

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH AT PUNE
APPEAL NO. 59 OF 2018**

IN THE MATTER OF:

M/S ELITE BUILDERS

... APPELLANT

VERSUS

GOA COASTAL ZONE MANAGEMENT

AUTHORITY & ORS.

... RESPONDENTS

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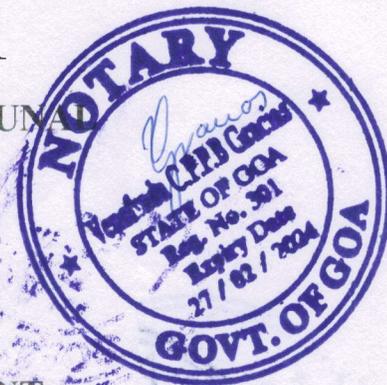
DATE: 19.07.2023

FILED BY:



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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH AT PUNE
APPEAL NO. 59OF 2018



IN THE MATTER OF:

M/S ELITE BUILDERS

... APPELLANT

VERSUS

GOA COASTAL ZONE MANAGEMENT

AUTHORITY & ORS.

... RESPONDENTS

**SHORT SUR-REJOINDER AFFIDAVIT ON BEHALF OF
RESPONDENT NO.1, GOA COASTAL ZONE MANAGEMENT
AUTHORITY, TO THE REJOINDER FILED BY APPELLANT**

I, Dr. SNEHA S. GITTE, Member Secretary, Goa Coastal Zone Management Authority, having office at 4th floor, Dempo Towers, Patto, Panaji, Goa, Respondent No.1, do hereby solemnly affirm and declare as under:

A. That in my official capacity as stated above, I am well conversant with the facts and circumstances of this case and hence, competent and authorized to swear the present Affidavit on behalf of the Respondent No.1, Goa Coastal Zone Management Authority. I say that I have taken charge of the office of the GCZMA on the 03/04/2023.

B. I state that each and every averment and submissions, allegations and contentions raised in the rejoinder are denied, being false, incorrect and/or without substance, save and except

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH AT PUNE
APPEAL NO. 2904 OF 2018

IN THE MATTER OF:
M/S ELITE BUILDERS

VERSUS

GOA COASTAL ZONE MANAGEMENT
AUTHORITY & ORS
... RESPONDENTS

SHORT SUR-REJOINDER AFFIDAVIT ON BEHALF OF
RESPONDENT NO.1, GOA COASTAL ZONE MANAGEMENT
AUTHORITY, TO THE REJOINDER FILED BY APPELLANT

I, Dr. SNEHA S. GITTE, Member Secretary, Goa Coastal Zone
Management Authority, having office at 4th floor, Leempo Tower,
Panso, Panaji, Goa, Respondent No.1, do hereby solemnly affirm and
declare as under:

A. That in my official capacity as stated above, I am well
conversant with the facts and circumstances of this case and
hence, competent and authorized to swear the present Affidavit
on behalf of the Respondent No.1, Goa Coastal Zone
Management Authority. I say that I have taken charge of the
office of the GCZMA on the 05/04/2018.

B. I state that each and every statement and submission
allegations and contentions made in the rejoinder are denied
being false, incorrect and/or without substance, save and except

those which are specifically admitted hereafter. Nothing may be taken as admitted for non-traversal.

- C. The Respondent relies and reiterates their submissions made in their Short Counter Affidavit filed before this Hon'ble Tribunal on 21.02.2023 which are not repeated herein for sake of brevity.

BRIEF SUBMISSIONS AND OBJECTIONS TO REJOINDER:

1. At the outset it is submitted that the Appellant has raised various new contentions in their Rejoinder which were not made in their Appeal filed before this Hon'ble Tribunal and hence, cannot be taken on record.
2. At the outset it is submitted that sufficient hearings have been afforded to the Appellant by the answering respondent prior to passing of the impugned order for demolition dated 09.07.2018, and the appellant had sufficient time to present his case before the Answering Respondent-Authority. However, if this Hon'ble Tribunal deems it appropriate to grant a further hearing to the Appellant, the answering respondent shall have no objection.
3. This Hon'ble Tribunal, on the last date of hearing on 21.04.2023, had directed the answering Respondent to provide the status of the criminal case against the Appellant bearing case no. IPC/224/2016. It has been found on verification that the matter was last listed before the Ld. Trial Court on 10.07.2023 when it was recorded that the matter is to be further listed for appearance/evidence of Complainant-Witness-CW14 on 09.08.2023. A copy of the case-status of the matter from the official e-courts website is annexed hereto as **Annexure R-1/4**.



