

BEFORE THE NATIONAL GREEN TRIBUNAL WESTERN
ZONE BENCH, PUNE.

Appeal no.48/2022 WZ

The Colva Civic and Consumer Forum Appellant

V/s

GCZMA and Ors.

....Respondents



REPLY ON BEHALF OF THE
RESPONDENT NO.4

MAY IT PLEASE THIS AUTHORITY

1. This respondent states that due to age related severe illness and hospitalization, this respondent was unable to immediately and duly file his response/ reply to the present proceeding and therefore the reply be taken on record in interest of justice.
2. The challenge in the present appeal is to the Order dated 19/09/2022 made by the respondent no.1 in pursuance of the directions of the Hon'ble High Court of Bombay at Goa, made vide Order dated

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28/08/2009 in Writ Petition no.145/2009, directing the GCZMA to pass speaking Order upon considering the reply and the documents furnished by this respondent.

3. During the course of hearing and by way of written submissions it was brought on record by this respondent that the Order dated 31/12/2008 made by the respondent no.1 cannot be reviewed and the respondent no.1 was only required to pass a speaking Order and not upset the existing Order made by it.



4. By way of the impugned Order dated 19/09/2022, the respondent no.1 has therefore reviewed its own Order dated 31/12/2008.

5. It would be pertinent to point out before this authority that the present proceedings are only in respect of the Order dated 31/12/2008 bearing Ref. no. GCZMA/SAL/SENA/07/26/995 affecting the property bearing Survey no.12/7 of the Village Sernabatim. This was the only order challenged by

this interested party before the Hon'ble High Court in Writ Petition no.145/2009.

6. The Orders dated 31/12/2008 made by this Authority, bearing Ref. no. GCZMA/SAL/SENA/07/29/994 against the structure constructed in Survey no.12/6 and Order dated 31/12/2008 bearing Ref. no. GCZMA/SAL/SENA/07/32/997 have attained finality for want of any further action or challenge to the same. Any challenge pertaining to the said two orders therefore cannot be entertained.



7. The complainant Shri. Lindo Furtado relies at **Exhibit-A** upon an Order dated 22/05/2000 made by the local (Health) and Licensing Authority. The findings in the said Order are not controverted as they have gone unchallenged. The Authority vide the said Order has cancelled the license issued to Joao Inacio Furtado in respect of House no.106/3 situated at Ambeaxir, Sernabatim, Colva Goa, which was sought to be fraudulently represented to be situated in Survey no. 12/6 when the Survey

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no.12/6, is known as ADAMPOI and not AMBEAXIR.

It is the said property bearing Survey no.12/6 alongwith 12/7 in question before this Authority in view of the illegal structures thereon.

8. At **Exhibit-B Colly**, Orders dated 31/12/2008 made by this Authority, wherein it has been held by this Authority in its Order at Page 1, last three paragraphs of the Order bearing Ref. no. GCZMA/SAL/SENA/07/29/994 that Shri. Shilston Furtado admitted that the structure constructed in Survey no.12/6 of Sernabatim Village are without permission and on the admission of the said Party, a direction was issued by this Authority for demolition of the offending structure. It would be pertinent to note that this Order has not been challenged and has therefore attained finality.



Furthermore, it has been held by this Authority in its said Order dated 31/12/2008 bearing Ref. no. GCZMA/SAL/SENA/07/26/995 that this Authority came to a conclusion that the structures

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were illegal and within the NDZ and accordingly it was decided that the said structures be removed. The said Order was made against this respondent no. 4 itself Shri. Lindo Furtado in respect of Survey no.12/7 of the Village Sernabatim. This was the only order challenged by the respondent no. 4 before the Hon'ble High Court in Writ Petition no.145/2009.

In yet another Order dated 31/12/2008 bearing Ref. no. GCZMA/SAL/SENA/07/32/997, it was stated by Smt. Maria Filomena Furtado and Shri. Joao Inacio Furtado that they had no claim in respect of Survey no.12/7 wherein an Order of demolition was suffered by this Interested Party. As a volte-face the said Joao Inacio Furtado and his family members are now seeking to reprobate and asset their title in respect of Survey no.12/7 and the structures thereon overlooking their statement made of having no claim in respect of the said property before this Authority. It would also be pertinent to note that this Order too has not been challenged and has therefore attained finality.



A handwritten signature in blue ink, appearing to be "J. Inacio".

9. At **Exhibit-C Colly** is the **Order dated 27/01/2003** in **Land Revenue Appeal No. 244/2000** made by the Administrative Tribunal for the State of Goa dismissing as withdrawn the Land Revenue Appeal filed by Joao Inacio Furtado, which withdrawal was effected as the said Joao Inacio Furtado did not wish to proceed with the Appeal as the subject matter in the said proceedings being the illegal structure in the property under survey no. 12/7 of village Sernabatim was demolished by the said Joao Inacio Furtado, and **Order dated 12.11.2008** made in **Land Revenue Appeal No. 245/2000**, instituted by Maria Filomena Furtado, Joao Inacio Furtado and Shilston Furtado in respect of the property bearing survey no. 12/6 of village Sernabatim. The said proceedings came to be withdrawn as the Appellants did not wish to proceed with the appeal any further.



10. The respondent no. 4 states that a case was sought to be carved out through the reply of Mrs. Wanyk Furtado that the offending structure is an


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old structure, situated in property bearing survey no. 12/6 and 12/7 of village Sernabatim, and have been in existence much before 19/02/1991. The said bald statement was sought to be based on bogus documents which are in the form of a permission granted by the village panchayat of Sernabatim, Vanelim, Colva and Seraulim for house repairs under reference bearing no. PPO/01/11/509/65 dated 09/08/1965. The legality of the said structure is further sought to be justified through a No Objection Certificate dated 01/10/1985 issued by the Village Panchayat of Sernabatim, Vanelim, Colva and Seraulim bearing reference no. VP/SVCG/440/85-86, which is also a fabricated document, concocted by the said persons. It would be pertinent to point out in the first place that there would be never an occasion of a repair certificate dated 09/08/1965 as during the said period, the institution of the Village Panchayat was never in existence. It would be further pertinent to point out that the period of existence of the structure has been a bone of contention as the said structure from Panchayat records



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available reveals its coming into existence for the first time somewhere in the year 1993, and not prior. In this respect, it would be essential to refer to the correspondence dated 26/11/2007, 30/10/2007 and 30/10/2007, issued by Mr. Joao Inacio Furtado, Maria Filomena Furtado and Shilston Furtado, respectively, wherein it has been stated in the first two correspondence that the structure in survey no. 12/6 is a temporary structure for which no permission has been obtained, and of which regularization was sought, whereas it is notably mentioned in the third correspondence, that the structure situated in the property bearing survey no. 12/6 does not have any documents and since it is more than 10 years old, the same ought to be regularized. It is thus unclear in view of the contradictions of the said parties, who have been approbating and reprobating before this authority, wherein on the one hand they desperately aver the illegality of the structure and seek the regularization thereof, and on the other hand, they boldly rely on fabricated and concocted documents issued by an institution which is non existent at that given point in time



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for alleged repairs of an old and existing structure. Annexed hereto is **Exhibit D** colly are the said the 3 communication 2 of which are dated 30/10/2007 and one is date 26/11/2007.

11. The respondent no.4 further states that the document dated 01/10/1985 being false and fabricated, have been subjected to an enquiry. Furthermore, the alleged certificate allegedly issued by the office of the Village Panchayat, Sernabatim, Vanelim, Colva and Benaullim dated 09/08/1965 on the face of it is a sham document, the same being fabricated and concocted criminally to further their unlawful acts of the said parties as it is a known fact that the village panchayats had not come into existence in the year 1965. The said respondent nos. 8 to 11 are seeking to mislead this authority through overt and covert acts of suppression and misrepresentation. The respondent no.4 further states that the illegal structure in question is nowhere reflected in the survey plan of the property bearing survey no. 12/6 or 12/7 and



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therefore, the said structure being in existence prior to the year 1965 would certainly not arise.

12. At **Exhibit-E Colly** is Anticipatory Bail Application no.225/2009 and 226/2009 before the Additional Sessions Judge-I at Margao alongwith respective Orders dated 10/08/2009, wherein the Hon'ble Sessions Judge was pleased to record the statements of Mr. Pio Furtado and Mr. Shilston Furtado that in compliance with the directions of the Authorities (GCZMA) they were effecting the demolition of the illegal structures situated in the property bearing Survey nos.12/6 and 12/7 of the Village Sernabatim.



13. At **Exhibit-F** is Order dated 24/01/2000 made by the Chief Secretary Government of Goa, on a complaint made by the respondent no. 4. Vide the said Order Joao Inacio Furtado was directed to stop continuing the business of sale of liquor as the said Joao Inacio Furtado had misrepresented the facts before Commissioner of Excise/ Excise Authority in respect of the premises bearing House no.106/3 of village

Sernabatim. The said Joao Inacio Furtado was malafidely representing the said House no.106/3 as being situated in Survey no.12/6 known as ADAMPOI of village Sernabatim, when infact the said House no.106/3 was located at a location known as AMBEAXIR of village Sernabatim.

14. At **Exhibit-G** is a Letter dated 02/11/1993 made by Joao Inacio Furtado requesting for issuing/ grant of House number at AMBEAXIR, Sernabatim. This letter evidences the fact of the location of the subject house as being at Ambeaxir and not Adampoi which is surveyed under no. 12/6 of village Sernabatim.



15. At **Exhibit H** is a copy of the letter inwards by Smt. Maria Filomena Furtado, the contents of which expose the fraud committed by the said parties. The said letter is inwards by the said Smt. Maria Filomena Furtado at inwards no. 1143/L on 05/11/2009 before the respondent No 1. In the said letter the said Maria Filomena Furtado herself has vociferously advocated for the demolition of the offending structure situated in

survey no. 12/7 and therefore a counter submission to the said effect by the said party before this Authority constitutes a classic example of approbation and reprobation.

16. This Interested Party states that the chronology of documents of the said Joao Inacio Furtado and his family in respect of House no.106/3 for the first time commenced on 02/11/1993 stating the same to be situated at Ambeaxir.



17. At **Exhibit-I** is a letter dated 13/03/1994 of this Interested Party Lindo J. Furtado to the Village Panchayat of Sernabatim, Vanelim, Colva and Gandaulim, that no permission was issued for any construction in respect of the property surveyed under 12/6 which assumes importance as there has been.

18. It would be pertinent to point out that the erring individuals seeking to protect the said structures after having approbated that the said structures were illegal and upon demolishing the

same are now attempting to reprobate by contending that the said structure is legal without explaining the reason for blowing hot and cold at the same time, which is an act impermissible in law.

The complainant/ interested party states that that in view of the earlier Orders of demolition having being made, the said erring Parties are malafidely attempting to transform the present proceedings into that of a review proceeding and the same is impermissible. The said Parties i.e. Maria Filomena Furtado, Pio Furtado, Shilston Furtado, Wanyk Furtado constitute a single family whereas Dorothy Furtado, Venessa Furtado, Denzil Furtado and Linda Furtado are members of a distinct family. By the attempt of the said Pio Furtado to add the said parties to the present proceedings is a fresh round of litigation by suppressing the demolition order suffered by the said Joao Inacio Furtado, who alongwith Maria Filomena Furtado is sought to be created. Therefore, the present proceedings cannot transcend beyond the Order of the Hon'ble High



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Court attached hereto at **Exhibit-J** which directed this Authority to pass a speaking Order upon considering the reply and documents of this Interested Party and under the garb of affording the said opportunity to this Interested Party, respondent no. 4 in pursuance of the directions of the Hon'ble High Court vide its Order dated 28/08/2009 made in Writ Petition no.145/2009 the said Parties cannot lay fresh claims when no such liberty has been granted to the said Parties nor have they taken any recourse to law, challenging the Orders dated 31/12/2008 which was a subject matter of the said Writ Petition no.145/2009.



19. The respondent further states that in pursuance of the demolition Order suffered in respect of the property bearing Survey nos.12/6 the illegal structure built thereon was demolished on 03.08.2009 with photographs thereof being taken by the police authorities which are annexed herewith as **Exhibit-K**. This respondent therefore for a more comprehensive understanding of the case has setout the detailed chronology of facts,

documents and events as have transpired. The respondent nos. 8 to 11 have consistently misrepresented before the Authorities and have deliberately resorted to concocting of evidence.

