

Item No.1

(Pune Bench)

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

(By Video Conferencing)

ORIGINAL APPLICATION NO.18 OF 2023 (WZ)

Umesh Jagannath Phadte

.... Applicant

Versus

G.C.Z.M.A. & Ors.

....Respondents

Date of hearing : 06.03.2023

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

Applicant : Mr. Saurabh Kulkarni, Advocate

Respondents : Ms. V. Gracias, Advocate for R-1

ORDER

1. In pursuance of our order dated 24.02.2023, respondent No.1 – GCZMA has submitted its reply-affidavit on 03.03.2022 (year “2022” appears to have been wrongly written while mentioned date , instead of “2023), wherein it is submitted that Goa Paryavaran Savrakshan Sangharsh Samittee had filed an application before this Tribunal seeking enforcement of the Tribunal’s order dated 02.11.2017 passed in Original Application No.2323 of 2014 wherein following directions were given :-

“a) Respondent No.10 GCZMA shall take action against all such temporary structures or Shacks or any other structure found erected after 19.2.1991 in NDZ area along the beaches of Morjem, Mandre, Galgibag and Agonda without specific permission from GCZMA in accordance with law.

b) The Applicant or any person will be at liberty to point out existence of any such unlawful structures in NDZ to GCZMA for action in accordance with law.

c) Respondent No.10 GCZMA shall act expeditiously upon such complaint/s made by the Applicant or any person in respect of such unlawful structures/s.

d) We further direct Respondent No.10 GCZMA to strictly enforce the recommendations made by the Forest Department for conservation of Turtle Nesting sites in the Report on carrying capacity of beaches, particularly, those suggested by the Forest Department as follows:

i) No beach beds to be set up in the intertidal zone. The existing practice in Morjim is to lay the beach beds very close to the waterline leaving little scope for the turtles to move up;

ii) The beach shacks to desist from installing any outdoor illumination. The indoor lighting should also be muted and provided with opaque shields on sea facing side;

iii) Playing of loud music by the shacks beyond 6.00 PM and holding of beach parties to be prohibited.

iv) Movement of any automobile on the beach to be prohibited;

v) It should be made incumbent upon the shack licensees to play a proactive role in ensuring conducive condition to the mare turtles besides information sharing with staff of Forest department which monitors the entire coast.

e) Anybody found violating these recommendations shall be liable to pay compensation of ₹1 Lakh for each violation and the compensation shall be recovered by GCZMA. In case, the amount of compensation is not paid by the delinquent/s his/their case shall be referred to the Tribunal for seeking necessary orders in that regard.

f) We direct Respondent No.76 the Forest Department, Govt. of Goa to keep vigilance along the said beaches and report incidence of any violation of the said recommendations to GCZMA for further action.

g) Respondent No.10 GCZMA shall promptly act upon the report made by Respondent No.76 Department of Forest, Govt. of Goa in respect of violations of their recommendations.

h) In case of habitual violators of the said recommendations the GCZMA shall revoke the license granted to Shack owners/operators and remove/demolish shack/structure in accordance with law.

i) Liberty granted to the Applicant to pursue specific complaints made against unlawful structures lying in NDZ area along the said beaches.”

2. Thereafter some reference is being made in paragraph No.6 of the affidavit dated 03.03.2023 to an order of this Tribunal dated 25.02.2019 constituting three Member Committee but it is not made clear as to in which case the said order has been passed.

3. The learned counsel for respondent No.1 – GCZMA has not annexed any of these orders, which are finding mention in the affidavit filed by her which were supposed to have been filed for clarity.

4. We find that the prayer in this application was made by the applicant that a direction be issued to respondent No.1 – GCZMA to carry out the demolition of the structure made by respondent No. 4 – Dolphin Beach Resort, Oasis Restaurant & Bar. Therefore, it was bounden duty of respondent No.1 to present before us the current status in the matter as to whether any illegal structure was standing at the said place, which has not been done. Based on the report of Talathi, Mandrem dated 18.09.2020 (annexed at page 82 of the paper-book), this affidavit has been submitted stating that the demolition of the illegal structure has been carried out pursuant to the orders which were passed on 02.05.2019, 15.07.2019 and 10.02.2020, which is being disputed by the learned counsel for the applicant on the ground that the photographs, which he has annexed from pages 95 to 102 of the paper-book, which have been taken on 02.03.2023, establish prima facie that the illegal structure are still standing in the said area.

5. In view of above facts, we direct respondent No.1 to place before us a detailed affidavit supported by all judicial orders, which are relied upon by it in its affidavit and also the current position of the spot as to whether there is illegal structure standing thereon, which is being stated by the applicant. We grant two weeks' time to respondent No.1 – GCZMA for filing the said detailed affidavit.

6. Put up this matter for admission on 23.03.2023.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

March 06, 2023
O.A. No.18 OF 2023 (WZ)
npj