structures have been extended beyond the original plinth ; no permission for swimming pool; approval granted was for construction beyond 200 mts H.T.L however the same is done within 200 Mts H.T.L without approval from MOEF.</p> <p>Recommended the structures are as per Law.</p>
10.	Hotel Sands	Silver	<p>Structure is situated in Syno.23/12 of village Colva Report dated 19/10/2015.</p> <p>The Inquiry Committee of GCZMA has interalia considered that the Town and country Planning Department had issued N.O.C dated 17/1/78; further construction licence of Village panchayat was issued in the year 1978 and occupancy certificate was issued in the year 1981 to structure identified as ML is DSLR plan the same is existing prior to Notification 19/2/1991 hence in accordance with law.</p> <p>The Inquiry committee GCZMA perused the</p>

		<p>survey plan submitted by the panchayat and observed that there are new structures denoted N , O , P and Q existing within 200 mtrs of H.T.L and have no documents to indicate the same constructed with any permission or any licensing authority and hence further recommended removal of structures denoted N , O , P and Q in syno.23/12 Colva Village.</p>
11.	M/s Tonia Estates and Resorts Pvt Ltd	<p>Structures are situated in Syno23/13 and 23/17 of village Colva.</p> <p>Report dated 19/10/2015</p> <p>The Inquiry Committee of GCZMA has interalia considered that the affected party has obtained approvals from GCZMA; placed on record the GCZMA minutes approving the said project, survey plan of DSLR confirming the construction as per plans, technical clearance from the TCP department ;occupancy certificate from the concerned village panchayat and repair and renovation/reconstruction of existing resort block A, B(6 units) and Block C in Sy no.23/13 and 23/17 having house no.424 and Hno.424/1 were carried out within plinth.</p> <p>Recommended the construction is as per law.</p> <p>Note: <u>There are two writ petitions bearing no. Wp no.751/2008 filed by Theodore Fernandes and Wp no.469/2014 filed by the Colva Civic Consumer Forum (in the latter case the proceedings filed in NGT, Pune were stayed)</u></p>
12.	M/s Boomerang Bar Restuarant	<p>Structure is situated in survey no.39/1 of village Colva</p> <p>Report dated: 11/9/2015.</p> <p>The Inquiry Committee of GCZMA has interalia considered that the village panchayat has granted</p>

		<p>N.O.C dated 3/10/87 for repair of existing structure to one Max Rodrigues; registration certificate of the establishment [Sunset Restaurant] is of the year 1985 and renewed up to 1988; Trade tax receipts and challans of registration fees are of the years 1986, 1987, 1988, certificate of registration is of the year 1990; tax assessment and notice for the same is of the year 1993; sale deed cum mortgage of the year 1996 plot along with two structure was sold to Peter Coutinho ; N.O.C of the village panchayat for release of electricity to hno.468/1 ; registration certificate of was renewed on 27/7/98,15/7/97 to 31/12/98, renewal on 4/4/2008 for the period of 1/1/99 to 31/12/2008 , also considered the rival contentions of the complainant who stated that all the documents submitted by the affected party are post 19/2/91 ;that one Max Rodrigues was granted licence by the Excise department for selling liquor on his temporary stall and he has converted the same into permanent illegal construction and produced letter dated 16/9/1965 of Village panchayat Colva and survey plan of the Syno.39/1, 2 & 3 of the Colva village.</p> <p>Recommended that the structure was existing prior to the CRZ Notification 19/2/91 and in accordance with law.</p>
13.	Colmar Beach Resort	<p>Structure is situated in Sy no. 40/4 of village Colva Report dated 7/10/2015</p> <p>The Inquiry Committee of GCZMA has interalia considered that the affected party obtained construction licence in the year 1980; the village panchayat increased the tax in the year 1987; the Goa State Committee on Coastal Environment (GSCCE) granted approvals in the year 1997; the</p>

		<p>District judge vide judgement dated 31/12/2004 observed that plan of 19/2/2003 is tallying with plan of 18/11/2002 and also further considered rival contentions of the complainant who stated that affected party has not produced any documents, plans showing original structures and civil court has no jurisdiction in CRZ issues and the existing structure are extended beyond the original plinth in the NDZ area.</p> <p>Recommended that the structure was existing prior to the CRZ Notification 19/2/91 and in accordance with law.</p>
14.	M/s Quinsan Cottages	<p>Situated in Syno.12/3 of village Sernabatim Report dated 5/10/2015</p> <p>The Inquiry Committee of GCZMA has interalia considered that the affected party sought permission from village panchayat to reconstruct huts in the year 1985; Repair permission was granted for Hno.107/4 in the year 1986, N.O.C granted by village panchayat to register the cottages with tourism department of the year 1988, N.O.C granted by village panchayat to open bar and restaurant in the year 1997; payment of house tax ,light tax from the year 1986 -87 till 1991-92 in respect of houseno.107/4 and from 1992-93 till date in respect of new hno.107/1 to the panchayat; and also considered the rival contentions of the complainant that there is no stamp in the letter dated 25/6/85 addressed to the panchayat permission to reconstruct the hut with laterite stones; that the permission dated 8/7/88 is for repairing /maintenance work of a temporary shed and no construction plans or permissions from TCP or GCZMA has been produced.</p> <p>Recommended that the structure was existing</p>

		prior to the CRZ Notification 19/2/91 and in accordance with law.
15.	M/s Longuinhos Beach Resorts	Structures are situated in Sy.No. 51/2/B and 50/2-A of village Colva Report dated 14/9/2015 The Inquiry Committee of GCZMA has interalia considered that the ecological development Council of Goa gave no objection to the Hotel project in the year ; the said clearance was based in Environment impact assessment report ;construction licence was granted by panchayat in the year 1984 and 1987;occupancy certificate was issued by the panchayat in the year 1986 and 1989. Recommended that the structure was existing prior to the CRZ Notification 19/2/91 and in accordance with law.
16.	Department of Tourism	Structures are situated in Sy no.37/5 & 6 and 37/11 of village Colva Report dated 14/9/2015 The Inquiry Committee of GCZMA has interalia considered that the all the 30 stalls were taken over by the Tourism Department in the year 1988, and further rival contention of the complainant that affected party has not produced approved plans of the structure; that the structures are permanent in nature with extensions; plans produced are unsigned without any stamps or reference number and date and a site inspection to be conducted with the assistance of DSLR to map and verify the structures and the plinth. Recommended that the structure were existing prior to the CRZ Notification 19/2/1991 and in accordance with law.

17.	M/s Lucky Star Ventura Fernandes	<p>Structures are located in the property in Sy. No. 50/2 of village Colva</p> <p>Report dated 9/9/2015</p> <p>The Inquiry Committee of GCZMA has interalia considered that the house tax receipts of the Hno.102(old), 294(new) Hno.102/2 (old), 294/1 (new) and 295 are of the years 1973, 1974, 1977, 1978, 1988, 1990, certificate of registration of guest house unit Beach Villa ventura in Hno.295 was of the year 1988, Tourism registration fees is for year 1989-90, 1990-91; inspection report of the Department of Tourism in respect of Hotel lucky star is of the year 1988; Challan payments of registration fees of Hotel Lucky Star are of year 1988;predecessor in title of the affected party filed application for registration of Hotel Lucky Star are of the year 1990 and 1992, Liquor licence predecessor in title of the affected party is from the year 1980; Registration of Hotel by predecessor in title of the affected party under Tourist Trade Act is of the year 1990-91, 1992-93, 1993-94 is for Hotel Lucky Star, Bar and Restaurant and guest house.</p> <p>Recommended that the structures were existing prior to the CRZ Notification 19/2/91 and in accordance with law.</p>
18.	M/s Mickey Bar and Restaurant	<p>Structures in Syno.96/1 of Village Betalbatim</p> <p>Report dated 19/5/2016</p> <p>The Inquiry Committee of GCZMA has interalia considered that survey plan prepared in the year 1972-73 shows existence of the structure; that the sale deed dated 28/4/2000 refers to the house existing in Syno.96/1; that affected party purchased the property by sale deed dated 11/10/10; that affected party constructed the</p>

		<p>residential house on the eastern side leaving open the area on the northern side; that the plinth area of structure M is less than the plinth area of structure P; that the village panchayat allotted Hno. 46 and imposed house tax to the structure Hno.46 and the resolution of the panchayat revoking the allotment of house number was quashed and set aside.</p> <p>Recommended to regularize the structure of residential house having Hno.46 in Syno. 96/1 of village panchayat marked [N] in the site plan and deal with structure [M]&[O] the shed in accordance with rules governing erection of temporary seasonal structure in CRZ area</p>
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The matter was placed for hearing of the concerned parties.