Therefore, in view of the aforementioned contentions this Hon'ble Tribunal may be pleased to record the same in its Order upholding the demolition of the illegal structures in respect of properties under Survey nos.12/6 and 12/7 of village Sernabatim.



Lindo J. Furtado

Shri. Lindo Furtado

Place: Margao, Goa.

Date: 13/02/2023

AFFIDAVIT

I, Shri Lindo J. Furtado, aged 88 years, son of late Antonio Inacio Bossuet de Loyola Furtado, R/o H. No. 51, Copelwaddo, Sernabatim, Salcete-Goa, the Respondent no. 4 herein, do hereby on solemnly state,

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affirm and verify that the contents of paras 1 to 19 above are true to my knowledge. Nothing is false and nothing is concealed.

Verified at Margao Goa on this 13th day of February 2023.

Linda Jeronimo Furtado
Deponent



I solemnly affirmed before me by
M^r. Linda Jeronimo Furtado
Who is identified to me by
Aadhaar No. 630722309417
to whom I personally know on
this ... 13th day of Feb. 2023.

Reg. No.

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SAVITA G. KURTARKER
NOTARY
MARGAO-GOIA



No. DFDA/PFA/SAL/1647/96/1156
Government of Goa,
Directorate of Food and Drugs
Administration,
Panaji - Goa

Dated : 22/5/2000

O R D E R

Ref : Showcause notice No. DFDA/PFA/SAL/1647/96/9439
dated 15/2/2000

Shri. Joao Inacio Furtado, a resident of House No. 106/3, Ambeaxir, Sernabatim, is holding licence No. DFDA/PFA/SAL-MFG/1162/96-97, to operate a restaurant under the name and style of M/s. Joao Inacio Furtado. Restaurant hereinafter called the licensee, under the provisions of Goa, Daman & Diu Prevention of Food Adulteration Rules, 1982, hereinafter referred to as PFA Rules.

Brief facts of the case :

- (1) That on 14/6/96, the licensee has applied in a prescribed form to the Licensing Authority, Salcete taluka, for the grant of licence to the restaurant situated at House No. 106/3, Survey No. 12/6, Ambeaxir, Sernabatim, to manufacture food articles, under the PFA Rules.
- (2) That the licensee has submitted plan of the premises showing the area used for operating the restaurant, bearing H.No. 106/3, certified true copy of the N.O.C. issued by the Village Panchayat, Sernabatim, Vanelim, Colva and Gaundalim, Salcete, bearing office reference No. VP/SVCG/811/95-96 dated 16/1/96, certified true copy of Form-4 dated 2/5/95, a receipt for Rs.125/- towards the House tax for the House No. 106/3 which was valid upto 31/3/96.

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(3) That a licence to manufacture food articles for sale or distribution was issued to the said licensee by the Licensing Authority, Salcete taluka, Directorate of Food and Drugs Administration, under the PFA Rules, and subsequently renewed upto 31/12/2001.

(4) That on 16/4/99, Shri. Lindo J. Furtado, resident of H.No. 51, Copelwaddo, Sernabatim, Colva, Salcete, Goa, has made a complaint to the Local (Health) Authority, Directorate of Food and Drugs Administration, stating that the premises situated at H.No. 106/3 under Survey Nos. 12/6, 12/7. was not located in Ambeaxir but in Adampoi, and the said property belongs to him. He has also attached xerox copy of the letter No.VP/SVCG/877/93-94 dated 13/3/94 issued by the Village Panchayat, Sernabatim. xerox copy of the order dated 2/9/98 issued by the S.D.O. and Deputy Collector, Margao, xerox copy of the order dated 18/2/99 issued by the Commissioner of Excise.

(5) That the Food Inspector of this Directorate has visited the premises of the said food establishment on 10/5/99 and suggested to refer the matter to the concerned Panchayat to confirm whether the said premises is situated either at Admapoi or Ambeaxir, and also to direct the applicant, Shri. Joao Inacio Furtado to visit this office alongwith the ownership documents.

(6) That the licensee was directed vide this office letter No. DFDA/PFAA-6(25)/99/1129 dated 2/6/99 to visit this office alongwith ownership documents of the said premises.

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(7) That the Sarpanch of Sernabatim, Vanelim, Colva, Gaundalim, was requested vide this office letter No. DFDA/PFAA-6(21)/99/1130 dated 2/6/99 to clarify whether the food establishment operated at H.No. 106/3 falls under Adampoi or Ambeaxir. Similar letter was also sent to the licensee to clarify on the exact location of the premises on 28/7/99.

(8) That the licensee vide letter No. Nil dated 8/8/99 had submitted certified copies of the following documents :

- (i) Letter No. VP/SVCG/367/99-2000 dated 14/7/99 from Village Panchayat, Sernabatim.
- (ii) Certificate No. VP/SVCG/387/99-2000 issued by the Village Panchayat, Sernabatim
- (iii) Certidao written in Portuguese language - Matriz certificate
- (iv) Copy of Form I & XIV
- (v) Copy of Stay Order No. Misc.Civ. Appeal No. 148/98/Stay

(9) That the licensee has also produced a xerox copy of the order dated 5th August, 1999, issued by the then Chief Secretary, Government of Goa, wherein the order dated 18/2/99 of the Excise Commissioner was set aside and the licensee was allowed to continue his business.

(10) That Shri. Lindo Jerimino Furtado, a resident of H.No. 51, Copelwaddo, Sernabatim, vide his letter dated 4/2/2000 has submitted xerox copy of the order dated 24/1/2000 alongwith xerox copies of the newspaper clippings and requested to cancel the PFA licence granted to Shri. Joao Inacio Furtado at H.No. 106/3 at Adampoi, Sernabatim.

(11) That the licensee was directed to showcause vide this office letter No. DFDA/PFA/SAL-1647/96/9439 dated 15/2/2000 as to why the licence issued to him to run the restaurant at H.No. 106/3, Ambeaxir, Sernabatim, under the Goa, Daman & Diu Prevention of Food Adulteration Rules, 1982, should not be cancelled, by referring the order dated 24/1/2000 issued by the Chief Secretary.

(12) That the licensee vide his letter dated 22/2/2000 has replied to the showcause letter dated 15/2/2000. He has made following submissions :

(1) That the said Lindo Jeronimo Furtado has been engaged in filing false, frivolous and malicious complaints against him and the present complaint appears to be in the same direction.

(2) That the structure wherein he is operating his restaurant is fully licensed. That the Deputy Director of Panchayats who is the competent authority has held that the structure wherein the restaurant is being run is legal by his order dated 27/10/97 in case No. DDPS/7/97 filed by said Lindo Jeronimo Furtado. The appeal filed against the said order being Panchayat Appeal No. 101/97/3092 was also, infructuous as per order of the Director dated 24/8/99 (copies annexed).

(3) That said Lindo Jeronimo Furtado had also lodged a complaint before the Deputy Collector/Sub-Divisional Magistrate, Margao, alleging illegal conversion of land. The learned Deputy Collector passed orders under Section 33 of the Land Revenue Code holding that the structure was illegal. The said order has been challenged in appeal before the Administrative Tribunal which has granted stay of the order (copy annexed).

(4) That said Lindo Jeronimo Furtado has also lodged false complaint before the Commissioner of Excise and based on the said complaint, his bar licence was revoked. The said order of the Excise Commissioner was challenged by him before the Chief Secretary in Case No. 18/8/99- FIN(R&C). The learned Chief Secretary by order dated 5/8/99 allowed the appeal and granted the licence to him in accordance with which business was being conducted.

(5) That it appears that said Lindo Jeronimo Furtado filed some so called Revision Petition before the Chief Secretary and the learned Chief Secretary was pleased by his order dated

24/1/2000 to reverse the findings of his predecessor Chief Secretary. The said order of the Chief Secretary dated 24/1/2000 is ex facie bad as the same has been obtained by misleading the Chief Secretary and without any notice to him. Hence, he has already filed a proper review application before the Chief Secretary.

(6) Without prejudice to what is stated above, he further states as under :

(a) That the structure in which the restaurant is being conducted can only be questioned and ordered to be demolished, by the panchayat, being the constituted authority under the law. The said structure has been granted a house number 106/3 by the Village Panchayat and so long as the same is not cancelled the structure is legal.

(b) The Chief Secretary is merely the Appellate Authority under the Excise Act and any finding by him under the said Act is not enforceable under the Food Adulteration Act and Rules. Hence, the said order of the Chief Secretary cannot be a ground for quashing the licence granted to him.

(c) That he submits that the letter issued by the Panchayat dated 16/1/96 on the basis of which the licence was issued by the Directorate of Food and Drugs Administration is perfectly valid. The said NOC was issued by the Panchayat, pursuant to the resolution of the panchayat, a certified copy of which is annexed hereto. So long as the said resolution is not set aside the same is valid and can only be questioned before the Director of Panchayats and not before the Office of Drugs Controller.

(d) It is false that it is proved before the Tribunal by order dated 24/1/2000 that the letter dated 16/1/96 is fabricated. No such finding has been given by the Tribunal nor by any other authority whatsoever. It is pertinent to note that no such order is produced by the complainant, Lindo Jeronimo Furtado.

(e) The office of the Drugs Controller is not the authority to determine the legality or illegality of any construction. In the event, the office has any doubt about the NOC dated 16/1/96, then the Drugs Controller could write to the Panchayat and get confirmation thereof.

(f) That he would like to make oral submissions and produce further evidence before any further order is passed by the Directorate of Food and Drugs Administration.

(g) That the complaint lodged by Lindo Jeronimo Furtado is therefore, liable to be dismissed.

(13) That the licensee has submitted the following certified documents to his reply dated 22/2/2000 :

- (i) Letter No. VP/SVCG/811/95-96 dated 16/1/96 from Village Panchayat.
- (ii) Notice dated 24/8/1999 issued by the Director of Panchayat in Panchayat appeal No. 101/97/3092.
- (iii) Misc. Civil Appeal No. 148/98/Stay in LRC Appeal No. 29/98 before the Administrative Tribunal at Panaji, containing the order of stay.
- (iv) Misc. Appl. No. 153/98 in LRC Case No. 92/98 filed before the Administrative Tribunal.
- (v) Order dated 27/10/1997 issued by the Dy. Director of Panchayat (South).
- (vi) Letter dated 6/8/99 from Under Secretary (Fin-Exp) along with order dated 5/8/99 issued by the Chief Secretary, Government of Goa.
- (vii) Application for review of the order dated 24/1/2000 filed before the Chief Secretary, Government of Goa, by the licensee.
- (viii) Application for suspension of order dated 24/1/2000.

(14) That the licensee was directed to appear before the Local (Health) Authority, Salcete Taluka, on 4th April, 2000, at 10.00 a.m., vide this office letter No. DFDA/PFA/SAL-1647/2000/11257 dated 29/3/2000.

(15) That the licensee vide letter dated nil received in the office on 7/4/2000 has informed that he could not attend for the personal hearing on 4th April, 2000, as he has received this office letter only on 6/4/2000, and requested to give another date, and accordingly he was given 13/4/2000 for a personal hearing.

(16) That the licensee has appeared before the Licensing

Authority, Salcete taluka, and made the following submissions :

(i) The structure housing the Bar & Restaurant at H.No.106/3, under Survey No. 12/6, Ambeaxir, Sernabatim, was legal as the concerned Panchayat has issued N.O.C. to run the business.

(ii) The order dated 24/1/2000 passed by the Chief Secretary should not be the ground for cancellation of licence, under the Goa, Daman & Diu Prevention of Food Adulteration Rules, 1982.

(iii) A case was already filed by the Goa Foundation against the licensee in the Bombay High Court, Panaji Bench, unless the verdict on the case is given by the Hon'ble High Court, action to cancel the PFA licence was improper. The licensee has further assured that they would produce the copies of the petitions filed in the Hon'ble High Court to the Licensing Authority for perusal.

(iv) The licensee has requested not to cancel the PFA licence granted to him and to allow him to continue the business until orders are passed by the Hon'ble High Court.

DISCUSSION :

The licensee has applied for the grant of PFA licence to manufacture food articles for sale or distribution at the premises, H.No. 106/3, Ambeaxir, Sernabatim. In support of the premises, he has submitted N.O.C. issued by the Village Panchayat, Sernabatim. A licence under the Goa, Daman & Diu Prevention of Food Adulteration Rules, 1982, was granted to the licensee based on the N.O.C. issued by the Village Panchayat, Sernabatim.

