

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

I.A. No. 62 of 2023

IN

APPEAL No. 08 of 2023

IN THE MATTER OF:

THOMAS FERNANDES & ANR.

...APPELLANTS

VERSUS

GOA COASTAL ZONE MANAGEMENT

AUTHORITY & OTHERS

...RESPONDENTS

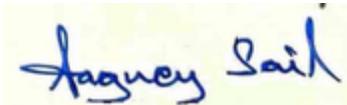
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NEXT DATE: 24.04.2023

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RESPONDENT NO. 3

THROUGH



AAGNEY SAIL

ADVOCATES FOR THE RESPONDENT NO. 3

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Bilaspur, Chhattisgarh - 495223.

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Email: aagneysail@gmail.com

Filed on: 23.04.2023

Place: Goa

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**REPLY OF RESPONDENT NO. 3 TO
CONDONATION OF DELAY APPLICATION**

MOST RESPECTFULLY SHOWETH:

1. That the abovementioned Appeal is pending adjudication before this Hon'ble Tribunal wherein notice was issued to the Respondents vide order dated 28.02.2023 and on 29.03.2023 this Hon'ble Tribunal has granted liberty to the answering respondent to file reply to the delay condonation application.
2. That a detailed para-wise reply of the delay condonation application is not given as the main contention raised by the Appellants for condonation of delay is challenged in the present reply. In this regard it is submitted that in paragraph no. 3 of the delay condonation application the Appellants have mentioned that after receipt of the impugned order on 07.01.2019 Writ Petition No. 121/2019 was filed before the High Court of Bombay at Goa on 17.01.2019. There is no reason given in the delay condonation application about why the Appellants

approached the High Court and did not avail the statutory remedy available under Section 16 of the National Green Tribunal Act, 2010. This reasoning could have been ascertained from the submissions made by the Appellants in their Writ Petition No. 121/2019 which, for reasons best known to them, has not been brought on record in the present Appeal and the Appellants be put to strict test in this regard.

3. That without prejudice, it is submitted that the reasoning can be found recorded in the High Court order dated 03.02.2023 passed in Writ Petition No. 121/2019 which is ANNEXURE – S to the present Appeal (Pg. 126-128) wherein it is stated that,

“...3. The learned counsel point out that at the stage when these petitions were filed, the National Green Tribunal (NGT) (Western Zone) at Pune was not functional and therefore, the Petitioners had no option but to institute the present petitions. ..”

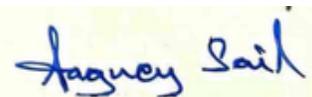
4. That in response to the above it is submitted that to the best of the knowledge of the answering respondent this Hon'ble Tribunal was functional i.e. filing of Appeals and other petitions was possible through the Registry of this Hon'ble Tribunal (Western Zone) at Pune and matters were being listed for hearing before the Principal Bench of this Hon'ble Tribunal through video conferencing in light of the Office Order dated 03.10.2018 and Circulars dated 01.02.2019 and 11.03.2019. True and correct copies of the Office Order dated 03.10.2018 is **ANNEXURE – R3/1** and Circular dated 01.02.2019 is **ANNEXURE – R3/2** and

Circular dated 11.03.2019 is hereto marked and annexed as **ANNEXURE – R3/3**. It is pertinent to mention that these Circulars and Office Order were put on the website of this Hon'ble Tribunal (where they are available till date) in addition to being on its notice board for information of the litigants and advocates. Hence, the contention of the Appellants that they filed Writ Petition No. 171/2019 before High Court as this Hon'ble Tribunal was not functional is completely wrong and without any basis as contented herein. The High Court has not given any finding or inference on the contention of the Appellants that at the time of filing Writ Petition this Hon'ble Tribunal was not functioning and has only recorded the statements made by Appellants counsel during the hearing on 03.02.2023.

5. That in light of the above it is most humbly prayed that the present delay condonation application deserves to be dismissed as the Appellants have failed to show sufficient cause for not approaching this Hon'ble Tribunal in the first place thereby rendering themselves estopped from excluding the period spent before High Court.

RESPONDENT NO. 3

THROUGH



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ADVOCATE FOR THE RESPONDENT NO. 3

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Bilaspur, Chhattisgarh – 495223.