The proceedings of each case in the meeting can be seen as under:-

1. Proceeding in Mr. Ashok Kumar Vaid

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his representative., complainant as well as respondent sought additional time to file submission before the Authority.

2. Proceeding in Captain J.P.Dias

The complainant Mrs. Judith Almeida remained present in person and respondent remained absent. Complainant sought additional time to file submission before the Authority.

3. Proceeding in Ashok VikhePatil

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his representative. Complainant as well as respondent sought additional time to file submission before the Authority.

4. Proceeding in M/s Crasto Guest House

The complainant Mrs. Judith Almeida remained present in person and submitted that mapping of the structures has not been done, documents submitted by the respondent are wholly illegal and Sale deed dated 12/08/2008 doesn't mention any structures. No structures are shown in DSLR plan 2006.PIL 4/2013 is filed for the said extension. The respondent remained present through his representative and sought additional time to file submission before the Authority.

5. Proceeding in M/s J.B Guest House

The complainant Mrs. Judith Almeida remained present in person and submitted that the Survey Nos are wrongly recorded in inquiry committee report, further complainant requested for fresh mapping by DSLR. The matter is before the mamlatdar regarding mundkarial issue. The respondent remained present through his representative; complainant as well as respondent sought additional time to file submission before the Authority.

6. Proceeding in M/s Shamiraj Hotels

The complainant Mrs. Judith Almeida remained present in person and submitted that plan which is submitted by respondent is not available with TCP department. The report dated 29/09/2013 by village panchayat depicts G+2 structures prepared by architect. The structures are within NDZ and FAR have been extended. Complainant also drew attention of the Authority to a report dated 16/01/2018 submitted by Additional Collector to GCZMA. The respondent remained present through his representative. Complainant as well as respondent sought additional time to file written submission before the Authority.

7. Proceeding in Colva Residency Goa Tourism Development Corporation (GTDC).

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his authorized representative. The Respondent stated that the said structures are prior to 1991, complainant interalia submitted that the mapping is required to

ascertain the extension if any. Further, complainant as well as respondent sought additional time to file written submission before the Authority.

8. Proceeding in Hotel Baywatch

The complainant Mrs. Judith Almeida remained present in person and submitted that GCZMA in its earlier meeting was presented with a report of Deputy Collector depicting various illegalities in the said hotel. The plan will have to be approved by TCP department. Further, the complainant submitted that there are various Survey Nos in this area which falls within 25mt of HTL. The respondent remained present through his representative and interalia submitted that there are no illegalities committed by the respondent. The plans are approved in 2005 pertaining to repair. Complainant as well as respondent sought additional time to file written submission before the Authority.

9. Proceeding in Soul Vacations-Colmar Condominium

The complainant Mrs. Judith Almeida remained present in person and submitted that the GSCCE has not granted approved plan. The permission which was taken for residential complex is converted into resort. The waterbody which was present at site was converted into swimming pool and the permission granted by GCZMA for biofencing wall is actually seen as a concrete wall at the site. Further, complainant submitted that completion certificate is not given for construction. The respondent remained present through his representative and sought additional time to file submission before the Authority.

10. Proceeding in Hotel Silver Sands

The complainant Mrs. Judith Almeida remained present in person and submitted that barring one structure all the construction is new. Village Panchayat had issued demolition orders. The said structure is G+1. Respondent remained present through his authorized representative and submitted that the structures are prior to 1991 and there is no new construction. The village Panchayat filed affidavit

before Honible high court stating they have dropped the proceedings against the respondent. Both the parties to file written submissions before the Authority.

11. Proceeding in Tonia Estates and Resorts Pvt Ltd

The complainant Mrs. Judith Almeida remained present in person and the respondent remained present through his representative. Complainant submitted that the forum had approached Honible NGT Pune. The construction is going on the bank of Colva creek. Demolition order was issued by village Panchayat. Respondent submitted that the said matter is before Honible High court of Bombay at Goa for final hearing. The permission issued by the GCZMA for proposed repair and reconstruction is challenged before the High Court of Bombay at Goa. Matter before the Honible NGT is disposed of. The demolition orders issued by Village Panchayat are set aside. DSLR map of 2011 tally in toto to the actual situation on ground. As Honible High Court is already seized of the similar matter, the respondent prayed for disposal of the case with GCZMA. This was objected by the complainant. The Authority directed both the parties to submit written submissions in this regard. The decision of whether to proceed further in this case would be taken after receipt of written submissions.

12. Proceeding in M/s Boomerang Bar Restaurant

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his representative. The complainant as well as respondent sought additional time to file written submission before the Authority.

13. Proceeding in Colmar Beach Resort

The complainant Mrs. Judith Almeida remained present in person and submitted that village Panchayat had issued demolition order to the said structures, there was no permission was taken from the GCZMA. Further, complaint requested the Authority to conduct DSLR survey and mapping of the site. The respondent remained present through

his representative. Complainant as well as respondent sought additional time to file submission before the Authority.

14. Proceeding in M/s Quinsan Cottages

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his authorized representative. The complainant submitted that there is encroachment and trespass; the structures are put by tress passers. No permission is taken from GCZMA. Respondent relied on the inquiry committee report submitted by Inquiry committee of GCZMA and the documents submitted before inquiry committee. which states that the structures are existing prior to 1991.

15. Proceeding in M/s Longinhos Beach Resorts

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his representative. The complainant requested the Authority to conduct DSLR survey and mapping of the site.

Further complainant as well as respondent sought additional time to file submission before the Authority.

16. Proceeding in Department of Tourism

The complainant Mrs. Judith Almeida remained present in person. Respondent was absent. Complainant submitted that respondent has extended the temporary stalls and converted them into restaurant.

17. Proceeding in M/s Lucky Star Ventura Fernandes

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his representative. Complainant as well as respondent sought additional time to file submission before the Authority.

18. Proceeding in M/s Mickey Bar and Restaurant

The complainant Mrs. Judith Almeida and Adv. Juvett Dsouza remained present in person and respondent was absent. Complainant relied and reiterated on complaint and contents therein.

The complainant further submitted that she has recently filed 2 complaints and the violator has demolished sand dunes at site. The complainant requested the Authority to conduct DSLR survey and mapping of the site.

Decision: The Authority after hearing all the above parties, took on record submissions made by them. It directed all the parties to file written submissions before 14/8/18. The hearing on all the matters to continue in the next GCZMA meeting on 14/08/2018. Personal hearing notices were waived off.

Case No.1.4

To discuss and decide on the letter dated 31/07/2015 received from the Ministry of Environment, Forest & Climate Change (MoEF&CC) with regard to NOC/Permission for repairs and renovation / reconstruction of the Hotel unit in Sy.No. 336/1-A of Benaullim village, Salcete Taluka, by M/s. Triumph Realty Pvt. Ltd.