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A complaint was received by this Directorate from Shri. Lindo J. Furtado, a resident of H.No.51, Copelwaddo, Sernabatim, stating that the property, where the licensee is operating the food establishment at H.No. 106/3, Ambeaxir, Sernabatim, belongs to him and further informed that the said property is located in Adampoi and not in Ambeaxir. On peusal of the documents, newspaper clippings, submitted by the complainant and also documents submitted by the licensee and also after hearing the licensee in the matter, I give my findings as under :

(i) It is a fact that Shri. Joao Inacio Furtado was granted licence to manufacture food articles for sale or distribution at the premises situated at H.No. 106/3, Ambeaxir, Sernabatim.

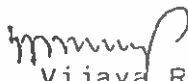
(ii) The licensee has mentioned in his application Form-A dated 14/6/96, the address of the food establishment as Ambeaxir, Sernabatim, Colva, whereas Form No. I & XIV submitted by the licensee vide his letter dated 6/8/99 shows Adampoi, Village Sernabatim, taluka Salcele, Survey No. 12, Sub-Division No.6. Besides, the name of the occupier is mentioned as Anthony J. Furtado.

(iii) The licensee has not submitted any document in support of transferring the said property in his name.

(iv) The ownership and location of the licensed premises are in dispute and the licensee has failed to submit relevant documents in support of his legal possession of the property where he is operating Bar & Restaurant.

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(v) In view of the facts mentioned above, and in pursuance of powers entrusted under Rule 14(ii) of the Goa, Daman & Diu Prevention of Food Adulteration Rules, 1982, I, Shri. K. Vijaya Raj, Local (Health) Authority and Licensing Authority, hereby cancel the licence No. DFDA/PFA/SAL-MFG-1162/96-97 held by Shri. Joao Inacio Furtado at H.No. 106/3, Ambeaxir, Sernabatim, Colva, Goa, with immediate effect.


(K. Vijaya Raj)
Local (Health) Authority
and Licensing Authority
for Salcete, Mormugao & Canacona talukas

Panaji, Goa

Dated : 22 / 3 / 2000

To,

Shri. Joao Inacio Furtado,
Ambeaxir, Sernabatim,
Colva, Salcete, Goa

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, 2407530 Fax. (0832) 2407186

Ref. No: GCZMA/SAL/SENA/07/29/974

Date: 31/12/2008

ORDER

Whereas, based on a complaint made by Shri. Agostinho Godinho, received by the Goa Coastal Zone Management Authority (GCZMA), a Show Cause Notice bearing no. GCZMA/SAL/SENA/07/29/3201 dated 22/10/2007 under section 5 of the Environment (Protection) Act, 1986 came to be issued to Mr. Shilston Furtado for violating the CRZ Notification, 1991. The notice was duly received by him. The violation is described as under:

Name of the Occupier	Sy. No./ Village	Type of construction	Area in sq ms.	Distance from HTL
Mr. Shilston Furtado	12/6, 12/13 Sernabatim	Illegal structure and extension of the same	203.04 + 50 177 + 250	Within 100 mts. from the HTL.

Whereas, the complainant in the meantime filed a Writ Petition No. 362 of 2007 before the Hon'ble High Court of Bombay at Goa in this regard and the Hon'ble High Court was pleased to direct the GCZMA to dispose of the Show Cause Notices issued.

Whereas, Shri Shilston Furtado filed a reply dated 23/11/2007 and contended that;

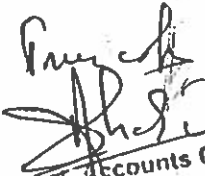
- As regards the structure in survey No. 12/4, the GCZMA had issued a demolition order which is stayed by the Hon'ble High Court in W.P. No. 224 of 2005.
- As regards Sy.no. 12/6 he has no permissions.
- As regards Sy.no. 12/13 the same does not belong to him.

Whereas, Shri Furtado was called for personal hearing before the GCZMA on 12/02/08, 12/08/08 and 10/09/08. Shri Furtado appeared before the GCZMA on 12/08/2008 and stated that he is willing to remove the structures in Sy.no. 12/6. He further contended that the structures in survey no. 12/13 does not belong to him.

Whereas, Adv. Grácias appeared alongwith Shri Shilston Furtado during the personal hearing on 10/09/08 and informed that they are not able to demolish the structures in Sy. no. 12/6.

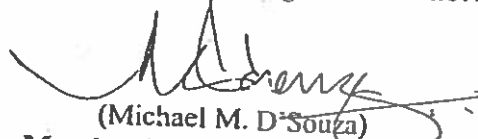
Whereas, Shri Shilston Furtado admitted that the structures are constructed without permissions from the Authorities concerned and as such the GCZMA has no hesitation to come to a conclusion that the structures in Sy.no. 12/6 of Sernabatim village have been constructed in violation of the CRZ Notification, 1991. It was decided to direct the demolition of the structures in Survey No. 12/6.

Page 1 of 2


Accounts Officer
Council for
Science & Technology
Bardez-Goa,

No v therefore, by virtue of the powers delegated to the GCZMA under section 5 of the Environment (Protection) Act, 1986, Shri Shilston Furtado is hereby directed to remove the structures under notice and restore the land to its original condition within 20 (twenty) days from the date of the order falling which the Additional Collector (South), shall proceed to demolish the same and the cost of the demolition will be recovered from Shri Shilston Furtado

For and on behalf of the
Goa Coastal Zone Management Authority



(Michael M. D'Souza)

Member Secretary (GCZMA) &
Director/Ex-Officio, Joint Secretary (STE)

To,

1. Shri Shilston Furtado, H. No. 93, Ambeaxir, Sernabatim, Colva, Salcete-Goa.
2. Shri Agostinho Godinho, C/o Adv. V. P. Thali, 5th Floor, Shiv Towers, Panaji-Goa

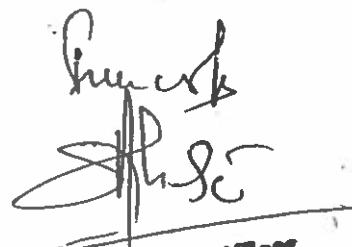
Copy to:

1. P.S. to Chief Secretary / Chairman (GCZMA), Secretariat, Porvorim Goafor kind information.
2. The Additional Collector (South), Collectorate Building, Margao-Goa...for necessary action direction to remove the structures in S/n no. 12/6 Sernabatim if not demolished by Shri Furtado.



(Michael M. D'Souza)

Member Secretary (GCZMA) &
Director/Ex-Officio, Joint Secretary (STE)



Asst. Accounts Officer
Goa State Council for
Science & Technology
Saligao-Bardez-Goa,

GOA COASTAL ZONE MANAGEMENT AUTHORITY

C/o Department of Science, Technology & Environment, Govt. of Goa,

Opp. Saliigao Seminary, P.O. Saligao, Bardez Goa 403 511

Phone: (0832) 2407186, 2407187, 2407580 Fax: (0832) 2407186

Ref. No: GCZMA/SAL/SENA/07/26/995

Date: 31/12/2008

ORDER

Whereas, based on a complaint made by Shri Agostinho Godinho, received by the Goa Coastal Zone Management Authority (GCZMA) a Show Cause Notice, bearing no. GCZMA/SAL/SENA/07/26/3204 dated 22/10/2007 under Section 5 of the Environment (Protection) Act, 1986; came to be issued to Shri Lindo Furtado for violating the Coastal Regulation Zone (CRZ) Notification, 1991 which was duly served upon him. The violation is described as under:

Sr. No	Name of the Party / occupier	Survey no./ village	Type of construction	Area in sq mts	Distance from HTL
1.	Lindo Furtado	12/7 Sernabatim	Illegal construction of structure and extension of the same	81.25 + 115	Within 200 mts of the HTL of the Arabian Sea

Whereas, the complainant in the meantime filed a Writ Petition No 362 of 2007 before the Hon'ble High Court of Bombay at Goa, Panaji bringing to notice that the party has done violations of the CRZ Notification, 1991. The Hon'ble High Court was pleased to direct the GCZMA to dispose of the Show Cause Notice.

Whereas, Shri Furtado filed a reply dated 27/11/2007 and contended the following:

- i. That there is just one property but it has been wrongly surveyed as 12/7 and 12/6.
- ii. That the subject matter of the construction is subjudice before the Administrative Tribunal pursuant to orders of the High Court.
- iii. That the structure is not a single structure but has been constructed to fall over both the survey nos. It is a single structure which existed prior to 1991.

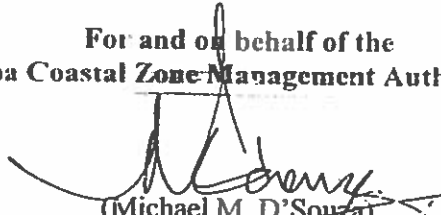
In support of his reply, Shri Furtado has produced the following documents:

- i. Copy of the application for stay before the Ld. Administrative Tribunal.
- ii. Copy of the appeal against the judgment of the Dy. Collector before the Ld. Administrative Tribunal.
- iii. Copy of application dated 03/06/1996 filed by Shri L. J. Furtado before the Dy. Collector for correction of a clerical error.
- iv. Copy of the order of the Dy. Director of Panchayats (South) at Margao bearing No. DoP 7/97, pertaining to the construction of one Mrs. Maria Fiomena Furtado.
- v. Copy of the order of the Hon'ble High Court dated 07/02/2001.
- vi. Affidavit filed by Smt Maria Furtado.

Whereas, Shri Furtado and the complainant was called for a personal hearing before the GCZMA in its meetings held on 12th February 2008, 12th August 2008 and 10th September 2008. Shri Furtado was represented through his son Shri Nixon Furtado before the GCZMA during the hearings. It was decided during the meeting that the site inspection should be carried out to determine extent of violation.

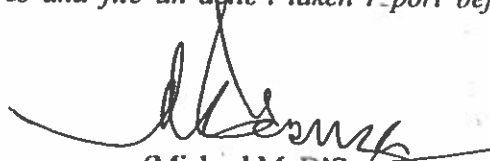
Whereas, the site was inspected and the existing structures were mapped by the team of officials from the Directorate of Settlement and Land Records in association with the Members of the GCZMA. During the inspection some structures were noticed on the said plot. During the hearing held on 10/09/2008, Shri Furtado informed the GCZMA that the structures are temporary in nature and are in broken condition. Only one structure is of plywood. However, he did not have any documents with reference to the said structures. Upon going through the reply and hearing both Shri Furtado and Adv. Mandrekar appearing for the complainant, the GCZMA came to the conclusion that the structures at site are erected by violating the CRZ Notification, 1991 within the NDZ of the said area and decided that the same should be removed.

Now therefore, by virtue of powers delegated to the GCZMA under section 5 of the Environment (Protection) Act, 1986; the GCZMA hereby directs Shri Lindo Furtado to demolish the structures under notice within a period of 20 (twenty) days from the date of receipt of this order failing which the Additional Collector (South) shall proceed to execute the Order and the cost of the demolition shall be recovered from Shri Furtado.

For and on behalf of the
Goa Coastal Zone Management Authority

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

- To,
1. Shri Lindo Furtado, House no. 51, Copel wardo, Sernabatim, Colva, Salcete-Goa.
 2. Shri Agostinho Godinho, C/o Adv. V.P. Thali, 5th Floor, Shiv Towers, Panaji-Goa.

- Copy to:
1. P.S. to Chief Secretary / Chairman (GCZMA), Secretariat, Porvorim Goafor kind information.
 2. The Additional Collector (South), Collectorate Building, Margao-Goa.....for verification if the order has been complied with the specified period failing which he shall proceed to demolish the structures and file an action taken report before this office.


