

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

APPEAL NO. 142 OF 2024

IN THE MATTER OF:

Mr. Lloyd St. Jude Joachim Fernandes

...Appellant

Versus

Goa Coastal Zone Management Authority

and Ors.

...Respondents

WRITTEN SUBMISSIONS ON BEHALF OF THE APPELLANT

MOST RESPECTFULLY SHEWETH:

1. The Appellant respectfully submits that the present Appeal is filed by the Appellant challenging the impugned order/Direction dated 12/04/2024 issued by the Respondent no.1. The aforementioned matter was listed for Final hearing on 07.07.2026 and was finally heard on the said Date by this Hon'ble Tribunal. These written submissions are filed on behalf of the Appellant strictly on one point that was raised by this Hon'ble Tribunal during the course of hearing, namely, whether under the Coastal Regulation Zone Notification, 2011 ("CRZ Notification, 2011"), the Goa Coastal Zone Management Authority ("GCZMA"/"Respondent No.1") has any power to regularise construction and, if so, whether the Application for Revision of Plans filed by the Appellant ought to have been

considered and decided before the Respondent No.1 passed the impugned direction dated 12.04.2024 revoking the permission and directing demolition. The Appellant is not repeating the other grounds already urged in the Appeal and the Rejoinders, and confines this Submission only to the above point.

2. The Respondent No.1 had granted permission/approval dated 24.12.2019, and thereafter a further permission dated 08.07.2022, to the Appellant for erection of temporary wooden cottages and a shack admeasuring 133.285 sq. mts. each, in the property bearing Survey No. 158/1 of Calangute Village. The Appellant, acting strictly pursuant to and adherence to the said permissions, erected only 8 (eight) cottages as against 10 (ten) permitted, and has, at no point of time, exceeded the permissible Floor Area Ratio ("FAR") under the CRZ Notification, 2011.
3. An inspection was carried out by the Respondent No.1 on 03.03.2023, pursuant to certain complaints. The inspection report records that the structures are temporary in nature, and, at best, records a difference in area of 6 (six) of the cottages, each varying by approximately 10 sq. mts. over the sanctioned dimension, that too within the overall permissible FAR available to the Appellant.
4. The Respondent respectfully submits that even before the Show Cause Notice dated 06.06.2023 came to be issued, the Appellant had already, on 21.04.2023, filed an Application for Revision of Plans before the Respondent No.1, seeking regularisation of the very same variation of

about 10 sq. mts. in respect of 6 cottages noticed in the inspection report. This Application for Revision of Plans has remained pending consideration of the Respondent No.1 since 21.04.2023, that is, for almost a year before the impugned direction came to be passed.

5. Without deciding the pending Application for Revision of Plans dated 21.04.2023, the Respondent No.1 straightaway passed the impugned direction dated 12.04.2024 revoking the very permission granted by it and directing demolition of the entire structure. It is this omission, more particularly, which forms the subject matter of the point now being addressed.
6. The Respondent respectfully submits that Clause 4 of the CRZ Notification, 2011 lays down the procedure for clearance and regulation of activities in the Coastal Regulation Zone. A careful reading of this Paragraph shows that the power to deal with proposals /activity is not vested with one single authority. The Notification, in fact, splits the power between two authorities depending on the nature and extent of the activity in question:
 - (a) under Paragraph 4.3(i), the power to consider, all activities which are otherwise permissible and regularise activities/deviations of the nature involved in the present case is vested in the concerned State/Union Territory Coastal Zone Management Authority, that is, the GCZMA itself; and
 - (b) under Paragraph 4.3(ii) and (iii), it is only in respect of specified categories of larger or more significant

projects/activities that the power to grant clearance is vested in the Ministry of Environment, Forest and Climate Change ("MoEF"), and that too on the recommendation of the concerned CZMA.