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those which are specifically admitted hereafter. Nothing may be taken as admitted for non-traversal.

C. The Respondent relies and reiterates their submissions made in their Short Counter Affidavit filed before this Hon'ble Tribunal on 21.02.2023 which are not repeated herein for sake of brevity.

BRIEF SUBMISSIONS AND OBJECTIONS TO REJOINER:

1. At the outset it is submitted that the Appellant has raised various new contentions in their Rejoinder which were not made in their Appeal filed before this Hon'ble Tribunal and hence, cannot be taken on record.

2. At the outset it is submitted that sufficient hearings have been afforded to the Appellant by the answering respondent prior to passing of the impugned order for demolition dated 09.07.2018, and the appellant had sufficient time to present his case before the Answering Respondent-Authority. However, if this Hon'ble Tribunal deems it appropriate to grant a further hearing to the Appellant, the answering respondent shall have no objection.

3. This Hon'ble Tribunal, on the last date of hearing on 21.04.2023, had directed the answering Respondent to provide the status of the criminal case against the Appellant bearing case no. IPC234/2016. It has been found on verification that the matter was last listed before the I.J. Trial Court on 10.07.2023 when it was recorded that the matter is to be further listed for appearance/evidence of Complainant-Witness-CW14 on 09.08.2023. A copy of the case status of the matter from the official courts website is annexed hereto as Annexure R-1A.



4. In reply to the averment of the Appellant that GCZMA could not have delegated the work of mapping to Directorate of Settlement and Land Records (DSLRL), it is submitted that DSLRL is a government department which has expertise in the field of and is responsible for maintaining land records and drawing property boundaries and conducting surveys in respect of lands. DSLRL is the technical department which carries out site inspection, plotting of the illegal structures, etc. It is further submitted that DSLRL has been conducting these work of plotting structures and conducting survey for many years on behalf of answering respondent-GCZMA, on their specific request from time to time, as and when needed.
5. It is reiterated that the identification of HTL was done by the National Institute of Oceanography (NIO), based upon which DSLRL identified the illegal structures constructed by the Appellant as shown in the map attached with the Impugned demolition Order @ page 111, and as per Orders of the Hon'ble High Court. This map is wholly in accordance with law and the demolition order passed on this basis ought to be upheld.
6. It is stated that National Institute of Oceanography (NIO) is only responsible to make Coastal Zone Management Plans (CZMP), and cannot carry out mapping/plotting of illegal structures, which falls under DSLRL. This can also be seen from the Office Memorandum dated 08.08.2019 issued by Ministry of Environment, Forest and Climate Change, Government of India which shows 7 agencies which prepare/update Coastal Zone Management Plans (CZMP) and Island Coastal Regulation Zone



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4. In reply to the avowment of the Appellant that GCZMA could not have delegated the work of mapping to Directorate of Settlement and Land Records (DSLRL), it is submitted that DSLRL is a government department which has expertise in the field of and is responsible for maintaining land records and drawing property boundaries and conducting surveys in respect of lands. DSLRL is the technical department which carries out site inspection, plotting of the illegal structures, etc. It is further submitted that DSLRL has been conducting these work of plotting structures and conducting survey for many years on behalf of answering respondent- GCZMA, on their specific request from time to time, as and when needed.

5. It is reiterated that the identification of HTJ was done by the National Institute of Oceanography (NIO), based upon which DSLRL identified the illegal structures constituted by the Appellant as shown in the map attached with the Impugned demolition Order @ page 111, and as per Order of the Hon'ble High Court. This map is wholly in accordance with law and the demolition order passed on this basis ought to be upheld.

6. It is stated that National Institute of Oceanography (NIO) is only responsible to make Coastal Zone Management Plans (CZMP), and cannot carry out mapping/plotting of illegal structures, which falls under DSLRL. This can also be seen from the Office Memorandum dated 08.08.2019 issued by Ministry of Environment, Forest and Climate Change, Government of India which shows 7 agencies which prepare/update Coastal Zone Management Plans (CZMP) and Land Coastal Regulation Zone

(ICRZ). A copy of the Office Memorandum dated 08.08.2019 is annexed hereto as **Annexure R-1/5**.