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

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, 2407580 Fax: (0832) 2407186

Ref. No: GCZMA/SAL/SENA/07/32/997

Date: 31/12/2008

ORDER

Whereas, based on a complaint made by Shri. Agostinho Godinho received by Goa Coastal Zone Management Authority (GCZMA), a Show Cause Notice bearing no. GCZMA/SAL/SENA/07/35/3217 dated 23/10/2007 and GCZMA/SAL/SENA/07/32/3230 dated 23/10/2007, under section 5 of the Environment (Protection) Act, 1986 came to be issued to Smt. Maria Filomena Furtado and Shri Joao Inacio Furtado for carrying out violations of the CRZ Notification, 1991 which was duly served upon him. Smt. Furtado is the mother of Shri Joao Inacio and the both the cases were heard together. The violation is described as under:

Sr. No	Name of the Party / occupier	Survey no./ village	Type of construction	Area in sq mts	Distance from HTL
1.	Smt. Maria Filomina Furtado	12/1 & 12/6 Semabatim.	Illegal construction of structure and extension of the same	100 + 50 203.4+50	Within 200 mts of the HTL of the Arabian Sea
2.	Shri Joao Inacio Furtado	12/2, 12/3, 12/6, 12/7 Semabatim	Illegal construction of structure and extension of the same	46.5 + 115 277+115 203.04+50 81.25+115	Within 200 mts of the HTL of the Arabian Sea

Whereas, the complainant in the meantime filed a Writ Petition No. 362 of 2007 before the Hon'ble High Court of Bombay at Goa, Paraji, bringing to notice, the violations of the CRZ Notification, 1991. The Hon'ble High Court was pleased to direct the GCZMA to dispose of the Show Cause Notices issued.

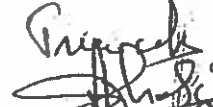
Whereas, Smt. Furtado filed a reply dated 30/10/2007 and contended the following:

- i. That the structure in Sy. No. 12/6 is a temporary structure that was constructed earlier as store rooms. There is no permission obtained for the same however, if permissible to regularize the same.

Whereas, Smt. Furtado filed another reply dated 30/10/2007 and contended the following:

- i. That she is the co-owner alongwith Smt. Ecy Silva Lobo of properties under sy. No. 12/3 and 12/1 of Semabatim village.
- ii. That there was an old structure in the said property which was constructed by her husband with the permission of the landlord. In 1965 the said structure, was repaired with the permission from the Village Panchayat of Semabatim.
- iii. That in the year 1968 the same structure was renovated again with permission of the Village Panchayat of Semabatim.

Smt. Furtado produced the following documents:


 Accounts Officer
 Goa State Council for
 Science & Technology
 Saligao-Bardez-Goa,

- i. Notarized copy of the permission to renovate and repair the roof of the existing structure dated 17/10/1965 issued by the Village Panchayat of Sernabatim, Vanelim, Colva and Benaulim.
- ii. Notarized copy of the NOC dated 30/10/1986 issued by the Village Panchayat for repairs of the structure.

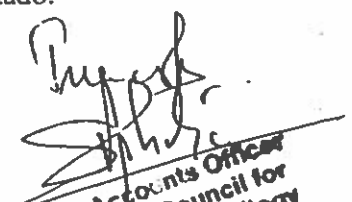
Whereas, Smt. Furtado was called for a personal hearing before the GCZMA on 12th February, 2008, 12th August, 2008 and 10th September, 2008. She was represented by Adv. Gracias and her son Shri Shilston Furtado.

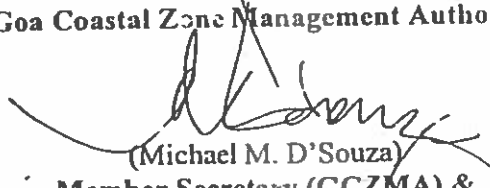
Whereas, since there were a large number of structures in the said area and there were no details of the site the GCZMA decided to go for site inspection to map the structures. The structures were mapped by the team of officials from the Directorate of Settlement and Land Records in association with the Members of the GCZMA.

Whereas, Smt. Furtado and Shri Furtado were called for a hearing before the GCZMA on 10th September, 2008 During the hearing Adv. Gracias undertook to remove the structure of the generator, shack and cement platform in Sy. No. 12/2. He pointed out that he has no claims to Sy. No. 12/7.

Whereas, upon going through the reply and the documents filed by Adv. Gracias and hearing the Advocate for the complainant, Ms. Mandlikar and Adv. Gracias on behalf of Smt. Furtado and Shri Joao Inacio Furtado, the GCZMA came to a conclusion that as undertaken the structures in Sy. No. 12/2 be directed to be removed. Further, structures in Sy. No. 12/7, also be directed to be removed. Adv. Gracias has produced documents pertaining to the structure which is partly in Sy. No. 12/3 and 12/1 which shows that the structure is old and was existing prior to 1991. Adv. Gracias has not made any submissions with respect to Sy. No. 12/6 and it is therefore decided to direct demolition of structures in the said property.

Now therefore, by virtue of powers delegated to the GCZMA under section 5 of the Environment (Protection) Act, 1986; the GCZMA hereby confirms that the structure in Sy. No. 12/3 and 12/1 is an authorized constructions which existed prior to the enforcement of the CRZ Notification, 1991. Further, with reference to Sy. No/ 12/2 and 12/7, Adv. Gracias on behalf of Shri Furtado has undertaken to remove the structures and therefore, the GCZMA has no hesitation to hold that the structure in Sy. No. 12/2, 12/6 and 12/7 are illegal and therefore Shri Furtado is directed to remove the structures within 20 (twenty) days from the date of receipt of the order failing which the same will be demolished by the Additional Collector (South) and the cost of demolition will be recovered from Shri Furtado.


 Asst. Accounts Officer
 Dist. State Council for
 Science & Technology
 Sangao-Bardez-Goa.

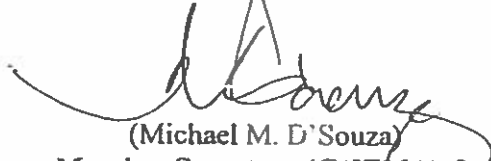
For and on behalf of the
 Goa Coastal Zone Management Authority

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

To,
 1. Shri Maria Filomena Furtado, H. No. 93, Ambeaxir, Sernabatim, Colva, Salcete, Goa.

- 2. Shri Joao Inacio Furtado, H. No. 93, Ambeaxir, Sernabatim, Colva Salcete Goa
- 3. Shri Agostinho Godinho, C/o Adv. V. P. Thar, 5th Floor, Shiv Towers, Panaji-Goa

Copy to:

- 1. P.S. to Chief Secretary / Chairman (GCZMA), Secretariat Porvorim Goa for kind information.
- 2. The Additional Collector (South), Collectorate Building, Margao- Goa...for verifying whether the orders have been complied and in case the order is not complied with a directions to demolish the structures and jile an action taken report before this office.


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


 Asst. Accounts Officer
 Goa State Council for
 Science & Technology
 Salgao-Bardez-Goa,



ADMINISTRATIVE TRIBUNAL, GOA,
PANAJI - GOA

LAND REVENUE APPEAL NO.244/2000.

Joao Inacio Furtado,
major, resident of Ambeaxir, Sernabatim,
Colva, Salcete Goa.

... Appellant.

Vs.

1. STATE,
represented by Chief Secretary,
Govt. of Goa, Secretariat,
Panaji.

2. S.D.O. & Dy. Collector,
Margao Goa.

3. Barnabas Furtado,
major, resident of Copelwaddo,
Sernabatim, Colva, Salcete;

4. Lindo Furtado,
major, resident of Sernabatim,
Colva, Salcete Goa.

5. Dr. Glefy T. Furtado,
resident of Abudaia Apts.,
2nd Floor, Opp. Santos Garage,
Vidhyanagar, Margao Goa.

.... Respondents.

ORDER

Panaji, 27.1.2003.

The Appellant moved an application stating that by the impugned Judgment, he has been directed to remove the part of the structure existing in Survey no.12/7 of Sernabatim village and as the said portion of the structure has been removed, nothing survives in the case.

...2/-

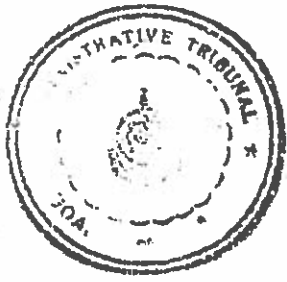


ADMINISTRATIVE TRIBUNAL, GOA,
PANAJI - GOA

- 2 -

2. Since the Appellant withdraws the Appeal, the same is dismissed as withdrawn.

PRONOUNCED.

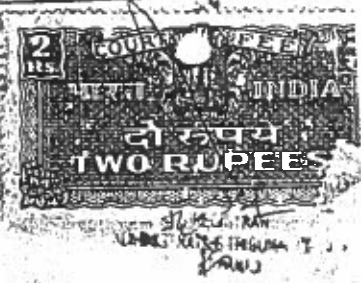


Afonso Araujo
27/11/2017
(AFONSO ARAUJO)
PRESIDENT

Js.



JSP
27/11/2017
PANAJI



Stamp pending
Ad. 205
27/1/03



BEFORE THE ADMINISTRATIVE TRIBUNAL AT PANAJI GOA

Case No. 244/2000

Joao Inacio Furtado,

... Appellant

v/a.

1. STATE represented by Chief Secretary
2. S.D.O. & Dy. Collector, Margao
3. Barnabas Furtado
4. Lindo Furtado
5. Dr. Giefy T. Furtado



MAY IT PLEASE YOUR HONOUR

The Appellant submits that the impugned order had directed him to remove the part of the structure existing in survey no.12/7 of Sernabatim Village.

The appellant submits that the said portion of the structure has been removed and therefore nothing survives in the case.

The appellant therefore does not wish to proceed with the appeal.

It is, therefore, prayed that the appeal be allowed to be withdrawn.

Panaji.
27.1.2003

[Signature]
Appellant,

[Signature]
Advocate for Appellant,

[Handwritten notes]
Grant of
27/1/03

JSP
 ADMINISTRATIVE TRIBUNAL
 PANAJI



ADMINISTRATIVE TRIBUNAL, GOA,
 PANAJI - GOA

LAND REVENUE APPEAL NO. 245 / 2000

1. Maria Filomena Furtado,
2. Joao Inacio Furtado
3. Shillston Furtado, all majors,
 residents of Ambeaxir, Sernabatim,
 Colva, Salcete, Goa.

...Appellants

V/R

1. S T A T E, represented by Chief Secretary,
 Govt. of Goa, Secretariat, Panaji.
2. S.D.O. & Dy. Collector, Margao - Goa.

...Respondents

ORAL ORDER

Panaji, 20.11.2008

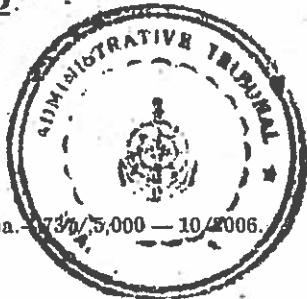
On 24.10.2008, the Appellants have filed application for withdrawal of the Appeal as they did not wish to proceed with the Appeal. Advocate Ms. M. Malar holding for Advocate N. Costa Frias for the Intervening party sought time for taking instructions from her senior. Today, none appeared for the Appellants. Advocate Ms. H. Harmalkar, holding for Advocate N. Costa Frias for the Intervening party endorsed that there are no instructions from her senior. Respondents absent. After transfer of care to the undersigned, notice was given to the Appellants' Advocate as nobody was appearing for them. In response to the same, Advocate R. Gracias sent the application for withdrawal of the Appeal. In the circumstances, I pass the order as under:

The Appeal is dismissed as withdrawn.

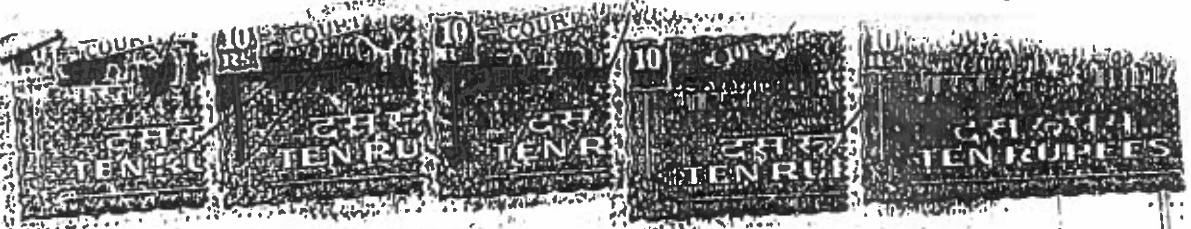
PRONOUNCED.