Background:

1. The proposal received from M/s. Triumph Realty Pvt. Ltd was placed before the Authority on various occasions vis- a-vis complaint and the Writ Petition No. 23 of 2013 before the High Court of Bombay at Goa filed by the Benaullim Civic & Socio Forum.
2. M/s. Triumph Realty Pvt. Ltd. had filed an application for issue of NOC / permission for repair / renovation of the hotel in the plot of land under the Sy. No. 336/1-A of Benaullim Village, Salcete L Goa dated 10/11/2014 requesting to review / recall the communication dated 19/09/2014 by the Office of the GCZMA, and to decide the same along with the Show Cause Notice dated 22/05/2014.
3. Upon receipt of the same the site was re-inspected by the Expert members of the GCZMA. Further vide application M/s. Triumph Realty Pvt. Ltd sought review of the decision taken during 153rd GCZMA meeting held on 18/07 2017.

The said matter was discussed and deliberated during 169th GCZMA meeting held on 01/03/2018 wherein the Authority decided to reject the said application.

Decision: The Authority observed that review applications are being filed by respondentseven though an exhaustive proceeding have been undertaken to arrive at a decision. Also, it goes without saying that if a party is aggrieved by an order of the Authority remedies in terms of appeal before Honble NGT Court are available to them. The authority is already overburdened with backlog of pending cases and complaints. In such a situation, review applications for the cases which have already been decided after detailed hearing, add to the pendency and hampers the disposal of other cases by GCZMA. As such, admission of review application has to be exercised with caution and only in exceptional circumstances and such window to file review cannot be ad infinitum. A legal opinion in the matter of review is required. Further, review applications are being used as a tool to frustrate the execution of the orders passed by the Authority. In the present case as well orders as per the resolution of 153rd meeting of GCZMA has not been passed. Therefore, Authority resolved to issue the orders as per its 153rd Meeting decision immediately and to refer the reconstruction application by M/s TRPL for 4 structure in 200-500 mtrs of HTL in Sy. No. 336/1-A of Benaulim Village to MOEF as the proposed structures are to be run as a hotel.

Case No.1.5

To decide and deliberate on the Complaint regarding Illegal Construction & Extension of Houses in Property bearing Sy. No. 99/3 of Bambolim Village, Tiswadi, Goa.

Background

The Office of GCZMA received a complaint letter dated 04/03/2016 from Mr. SavioNunes of Bambolim Beach Resort, Bambolim, Goa with regard to the Alleged illegal extensions to the residential houses bearing H. Nos. 83, 84, 89 and 93 thereby causing encroachments in property bearing Sy. No. 99/3 of Bambolim village, without obtaining prior permission from the owner of the property or from the concerned authorities and are in violation of

CRZ Notification 2011. So, a site inspection was fixed to see the site, verify the alleged illegal construction done and the documents. Accordingly detailed site inspection report was submitted by the expert member (GCZMA).

Decision: The authority perused the site inspection report submitted by the Expert member GCZMA, and decided to call the parties for personal hearing before Authority.

Case No.1.6

To decide and deliberate on the Complaint regarding alleged Illegal Construction / Extension of House in the Property Bearing Sy. No. 99/3 of Bambolim, Village, Tiswadi, Goa.

Background

Office of the GCZMA received a complaint letter dated 04/03/2016 from Mr. SavioNunes of Bambolim with regard to alleged illegal constructions /extension of house done in the property bearing Sy. No. 99/3 of Bambolim, Tiswadi within CRZ limits, carried out by Mr. LourenceFigueredo in flagrant violation of CRZ notification 2011 without obtaining any proper permission from the competent authority.

Decision: The authority perused the site inspection report submitted by the Expert member GCZMA, and decided to call the parties for personal hearing before Authority.

Case No.1.7

To comply with the Order dated 12/01/2017 in Application No. 170/2016 of the Hon'ble National Green Tribunal at Pune filed by Mr. KashinathShetye and to decide on the alleged illegal construction carried out by Mrs. Sheila Dhody by building / constructing various hotels i.e. (Casa Vagator, Casa Colvale, Casa Britona, Casa Baga and Casa Anjuna) within NDZ area of Bardez Taluka.

Background-

142- resolution,
review application. Review application hearing

The said matter was placed for grant of personal hearing during 151st GCZMA meeting held on 15/06/2017. Authority after detailed discussion and due deliberation and in view of the fact that the complainant has filed an application before the Hon'ble NGT, Pune challenging the decision of the Authority to review, the Authority decided to await the orders of the Hon'ble NGT in this regard. Subsequently the Authority issued notice of personal hearing to both the parties during 164th GCZMA meeting held on 18/01/2018, however the meeting was called off. The matter has been pending and the Authority may decide.

Decision: The Authority observed that review applications are being filed by respondent even though an exhaustive proceeding have been undertaken to arrive at a decision. Also, it goes without saying that if a party is aggrieved by an order of the Authority remedies in terms of appeal before Hon'ble NGT Court are available to them. The Authority is already overburdened with backlog of pending cases and complaints. In such a situation, review applications for the cases which have already been decided after detailed hearing, add to the pendency and hampers the disposal of other cases by GCZMA. Further, review applications are being used as a tool to frustrate the implementation of decision and execution of the orders passed by the Authority. In the present case as well, the demolition order as per the resolution of 142nd GCZMA meeting held on 28/02/2017 has not been issued till date. As such, Authority rejected the review application and re-affirmed its decision as per the resolution of 142nd GCZMA meeting held on 28/02/2017. Orders be passed as per above immediately.

Item No.2

Case No. 2.1

Repair of the Existing Structure in Sy. No. 120/25 of Nagorcem-Palolem in Canacona Taluka, Goa.

Background

Mr. Omkar Narayan Komarpanth from Nagorcem-Palolem submitted an application to GCZMA on 24/05/2018 requesting for a NOC for repair of the existing structure in Sy. No. 120/25 of Nagorcem-Palolem in Canacona Taluka. So, a site inspection was fixed to see the site, verify the CRZ zoning and the documents. Site inspection report has been submitted by the Expert member (GCZMA) recommending approval of the proposal.

Decision: The members perused the agenda note, inspection report of the Expert Members and noted that the proposal is for repair of the existing residential house bearing Sy. No. 120/25 of Nagorcem-Palolem in Canacona Taluka. The area lies in 200 - 500m of CRZ III wherein repair and renovation of existing structure is permissible as per Para 8 III B (vii) of the CRZ Notification, 2011(as amended from time to time). As such, the Authority resolved to approve the above proposal.

Case No. 2.2

To deliberate on purchase of 4 numbers of Desktop computers and 1 office laptop in the office of GCZMA

Background:

The GCZMA office currently has 14 nos of staff and only 9 nos of desktop computers are available with the office from which 3 nos. are provided by department of science & Technology, currently desktop computers are insufficient for the use of 14 nos of staff. Hence the Authority intends to purchase additional 3 nos of desktop computers and 1 laptop for office use. As per the circular No. 7(43)/2017-18/DOIT/SDA for hardware procurement/380 dated 15/06/2018 of department of Information technology , the Government has decided to nominate Info tech corporation Goa limited (ITG) as a State Designated agency (SDA) for executing procurement of all ITC equipment for all government Departments , PSUs and autonomous bodies. The members were also briefed about the need of having a dedicated 2 mbps internet connection in the office of GCZMA.

Decision: The members perused the agenda note and the Authority resolved to approve the purchase of 4 numbers of desktop computer and 1 office laptop in the office of GCZMA through ITG. Further, it also directed

Member Secretary to initiate necessary steps for an uninterrupted internet connection in the office of GCZMA.

ADDITIONAL AGENDA ITEMS

Case NO. 2.3

Minor Technical changes in the approved plans (i.e. for addition & alteration to the existing house in the property bearing survey no. 180/2 of Calangute village by Mr. Joao Pedro M.A. Fernandes.

Background: The said proposal was approved in the 145th GCZMA meeting held on 04/04/2017 wherein after detailed discussion and due deliberations and on considering the report of the site inspection conducted by Shri. AudhootBhonsule and Dr.PrabhakarShirodkar Expert Members (GCZMA), the Authority decided to approve the said revised proposal in accordance to the provision of the (Para VIII) of the CRZ Notification 2011, as amended for addition & alteration to the existing house in the property bearing survey no. 180/2 of Calangute village.

