

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

O.A. NO. 09 OF 2023 [WZ]

**BETWEEN:**

The Goa Foundation & Anr.

...APPLICANTS

**AND**

The Ministry of Environment, Forests  
and Climate Change & Anr.

...RESPONDENTS

**Submissions/Note on behalf of the Applicants  
in O.A No 9/2023 [WZ]**

**I. Overview of the O.A**

**A. Challenge is raised to the CRZ Notification, 2019 on the following grounds:**

- i)** Reduction of the coastal area covered by the Notification as existed in CRZ 1991 and CRZ 2011
- ii)** Removal of several restrictive provisions which existed in the earlier two Notifications
- iii)** Deletion of Special Status for Goa which was provided in the CRZ 2011 which ensured:
  - a. protection for the Khazans - a unique ecological asset, specific to Goa, based on tidal action, whereby through reclamation of sub-terrain lands along the coast, vide a system of bunds and sluice gates, fertile agricultural land was obtained.
  - b. 4 turtle nesting beaches were named and protected as ecological assets.

iv) CRZ 2019 will therefore harm the coastal areas as it will:

- a. reverse the environmental protection of the Indian coastal areas, which has been in existence since 1981.
- b. disturb the security of the coastal areas which are already under threat from climate change and sea level rise.

**B. The Applicant relies upon:**

i) The Doctrine of Non - Regression which is an accepted norm of international law and also now part of Indian law vide an NGT judgment

ii) The Doctrine of Sustainable Development which is embodied in India's commitments to International Treaties & Declarations

iii) The Precautionary Principle

iv) The Inter-Generational Equity principle

v) Directive Principles of the Constitution  
(Arts. 39 and 48A)

The Hon'ble S.C. and NGT have espoused these doctrines /principles in several judgements - the O.A. specifically notes *Indian Enviro Legal Action vs Union of India* and *Society for Protection of Environment vs Union of India*.

**C. Prayers:(pg 31)**

- a. to quash CRZ 2019;
- b. in the alternative: to delete / modify the detrimental provisions listed in para 11 of the O.A. and re-introduce /add provisions as set out in para 11 of the O.A. (pg 17 & 18)

## **II. Brief Description of the Regime of Coastal Protection in India**

**Background** - Coastal protection commenced in 1981 with a letter from the Prime Minister Smt. Indira Gandhi to the Chief Ministers of all coastal States to protect the area of 500 m. from the HTL from development.

**CRZ 1991** (*Ann 1- pg 35*) -

Significant features (*para 5 pg 4*):

- Protection of 500 m along the sea coast and 100 m along tidal rivers
- It created 3 Zones with different levels of protection - I, II, III along mainland; IV - Andamans, Nicobar & Lakshadweep islands
- It listed Permitted and Prohibited activities
- Pursuant to the 1996 SC judgment, CZMPs were notified, CZMAs set up and SC directed strict implementation of the CRZ Notification
- It was amended 25 times during its 20 years of existence.

**CRZ 2011:** (*Ann2 - pg 49*)

Significant features: (*paras 6 & 7 - pg 5*)

- Maintained the same 3 zones as CRZ 1991
- New CRZ IV - applicable to coastal waters upto 12 nautical miles
- listed significant coastal assets in CRZ I
- Special provisions for fisherfolk
- Hazard line - beyond 500 metres - climate change / sea level rise
- Special areas - Mumbai, Kerala, Goa
- Goa - Turtle nesting beaches, khazans received protection

While CRZ 1991 was based on the strong consciousness of the need to protect the country's coastal ecosystems, CRZ 2011 introduced protection for fisherfolk and awareness of climate change / sea level rise by demarcating the Hazard Line, which went beyond the 500 m stretch. Both these notifications have substantially protected the coastal areas of this country.

**CRZ 2019** (*Ann 3 - pg 77*):

Significant features: (*para 8 pg 6; details at para 10 - pg 9*)

- Reduced CRZ along sea coast to 50 m in CRZ IIIA
- Reduced CRZ along rivers to 50 m
- Removed several restrictions in coastal areas
- NDZ is a nomenclature without meaning
- Development activities in CRZ II and III subject to local T.P. laws
- Encouraging development along the coast
- Tourism is a huge recipient of these relaxations
- Hazard line is only for disaster management
- Special area - Goa - removed

## III. Details of the Challenges to CRZ 2019

*(para 10 - pg 9 - 16)*

1. Reduction of coastal areas –
  - CRZ IIIA [50 mts from 200 NDZ] (*para 10 a*)
  - Islands [restricted at 20 mts] (*para 10 a*)
  - Rivers (50 m from 100 mts) (*para 10 b*)
2. Removal of restrictive provisions thereby permitting several activities in the NDZ  
*(para 10 c & e)*
3. Development encouraged in CRZ III and Abandonment of CRZ II & III to local TP laws  
*(para 10 d)*
4. Hazard Line rendered irrelevant to coastal protection. Now a mere tool for disaster management (*para 10 f*)
5. Details of demarcation of crucial HTL omitted from Notification (*para 10 g*)
6. Goa deleted as a Special case  
*(para 10 h)*

## IV. Grounds for challenge to the CRZ 2019

1. The CRZ 2019 is allegedly based on recommendations in the Shailesh Nayak Committee Report. However, MOEF has also introduced changes not recommended by the Nayak Committee. There have also been no studies to justify the relaxation of restrictions in the coastal areas and, most importantly, no assurance that relaxation of norms will ensure protection of the fragile coastal areas. The Supreme Court has deprecated this practice

*(Nayak Com Report - Ann 4 - pg 105; Recommendations - pg 186. Petitioner's submission on the Nayak report - para 9 -pg 7, Ground A - pg 18; Ground G- pg 21)*

2. CRZ 2019 takes environment protection backwards / reverses protection to fragile & vulnerable coastal areas of the country

- Arbitrary decrease of the CRZ along the sea, river and islands. SC has already set aside relaxation along rivers in 1996. (*Ground B, C pg. 19 and F -pg 21*)
- Relaxation of norms is based on population, which will result in more development along the coast as population increases (*Ground D - pg. 20*)
- Hazard line is marginalized (*Ground E - pg. 20*)
- Elimination of the protection for khazan lands in Goa (*Ground P & Q -pg 30*)

3. CRZ 2019 is contrary to the 3 important Doctrines enunciated by the Supreme Court:

- the Precautionary Principle
- Sustainable Development
- Inter Generational Equity- (*Ground I - pg. 25 and O - pg 30*)

4. CRZ 2019 is contrary to the Environment Protection Act. S. 3 of EPA which is concerned with measures for protecting environment S. 3 (2)(v) - power to lay down restrictions, not remove them without justification.

(*Ground J - pg. 27*)

5. The CRZ 2019 is contrary to the Doctrine of Non Regression - an accepted norm in international law, now also recognised in Indian law via a judgment of the NGT

(*Ground M - pg 29*)

6. The Ministry is also duty bound by the Directive Principles to protect the environment.

*(Ground N - pg 29)*

7. The Scheme of CRZ 2019 comprising 7 Zones - CRZ IA & B, CRZ II, CRZ III A & B, CRZ IV A & B is a complicated system and will be difficult to enforce. The much simpler system of 4 zones already suffered from severe lack of enforcement by the authorities.

*(Ground Para K & L - pg. 28)*

Ms. Norma Alvares & Mr Om D'Costa

*(Advocates for Applicants)*

14th February 2024