Ulhas B. Pai Raikar

(ULHAS B. PAI RAIKAR)
 ADDL. PRESIDENT



8a



BEFORE THE ADMINISTRATIVE TRIBUNAL AT PANAJI GOA

Case No. /2000

PRESENTED ON 14th Nov 2000

- 1. Maria Filomena Furtado,
- 2. Joao Inacio Furtado,
- 3. Shillston Furtado, all majors, residents of Ambeaxir, Sernabatim, Colva, Salcete, Goa.

... Appellants

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V/s.

- 1. STATE, represented by Chief Secretary, Govt. of Goa, Secretariat, Panaji.
- 2. S.D.O. & Dy. Collector, Margao-Goa.

... Respondents

**APPEAL AGAINST JUDGEMENT DATED 27.10.2000
BY SUB DIVISIONAL MAGISTRATE & DEPUTY
COLLECTOR SOUTH, MARGAO IN CASE NO. LRC/
ILLEGAL CONV/58/98**

MAY IT PLEASE YOUR HONOUR

The Appellants state as under:

1. The appellants are the respondents in Case No. LRC/Illegal-Conv/58/98 instituted before the Deputy Collector, South. The proceedings had commenced upon a notice being issued to the appellants, stating "an ex parte stay is ordered against respondents, heirs, agents, workers and required to stop the activities including filling of mud in Survey No.12/6 of Sernabatim Village, which is earmarked for cultivated land".

2. The appellants state that the proceedings as can be seen from the said order were merely to prevent the appellants from dumping mud in Survey No.12/6 of Sernabatim Village.

Certified copy of the document available in office records

Public Information Officer (GCZ/RTI/AB/STE) Village Panchayat. That there is also license for Bar & Restaurant in the said premises.

4. That the respondent no.2 constituted a committee comprising of Technical Officer of PWD, Inspector of Land Survey and Senior Town Planner, which submitted a report dated 18.0.2000. The appellants had earlier filed a reply dated 7.7.2000 pleading inter alia that the earlier report of the Joint Mamlatdar was

Handwritten notes:
Action taken by...
Panaji
Received on: 14.11.2000
No. LRA 245/2000

14

GCZ

prepared without notice to the appellants and that the report was fraudulent. The appellants had also stated that they would like to adduce evidence, oral and documentary after evidence of the complainant is closed.

5. The appellants had also objected to the report submitted by the Committee constituted by the respondent no.2. The said reply is dated 20.10.2000. The appellants have pointed out that the structures had been existing as is evident from the report of the Committee for more than fifteen years and therefore, there was no cause of action for the notice issued in the year 1998 in terms of which the proceedings had commenced. The learned Deputy Collector was also bound to hold an inquiry in the matter.

6. However, the learned respondent no.2 without holding an inquiry pronounced the impugned order dated 27.10.2000, communicated to the appellants on 1.11.2000 ordering the appellants to demolish the structure which has been existing for more than twenty five years. Being aggrieved by the said order the present appeal is filed on the following among other Grounds.

GROUND S

- a) The impugned order is arbitrary, capricious, contrary to law.
- b) The impugned order is against all norms of justice and fair play.
- c) The impugned order is in violation of all rules of natural justice as the appellants were not allowed to lead evidence.
- d) The learned respondent no.2 has held that the structure itself has been existing from about the year 1973 and still ordered its demolition. The learned respondent no.2 ought to have granted an opportunity to the appellants to seek regularisation of the structure as per law in force in the year 1972-73
- e) The learned respondent no.2 has failed to consider the fact that in the year 1972-73, there was no law prohibiting construction within any distance from the High Tide Mark.
- f) The learned respondent no.2 has failed to consider the fact that the CRZ Regulations protect all structures existing within the prohibited area of the High Tide Mark before the said Regulations came into force.
- g) The learned respondent no.2 has erred in not considering the fact that the report submitted by the committee constituted by him is merely a reflection of the existing state of affairs and not proof of violation of any law.
- h) The learned respondent no.2 has failed to consider the fact that all the authorities of the Govt. such as the Excise Dept., Tourism Dept., and Electricity Dept., have granted licence/power connection to the structure as also the local Village Panchayat has permitted repairs to the structure.

ied copy of the documents available in office records

[Signature]
Public Information Officer
(GCZMA / DS/TE)

i) The learned respondent no.2 has failed to consider the fact that in the year 1972-73 procedures for Land Conversion were not streamlined and no structures were constructed without such permission and that there were hundreds of structures constructed even on encroached public land within a few hundred metres of the Deputy Collector's office, and on which no action has been taken.

j) The impugned Judgement and order is not supported by any evidence on record.

k) The learned respondent no.2 has failed to consider the fact that the original notice was issued to stop dumping mud and not at all connected with the structure of the appellants.

7. The impugned Judgement is dated 27.10.2000, which was served on the appellants on 1.11.2000. The appellants applied for certified copy on 4.11.2000 and the same was delivered to the appellants on 13.11.2000. The appeal is filed within time.

8. The impugned order is liable to be set aside.

It is, therefore, prayed :

- a) that the impugned order be quashed and set aside;
- b) that the operation of the impugned order be stayed pending disposal of the appeal.

Panaji.
Date: 14/11/2000

[Signature]
Advocate for Appellants,

Order

Issue notices to the respondents returnable on 31-01-2001 at 10.30 a.m.

Panaji;
16-11-2000

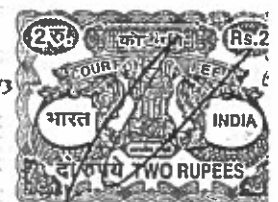
[Signature]
(A. D. SARKAR)
PRESIDENT

Certified copy of the document available in office records

[Signature]
Public Information Officer
(GCZMA / DSTE)

300

JSP
27/10/08
MARIANA FURTADO
AT PANAJI



[Handwritten signature]
56



BEFORE THE ADMINISTRATIVE TRIBUNAL AT PANAJI

LR Appeal No.245/2000

Maria Filomena Furtado ... Appellant

V/s.

STATE ... Respondent

MAY IT PLEASE YOUR HONOUR

The appellant does not wish to proceed with the appeal any further and desires that the appeal be withdrawn.

It is, therefore prayed that the appeal be allowed to be withdrawn.

Panaji.
24.10.08

[Handwritten signature]
Adv. for Appellant,

No instructions
from my sir
Adv. N. Costa
for intervener
Blank
20/10/08

[Handwritten signature]

order
Dismissed as withdrawn
Verharen
20/11/2008

Member Secretary
G.C.Z.M.A.
Inward No. 189116
Date 30/10/2007

To,

The Member Secretary,
GCZMA, Saligao,
Bardez, Goa.

Ref.No: GCZMA/SAL/Sena/07/35/3217 dtd.23.10.07

Sir,

With reference to the aforesaid notice it is submitted as under:

That the structure in Survey No.12/6 is a temporary structure that was constructed earlier as store rooms. There is no permission obtained for said structures however, if possible the same could be regularized.

Hence it is submitted that the notice issued be discharged.

Filomena Furtado
(MARIA FILOMENA FURTADO)

9822166911

H.No.93, Ambeaxir,
Sernabatim, Colva,
Salcete, Goa.

30.10.07

Certified copy of the document
available in office records

[Signature]
Public Information Officer
(GCZMA / D\$TE)

WAI
20/30/07

Member Secretary
G.C.Z.M.A.
Inward No. 2133/L
Date 26/11/2007

To,

The Member Secretary,
GCZMA, Saligao,
Bardez, Goa.

Ref.No GCZMA/SAL/SENA/07/32/3230
dated 23.10.07

Sir,

With reference to the aforesaid notice it is submitted as under:

That the structure in Survey No.12/6 is a temporary structure that was constructed earlier as store rooms. There is no permission obtained for said structures however, if possible the same could be regularized. The property is owned by my late father Antonio Jose Furtado.

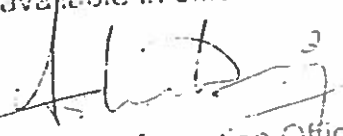
Hence, it is submitted that the notice issued be discharged.


(JOAO INACIO FURTADO)

H.No.93, Ambeaxir,
Sernabatim, Colva,
Salcete, Goa.

26th Nov., 2007.

Certified copy of the document
available in office records


Public Information Officer
(GCZMA/DSTE)

Member Secretary
G.C.Z.M.
Inwards No. 1893/L
Date 06/10/2007

To

The Member Secretary,
GCZMA, Saligao,
Bardez, Goa.

Ref: No. GCZMA/SAL/Sena/07/29/3207 dtd.22.10.07

Sir,

With reference to the aforesaid notice it is submitted as under:

That the undersigned is the co owner of the land surveyed under No.12/6 in which one structure with several rooms was constructed some years back. However the undersigned does not have any documents for the same. Since the construction is more than ten years old the same ought to be regularized.

The undersigned is not the owner of the land surveyed under survey No.12/13 and is not concerned with the same.

In the light of above it is submitted that the structures in Survey No.12/6 be regularized.



(SHILSTON FURTADO)

9372 171670

H.No.93, Ambaxir,
Sernabatim, Colva,
Salcete, Goa.

29.10.07

Sr. No. 12/13
Augusto Furtado
Cross Road Colva
Opp Colva Church

- owner of the property surveyed under No 12/13

LA2
29/10/07

Examined & Registered on :	06-08-2009		
Decided on :	10-08-2009		
Duration :	Yrs.	Ms.	Ds.
	-	-	04

IN THE SESSIONS COURT, SOUTH GOA, AT MARGAO.
(Before Shri Desmond S. D'Costa, Addl. Sessions Judge-1)

Anticipatory Bail Application No.225/2009

Mr. Pic Furtado,
major, son of late
Antonio Jose Furtado,
businessman, resident
of H.No.93, Ambeaxir,
Sernabatim, Colva,
Salcete, Goa.

..... Applicant.

V e r s u s .

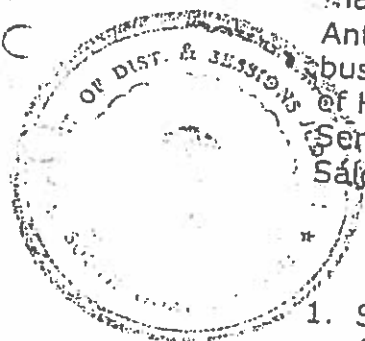
1. State of Goa
(Colva Police Station).
2. Public Prosecutor,
with office at District Court
Bldg., Margao, Goa.

..... Respondents.

Ld. Advocate Shri R. Graclas present for the applicant at the time of arguments and also for order.

Ld. Public Prosecutor Mrs. A. Arsekar present for the respondents at the time of arguments and also for order.

[Handwritten signature]



305

ORDER

(Delivered on this the 10th day of August, 2009)

1. This is an application filed by the above applicant, under Section 438 Cr.P.C., 1973, seeking anticipatory bail, as he apprehends his arrest in Crime No.117/2009, registered at the Colva police station against the applicant and his brother, in respect of offences under Section 454, 457, 380, 427 read with Section 34 IPC. The applicant states that he has not committed any offence and there is no ground for his custodial interrogation and as such he prayed to be released on bail.

2. The respondents filed their reply, submitting that the presence of the applicant is required to recover some stolen articles and they objected to the grant of the bail.

3. I have heard the submissions of Id. Advocate Shri R. Gracias for the applicant and also of Id. Public Prosecutor Smt. A. Arsekar for the respondents.

4. Under Section 438 of the Criminal Procedure Code, 1973, when a person apprehends arrest in a cognizable offence, he can approach the High Court or the Sessions Court for anticipatory bail. The Court has to take into consideration the nature and gravity of the accusation, the antecedents of the applicant, the possibility of the applicant fleeing from justice and whether the accusation has been made to injure or humiliate the applicant by having him so arrested.



10

-3- Anticipatory Bail Application No 225/2009

5. I have gone through the documents produced by the applicant. I find that by order dated 31-12-2008, the Goa Coastal Zone Management Authority had directed the parents and brother of the present applicant, to remove the illegal structures in survey no.12/2, 12/6 and 12/7, within twenty days, failing which they will be demolished. So also, earlier by order dated 27-10-2000, in case No.LRC/Ileg-Conv/58/28, the parents and the brother of the applicant, had been directed to demolish the illegal structures in survey no.12/6 of Sernabatim village.