Accordingly, NOC was issued vide letter dated 18/04/2017. Subsequently, the applicant sought approval of the NGPDA for the same. However, the NGPDA has suggested changes in the plans like level of development floor area exceeds permissible limit as the property is accessible by existing 3.00-4.00 mts wide road.

In view of the above the NGPDA has now submitted revised plans, for addition & alteration to the existing house, rest all remains unchanged.

Decision: Authority after perusing the agenda note and after discussion decided to refer the plans to Expert Members for their comments. It further decided that before granting any permission and approval in future, the plans will be sent to respective TCP department or NGPDA for necessary examination to avoid duplication of efforts.

Case NO. 2.4

Minor Technical changes in the approved plans (i.e. for addition & alteration to the existing house in the property bearing survey no. 174/5 of Calangute village by Mr. Joao Pedro M.A. Fernandes.

Background: The said proposal was approved in the 145th GCZMA meeting held on 04/04/2017 wherein after detailed discussion and due deliberations and on considering the report of the site inspection conducted by Shri. AudhootBhonsule and Dr.PrabhakarShirodkar Expert Members (GCZMA), the Authority decided to approve the said revised proposal in accordance to the provision of the (Para VIII) of the CRZ Notification 2011, as amended for addition & alteration to the existing house in the property bearing survey no. 174/5 of Calangute village.

Accordingly, NOC was issued vide letter dated 18/04/2017. Subsequently, the applicant sought approval of the NGPDA for the same. However, the NGPDA has suggested changes in the plans like level of development floor area exceeds permissible limit as the property is accessible by existing 3.00-4.00 mts. wide road.

In view of the above the NGPDA has now submitted revised plans, for addition & alteration to the existing house, rest all remains unchanged.

Decision: Authority after perusing the agenda note and after discussion decided to refer the plans to Expert Members for their comments. It further decided that before granting any permission and approval in future, the plans will be sent to respective TCP department or NGPDA for necessary examination to avoid duplication of efforts.

Case No. 2.5

To decide on letter received from Village Panchayat St. Andre, Goa Velha regarding application from Margarida Dias Zuari requesting to issue NOC to start multipurpose hall in house Nos 1141 & 1141/1 in the property bearing survey no. 180/1 and 180/2 situated at village Goa velha .

GCZMA issued NOC vide letter dated 19/04/2017 to Mr. Clement Dsouza for proposed repairs of houses bearing H.Nos 1141(New) (Old H. no. 871) and 114/1 (new) (old No. 872) located in the property bearing survey no.

180/1 and 180/2 situated at village Goa velha .Now this office received a letter from Village Panchayat St. Andre, Goa Velha dated 18/07/2018 stating that the applicant intends to start a bar & restaurant and multi purpose closed events hall in the said premises. The said property is situated behind petrol pump at Goa velha and such activities are permissible in the CRZ area.

Decision: The Authority after perusing the agenda note decided to conduct site inspection by expert member of GCZMA before taking any decision in the matter.

Case No. 2.6

Gross Violation of CRZ Regulation due to Excessive Sand Extraction at 3 Different Places viz. Ghano-SavoiVerem, Mest Wada and Vaghurme in vere-Vaghurme Village of Ponda Taluka, Goa.

Background

Shri. Dataram Desai, Chairman of BMC at vere-Vaghurme complained to GCZMA vide letter dated 08/05/2018 alleging gross violation of CRZ Regulation by excessive extraction of sand from the riverine areas at 3 different locations, namely Ghano-Savoi, Mestwada and vere-Vaghurme in Ponda Taluka. So, a site inspection was fixed to see the site, verify the CRZ zoning area and the permissions/documents.

Decision: The Authority after perusing the agenda note and the site inspection report submitted by Expert member (GCZMA) decided to communicate the same to Directorate of Mines & Geology (DMG), Panaji Goa and Collector North, Panaji Goa to take immediate action on illegal sand mining on site.

Case NO. 2.7

SUO moto cognisance of the report dated 15/05/2017 by Expert member of GCZMA in the matter of Mr. Lourenco Diogo Jose Rodrigues V/s. Mr. Anthony F. Fernandes with regard to complaint of alleged illegal construction of a house just 3 m away from the River Zuari in the property bearing Sy. No. 115/1-F of Goa Velha, Tiswadi-Goa within CRZ limits

The site was inspected by the Expert Members of the GCZMA. The observations recorded during the site inspection are as follows:

- i) The proposed site is in NDZ area abutting the bank of river Zuari.
- ii) The foundation of the said house towards the southern side is on the retaining wall of the river.
- iii) The house is a G+1 structure, which is not usually permitted in the NDZ area.
- iv) The house owner produced house tax receipts dating back from 1989-90 onwards. So also produced the repair license from V.P. Agassaim of 1989.
- v) The alleged violator belongs to a fishing community and so produced a fishing license of the year 1928 in the name of Mrs. Vitorina's father.
- vi) Also, a fishing license in the name of Vitorina from 1957 was produced along with a canoe license which proved that the proponent is having fishing business since 1928.
- vii) The said house does not look like old house to which the proponent said that they have only renovated the house in recent years.
- viii) However, they did not produce any NOC for the said renovation/repair from GCZMA.
- ix) The representative of Mrs. Vitorina made a passing remark that the Complainant who is their neighbor has also constructed a G+1 structure near his old house abutting the road in an NDZ area.

Conclusion & Recommendation

- i) The house is renovated / repaired by the respondent and this has been agreed upon by the respondent.
- ii) There are all licenses of fishing activity being carried out by them from their ancestral times.
- iii) The house tax receipts and the repair license of V.P. Agassaim indicated that the house was existing prior to 1991.
- iv) However there is no evidence to know that the existing house was G+1 structure prior to 1991, whereas the photos produced by the complainant show the present house only.

- v) The renovation done is definitely in recent times and not prior to 1991 for which a NOC from GCZMA was highly necessary.
- vi) Moreover, the complainant himself has constructed a new G+1 house in the NDZ, area opposite the road which is not seen in the Sy. Plan.
- vii) Hence both the parties may be called to depose before the Authority before finally disposing the case.

Upon perusal of the site inspection report submitted by the Expert Members it is seen that , the complainant himself has constructed a new G+1 house in the NDZ, area opposite the road which is not seen in the Sy. Plan.

In view of the above Authority may deliberate and decide.

Decision: The Authority took cognizance of the findings of the Expert Member inspection report and decided to undertake site inspection of the said survey number to ascertain the facts in the matter.

The meeting ended with a vote of thanks to the chair.

Sd/-

(Ravi Jha, IAS)

Member Secretary, GCZMA

True copy

**MINUTES OF THE 181st MEETING OF THE GOA COASTAL ZONE MANAGEMENT
AUTHORITY (GCZMA) HELD ON 14/08/2018 (TUESDAY) AT 3:30 P.M. IN THE
CONFERENCE HALL, 2ND FLOOR, SECRETARIAT, PORVORIM – GOA.**

The 181st meeting of the Goa Coastal Zone Management Authority (GCZMA) was held under the Chairmanship of the Secretary (Environment), on 14/08/2018 (Tuesday) at 3:30 p.m. in the conference hall, 2nd floor, Secretariat, Porvorim – Goa.

The following members were present for the meeting:

1. Principal Secretary (Environment) / Chairman (GCZMA).
2. Director, Directorate of Tourism, Government of Goa.
3. Representative on behalf of Director, Directorate of Fisheries Government of Goa.
4. Representative on behalf of Deputy Conservator of Forests, Department of Forests, Government of Goa.
5. Representative on behalf of Director, Directorate of Settlement & Land Records, Panaji, Goa.
6. Representative on behalf of Director, Water Resources Department
7. Shri. Audhut J. Bhounsule, Expert Member (GCZMA).
8. Shri. Suhas Godse, Expert Member (GCZMA)
9. Shri. Srirang Jambhale, Expert Member (GCZMA)
10. Dr. Prabhakar Shirodkar Expert Member (GCZMA)
11. Dr. Nandkumar Sawant Expert Member (GCZMA)
12. Member Secretary (GCZMA).

