

Item No. 2

(Pune Bench)

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

(By Video Conferencing)

Appeal No. 07/2023(WZ)
I.A. No. 56/2023(WZ) & I.A. No. 59/2023 (WZ)

The Colva Civic & Consumer Forum

.....Appellant

Versus

GCZMA & Ors.

....Respondent(s)

Date of hearing: 21.02.2023

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Appellant : Mrs. Judith Almeda, Appellant in-person

ORDER

I.A. No. 59/2023(WZ)

1. By this application, Appellant in-person has prayed for permission to file documents to be taken on record. The same is allowed.

I.A. No. 59/2023 (WZ) stands disposed of accordingly.

Appeal No. 07/2023(WZ)

2. This appeal has been preferred against the order dated 09.12.2022 passed by the Respondent No. 1/GCZMA, whereby Respondent No. 3-M/s. West Zone Hotel alias Salcete Beach Resort/Project Proponent has been ordered to demolish the pool side Restaurant in the Survey No. 54/5, Stage, Shower room, fountain, Basement below swimming pool deck, Interlocking pavers on concrete base, car porch, security cabin and Cylinder Shed, erected on Survey Nos. 53/3 and 54/5 of Colva Village, Bardez, Goa and to restore the land to its original condition.

3. The submission made by the Appellant in-person is that the complaint was made by the Appellant regarding demolition of illegal structures i.e. 5 Cottages of (Gr.+1), Restaurant, STP, generator shed and swimming pool also, regarding which there is no direction given for demolition and the Appellant's complaint has been discharged without any justification. In order to convince us regarding illegality of the impugned order in regard to the above-mentioned properties, our attention is drawn to the finding given by the Respondent No. 1/GCZMA in the impugned order at page no. 30 of the paper book, where-in it is recorded that swimming pool has got approval dated 23.06.1994. In order to establish that the same is wrong finding, our attention is drawn to the decision dated 23.06.1994 taken by the Chief Town Planner and Member Secretary of GSCCE addressed to Shri N. J. Rebellow and others (original owner). In this, the subject matter is very clearly saying that it related to only addition and alteration of cottages on Survey Nos. 55/3 & 54/5 of Village: Colva, Taluka: Salcete and that it does not mention any thing about the swimming pool, therefore, it is wrong finding given in the impugned order that swimming pool had been approved vide order dated 23.06.1994.

4. With regard to not ordering demolition of 5 cottages of (G+1), the impugned order states that the same was not ordered to be demolished because an Expert Member had found it to be an open area, which was not habitable and the second floor is only for the purpose of protection from rain water. This is being controverted by the Appellant by drawing our attention to the photographs, which is annexed at page no. 53 of the paper book, which is being claimed to be the property in question and it is shown that the same is covered. This fact is to be decided on merits

after taking into consideration the evidence to be extended from the side of the parties.

5. With respect to non-ordering of demolition of generator shed, the impugned order says that this construction is of temporary nature but the Appellant says that even construction of temporary nature, needs permission, which has not been obtained in the present case, hence the same also needs to be demolished. Similarly the other structures which are not ordered to be demolished, are being stated to have been wrongly not directed to be demolished.

6. We admit this Appeal as it requires in depth consideration.

7. Registry is directed to issue Notice to the Respondents, returnable within 04(four) weeks.

8. Appellant is directed to provide copy of the application and relevant documents to the Respondents within a week.

9. Respondents are directed to submit their reply within 04(four) weeks providing copies of the same to the other parties in advance.

10. Appellant is also directed to take necessary steps for service upon the Respondents by both ways and also through available e-mail.

11. Since there is dispute with respect to some part of the disputed property to be open or covered, it would be appropriate for us to constitute a Committee to visit the site and submit its report in regard to these facts.

12. The Joint Committee comprises one member each of:-

- (i) The Goa Coastal Zone Management Authority(GCZMA),
- (ii) The Goa State Pollution Control Board (GSPCB) &

(iii) The District Magistrate, South Goa

13. The Goa Coastal Zone Management Authority (GCZMA) shall be the nodal agency for coordination and logistic support.

14. The report in the matter be filed by the Committee by e-mail at ngt-pune@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

15. Appellant is directed to supply the required documents and copy of the application to the Members of the Committee within three days from today.

16. A copy of this order be communicated to the above-mentioned Committee forth-with for compliance.

Put up this matter on 14.04.2023

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

February 21, 2023
Appeal No. 07/2023(WZ)
I.A. No. 56/2023(WZ) &
I.A. No. 59/2023 (WZ)
P.Kr