6. From the above documents, it does appear that the applicant and his brother, in compliance with the directions of the authorities, were carrying out the demolition of the illegal structures in survey nos. 12/6 and 12/7.

7. It appears that the complaint seeks to raise a civil dispute which is sought to be given a criminal cloak. The Id. Public Prosecutor could not point out to me why the applicant is required for custodial interrogation.

8. In the facts of the present case, I therefore, pass the following order:-

ORDER

1. In the event of the arrest of the applicant in Colva Police Station Crime No.117/2009, he is directed to be released by the I.O. on obtaining his bail bonds of Rs.5000/- with one surety of the like amount.

KSD

-4- Anticipatory Bail Application No.225/2009

- 2. The applicant shall report to the I.O. for three days. If so required, from 11-11-2009 to 13-8-2009, from 6.00 p.m. to 7.00 p.m.
- 3. The applicant shall not threaten the prosecution witnesses.

Margao.
Dated:-10-08-2009.

Desmond D'Costa
10/8/2009
(Desmond D'Costa)
Addl. Sessions Judge-I,
South Goa,
Margao.

Vdc*.

Compared with the original.
unc

CERTIFIED COPY

Reg. No. 518/09

Date on which copy applied for 12-8-09

Date on which application completed 12-8-09

Date given for taking delivery 17-8-09

Date on which copy was ready 17-8-09

Date on which copy delivered 17-8-09

Copying fee Rs.

Comparing fee Rs. } 28/-

Legal Charges Rs.

Total :-

Under Receipt No. 08314 at 12-8-09

Court fee of Rs.

To produce in court.



[Signature]
Superintendent
By Order of the District & Sessions Judge,
South Goa
Margao

ADMITTED
2009



IN THE COURT OF THE ADDL.SESIONS JUDGE -1, SOUTH GOA,
MARGAO.

Anticipatory Bail Application No.225/2009/1.

Mr.Pio Furtado,
Major, s/o.late Antonio
Jose Furtado,
Businessman,
r/o.H.No.93, Ambeaxir,
Sernabatim, Colva,
Salcete, Goa.

.....Applicant.

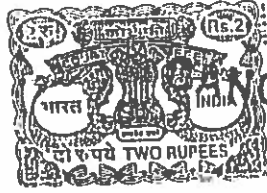
V/S

- 1. State of Goa
(Colva Police Station)
- 2. The Public Prosecutor,
with office at District Court,
Bidg.,Margao,Goa.

.....Respondents.

Typed by: *[Signature]*

Compared by: *[Signature]* 3/11/09



CANCELLED

6/8/09
68-09

IN THE COURT OF THE SESSIONS JUDGE SOUTH GOA AT MARGAO

Anticipatory Bail Appli.No. 225/2009

Mr. Pio Furtado, major, son of late
Antonio Jose Furtado, businessman,
resident of H.No.93, Ambeaxir,
Sernabatim, Colva, Salcete, Goa.

... Applicant

V/s.

1. STATE (Colva Police Station)
2. Public Prosecutor, with office at District Court
Bldg., Margao, Goa.

... Respondents

APPLICATION FOR ANTICIPATORY BAIL U/S 438 Cr.P.C.

MAY IT PLEASE YOUR HONOUR

The Applicant states as under:

1. The applicant is a peace loving citizen with no criminal antecedents whatsoever.
2. That the applicant is the son of late Antonio Jose Furtado and Maria Filomena Furtado who are the owners of the property surveyed under No.12/6 of Sernabatim Village. The property is entered in the name of late Antonio Jose Furtado as occupant in Form I & XIV.
3. That the applicant's family has been running business of restaurant with rooms in the said property and also other properties in the vicinity for the last more than thirty years. The applicant's family had constructed several rooms in the said property which were rented out to tourists.
4. That about the year 1998 or so one Olindo Furtado and also one Agostinho Godinho lodged complaints with the Deputy Collector/SDM alleging that the applicant's family had illegally constructed rooms in the property in violation of Land Revenue Code. Accordingly the Deputy Collector instituted LRC/Illegal-conv/58/98 against the mother and brothers of the applicant.
5. That the applicant's mother answered the show cause notice issued and opposed the notice. However, the Sub Divisional Officer/Deputy Collector was not satisfied with the response and therefore by Judgment dated 27.10.2000 ordered the demolition of the construction.
6. Being aggrieved by the order, the applicant's mother and brother filed Land Revenue Appeal No.245/2000 before the Administrative Tribunal, Panaji and the learned Tribunal was pleased to grant stay of the demolition.
7. That said Olindo Furtado filed an intervener's application in the said appeal dated 20.3.03 claiming inter alia:



"5. The Intervenor states that the SDO Margao had directed the Mamlatdar conduct a site inspection. The submission of the Nodal Officer clearly states the structure is built recently and failing in between 7 mts. Of (HTL) which violates the (CRZ). Regulations and that part of the structure has been constructed in the Government Property.

6. The intervencr states that the Appellant has been conducting illegal business of Bar & Restaurant and cottages inspite licences being cancelled in Government property and in survey no. 12/6 and 12/7."

8. That in the meantime the Goa Coastal Zone Management Authority (GCZMA) also issued a notice bearing No.GCZMA/SAL/SENA/07/29/2301 dated 22.10.07 under Section 5 of the Environment (Protection) Act 1986 for violating CRZ Notification 1991.

9. The applicant's brother to whom the notice was addressed opposed the notice before the GCZMA, and prayed that the structure be regularised. However, the GCZMA indicated that they are unable to regularize the structure.

10. The applicant's family therefore felt that they should not pursue the matter further and accordingly filed an application before the Administrative Tribunal to withdraw the appeal which was granted by order dated 20.11.08.

11. The applicant further submits that by order dated 31.12.08 the GCZMA was pleased to direct as follows:

"Now therefore, by virtue of powers delegated to the GCZMA under section 5 of the Environment (Protection) Act, 1986; the GCZMA hereby confirms that the structure in Sy.No.12/3 and 12/1 is an authorized constructions which existed prior to the enforcement of the CRZ Notification, 1991. Further, with reference to Sy.No.12/2 and 12/7, Adv.Gracias on behalf of Shri Furtado has undertaken to remove the structures and therefore, the GCZMA has no hesitation to hold that the structure in Sy.No.12/2,12/6 and 12/7 are illegal and therefore Shri Furtado is directed to remove the structures within 20 (twenty) days from the date of receipt of the order failing which the same will be demolished by the Additional Collector (South and the cost of demolition will be recovered from Shri Furtado."

12. In view of the order of the Sub Divisional Officer and Deputy Collector and also the GCZMA it became mandatory for the applicant's family to demolish the said structure in Survey No.12/6.

13. The applicant submits that the structure in Survey No.12/6 bears H.no.106/3 issued by Viliage Panchayat of Sernabatim, Vanelim, Colva and Gandaulim and the tax is being regularly paid by the applicant's mother.

14. That the applicant had not demolished the structure earlier as they were carrying on business therein and had to make alternate arrangement. However, as time was running out the applicant decided to demolish the structure and began the work of demolition on 3.8.09.



[Handwritten signature]
SUPERINTENDENT
RDMS

- 15. At this time said Olindo Furtado and his son Nixon Furtado suddenly claimed that they are the owners of the structure and have lodged a complaint with the police alleging trespass and theft against the applicant. The applicant submits that said Olindo Furtado and Nixon Furtado have no right to the survey no.12/6 nor the structure existing therein as is self evident even from the intervener's application filed by them before the Administrative Tribunal, Panaji.
- 16. The applicant submits that the respondent no.1 have registered an offence under Sec.454,458,380 and 427 r/w section 34 of IPC. The respondent no.1 has registered F.I.R 117/09 dated 6.8.09. The offence is alleged to have occurred on 3.8.09 and a complaint was lodged only on 6.8.09.
- 17. The applicant apprehends that he may be arrested and detained.
- 18. The applicant ought not to be arrested, as there is no need for any custodial interrogation. The applicant is liable to be granted anticipatory bail.
- 19. That no other anticipatory/bail application is pending before any other Court. The applicant shall produce appropriate surety as required and shall not leave the country without permission of the Court. That no previous anticipatory bail application in respect of the same cause of action was filed.
- 20. The applicant shall rely upon the following documents copies of which are annexed :

- a) order of the Administrative Tribunal dated 20.11.08;
- b) Judgment of Deputy Collector dated 27.10.2000;
- c) Form I & XIV;
- d) House Tax receipts;
- e) Order of GCZMA dated 31.12.08;
- f) Application for intervener filed by Olindo Furtado;

It is, therefore, prayed that:

- a) anticipatory bail be granted to the applicant;
- b) ad interim bail be granted pending disposal of the application.



Margao.
5.8.09

[Handwritten signature]
Applicant,

EXAMINED AND REGISTERED
Under No. Ant. Del. Ann. No. 225/09
Dated 06.08.09
[Handwritten signature]
Att. Sheristech

RECEIVED
District Judge, Margao
Dated 06.08.09
[Handwritten signature]
Dist. Judge, Margao
6/8/09

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GOVERNMENT TENDER
Handwritten mark

-1- Anticipatory Bail Application No 226/2009



Exbl 1-11

Examined & Registered on :	06-08-2009		
Decided on :	10-08-2009		
Duration :	Yrs.	Ms.	Ds.
	-	-	04

IN THE SESSIONS COURT, SOUTH GOA, AT MARGAO.
 (Before Shri Desmond S: D'Costa, Addl. Sessions Judge-1)

Anticipatory Bail Application No.226/2009

Mr. Shilston Furtado,
 major, son of late
 Antonio Jose Furtado,
 Government servant,
 resident of H.No.93,
 Ambeaxir, Sernabatim,
 Colva, Saicete, Goa.

..... Applicant.

V e r s u s

1. State of Goa
 (Colva Police Station).
2. Public Prosecutor,
 with office at District Court
 Bldg., Margao, Goa.

..... Respondents.

Ld. Advocate Shri R. Gracias present for the applicant at the time of arguments and also for order.

Ld. Public Prosecutor Mrs. A. Arsekar present for the respondents at the time of arguments and also for order.

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APPOINTED
 नदीन

-3- Anticipatory Bail Application No.225/2009

5. I have gone through the documents produced by the applicant. I find that by order dated 31-12-2008, the Goa Coastal Zone Management Authority had directed the parents and brother of the present applicant, to remove the illegal structures in survey no.12/2, 12/6 and 12/7, within twenty days, failing which they will be demolished. So also, earlier by order dated 27-10-2000, in case No.LRC/Ileg-Conv/58/28, the parents and the brother of the applicant, had been directed to demolish the illegal structures in survey no.12/6 of Sernabatim village.

From the above documents, it does appear that the applicant and his brother, in compliance with the directions of the authorities, were carrying out the demolition of the illegal structures in survey nos. 12/6 and 12/7.

7. It appears that the complaint seeks to raise a civil dispute which is sought to be given a criminal cloak. The Id. Public Prosecutor could not point out to me why the applicant is required for custodial interrogation.

8. In the facts of the present case, I therefore, pass the following order:-

ORDER

1. In the event of the arrest of the applicant in Colva Police Station Crime No.117/2009, he is directed to be released by the I.O. on obtaining his bail bonds of Rs.5000/- with one surety of the like amount.

[Handwritten mark]
SUPERINTENDENT
of Prisons



IN THE COURT OF THE ADDL.SESIONS JUDGE -1, SOUTH GOA,
MARGAO.

Anticipatory Bail Application No.226/2009/I.

Mr.Shilston Furtado,
Major, s/o.late Antonio
Jose Furtado,
Government servant,
r/o.H.No.93, Ambeaxir,
Sernabatim, Colva,
Salcete, Goa.

.....Applicant.

V/S

1. State of Goa
(Colva Police Station)
2. The Public Prosecutor,
with office at District Court,
Bldg.,Margao,Goa.

.....Respondents.

Typed by: *[Signature]*

Compared by: *[Signature]* *[Signature]*



Handwritten notes: 'O', 'RE.2', '6-8-09', and a signature.

IN THE COURT OF THE SESSIONS JUDGE SOUTH GOA AT MARGAO

Anticipatory Bail Appli.No: 226 /2009

Mr. Shilston Furtado, major, son of late Antonio Jose Furtado, Government Servant, resident of H.No.93, Ambeaxir, Sernabatim, Colva, Salcete, Goa.

Feb 11

... Applicant

V/s.