Item No. 1:

Case No. 1.1

To discuss and decide on the reports submitted by the Inquiry committee of the GCZMA after completing its inquiry and has submitted 18 reports interalia stating its recommendations.

Background: The present matter is part of Suo moto WP No. 02/2006 of Hon'ble High Court of Bombay at Goa. The matter was earlier placed in 115th GCZMA meeting held on 04/04/2015 wherein, the case was referred to Inquiry committee of GCZMA for detailed report.

The said matter was deliberated in 179th GCZMA meeting held on 19/07/2018 for grant of personal hearing to the all concerned parties.

Accordingly personal hearing notices issued to all the parties including complainant to appear before it on 31/07/2018. Accordingly the said matter was placed during 180th GCZMA meeting held on 31/07/2018 for grant of personal hearing, wherein the authority

heard the parties and directed all the parties to file written submissions on or before 14/08/2018 and matter reserved for hearing on 14/08/2018..

The proceedings of each case in the meeting held on 14/08/2018 are as follows:-

1. Proceeding in Mr. Ashok Kumar Vaid

The complainant Mrs. Judith Almeida remained present in person and respondent remained absent for the hearing.. The complainant submitted that that there exists huge structure; the said structure is in NDZ surrounded by paddy field.

The Authority decided to verify from records whether the notice has been received by the respondent and thereafter issue fresh notice for personal hearing.

2. Proceeding in Captain J.P.Dias

The complainant Mrs. Judith Almeida remained present in person. Respondent remained absent. The Authority decided to verify from records whether the notice has been received by the respondent and thereafter issue fresh notice for personal hearing

3. Proceeding in Ashok VikhePatil

The complainant Mrs. Judith Almeida remained present in person and Advocate represented the respondent. Complainant filed written submission enclosing copies of letters dated 03/08/2007 and Stay order before Deputy Collector dated 11/06/2001.and provided copies to the respondent as well as the Authority .The Advocate present for the hearing on behalf of the respondent sought time till 27th August to file a reply to the submissions made by the complainant. The Authority granted time to the respondent upto 27 th August to file reply.

4. Proceeding in M/s Crasto Guest House

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his Advocate. Complainant provided additional documents on which she is proposed to be rely upon to the Authority and a copy to the respondent. Further the respondent sought time to file a reply by 28/08/2017.Accordingly Authority took a note of the written submission made by the complainant and directed respondent to file reply by 28/08/2018.

5. Proceeding in M/s J.B Guest House

The complainant Mrs. Judith Almeida remained present in person and Advocate remained present on behalf of the respondent. Complainant produced additional documents on which she proposed to rely upon to the Authority and a copy to the respondent. Further complainant submitted that the said structure falls in survey no. 12/3 of Colva village. The respondent sought time to file a reply

by 27/08/2017. Accordingly, Authority took a note of the written submission made by the complainant and directed respondent to file reply by 27/08/2018.

6. Proceeding in M/s Shamiraj Hotels

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his Advocate. Complainant produced additional documents on which she proposed to rely upon to the Authority and a copy to the respondent. Further the respondent stated that he has applied for certified copies of documents before the GCZMA and further sought time to file a reply by 28/09/2017. Accordingly Authority took a note of the written submission made by the complainant and directed respondent to file reply by 28/09/2018.

7. Proceeding in Colva Residency Goa Tourism Development Corporation (GTDC).

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through their Advocate Shri Shivan Desai. The Advocate for the Respondent stated that the said structures are prior to 1991 and filed written submissions with copy to the complainant. Complainant inter alia submitted that the mapping is required to ascertain whether extension if any is carried out by the respondents. The Authority decided to carry out mapping through DSLR to verify whether any extensions beyond the plans submitted by the respondent have been carried out at the site.

8. Proceeding in Hotel Baywatch

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his Advocate. Complainant produced additional documents on which she proposed to rely upon to the Authority and a copy to the respondent. Further complainant requested to the authority to carry DSLR mapping of the structure. The respondent sought time till 28/09/2018 to file a reply. Accordingly, Authority took a note of the written submission made by the complainant and directed respondent to file reply by 28/09/2018.

9. Proceeding in Soul Vacations-Colmar Condominium

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his Advocate. Complainant produced additional documents which she proposed to rely upon to the Authority and a copy to the respondent. Further the respondent stated that he has applied for certified copies of documents before the GCZMA and further sought time to file a reply by 28/08/2017. Accordingly, Authority took a note of the written submission made by the complainant and directed respondent to file reply by 28/09/2018.

10. Proceeding in Hotel Silver Sands

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his Advocate. Complainant produced additional documents on which she proposed to rely upon to the Authority and a copy to the respondent. Further the respondent sought time to file a reply by 28/09/2017. Accordingly Authority took a note of the written submission made by the complainant and directed respondent to file reply by 28/09/2018.

11. Proceeding in Tonia Estates and Resorts Pvt. Ltd.

The complainant Mrs. Judith Almeida remained present in person and the respondent remained present through his representative. Complainant produced written submission before the Authority. Further the complainant submitted that they have filed an application before the Hon'ble NGT on 28/05/2014. The respondent 3 & 4 approached to the Hon'ble high court of Bombay at Goa in WP 469/2014, for stay which was granted by the Order dated 28/07/2014. The Complainant submitted as under:-

1. The respondent has carried out further extensions and undertaken construction of new structures without permission hence a complaint was filed on 15.12.2014.
2. The entire construction is on the border of the Colva Creek which is affected by the tidal effect.
3. The 2006 DSLR maps available with GCZMA show all the buildings as new and in excess of authorised FAR..
4. Fresh mapping of structures is required to identify new extensions and structures which are post 2014.

The Advocate for the respondent filed a written submission the brief summary which is as follows:-

1. The GCZMA has a filed an affidavit before the Hon High Court in W.P No 751/2008 dated 02/03/2009 wherein the GCZMA has referred to all the facts which were considered before granting the permission and GCZMA has submitted before the Hon'ble High Court that there is no illegality or irregularity in the grant of these permissions.
2. The Village Panchayat of Colva also in their affidavit dated 29/06/2009 and 02/03/2009 have categorically submitted that structures in question existed prior to 1991.
3. The matter is pending before the Hon'ble High Court where in the permissions have been challenged and hence no inquiry can be undertaken.
4. In spite of this submissions made before the Inquiry Committee of the Authority, the Inquiry Committee proceeded with the inquiry and hearing.
5. Pursuant to the directions of the Hon'ble High Court in W.P.No 150/1998, DSLR has carried out Survey and mapping of Structures and vide their letter dated 26/12/2011 have confirmed that the structures have been constructed

within the plinth area originally existing.. Further survey was carried out on 25.07.2012 and based on the report of the DSLR the GCZMA granted permission dated 23.08.2012.

6. That pursuant to the direction of the authority in view of the complaint filed by Goa Foundation, the GCZMA had directed DSLR to verify whether the structures have been constructed as per plinth area originally existed and as recorded in the DSLR survey mapping carried out as per the direction of the Hon'ble High Court in W.P. No 150/198 and Suo Motu W.P No 2 of 2006. The respondent also vide their letter dated 20/06/2012 requested to verify that the repair / renovation / reconstruction carried out as per the plan and sought confirmation from the Authority.
7. That the DSLR was than directed to carry out the mapping of the said structures and confirm the details vis a vis the records available and those submitted by the Project proponent.
8. That as per the report submitted by the DSLR , it is confirmed that the construction is as per the plans and plinth size submitted to the Authority while obtaining approvals and as per the plan submitted vide letter dated 20/06/2012 by the respondent and accordingly approval was conveyed on 23/08/2012
9. All these aspects have been considered by the Inquiry Committee in its report and the inquiry committee examined the documents and permissions on merit and concluded that the structures are within the plinth area and constructed in accordance with law.
10. The Advocate for the respondent and the complainant stated that they have no further submissions to make.