7. Accordingly, it is submitted that National Institute of Oceanography would only delineate HTL and various Coastal Zones. However, this does not give power to the National Institute of Oceanography to mark or plot the structures existing in Coastal Regulation Zone (CRZ) area to show if they fall outside the HTL; this would be beyond the usual scope of their work. Thus, it is respectfully submitted that it is the prerogative of the Answering Respondent-GCZMA to survey and plot structures with reference to the HTL drawn by agencies like the NIO. This is done by them with the help of DSLR, as and when required.
8. The contention of the Appellant in para 33 of their Rejoinder that the identification/demarcation of HTL can only be done on 1:4000 scale mapped as against 1:1000 scale which was done for mapping the structures of the Appellant, was never raised by the Appellant in their Appeal and ought to be struck off by this Hon'ble Tribunal. The mapping done on the scale of 1:1000 is more precise than 1:4000, and only provides better clarity and does not impact the position of the illegal structure.
9. In reply to the averment of the Appellant that the disputed structures fall outside CRZ area at the present, the same is irrelevant for deciding the present matter. It is submitted that the relevant time for deciding whether or not the structures fell within CRZ area would be the time when the Complaint was made and show-cause notice issued to the Appellant, which was done in the year 2010, as a consequence of a complaint filed against the Appellant's structures.



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(CRZ). A copy of the Office Memorandum dated 08.08.2019 is annexed hereto as Annexure B-12.



Accordingly, it is submitted that National Institute of Oceanography would only delineate HTJ and various Coastal Zones. However, this does not give power to the National Institute of Oceanography to mark or plot the structures existing in Coastal Regulation Zone (CRZ) area to show if they fall outside the HTJ. This would be beyond the usual scope of their work. Thus, it is respectfully submitted that it is the prerogative of the Answering Respondent-GCXMA to survey and plot structures with reference to the HTJ drawn by agencies like the NIO. This is done by them with the help of DSIR, as and when required.

8. The contention of the Appellant in para 33 of their Rejoinder that the identification/delineation of HTJ can only be done on 1:4000 scale mapped as against 1:1000 scale which was done for mapping the structures of the Appellant, was never raised by the Appellant in their Appeal and ought to be struck off by this Hon'ble Tribunal. The mapping done on the scale of 1:1000 is more precise than 1:4000, and only provides better clarity and does not impact the position of the illegal structure.

9. In reply to the avertment of the Appellant that the disputed structures fall outside CRZ area at the present, the same is irrelevant for deciding the present matter. It is submitted that the relevant time for deciding whether or not the structures fall within CRZ area would be the time when the Complaint was made and show-cause notice issued to the Appellant, which was done in the year 2010, as a consequence of a complaint filed against the Appellant's structures.

10. In reply to the new contention raised by the Appellant in para 51 wherein it is trying to compare the present dispute in the matter with a case which was decided before the Hon'ble Supreme Court, it is submitted that the present matter cannot be compared with the case decided before the Hon'ble Supreme Court and both the matters are distinguishable on merits. In the case cited, the GCZMA itself had dropped the proceedings initiated on the basis of the complaint as the structure was not in the prohibited area, which was merely confirmed by the recent CZMP approved on 06.09.2022. It is further submitted that in the circumstances, the issue of what would be the relevant time for determining whether or not the structure is illegal i.e the time of notice or the present time, was not an issue before the Hon'ble Supreme Court, unlike the present case.

11. Accordingly, the Respondent No.1 urges that the present Appeal is without substance and may be dismissed.

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DEPONENT
 MEMBER SECRETARY
 GOA COASTAL ZONE MANAGEMENT AUTHORITY
 PANAJI - GOA

VERIFICATION:

Verified in Panaji-Goa on this 19th day of July, 2023 that the contents of the above paras are true and correct to the best of my knowledge and belief, based upon official records, and nothing material has been concealed therefrom.