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Filed on: 23.04.2023

Place: Goa

BEFORE THE NATIONAL GREEN TRIBUNAL
 WESTERN ZONE BENCH, PUNE
 APPEAL No. 08 of 2023



IN THE MATTER OF:
 THOMAS FERNANDES & ANR. ...APPELLANTS
 VERSUS
 GOA COASTAL ZONE MANAGEMENT
 AUTHORITY & OTHERS ...RESPONDENTS

AFFIDAVIT

I, Mr. Jaiprakash Sirsaikar, S/o Audumber Sirsaikar, aged about 42 years, R/o H. No. 308, Welcome House, Chapora, Bardez, Goa - 403509 do hereby solemnly state and affirm that:

1. That I am the abovementioned Respondent No. 3 and I am aware of the present case and as such am competent to swear this affidavit.
2. That I have understood the accompanying Reply to IA for condonation of delay which has been drafted on my instructions and its content read over and explained to me. I say that the facts stated therein are true to my knowledge, belief and legal advice.
3. That the Annexure R3/1 to R3/ of the Reply are true and correct copy of their respective originals.

[Handwritten Signature]
 DEPONENT

VERIFICATION:

Verified that the contents of paragraph 1 to 3 of my above affidavit which have been read over and explained to me in the vernacular are true to my knowledge & belief, no part of it is false and nothing material has been concealed therefrom.

Verified on 29 of April, 2023 at *[Handwritten Location]*

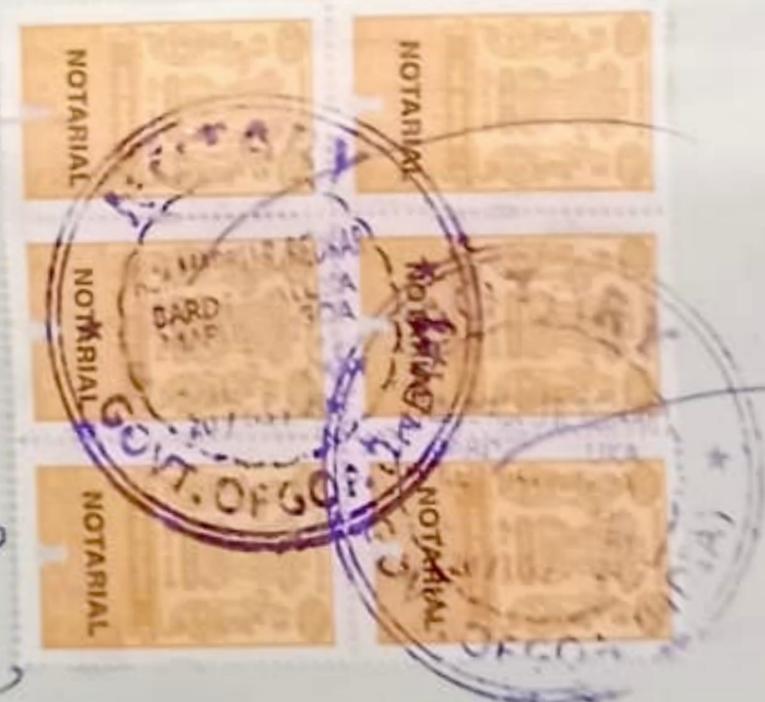
[Handwritten Numbers]
 8747 1661 6131

[Handwritten Signature]

EXECUTED BEFORE ME
 ON ... AT MAPUSA

NOTARY
 ADV. MADHU R. REDKAR
 Bardez Taluka, Mapusa - Goa.
 Reg. No. 165

[Handwritten] Reg No. 2362/23
[Handwritten] Date 21/4/23

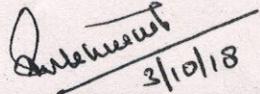


National Green Tribunal
Principal Bench
Faridkot House, Copernicus Marg,
New Delhi - 110001

Date: 03.10.2018

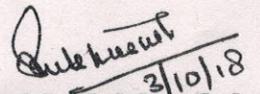
ORDER

Taking note of the pendency of Appeals before the Zonal Benches of National Green Tribunal, it has been directed by the Competent Authority that the pending Appeals before all the Zonal Benches (Chennai, Pune, Bhopal and Kolkata) shall be taken up for hearing at the Principal Bench, New Delhi **through Video Conferencing w.e.f. 1st November, 2018**. All the Benches are directed to take note of the same.