The Authority decided to accept the findings in the Inquiry Committee Report and noted that it is reconstruction /repairs of all the authorised structures existing prior to 1991 within the area of 200 meters from the HTL in the No Development Zone of CRZ III area and has been carried out within the same plinth area.

Further, it also noted that a case with the similar pleadings is pending before Hon'ble High Court of Bombay at Goa and thus decided to drop the proceedings in this case.

12. Proceeding in M/s Boomerang Bar Restaurant

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his Advocate. Complainant produced additional documents on which she proposed to rely upon to the Authority and a copy to the respondent. Further the respondent filed a preliminary reply and further sought additional time to file a reply by 28/09/2018. Accordingly Authority took a note of the written submission made by the complainant and the

preliminary reply filed by the respondent and directed respondent to file a further reply by 28/09/2018.

13. Proceeding in Colmar Beach Resort

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his Advocate. Complainant produced additional documents on which she proposed to rely upon to the Authority and a copy to the respondent. Further the respondent sought time to file a reply by 28/09/2018. Accordingly, Authority took a note of the written submission made by the complainant and directed respondent to file reply by 28/09/2018.

14. Proceeding in M/s Quinsan Cottages

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his Advocate. Complainant produced additional documents on which she proposed to rely upon to the Authority and a copy to the respondent. Further the respondent sought time to file a reply by 28/09/2018. Accordingly, Authority took a note of the written submission made by the complainant and directed respondent to file reply by 28/09/2018.

15. Proceeding in M/s Longinhos Beach Resorts

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his Advocate. Complainant produced additional documents on which she proposed to rely upon to the Authority and a copy to the respondent. Further the respondent sought time to file a reply by 28/09/2018. Accordingly Authority took a note of the written submission made by the complainant and directed respondent to file reply by 28/09/2018.

16. Proceeding in Department of Tourism

The complainant Mrs. Judith Almeida remained present in person. The Deputy Director Tourism, Shri Brijesh Manerikar remained present on behalf of the respondent.

The complainant produced written submission and stated that the stalls have carried out extensions and also carrying out activities beyond the purpose for which it was originally allotted by the Department of Tourism.

The respondent interalia submitted a copy of a plan and stated that the structures are prior to 1991. Further the respondent submitted that department will carry inspection at the proposed site and necessary action will be taken against the occupier in case any violations are observed.

The Authority decided to direct the Department of Tourism to carry out mapping of structures through DSLR and superimpose the same on the original approved plans and ensure that all the extensions carried out beyond the original approved plans are demolished.

17. Proceeding in M/s Lucky Star Ventura Fernandes

The complainant Mrs. Judith Almeida remained present in person and respondent remained present through his Advocate. Complainant produced additional documents on which she proposed to rely upon to the Authority and a copy to the respondent. Further the respondent sought time to file a reply by 28/09/2018. Accordingly, Authority took a note of the written submission made by the complainant and directed respondent to file reply by 28/09/2018.

18. Proceeding in M/s Mickey Bar and Restaurant

The complainant Mrs. Judith Almeida and Adv. Jowett Dsouza remained present in person and respondent remained present along with authorized representative. Complainant filed written submission and produced additional documents with a copy of the same to the respondent. Further the respondent sought time to file a reply by 28/09/2017. Accordingly Authority took a note of the written submission made by the complainant and directed respondent to file reply by 07/09/2018.

Case No. 1.2**To discuss and deliberate on alleged illegal development of plots in Property Bearing Sy. Nos. 275/1, 1-B and 1-C in Paddy Field at Morambi-O-Grande, Village Mercês, Tiswadi, Goa.****Background**

GCZMA received three complaints, one from the Village Panchayat of Mercês, dated 29/03/2016, regarding alleged illegal development of plots in property bearing Sy. Nos. 275/1, 1-B and 1-C; second from Mr. Jose Oliveira from Mercês dated 06/04/2016 regarding the said illegal development. The third complaint was from Mr. Sudesh Kalangutkar, President of Mercês Welfare Association dated 18/04/2017 with regard to alleged illegal conversion of land, filling of mud and construction of houses and also cutting of mangroves in property bearing Sy. Nos., 275/1, 257/1-B and 275/1-C, 274/1 and 274/2 of village Morambi-O-Grande, Tiswadi within CRZ area by Mr. Johny Fernandes and Mr. Shane Fernandes. A site inspection was therefore fixed to see the site, verify the CRZ zoning of the area, the constructions done and to take the stock of the situation.

Proceeding: The complainants' along with the representatives from the village panchayat of Morambi –o-Grande remained present. The respondents Mr. Johny Fernandes and Mr. Shane Fernandes were also present.

The Advocate on behalf of village panchayat submitted that there are no permissions issued by the Village Panchayat for the said construction.. The respondent sought time before the authority to file submission to the Authority.

Decision: The authority after hearing both parties and considering written and oral submissions made by both the parties directed the respondent to file any submission if to the office of GCZMA before 28/08/2018 with a copy of the same to the respondent.

Case No. 1.3:

To discuss and decide on the complaint with regard to alleged illegal construction in the property bearing Sy. No. 136/4, 136/10, 136/13, 136/16 at Wadi, Candolim, Bardez - Goa and to comply with the Order dated 06/07/2017 passed by the Hon'ble NGT, Pune in Application No. 88/2016

The said matter was placed for discussion and deliberation during 166th GCZMA Meeting held on 27/12/2017, wherein the authority decided to carry out joint site inspection and survey along with surveyor of DSLR on 10/01/2018. However, the survey exercise could not be completed.

Subsequently, vide order dated 06/07/2018 the Honble NGT interalia directed to carry out the survey and mapping work on 18/07/2018 and 19/07/2018. In this regard, the office of DSLR has vide letter dated 31/07/2018 received on 02/08/2018 have forwarded mapped survey plan.

Proceeding: Advocate Winson Braganza and Mr. James Mathew on behalf of the complainant Mr. Nandalal Khemkha was present. Respondents along with their respective advocates Nitin Sawant, Adv. A Sawant were remained present.

Advocate on behalf of the complainant submitted that he has not received the DSLR plan and requested the Authority for a copy of same. The Authority noted the submissions and directed the complainant to collect the necessary documents and plans from the GCZMA office for which both the parties agreed.

Decision: The Authority after hearing both the parties and taking into considering the oral submissions made by the parties , Authority directed the complainant as well as respondent to collect the necessary copies of any documents or plans from the office of the GCZMA and further decided to hear both the parties on 31/08/2018. Personal hearing notices were waived off by the complainants as well as the respondents.

Case No. 1.4:

To comply with the Order dated 28/09/2016 passed by the Hon'ble NGT in Application bearing No. 181/2015 in the matter of Mr. Anthony D'Souza and Teso Waterfront

Brief Summary:

A complaint letter dated 16/01/2015 was received from Siolim Vaddy Nagarik Samittee with respect to the alleged illegal construction of a night club (Teso Waterfront) carried out by Mrs. Telma Desa Pinto in the property bearing Sy. No. 305 and in adjacent properties bearing Sy. No. 301 and 304 at Vaddy Siolim, Bardez – Goa.

The said matter was placed in the 156th GCZMA meeting held on 22/08/2017 wherein the Authority noted that the Respondent is absent as such in terms of natural justice decided to grant a final opportunity of hearing in the matter to both the parties on 12/09/2017 and accordingly, to communicate the date of hearing to the parties well in advance. The complainants present for the hearing took note of the same. The said matter was placed before the Authority for grant of personal hearing to the parties.

