

**IN THE HIGH COURT OF BOMBAY AT GOA****SUO MOTU WRIT PETITION NO. 2 OF 2006**

V e r s u s

1. Union of India,  
through its Secretary,  
Ministry of Environment and Forests,  
Paryavaran Bhavan, C.G.O. Complex,  
Lodhi Road, New Delhi.
2. The Goa Coastal Zone Management Authority,  
Represented by its Member Secretary,  
Dept. of Science Technology and Environment  
Government of Goa,  
Panaji Goa.
3. State of Goa  
through Chief Secretary,  
Secretariat, Porvorim Goa.
4. The Sarpanch  
Village Panchayat of Querim – Tiracol  
Tiracol  
Pernem Taluka Goa.
5. The Sarpanch  
Village Panchyat of Paliem,  
Paliem  
Pernem Taluka Goa.
6. The Sarpanch  
Village Panchayat of Arambol  
Arambol  
Pernem Taluka Goa
7. The Sarpanch  
Village Panchayat of Mandrem  
Mandrem  
Pernem Taluka Goa.

8. The Sarpanch,  
Village Panchayat of Morgim  
Morgim  
Pernem Taluka Goa.
9. The Sarpanch  
Village Panchayat of Anjuna Caisua  
Anjuna  
Bardez Taluka Goa
10. The Sarpanch  
Village Panchayat of Calangute  
Calangute  
Bardez Taluka Goa
11. The Sarpanch  
Village Panchayat of Candolim  
Candolim  
Bardez Taluka Goa
12. The Sarpanch  
Village Panchayat of Chicalim  
Chicalim  
Mormugao Taluka Goa
13. The Sarpanch  
Village Panchayat of Chicolna – Bogmalo  
Chicolna  
Mormugao Taluka Goa
14. The Sarpanch  
Village Panchayat of Pale – Velsao -Issorcim  
Issorcim  
Mormugao Taluka Goa
15. The Sarpanch  
Village Panchayat of Sancoale  
Sancoale,  
Mormugao Taluka Goa

16. The Sarpanch  
Village Panchayat of Cansaulim – Arossim – Cuelim  
Cansaulim  
Mormugao Taluka Goa
17. The Sarpanch  
Village Panchayat Calata-Majorda-Utorda  
Majorda  
Salcete Taluka Goa
18. The Sarpanch  
Village Panchayat of Betalbatim  
Betalbatim  
Salcete Taluka Goa
19. The Sarpanch  
Village Panchayat of Sernabatim-Vanelim-Colva-Gandaulim  
Colva,  
Salcete Taluka Goa
20. The Sarpanch  
Village Panchayat of Cana Benaullim  
Benaullim  
Salcete Taluka Goa
21. The Sarpanch  
Village Panchayat of Varca  
Varca  
Salcete Taluka Goa
22. The Sarpanch  
Village Panchayat of Cavellossim  
Cavellossim  
Salcete Taluka Goa
23. The Sarpanch  
Village Panchayat of Naquerim – Betul  
Naquerim  
Quepem Taluka Goa

24. The Sarpanch  
Village Panchayat of Cola  
Cola  
Canacona Taluka Goa
25. The Sarpanch  
Village Panchayat of Agonda  
Agonda  
Canacona Taluka Goa
26. The Sarpanch  
Village Panchayat of Poinguinim  
Poinguinim  
Canacona Taluka Goa
27. The Sarpanch  
Village Panchayat of Loliem-Polem  
Loliem  
Canacona Taluka Goa
28. The Chief Officer  
Mormugao Municipal Council  
Vasco-da-Gama  
Mormugao-Taluka Goa
29. The Chief Officer  
Canacona Municipal Council  
Nagorcem-Palolem  
Canacona Taluka Goa
30. The Colva Civic and Consumers Forum  
with its office at H.No.257/1, Bagdem,  
Ward 3, Colva, Salcete Goa  
through its Secretary,  
Mrs. Judith A. B. Almeida  
major, r/o H.No.257/1, Bagdem,  
Colva, Salcete Goa.
31. Shri Aleixo Arnolfo Pereira  
major, r/o H.No.150,

Utorda, r/o Majorda,  
Salcete Goa.

.... Respondents

Advocate Ms. Norma Alvares, Amicus Curiae.

Mr. P. Faldesai, Addl. Government Advocate for the respondent nos. 2 and 3.

Mr. P. Korgaonkar, Advocate for the respondent no.9.

Mr. K. More holding for Mr. H D. Naik, Advocate for the respondent no.10.

Mr. N. Sardesai, Senior Advocate with Mr. L. Raghunandan, Advocate for the respondent no. 11.

Mr. Amit Palekar, Advocate for the respondent nos. 14, 18, 20, 21 and 22.

Mr. S. Redkar, Advocate for the respondent no. 17, 24, 26 and 27

Mr. Shivan Desai, Advocate for the respondent no.19.