7. In other words, the CRZ Notification, 2011 does not proceed on the footing that only the MoEF can regularise or revise construction in the CRZ area. Where the activity in question is of the nature falling within Paragraph 4.3(i), the GCZMA is fully and independently competent to examine, revise and regularise the same, without any reference to or recommendation being required from the MoEF.
8. The Appellant's case squarely falls within Paragraph 4.3(i). The structures in question already stand covered by a valid permission granted by the GCZMA itself. The Appellant has applied for revision of plan which was kept pending and not decided by the Respondent no.1 and without deciding the same the impugned order was issued. The Appellant has sought to be regularised is a marginal variation of about 10 sq. mts. in 6 cottages, without any increase in the overall permissible FAR. This is not a fresh project requiring environmental clearance from the MoEF; it is, at the highest, a minor deviation from an already sanctioned plan, which the GCZMA, as the very authority which granted the original permission, is fully competent to consider and regularise under Paragraph 4.3(i). The Appellant respectfully submits that the power to regulate is power to regularise, revise and control the activity within permissible limit.

9. Paragraph 4.4(i) of the CRZ Notification, 2011 further provides the machinery through which an application for revision of a plan already sanctioned is to be examined by the concerned Authority. It is this very provision under which the Appellant's Application for Revision of Plans dated 21.04.2023 was filed and remains pending. While considering such an application under Paragraph 4.4(i), the GCZMA is required to exercise its powers under Paragraph 4.3, and it is only after such consideration that any further action, if warranted, could have followed. The Respondent No.1 could not have ignored this statutory process and proceeded directly to revoke the permission and order demolition.
10. The power vested in clause 4.3 and 4.4 of CRZ notification, with the concerned authorities is pertaining to power to regularise the activities which are otherwise permissible under the CRZ notification. The import of clause 4.3 of Notification is that the CRZ authority has the power to regularise the activity which is permissible otherwise in terms of notification. This power vested under clause 4.3 with the CRZ authority under the CRZ Notification is reinforced by Section 21 of the General Clauses Act, 1897, which is a well-recognised principle of general application. Section 21 provides that where a power to issue any order is conferred on an authority, that power includes, unless a different intention appears, the power to add to, amend, vary or rescind any such order, exercisable in the like manner and subject to the like conditions.

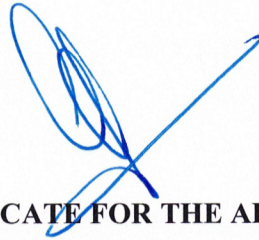
11. Applying this principle, since it is the GCZMA which had granted the original permission dated 24.12.2019 and the subsequent permission dated 08.07.2022 to the Appellant, the very same GCZMA necessarily has the power to entertain an application to vary, revise or amend that permission, including by way of regularising a minor deviation of the kind found in this case. The power to grant carries within it the power to revise. There is no reason, and none has been shown, why this ordinary rule of construction should not apply to a permission granted by the GCZMA under the CRZ Notification, 2011.
12. The Appellant has, at all times, acted pursuant to a valid permission granted by the Respondent No.1, and the deviation now in question is a minor variation of area within the permissible FAR, for which an Application for Revision of Plans/regularisation was already pending before the Respondent No.1 since 21.04.2023 and was well within the notice of GCZMA before issuance of the impugned direction. Following the very principle laid down by the Hon'ble Supreme Court, it was incumbent upon the Respondent No.1 to first decide this pending application, and only thereafter, if the application was rejected, to consider any further action. The Respondent No.1 could not, consistent with law, ignore the pending application and straightaway pass an order of revocation and demolition.
13. The impugned direction dated 12.04.2024, having been passed without considering and deciding the Application for Revision of Plans which was pending for almost a year, is therefore rendered illegal, arbitrary and contrary to the very scheme of the CRZ

Notification, 2011. This is not a mere technical or procedural lapse; it goes to the root of the matter, inasmuch as the Respondent No.1 has, in effect, denied to itself the exercise of a power that the CRZ Notification, 2011 itself confers upon it, and has proceeded to demolish structures without first examining whether the deviation was capable of being regularised, as it was bound to.

Therefore it is respectfully submitted that the Impugned order/direction is bad in law and deserves to be quashed and set aside and hence appeal may be allowed.

Date:- 15/07/2026

Place:- Panaji-Goa



ADVOCATE FOR THE APPELLANT