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DEPONENT
 MEMBER SECRETARY
 GOA COASTAL ZONE MANAGEMENT AUTHORITY
 PANAJI - GOA



Solemnly affirmed before me

Dr Sneha S. Gitle

Who is identified before me by

_____ Panjim - Goa

Sr. No. 121/07/2023

Date. 19/07/2023

Gracias

**Ven^oda C.P.P.B Gracias
Advocate & Notary Goa State**

DEPARTMENT
MEMBER SECRETARY
GOA COASTAL ZONE MANAGEMENT AUTHORITY
PANAJI - GOA

VERIFICATION:

Verified in Panaji-Goa on this 19th day of July, 2023 that the contents of the above pages are true and correct to the best of my knowledge and belief, based upon official records, and nothing material has been concealed therefrom.

DEPARTMENT
MEMBER SECRETARY
GOA COASTAL ZONE MANAGEMENT AUTHORITY
PANAJI - GOA

Daily Status

Civil and Criminal Court, Mapusa
In the court of: Civil Judge, Senior Division and JMFC, A Court, Mapusa
CNR Number: GANG040038142016
Case Number: IPC/0000224/2016
State of Goa versus **Michael** Lobo and 4 others
Date: 10-07-2023

Business : Called out today. Ld. APP S. Talawnekar present for the State. All accused are under permanent exemption. Adv. D. Parab present for the accused. APP undertakes to secure presence of Cw.14 on the next date as he is gone to Nepal Meghalaya for Departmental inquiry. Matter is adjourned for appearance of IO / trial - Morning.

Next Purpose : Trial

Next Hearing : 09-08-2023

Date

Civil Judge, Senior Division and JMFC, A Court, Mapusa

1221/TC4
29/8/2019

374)

F.No. J-17011/8/92- IA-III
Government of India
Ministry of Environment, Forest and Climate Change
(IA. III Division)

Indira Paryavaran Bhawan,
Jorbagh Road, New Delhi - 3

Dated: 8th August, 2019

OFFICE MEMORANDAM

Sub: Institutes/Agencies for preparation/updation of Coastal Zone Management Plans (CZMPs)/ Island Coastal Regulation Zone (ICRZ) plans/ Integrated Island Management Plans (IIMPs) in line with CRZ/ICRZ Notifications, 2019 - reg.

In supersession of this Ministry's OM of even number., dated 14th March, 2014, the institutes/agencies given here under are hereby authorized for preparation/updation of Coastal Zone Management Plan (CZMPs)/ Island Coastal Regulation Zone (ICRZ) plans/ Integrated Island Management Plans (IIMPs) in consonance with the provisions of the CRZ Notification, 2019 issued vide G.S.R. 37(E), dated 18.01.2019 and Island Protection Zone Notification issued vide S.O. 1242(E) dated 08.03.2019.

S.No.	Name of the Institutes/ Agency
1	Space Application Centre, Ahmedabad
2	Centre for Earth Sciences Studies, Thiruvananthapuram
3	Institute for Remote Sensing, Anna University, Chennai
4	National Centre for Sustainable Coastal Management (NCSCM), Chennai
5	Institute of Environmental Studies And Wetland Management, Kolkata
6	National Institute of Oceanography (NIO), Panjim, Goa
7	National Institute of Ocean Technology (NIOT), Chennai

2. The preparation/updation of the aforesaid plans mentioned above, shall be carried out as per the general guidelines issued by this Ministry vide OM No. 12-1/2019-IA.III dated 26.06.2019.

This issues with approval of the Secretary (EF&CC).


(W. Bharat Singh)
Director (CRZ)

To

- 
- The Secretary (Environment & Forests) of Coastal States (Gujarat, Maharashtra, Goa, Karnataka, Kerala, Tamil Nadu, Andhra Pradesh, West Bengal, Odisha) & Administrators of Andaman and Nicobar Islands, Puducherry, Lakshadweep, Daman & Diu.

2. The Member Secretaries, Coastal Zone Management Authorities of Gujarat, Maharashtra, Goa, Karnataka, Kerala, Tamil Nadu, Andhra Pradesh, West Bengal, Odisha and UT of Andaman and Nicobar Islands, Puducherry, Lakshadweep and Daman & Diu.
3. All the above authorized agencies

Copy for information to:

1. PS to Minister for Environment, Forest and Climate Change
2. PS to MoS (EF&CC)
3. PPS to Secretary (EF&CC)
4. PPS to AS(RSP)/AS(AKJ)
5. PPS to JS(RKS)/JS(AKN)/JS(GM)/JS(RS)
6. Website of MoEF&CC
7. Guard File