Mr. Nigel Da Costa Frias, Advocate for the intervenor.

**Coram:- F. M. REIS &  
NUTAN D. SARDESSAI, JJ.**

**Date:- 21<sup>st</sup> June, 2016**

**ORAL JUDGMENT ( Per F. M. Reis, J)**

Heard the learned counsel appearing for both the parties.

2. Rule. Heard forthwith with the consent of the learned counsel appearing for the parties.

3. The learned counsel appearing for the respective respondents waive service.

4. A Suo Motu cognizance was taken by this Court based on

the news item in the local news paper by an order dated 31.07.2006 and accordingly notices were issued to the concerned Government Authorities. Thereafter, by order dated 08.08.2006 the learned Amicus Curiae appointed by this Court brought to the notice of this Court the various orders and the guidelines issued in different other petitions in connection with the structures which mushroomed within the NDZ area and subject to the CRZ Regulations, 1991. Accordingly, this Court by order dated 08.08.2006 passed the following directions.

“6. Having heard Mrs. Alvares, it has become necessary to issue following directions to the State Government.

(a) The Chief Secretary State of Goa and the Goa Coastal Zone Management Authority, is directed to indicate on oath as to how many cases of illegal construction were detected in last three years, in how many cases the steps were taken to remove them and how many of them were actually removed.

(b) The State of Goa is directed to disclose on oath as to what facilities are placed at the door of the Goa Coastal Zone Management Authority, so as to enable them to discharge their duties effectively, amongst others leading to removal of illegal construction.

(c) The Goa Coastal Zone Management Authority is directed to disclose on oath with complete details and particulars as to in how many cases as on date, the interim injunctions and/or the stay orders granted by the Civil Courts are operating against them.

(d) The State Government and the Goa Coastal Zone Management Authorities are directed to disclose details with particulars as to how many shacks were put up pursuant to the permission granted by them, how many of them were removed and how many of them are yet to be removed. They are also expected to disclose as to whether or not those shacks, which are still in existence, would interfere with the sand dunes and whether their existence is necessary to prevent erosion of sand dunes.”

5. Subsequently, the matter was examined by this Court on 16.07.2007 wherein it was noted that there were structures existing in the NDZ area, some of which might have come up prior to the coming into force of the CRZ Regulations, 1991 and in order to identify such structures the Village Panchayats along the Coastal Belts were ordered to be impleaded. Accordingly, directions were issued to all such

concerned Panchayats. Thereafter, the matter was taken up on 26.09.2007 wherein the concerned Panchayats also appeared and after perusing the entire records, this Court passed the following directions.

“(1) Each Panchayat/Municipality which has been served with a copy of the survey map prepared by the Directorate of Settlement and Land Records, shall identify from the survey maps given to it, those structures existing as on 19-2-1991 after excluding such structures in respect of which the CRZ Authorities had initiated the action but such action was discharged for any action whatsoever. This may be done by reference to the existing survey plans prepared under the Land Revenue Code or on the basis of permissions/licenses issued by the respective Panchayats/Municipalities. This exercise will be completed by each of the Panchayats/Municipalities by 31st January, 2008.

(2) In respect of other structures shown on the survey maps prepared by the Directorate of Settlement and Land Records i.e. those which are not identified as existing prior to 1991 as contemplated by Direction 1 herein above, the Panchayats/Municipalities shall issue notices to the owners and the occupants of those structures

to show cause as to why the said structure should not be demolished as having been constructed in the NDZ area. Such notices shall be issued latest by 29-2-2008.

(3) On perusal of the reply and after giving opportunity to the owners and occupants of giving them a personal hearing, the Panchayats/Municipalities shall take a decision on the existence of the structure prior to 19-2-1991. This final decision shall be taken by the Panchayats/Municipalities within a period of ninety days from the date on which all the owners/occupants have been served.

(4) The structure in respect of Clause 3 will be demolished in case no stay has been obtained in any statutory appeal/appeals or any other legal remedy and this demolition will be completed within a period of sixty days from the date of the service of the final decision upon the owners and occupants.

(5) We are informed by the learned Advocate General that seven Panchayats and one Municipality has not been served with a copy of survey map as yet and that the same is likely to be served within a period of two weeks from today. In respect of the aforesaid seven Panchayats and one Municipality the schedule

which is given for the issuance of notice in Clauses 1 to 4 herein above as contemplated in Clause 2 will stand extended to 15-3-2008.

(6) If the Panchayats/Municipalities observe any structures in the NDZ area which are not shown in the survey map it will be at liberty to include these structures in the steps described herein above.

(7) It is made clear that these directions only extend to areas which fall within CRZ III.

(8) The Panchayats/Municipalities are directed to regularly monitor the NDZ area to ensure that no additional structures in the 200 meters zone will be permitted to be constructed as indicated in the survey maps. If any new construction is detected the Panchayats/Municipalities shall immediately take action against the same in accordance with law.