Proceedings: Adv. S. Desai was present on behalf of Teso Water front, he submitted that the structure are reflected in cadastral maps hence it is present prior to 1991. Further temporary structures are erected pursuant to provision and permission by GCZMA authority and continues to be existing on the side. An application for permission has now been submitted to GCZMA for the present year as MoEF Notification dated 3/05/2017 permits continuous of structure (temporary) during the monsoon, the temporary structure need not be demolished. He further submits that vide his representation in March has objected to earlier inspections report of expert members and submits that GCZMA should grant permission and withdraw demolition. Mr. Joseph Noronha appeared in person and submitted written submission and relied on his written submission.

Decision: The Authority noted that both the parties have been heard and there is not additional evidence placed on record by the respondent and therefore decided to issue demolition orders for all the illegal constructions carried out in Survey No 301/1 in Village Panchayat Siolim, Bardez, Goa including the concreted flooring, jetty and swimming pool and restore the land to its original within 15 days , failing which the SDM to demolish the aforementioned structures and restore the land to the original

Case No. 1.5

To discuss and decide on the Application dated 14/02/2017 received from the Goa Tourism Development Corporation Ltd. for Review / Recall Of the order dated 30/10/2015 and Memorandum dated 19/08/2016 issued to M/s Mabarest Hotels Pvt. Ltd. in respect of demolition of the illegal construction of the structures carried out by in the property bearing Sy. No. 212/5, 6 and 7 of Village Anjuna, Bardez-Goa

The GCZMA vide an Order of demolition bearing No. GCZMA/ILLE-COMPL/14-15/159/1846 dated 30/10/2015 directed M/s Mabarest Hotels Pvt. Ltd. to demolish the

illegal construction of structures in the property bearing Sy. No. 212/5, 6 & 7 of Village Anjuna, Bardez – Goa and to restore the land to its original condition within a period of 15 days and to file a compliance report within a period of 3 days failing which directions will be issued to the Deputy Collector & S.D.O, Bardez to verify if the structures are removed and in the event the same are not removed / demolished the Deputy Collector shall remove the said structures within a period of 2 weeks thereafter and recover the expenses from M/s Mabarest Hotels Pvt. Ltd.

The said matter was placed before the authority during its 171st GCZMA meeting held on 10/04/2018 wherein Authority after perusing the communication dated 07/12/2017 from GTDC enclosing the report submitted by DSLR.-Panaji, Goa and further after detailed discussion and deliberation decided to direct the surveyor of DSLR to carry re survey of the proposed site.

The representative of DSLR present for the meeting informed that the exercise for mapping has been completed and the plans will be submitted to the Authority shortly.

Decision: The Authority decided to await the submission of map by the DSLR.

Case No. 1.6

To discuss on a Complaint from Mr. Kashinath Shetye & others alleging illegal construction of new house by cutting Mangroves and filling of Creek within CRZ area in the Property bearing Sy. Nos. 3/1, 3/2 and 3/3 of Adcolna Village in Ponda Taluka.

Background

GCZMA received a complaint letter dated 23/05/2016 from Mr. Kashinath Shetye & others alleging illegal construction of new house by cutting Mangroves and filling of Creek within CRZ area in the property bearing Sy. nos. 3/1, 2 and 3 carried out by Mr. Jairam Govind Kholkar, Mr. Keshavnath Shantaram Naik and Mrs. Kavita S. Naik at Adcolna, Ponda-Goa.

Decision: The Authority after perusing the agenda note and the site inspection report submitted by the expert member (GCZMA) and after detailed deliberation decided to issue show cause notice to the Mr. Jairam Govind Kholkar, Mr. Keshavnath Shantaram Naik and Mrs. Kavita S. Naik for carrying out illegal construction of new house by cutting Mangroves and filling of Creek within CRZ area in the property bearing Sy. nos. 3/1, 2 and 3 of Adcolna, Ponda-Goa and further decided to carry out a survey through DSLR to verify whether the structures in question are within NDZ of the river and call the parties for personal hearing before the Authority.

Case No. 1.7

To decide on a Complaint Regarding Alleged Violation by Panaji Community Centre and M/s Albuquerque & Noronha in Property bearing PT Sheet No. 106 and Chalta No. 37 and 37-A of Mala, Panaji, Goa.

Background

GCZMA received a complaint letter dated 07/03/2016 from Mr. Kashinath Shetye & others alleging CRZ violation carried out by Panaji Community Centre and M/s Albuquerque & Noronha in property bearing P T Sheet no. 106 of Chalta no. 37 and 37-A of Mala, Panaji.

Decision: The Authority after perusing the agenda note and the site inspection report submitted by the expert member (GCZMA) and after detailed deliberation decided to issue show cause notice to the Panaji Community Centre and M/s Albuquerque & Noronha for carrying out alleging CRZ violation in Property bearing PT Sheet No. 106 and Chalta No. 37 and 37-A of Mala, Panaji, Goa and further decided to call the parties for personal hearing before the Authority.

Item No.2

Case no.2.1

To discuss on an application letter dated 09/08/2018 regarding revised NOC for proposed reconstruction and development of existing indoor stadium in land bearing indoor stadium in land bearing PT sheet No.97/chalta Nos 2,7 , PT sheet No.98/Chalta Nos 13 and PT sheet no. 79/Chalta No.1 (confirm) .P.t. sheet no.97 chalta Nos 01 (provisional) situated at Campal , Panaji city, Tiswadi taluka., Goa.

Background: This office this office had earlier issued NOC vide letter No. GCZMA/N/16-17/57/2147 dated 10/02/2017 to Sports Authority of Goa, for proposed reconstruction of existing indoor stadium and proposed office building in land bearing PT sheet No.97/chalta Nos 2, 7, PT sheet No.98/Chalta Nos 13 and PT sheet no. 79/Chalta No.1.P.t. sheet no.97 chalta Nos 01 situated at Campal , Panaji city, Tiswadi taluka., Goa. The said NOC has been submitted by the applicant to NGPDA for technical clearance.

Decision: The Authority after perusing the agenda note and the revised plan submitted by the applicant decided to approve and issue the revised plan as sought by the NGPDA to the extent of the area statement and road widening for the proposed reconstruction and development of existing indoor stadium in land bearing PT sheet No.97/chalta Nos 2,7 , PT sheet No.98/Chalta Nos 13 and PT sheet no. 79/Chalta No.1 (confirm) .P.t. sheet no.97 chalta Nos 01 (provisional) situated at Campal, Panaji city, Tiswadi taluka., Goa.

Case no.2.2

To decided on a NOC for the Proposed Construction of Residential Bungalow in Sy. No. 206/1-B of Calangute Village, Bardez, Goa.

Background

Mr. Ashok Meher from Palghar, Maharashtra submitted an application to GCZMA on 12/12/2017 requesting for a NOC for the construction of a residential bungalow in Sy. No. 206/1-B of Calangute Village. So, a site inspection was fixed to see the site, verify its CRZ zoning and the documents.

Decision: The Authority noted the agenda note and site inspection report by the expert member (GCZMA) the Authority noted that the said proposal is for construction of residential bungalow which is permissible activity as per CRZ. However in view of the order of Hon'ble National Green Tribunal dated 22/11/2017 passed by Hon'ble NGT, Delhi in the matter filed by M/ Mehdad & anr V/s Ministry of Environment, Forests & Climate Change &ors, the Authority concluded that NOC for new construction cannot be granted at this stage and to intimate the applicant accordingly.

Case no.2.3

To decide on a NOC for Repair/ Renovation of Existing House no. 9/135 at Maleliwada, Palolem, Canacona, Goa.

Background

An application dated 09/5/2017 has been submitted by Mr. Premanand Poko Naik which reached the GCZMA office on 10/05/2017 for a NOC for repair / renovation to the existing house in Sy. No. 116/2 of Palolem at Canacona. So, a site inspection was fixed to see the site and the existing old house, verify the CRZ zoning of the site and the documents.