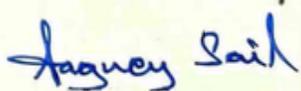

(Dr. Saurabh Kulshreshtha)
Registrar General

Copy to:

1. PA to Hon'ble Chairperson
2. PA to Hon'ble Judicial and Expert Members
3. PA to Ld. Registrar General
4. Ld. Registrar, NGT, Bhopal/Chennai/Kolkata/Pune for placing in the notice board.
5. Ld. Deputy Registrar
6. Assistant Registrar (Filing)
7. Consultant (Judicial/Admin)
8. Computer Section for uploading in website for public information
9. Notice Board for public information
10. Secretary, NGT Bar Association
11. Guard File


(Dr. Saurabh Kulshreshtha)
Registrar General





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ANNEXURE - R3/2

National Green Tribunal
Principal Bench
Faridkot House, Copernicus Marg,
New Delhi - 110001

NGT(PB)/RG/ /2019/87

February, 1st 2019Circular

As directed by the Competent Authority, all concerned are intimated/informed that western zone matters will be listed w.e.f. 11th February, 2019 on alternative days for two weeks through video conferencing at 10:30 AM.

[Handwritten Signature]
2/2/19
(S.K. Pattanaik)
Registrar (PB)

Copy to:

1. PPS to Hon'ble Chairperson
2. PS to Registrar General/Guard File NGT
3. President NGT Bar Association
4. Dy. Registrar (Administration)
5. Consultant (Admin./Pro)
6. Southern Zone Bench
7. File Concerned
8. NGT Bar Notice Board
9. NGT Notice Board
- ✓ 10. NGT Website

[Handwritten Signature]
2/2/19
(S.K. Pattanaik)
Registrar (PB)



[Handwritten Signature]
Jagney Sain

-- True Copy --

National Green Tribunal
Principal Bench
Faridkot House, Copernicus Marg,
New Delhi – 110001

Date: 11th March, 2019

NGT(PB)/DR(J)(09/2019/ 165

Circular

As directed by the Competent Authority, all concerned are intimated/informed that Western Zone Matters would be listed w.e.f. 13th March, 2019 only on Wednesdays till further orders through Video Conferencing at 10:30 AM.

Learned Registrar, Western Zonal Bench is requested to issue a general notification for information of all the Counsels appearing as well as parties so that they have prior intimation of listing of their matters well in advance.

Pritam
11.3.19

(Dr. Sukhda Pritam)
Deputy Registrar

Copy to:

1. PPS to Hon'ble Chairperson
2. PA to Registrar
3. President NGT Bar Association
4. Dy. Registrar (Administration/Judicial)
5. Consultant (Admin./Pro)
6. Western Zone Bench
7. File Concerned
8. NGT Bar Notice Board
9. NGT Notice Board
10. Guard File NGT
11. NGT Website



Pritam
11.3.19

(Dr. Sukhda Pritam)
Deputy Registrar

Agency Seal

-- True Copy --

8



Aagney Sail <aagneysail@gmail.com>

Reply to IA No. 62/2023 in Appeal No. 08/2023 - Thomas Fernandes & Ors.. Vs The GCZMA & ors.

Aagney Sail <aagneysail@gmail.com>

Sun, Apr 23, 2023 at 10:01 PM

To: tonyferns3@rediff.com, shivshankar.swaminathan@yutilaw.com, adv.jitendrasupekar@gmail.com, jitendrasupekar@gmail.com, advocatedangare@gmail.com, gczma gczma <goacoastalzone@gmail.com>, Chief Secretary <cs-go@nic.in>, goaparyavaran@gmail.com

To,

1. Thomas Fernandes, Appellant No. 1.

Email: tonyferns3@rediff.com, shivshankar.swaminathan@yutilaw.com, adv.jitendrasupekar@gmail.com, jitendrasupekar@gmail.com

2. Tony Fernandes, Appellant No. 2.

Email: tonyferns3@rediff.com, shivshankar.swaminathan@yutilaw.com, adv.jitendrasupekar@gmail.com, jitendrasupekar@gmail.com

3. The Goa Coastal Zone Management Authority (GCZMA),
Respondent No. 1

Email: goacoastalzone@gmail.com, advocatedangare@gmail.com

4. State of Goa, Respondent No. 2

Email: cs-go@nic.in, advocatedangare@gmail.com

5. Goa Paryavaran Savrakshan Sangharsh Samitee,
Respondent No. 4

Email: goaparyavaran@gmail.com

Sir,

Please find attached the reply affidavit of Respondent No. 3 to IA No. 62/2023 in Appeal No. 08/2023 - Thomas Fernandes & Ors.. Vs The GCZMA & ors.

Kindly acknowledge receipt of the same.

Thank You,

Adv. Aagney Sail,
Counsel for Respondent No. 3,
Mobile: +91.9810076618

**REply Jaideep - FINAL.pdf**
2529K

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