- 1. STATE (Colva Police Station)
- 2. Public Prosecutor, with office at District Court Bldg., Margao, Goa.

Handwritten notes: '384/09' and a signature.

... Respondents


APPLICATION FOR ANTICIPATORY BAIL C/S 438 CR.P.C.

MAY IT PLEASE YOUR HONOUR

The Applicant states as under:

1. The applicant is a peace loving citizen with no criminal antecedents whatsoever.
2. That the applicant is the son of late Antonio Jose Furtado and Maria Filomena Furtado who are the owners of the property surveyed under No.12/6 of Sernabatim Village. The property is entered in the name of late Antonio Jose Furtado as occupant in Form I & XIV.
3. That the applicant's family has been running business of restaurant with rooms in the said property and also other properties in the vicinity for the last more than thirty years. The applicant's family had constructed several rooms in the said property which were rented out to tourists.
4. That about the year 1998 or so one Olindo Furtado and also one Agostinho Godinho lodged complaints with the Deputy Collector/SDM alleging that the applicant's family had illegally constructed rooms in the property in violation of Land Revenue Code. Accordingly the Deputy Collector instituted LRC/Illegal-conv/58/98 against the mother and brothers of the applicant.
5. That the applicant's mother answered the show cause notice issued and opposed the notice. However, the Sub Divisional Officer/Deputy Collector was not satisfied with the response and therefore by Judgment dated 27.10.2000 ordered the demolition of the construction.
6. Being aggrieved by the order, the applicant's mother and brother filed Land Revenue Appeal No.245/2000 before the Administrative Tribunal, Manaji and the learned Tribunal was pleased to grant stay of the demolition.
7. That said Olindo Furtado filed an intervener's application in the said appeal dated 20.3.03 claiming inter alia:




COMPTROLLER
 GOVERNMENT

2

"5. The Intervenor states that the SDO Margao had directed the Mamlatdar conduct a site inspection. The submission of the Nodal Officer clearly states the structure is built recently and falling in between 7 mts. Of (HTL) which violates the (CRZ). Regulations and that part of the structure has been constructed in the Government Property.

6. The intervenor states that the Appellant has been conducting illegal business of Bar & Restaurant and cottages inspite licences being cancelled in Government property and in survey no.12/6 and 12/7."

8. That in the meantime the Goa Coastal Zone Management Authority (GCZMA) also issued a notice bearing No.GCZMA/SAL/SENA/07/29/2301 dated 22.10.07 under Section 5 of the Environment (Protection) Act 1986 for violating CRZ Notification 1991.

9. The applicant to whom the notice was addressed opposed the notice before the GCZMA, and prayed that the structure be regularised. However, the GCZMA indicated that they are unable to regularize the structure.

10. The applicant's family therefore felt that they should not pursue the matter further and accordingly filed an application before the Administrative Tribunal to withdraw the appeal which was granted by order dated 20.11.08.

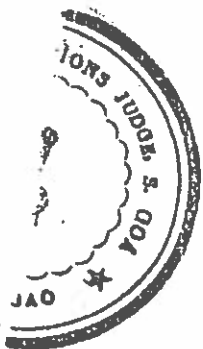
11. The applicant further submits that by order dated 31.12.08 the GCZMA was pleased to direct as follows:

"Now therefore, by virtue of powers delegated to the GCZMA under section 5 of the Environment (Protection) Act, 1986; the GCZMA hereby confirms that the structure in Sy.No.12/3 and 12/1 is an authorized constructions which existed prior to the enforcement of the CRZ Notification, 1991. Further, with reference to Sy.No.12/2 and 12/7, Adv.Gracias on behalf of Shri Furtado has undertaken to remove the structures and therefore, the GCZMA has no hesitation to hold that the structure in Sy.No.12/2,12/6 and 12/7 are illegal and therefore Shri Furtado is directed to remove the structures within 20 (twenty) days from the date of receipt of the order failing which the same will be demolished by the Additional Collector (South and the cost of demolition will be recovered from Shri Furtado."

12. In view of the order of the Sub Divisional Officer and Deputy Collector and also the GCZMA it became mandatory for the applicant's family to demolish the said structures in Survey No.12/6, 12/2 and 12/7. The structures in survey no 12/2 and 12/7 are already removed.

13. The applicant submits that the structure in Survey No.12/6 bears H.no.106/3 issued by Village Panchayat of Sernabatim, Vanelim, Coiva and Gandaulim and the tax is being regularly paid by the applicant's mother.

14. That the applicant had not demolished the structure earlier as they were carrying on business therein and had to make alternate



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decided to demolish the structure and began the work of demolition on 3.8.09. The applicant is not connected with the demolition.

15. At this time said Olindo Furtado and his son Nixon Furtado suddenly claimed that they are the owners of the structure and have lodged a complaint with the police alleging trespass and theft against the applicant. The applicant submits that said Olindo Furtado and Nixon Furtado have no right to the survey no.12/6 nor the structure existing therein as is self evident even from the intervener's application filed by them before the Administrative Tribunal, Panaji.

16. The applicant submits that the respondent no.1 have registered an offence under Sec.454,458,380 and 427 r/w section 34 of IPC. The respondent no.1 has registered F.I.R 117/09 dated 6.8.09. The offence is alleged to have occurred on 3.8.09 and a complaint was lodged only on 6.8.09.

17. The applicant apprehends that he may be arrested and detained.

18. The applicant ought not to be arrested, as there is no need for any custodial interrogation. The applicant is liable to be granted anticipatory bail.

19. That no other anticipatory/bail application is pending before any other Court. The applicant shall produce appropriate surety as required and shall not leave the country without permission of the Court. That no previous anticipatory bail application in respect of the same cause of action was filed.

20. The applicant shall rely upon the following documents copies of which are annexed :

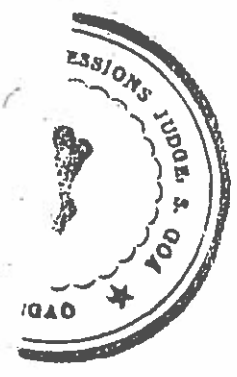
- a) order of the Administrative Tribunal dated 20.11.08;
- b) Judgment of Deputy Collector dated 27.10.2000;
- c) Form I & XIV;
- d) House Tax receipts;
- e) Order of GCZMA dated 31.12.08;
- f) Application for intervener filed by Olindo Furtado;

It is, therefore, prayed that:

- a) anticipatory bail be granted to the applicant;
- b) ad interim bail be granted pending disposal of the application.

Margao.
5.8.09

Handwritten signature of the applicant.
Applicant,



EXAMINED AND REGISTERED
Under No. AM/.../...
Dated 6/8/09
Asst. Registrar

Made Over to the Addl. District/Session Judge, South Goa Margao for Disposal
6/8/09

6/8/09

BEFORE THE CHIEF SECRETARY, GOVERNMENT OF GOA, PANAJI.

Case No.18/8/99-Fin(R&C)

Shri L J Furtado
Sernabatim
Colva-Goa. ... Appellant

V/s.

1. Shri Joao Inacio Furtado
R/o. H.No. 106/3
Ambeazir, Sernabatim
Colva-Goa and others. ... Respondents
2. Commissioner of Excise
Government of Goa
Panaji-Goa. ... Respondent

ORDER

This revision petition is filed by Shri L J Furtado, intervenor/cavcator in the case No. 18/8/99-Fin(R&C) against the order dated 5/8/1999 passed by the then Chief Secretary as Appellate Authority under Section 40 of the Goa, Daman & Diu Excise Duty Act, 1964. By the said order dated 5/8/1999, the appeal of Shri Joao Inacio Furtado was upheld and accordingly the order dated 18/2/1999 of the Commissioner of Excise under which his bar licence No. RS/FCL/1495 was cancelled – was set aside and the licensee was allowed to continue his business with full entitlement of renewal of licence.

2. The main grounds for the revision petition by the intervenor Mr. L.J.Furtado are as under:-

...2/-

- i) The order of the Dy. Director of Panchayats dated 27/10/1997 which was relied on by the Chief Secretary mentioning that the house under No. 106/3 was existing before 1985 was quashed and set aside by the Director of Panchayats by order dated 20/8/1999. It was also made known that the papers relied on by the Dy. Director of Panchayats were forged and not original.
 - ii) It was prima facie held that the house was illegal and built only in the year 1993 as discussed in the order of Dy. Collector, Margao dated 2/9/1998.
 - iii) No Stay order of the Administrative Tribunal was on record against the order of the Dy. Collector dated 2/9/1998, and how the Dy. Collector's order was non-operative was not known.
3. After going through the review petition of Shri L.J.Furtado and the facts of the case as laid before me (and after hearing all the concerned parties to the case), I give my findings as under:-

- a) It is a fact that Mr. Joao Inacio Furtado was granted licence to premises bearing H.no. 106/3 located at Ambeazir, Sernabatim, Colva. However, the Form I & XIV produced by the licensee was showing his father Shri Anthony J.Furtado as occupant under Survey No.12/6, which was named 'Adampoi'. The corresponding survey plan produced by the licensee was also not showing any structure in the said survey No. 12/6. There was no Form I & XIV nor survey plan produced by the licensee on record showing the licensed premises i.e. House No.106/3. The N.O.C. of Panchayat dated 19/2/1996 says that the premises belong to Shri Joao Inacio Furtado bearing House No.106/3 of Sernabatim and conveniently no corresponding survey number was mentioned nor its legality. Before granting of licence to Mr.Joao I. Furtado there was a complaint made by Shri L.J.Furtado dated 30/11/1995 received in the Excise Office Salcete on the same date, clearly objecting to grant of any licence for the premises under survey No.12/6 as it was disputed. This was overlooked by the then Excise Inspector of Salcete and was not brought to the notice of higher authorities which gave birth to this entire episode. If the Excise Inspector, before recommending the case to Head Office, had disposed of the complaint received much earlier than the application for licence, with proper examination as to the existence of the House with respect to

...3/-

survey plan and Form I & XIV produced, the granting of licence to a disputed premises would not have arisen.

b) The entire merit of the order of my predecessor dated 5/8/99 setting aside the order of cancellation of licence by the Commissioner of Excise dated 18/2/1999 was relied on the order of Dy. Director of Panchayat dated 27/10/1997 upholding that the structure was existing before 1985. However, it has now been brought to my notice that the said order was quashed and set aside by the Director of Panchayats vide order dated 20/8/1999 and hence the main defence of the licensee Shri Joao Inacio Furtado that the structure was legal and was there much before 1985 was yet to be proved. There are also reports on the issue proving that the said N.O.C. issued by the Panchayat dated 1/10/1985 is a forged one and not recorded in the Panchayat duly supported by any resolution. The averment made before the then Chief Secretary that there had been a stay on the order of the Dy. Collector, Margao, dated 2/9/1998 by the Administrative Tribunal dated 30/9/1998 is not relevant at this stage as the Stay was conditional and was upto the next hearing only.

4. Thus in view of the fresh facts brought to the notice of this Court, the revision petition must succeed and accordingly the order of this office dated 5/8/1999 is set aside. The order dated 8/2/1999 of the Commissioner of Excise is maintained. The licensee Shri Joao I. Furtado will cease to continue his business with immediate effect. The role of the then Excise Inspector in issuing the licence without proper verification to be independently inquired into by the Commissioner of Excise.

The parties be informed.

Ashok Nath
(ASHOK NATH)
CHIEF SECRETARY

Panaji, dated the 24th January, 2000

Jose Inacio Furtado,
 Amboazir, Sernabatin,
 Colva, Salcette-Goa.

Dated: 2.11.1993.

To,
 The Sarpanch,
 V.P. Colva,
 Salcette - Goa.

Sub: Application for a House Number which existed
 in our property.

Sir,

I the undersigned is a resident of Sernabatin, wish to
 apply for a House Number for my existed house which is situated
 at Amboazir-Sernabatin.


The said house is in our own property Survey No. 12/6
 and not been registered in the Village Panchayat House tax
 record.

I beg to state that if given the necessary house No.
 it would be a great help to me.

I hope that you will do the needful.

Thanking you.

Yours faithfully,


 (Jose Inacio Furtado).

Received
 2/11/93.

9604251535 P10

To,

The Member Secretary,
GCZMA, Salgao,
Bardez, Goa.

Member Secretary

G.C.Z.M.A.