(9) It is further made clear that these directions will also not apply to structures which have been held to be validly constructed or repaired with permission of the CRZ Authorities and to structures in respect of which action has already been initiated by the CRZ Authorities/Panchayats/Municipalities before the date of the passing of this order.”

6. Based on the directions issued by this Court, the concerned Panchayats carried out the exercise of identifying the structures which were located in the NDZ area and also whether any of such structures were in existence prior to the coming into force of the CRZ Regulations, 1991 and the exercise with that regard was carried out from time to time and as and when there was any default or breach in carrying out such exercise, this Court issued directions to ensure that the exercise would be expeditiously completed.

7. The records however reveal that as far as Village Panchayat of Colva is concerned, there were doubts about the averments in the affidavit about the action already taken and as such by an order dated 15.01.2013 the GCZMA was directed to carry out an inspection and submit a report. Accordingly, a report was submitted inter-alia identifying the number of structures which were existing in the NDZ area and it was pointed out that the issue about such structures was under consideration before the Inquiry Committee constituted by the GCZMA. It appears that the directions issued by this Court to examine the structures identified in the inspection report and under consideration before the Inquiry Committee have not yet been completed as reflected in the affidavit filed by the respondent no.2/GCZMA dated 11.04.2016

that the action is proposed to be taken with regard to such structures as referred to by the local Village Panchayat. There is no compliance report filed with regard to such structures by the Village Panchayat of Colva.

8. The records also reveal that as far as the Village Panchayat of Anjuna is concerned, the action initiated in respect of the structures existing in the NDZ area have not attained finality which can be seen from their compliance report /affidavit dated 20.06.2016 which inter-alia suggest that the exercise is still in progress.

9. Mr. S. Desai, learned counsel appearing for the proposed intervenors contends that there are existing structures in the area which were within the jurisdiction of Colva Panchayat on which count the intervention application has been filed. The learned counsel further points out that though actions are taken as against the existing structures pursuant to the directions issued by GCZMA and the matter is pending before the learned NGT, nevertheless, as the issue with regard to such structures within NDZ area is under consideration in the above petition, it would be appropriate that the legality or otherwise of such structures of the proposed intervenors be also examined by this Court. The learned

counsel as such points out that the application for intervention be allowed and the matter be accordingly examined by this Court.

10. Mr. Nigel Da Costa Frias, learned counsel appearing for the intervenor however submits that as far as such structures of the proposed intervenors are concerned there is already an order of demolition passed by the GCZMA and the appeal has been preferred by the proposed intervenors. The learned counsel further pointed out that a review petition filed by the proposed intervenors is also under consideration before the learned NGT. As the matter is already under consideration before the NGT, the question of considering the legality or otherwise of such structures in the present petition would not at all be justified.

11. The present petition is limited to direct the concerned authorities to generally perform their statutory functions and initiate action against the defaulters in accordance with law. The legality or propriety of such action by the concerned Panchayats and GCZMA is a matter which would have to be independently examined in appropriate cases by the concerned authorities in accordance with law. In the present petition, it would not be possible to consider individual aspect

which would require even evidence to be led and the documents to be examined. In such circumstances, the present petition is limited only to generally direct the concerned authorities to perform the statutory functions to proceed to take the action against any illegal constructions which are existing in the NDZ area as defined under the CRZ Regulations. This is not a petition where a specific default of any particular party has been examined by this Court. The grievance of individual parties affected by such general direction would have to be examined independently in accordance with law.

12. As pointed out herein above, we find that most of the concerned Panchayats had already initiated action against such structures existing in the NDZ area in violation of the CRZ Regulations. But however, as far as Colva and Anjuna Panchayats are concerned, we find that the authorities would have to proceed to take necessary action in connection with the existing structures in violation of the CRZ Regulations in the NDZ area.

13. In such circumstances, it would be appropriate to dispose of the above petition in terms of the interim directions issued by this Court by order dated 08.08.2006 and 26.09.2007.

14. Besides the above directions, the Anjuna as well as the Colva Panchayats namely respondent nos. 9 and 19 and the GCZMA are directed to take necessary action with regard to the structures identified in the report of the GCZMA and proceed to take necessary action in accordance with law within three months from today and file a compliance report with that regard.

15. We record our appreciation to the efforts and services rendered by the learned Amicus Curiae in assisting the Court in taking a view in the above Writ Petition in public interest. We accordingly fix a token amount payable to the learned Amicus Curiae which is quantified at Rs.80,000/-. The Registry is directed to pay the learned Amicus Curiae a sum of Rs.30,000/- deposited in the Registry pursuant to the orders passed in the above petition. The remaining such of Rs.50,000/- shall be paid by the State Government – respondent no. 3 within four weeks from today. Rule is made absolute in the above terms. The petition stands disposed of accordingly.

**NUTAN D. SARDESSAI, J.**

**F. M. REIS, J.**

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