Decision: The members perused the agenda note, inspection report by the Expert Members (GCZMA) and noted that the proposal is for repair and renovation of existing residential house bearing H. No. 9/135 at Maleliwada, Palolem, Canacona, Goa. The area lies in 200 - 500m of CRZ III area wherein repair and renovation of existing structure is permissible as per Para 8 III B (vii) of the CRZ Notification, 2011, (as amended) from time to time. As such, the Authority resolved to grant permission for the proposed repair and renovation.

Case no.2.4

To decide on delineation of NDZ Line in respect of Plots bearing Sy.Nos. 11/10-A and 14 of Moira Village, Bardez, Goa.

Background

Mr. Tulio D'Souza from Panaji submitted a letter dated 04/07/2018 to GCZMA requesting for a delineation of CRZ/NDZ line in respect of his plots bearing Sy. Nos. 11/10-A and 14 of Moira Village, Bardez, Goa. So a site inspection was fixed to see the site and verify the extent of NDZ area within the plots due to the presence of Creek abutting the plot with expert member of the Authority and the DSLR. The DSLR has now submitted the maps indicating the NDZ.

Decision: The authority after perusing agenda note and site inspection report by the expert member GCZMA and the map submitted by the DSLR decided to issue a letter along with the map of delineation of NDZ submitted by the DSLR..

Case no.2.5

To discuss and decide on a Delineation of CRZ Line in SY. No. 97/1-J of Reis Magos Village in Bardez Taluka, Goa.

Background

The Office of GCZMA received a letter dated 23/07/2018 from the Office of the Directorate of Settlement and Land Records, Panaji, Goa with regard to delineation of

CRZ line in Sy. No. 97/1-J of Reis Magos village, informing that they do not have maps indicating HTL and NDZ of Reis Magos village. So, a site inspection was fixed to see the site and verify the CRZ zoning for demarcation of CRZ – NDZ line at Reis Magos.

Decision: The authority after perusing agenda note and site inspection report by the expert member GCZMA noted that the width of the river at site is more than 100mt accordingly the authority decided to request DSLR to carry out demarcation of NDZ Line in SY. No. 97/1-J of Reis Magos Village in Bardez Taluka, Goa.

Case no.2.6

Incorporation of Missing Sy. Nos.146/1, 146/2, 146/3-A, 146/3-B, 146/4-A, 146/4-B, 148/5, 148/5-A of Candolim Village for Proposed Construction of Parking Facilities at Candolim, Bardez, Goa.

Background

GTDC had applied to GCZMA for permission for the proposed parking facility at Candolim on 08/10/2015 and the permission was granted by the Authority to this on 30/08/2017. However, only two Sy. nos. were shown in the NOC issued by GCZMA. To rectify the same, now they have put up the proposal which is received by GCZMA on 25/07/2018.

The site was re inspected by the expert members and the members have noted in their inspection report that the request of the GTDC for inclusion of the Survey Numbers is correct and the same was shown to them during the earlier inspection, however all survey numbers were not mentioned in the application revised NOC needs to be issued by; the Authority for inclusion of the missing Survey Numbers i.e 146/1, 146/2,146/3-A, 146/3-B, 146/4-A,146/4-B,148/5,148/5-A of Candolim Village.

Decision: The Authority perused the agenda note and site inspection report by the expert member (GCZMA). The Authority after detailed discussion and deliberation decided to verify the presence of sand dunes if as per the sand dune mapping report submitted by NCSCM (Chennai).

Additional Agenda Items

Case no.2.7

To decide on an application received from Goa-IPB regarding proposed setting up of a 5 star hotel project with a conference facility in survey no. 371/1 to 371/26 of Benaulim village of Salcete aluka, south Goa by M/s Devon Real Estate and construction Private Ltd.

Background:

This office is in receipt of a proposal from IPB- Goa regarding proposed setting up of a 5 star hotel project with a conference facility in survey no. 371/1 to 371/26 of benaulim village of salcete aluka, south Goa by M/s Devon Real Estate and construction Private Ltd. The project proponent has submitted survey plan issued by DSLR indicating HTL and 200 mt line superimposed by it. The proposed project is only in the area between 200mt to 500mt.

Decision: The Authority after detailed discussion and deliberation decided to forward the said proposal to Goa-SEAC as per the guidelines laid in Hotel policy.

Case no.2.8

To decide on an application received from Goa-IPB regarding proposed setting up of a hotel project consisting of 166 rooms in sy. Nos 160/1, 159/25 to 30,39,40,41,49,50,51,66,67,68, 76, 77, 78, 94,118 to 137 at Varca , Salcete Goaby Matrix Beach Ventures

Background:

This office is in receipt of a proposal from IPB- Goa regarding proposed setting up of a hotel project consisting of 166 rooms in sy. Nos 160/1, 159/25 to 30,39,40,41,49,50,51,66,67,68, 76, 77, 78, 94,118 to 137 at Varca , Salcete Goaby Matrix Beach Ventures. The project proponent has submitted survey plan issued by DSLR indicating HTL and 200 mt line superimposed by it. The proposed project is only in the area between 200mt to 500mt.

Decision: The Authority after detailed discussion and deliberation decided to forward the said proposal to Goa-SEAC as per the guidelines laid in Hotel policy.

Case no.2.9

To discuss and decide on appointment of Legal retainer in the office of GCZMA on full time basis.

Background: Authority is facing acute shortage of staff especially on legal front to deal with various matters coming up in courts. The Authority in its 175th meeting held on 22/05/2018 decided to appoint 2 legal retainers in the office of GCZMA on full time basis with a consolidated salary of 50,000/- per month. The state government has given approval for the same. Mrs. Venefreda Gracies e Braganza was earlier working in the office of GCZMA as a legal assistant from a period from a period from 2007 to 2013. Hence, it is proposed to appoint Mrs. Venefrieda for period of 1 year initially with a consolidated salary of 50,000/- per month with a terms and conditions as laid down in office work order.

Decision: The Authority after considering the extra-ordinary situation of shortage of staff and the time bound nature of the court matters considered this as an urgent need. It also took note of the earlier work experience of Ms. Braganza in GCZMA and thus decided to approve the appointment of Mrs. Venefreda Gracies e Braganza as a legal retainer initially for a period of one year on full time basis with a consolidated salary of 50,000/- per month.

Case no.2.10

To discuss and deliberate upon complaint, report of the Deputy collector & S.D.O, Canacona and subsequent matter filed by Francisca Fernandes v/s State of Goa.

Brief background: The petitioner (original complainant) filed a complaint dated 29/08/2016 before the Dy. Collector & S.D.O Canacona inter alia stating that Mr. Vancy Pereira R/o Ourem, Palolem, Canacona-Goa is running a bar and restaurant in the name "Moonlight Restuarant" in Syno.102/3 Nagorcem Palolem. The Deputy collector & S.D.O, Canacona after holding inquiry submitted report to the additional collector vide letter dated 27/02/2016. The Additional collector II South, Margao vide letter dated 06/08/2017 further submitted the report to the office of GCZMA.

The Inquiry Report of the Deputy collector & S.D.O, Canacona has inter alia noted that concerned respondent/alleged violator has not submitted any license issued by GCZMA hence appropriate action may be taken as per CRZ norms.

The said original complainant has approached Hon'ble High Court of Bombay at Goa interalia aggrieved by inaction on part of authorities. The matter came up for hearing today for the first time (14/08/2018) and now fixed after 2 weeks.

Decision: The authority decided to issue Show Cause Notice to Mr.Vancy Pereira R/o Ourem, palolem, Canacona-Goa for running a bar and restaurant in the name "Moonlight Restuarant" in Syno.102/3 Nagorcem Palolem.

Meeting ended with a vote of thanks to the chair.

Sd/-

(Member Secretary)

Goa Coastal Zone Management Authority

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