Inward No. 1143/L


Date 05/11/09

Ref.: a) Writ Petition No.145/09 and Order dated 28.8.09
directing the GCZMA to hear the parties again
and pass orders thereof
b) GCZMA/SAL/SENA/07/26/995 dtd.31.12.08

Sir,

The applicant states and submits as under :

1. The applicant has come to know that Lindo Furtado had filed Writ Petition No.145/09 before the Hon'ble High Court of Bombay at Panaji seeking to quash the order of your authority to demolish the illegal construction erected in Survey No.12/7 of Sernabatim Village, Salcete Taluka. That, the Hon'ble High Court has remanded the matter back for fresh hearing.
2. That the structure in Survey No.12/7 was actually constructed by the undersigned Maria Filomena Furtado and Lindo Furtado had lodged complaints with various authorities including the Deputy Collector alleging that the said construction was illegal and was carried out by Joao Inacio Furtado son of the undersigned Maria Filomena Furtado.
3. That accordingly, the Sub Divisinal Magistrate instituted case no.LRC/Illegal-conv/59/98. That the SDM thereafter issued to parties, heard them and passed the judgment and order dated 2.9.98 directing the respondents (Lindo Furtado, Dr.Gleffy Furtado and Joao Inacio Furtado) to demolish the illegal structure. No appeal has been filed against the said order and the said structure therefore ought to be demolished. (copy of order is annexed)
4. From a bare reading of the order it is clear that it was Lindo Furtado who lodged a complaint that the construction in Survey No.12/7 and it was upon his complaint that the proceedings were initiated. He cannot now claim that the same construction is legal.
5. The undersigned further submits that he has produced orders before this authority in Case No.DDPS/7/97 wherein it has been held by the Deputy Director of Panchayats that the construction in Survey No.12/6 of Sernabatim Village is lawful and has been existing since the year 1985. Interestingly, this was also a complaint lodged by Lindo Furtado. He did not accept the order of the Deputy Director of Panchayats and went in appeal by way of Panchayat Appeal No.101/97/3092 before the Director of Panchayats, the same was disposed off by the Director by order dated 24.8.99. This order only pertains to construction in Survey No.12/6 and not to any construction in Survey No.12/7, (copy annexed) which has been ordered to be demolished by order in Case No.LRC/Illegal-conv/59/98 dated 2.9.98.
6. The undersigned therefore submits that Lindo Furtado is playing a fraud by claiming the construction which he himself alleged to be illegal

L. Agreus

 05/11/09

and which was ordered to be demolished on his complaint, to be a lawful construction.

7. The undersigned has also learnt that said Lindo Furtado has produced certified copies of Affidavit purported sworn by the undersigned and her son Shilston Furtado. The undersigned submits that she nor her son have sworn such an affidavit and the said document is fraudulent document. The undersigned has never appeared before the Notary. Moreover law does not contemplate a joint affidavit. The truth will be known if the original affidavit is produced. Stamp paper was not purchased by the undersigned and does not bear her signature.

The undersigned would like to be heard in the matter before any decision is taken. The undersigned would also like to produce certified copies of the complaint and reply filed by Lindo Furtado in the aforesaid case as soon as they are made available.

In view of the above, it is respectfully submitted that the undersigned be heard in the matter and the documents produced by her be considered before passing any orders on the legality of the construction in Survey No.1277 of Sernabatim Village.

Filomena Furtado
(MARIA FILOMENA FURTADO)

H.No.93, Ambeaxir,
Sernabatira, Colva,
Salcete, Goa.

5.11.09

EXHIBIT - I

324



Phone 21310
Office Of the Village Panchayat
Sernabatim, Vanelim, Colva & Gandaulim,
Salcete - Goa

Date 13-3-94

Ref. No. VP/SVCG/877/93-94

To,
Shri. Lindo J. Furtado,
Sernabatim, P.O. Colva,
Salcete - Goa.

Sir,

I am to refer to your application dated 24-1-94
and inform you that this Panchayat has not issued
any permission for construction in property surveyed
under No. 12/6 at Sernabatim,

Furtado you are also informed that as far as my
knowledge is concerned so far no party has applied
for any construction in the property in question.

Yours faithfully,



(ROQUE A. VAZ)
Sarpanch,
Village Panchayat,
Sernabatim, Vanelim, Colva & Gandaulim.

... 1 ...

IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO.145 of 2009

Shri Lindo Furtado,
r/o House No.57,
Capel wado, Sernabatim,
Colva. Satecete, Goa.

... Petitioner

v e r s u s

Goa Coastal Zone Management
Authority, through its Member
Secretary, Saligao, Bardez-Goa.

... Respondent

Mr. D. Pangam, Advocate for the petitioner.

Shri Guru Shirodkar, Government Advocate for the
respondent.

CORAM: U. D. Salvi, J.

DATE : 28.08.2009

ORAL JUDGMENT:

Rule. Taken up for final hearing
forthwith by consent of the parties.



2. The petitioner has challenged the order No.GCZMA/SAL/SENA/07/26/995 dated 31.12.2008 passed by Goa Coastal Zone Management Authority in respect of a structure standing partly on survey no.12/6 and partly on survey no.12/7 of village Sernabatim.

3. The impugned order requires the petitioner to demolish the said structure being construction in violation of CRZ Notification 1991. According to the petitioner the structure was in existence in 1985 and was constructed by one Maria Furtado on his property. As regards the existence of the structure prior to the datum lying 21.02.1991, the petitioner produced before the Goa Coastal Zone Management Authority six documents, more particularly the order of the Deputy Director, Panchayat (South), Margao bearing No.DOPS/7/97 and the affidavit of Maria Furtado as referred to in the impugned order. Perusal of the impugned order shows that Goa Coastal Zone Management Authority



... 3 ...

without making reference to these documents proceeded to pass the demolition order. Obviously the impugned order needs to be set aside and the matter needs to be remanded back to the Authority for consideration of the reply of the petitioner and the documents submitted therewith for passing a speaking order.

4. The Goa Coastal Zone Management Authority shall pass a speaking order upon considering the reply and the documents furnished therewith by the petitioner. The petitioner shall be given personal hearing in the matter.

5. Rule made made absolute.

U. D. SALVI, J.

lh/.

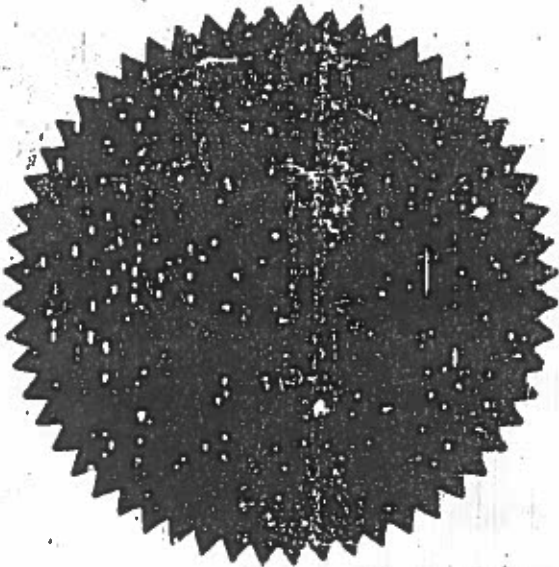


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Date on which copy was applied for :	11-09-2009
Date on which application was completed :	11-09-2009
Date given for taking delivery :	11-09-09
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COST OF CERTIFIED COPY

Copying and comparing charges :	Rs. 20.00
Search and inspection charges :	Rs. 5.00
Total fees :	Rs. 25.00

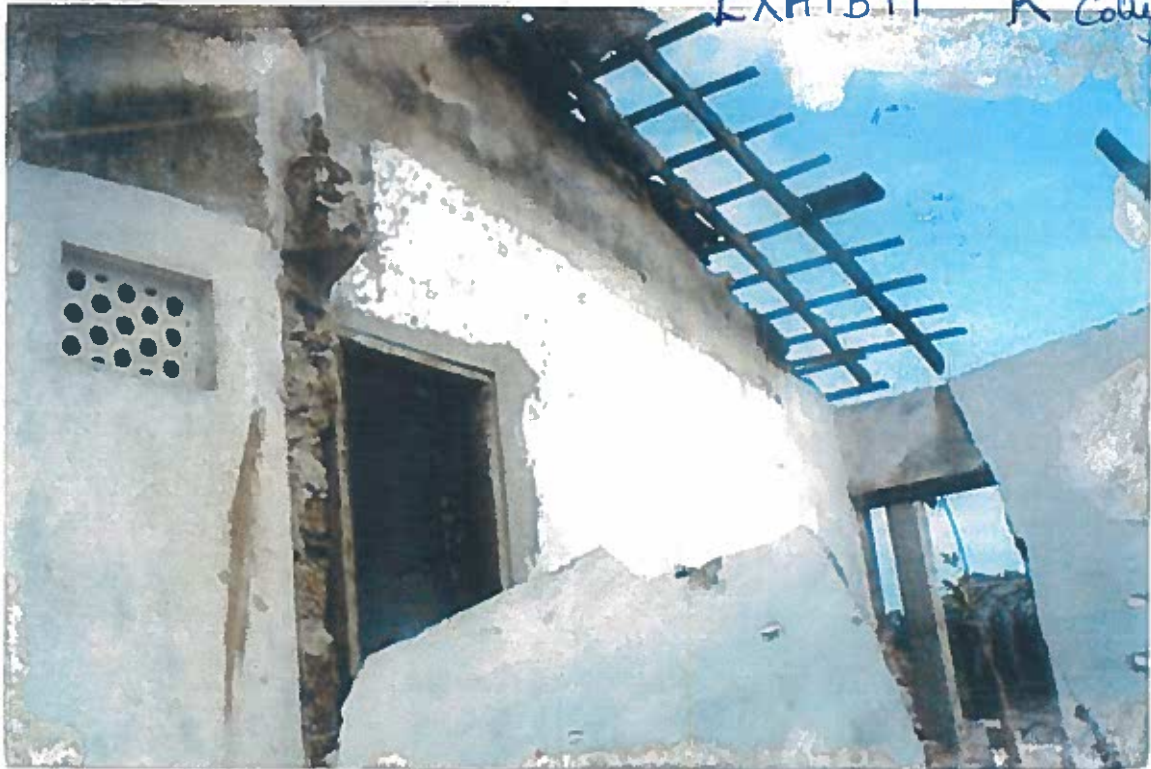


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11.09.09

Section Officer
High Court of Bombay at Goa
Panaji-Goa

3729

11.09.09



MATTER



No. SDPO/MRG/RTI/ 1185 /2018,
Office of the Sub-Divisional Police Officer,
Margao-Goa
Dated: - 17/11/2018.

To.
Mr. Nixon Furtado
R/o H.No- 51, Copelwaddo,
Semabatim Salcete Goa,

**Sub: - Information under Right to information Act 2005.
Reg. order dated 25/04/2018 passed by the Goa state
Information commission Panaji in 2nd Appeal No-
59/2018/SIC- I.**

Sir.

Pursuant to order dated 25/04/2018 passed by the Goa state Information commission Panaji in 2nd Appeal No- 59/2018/SIC- I filed by you, PI Sudesh R. Naik of Cuncolim Police Station was directed to conduct enquiry into the missing of coloured photographs pertaining to Colva P.S. Cr. No- 117/2009.

As per the enquiry conducted by PI Sudesh R. Naik of Cuncolim P.S. it was revealed that the said photographs were in the custody of IO, PI Tushar N Vernekar.

Accordingly Shri. Tushar N, Vernekar, PI Traffic Cell Mapusa (then IO of Colva P.S., Cr. No- 117/2009) informed that due enquiry was caused at Colva P.S., and the said 245 Photographs have been traced at Colva P.S.

The enquiry officer, PI Sudesh R. Naik of Cuncolim P.S. submitted 24 coloured photographs to Superintendent of Police South office, which were then returned back to undersigned office for safe custody

In view of this if desired you are requested to collect the said 24 coloured photographs, free of cost from office of the undersign.

Yours faithfully

Public Information Officer
Sub-Divisional Police Officer
Margao -Goa.

Copy submitted to:- The FAA/ Supdt. of Police, South Goa for information.

Copy to; - The Under Secretary cum Register, Goa State Information Commission
7th Floor, Kamat Towers, Patto, Panaji- Goa.