

IN THE HIGH COURT OF BOMBAY AT GOA**PIL WRIT PETITIONS NO.6 & 10 OF 2013****PIL WRIT PETITION NO.6 OF 2013**

1. Mr. Antonio Fernandes,
aged 52 years, s/o Jose Fernandes,
occupation Fisherman, r/o H.No.899,
Maddant, Cortalim, Goa.
Mobile No.7507189583
Annual Income Rs.72,000/-
 2. Mr. Pobre Jesus Vaz,
aged 47 years,
s/o Sacrafamilia alias Joao Vaz,
Occupation Fisherman
and in business,
r/o H.No.789, Zamboll, Cortalim, Goa.
Mobile No.9923490204
Pan No.AIOPV7108E
E-Mail Pivaz@live.com
Annual Income Rs.96,000/-
 3. Mr. Agostinho Silveira,
aged 49 years, s/o Joao Silveira,
Occupation Seaman, r/o H.No.977,
Nova Palmar, Cortalim Goa.
Mobile No. 7387890322
Pan. No. DBMPS7775G
Annual Income Rs.1,00,000/-
 4. Mr. Fernando Rodrigues,
aged 51 years,
s/o late Marcelino Rodrigues,
Occupation Businessman,
r/o H.No.947, Maddant,
Cortalim, Goa.
Mobile No.9822149613
Pan No. AUXPR9198R
Annual Income Rs.1,20,000/-
- ... Petitioners

V/s.

1. State of Goa, through the Chief Secretary, having office at Secretariat, Porvorim Goa.
2. Goa Coastal Zone Management Authority through its Member Secretary, Department of Science, Technology and Environment, Opp. Saligao Seminary, Saligao, Bardez Goa.
3. Ministry of Environment & Forests, through the Secretary, Paryavaran Bhavan, C.G.O. Complex, Lodhi Road, New Delhi 110003.
4. Captain of Ports Department through the Captain of Ports, Government of Goa, Panaji, Goa.
5. Village Panchayat of Cortalim through its Secretary, Cortalim Goa.
6. The Deputy Collector, Mormugao, Vasco-da-Gama, Goa.
7. The Town & Country Planning Department through the Town Planner, Mormugao Goa.
8. Shri Anthony De Sa, major of age, Partner of M/s De Sa Engineering Works, H.No.907, Maddant, Cortalim Goa.
9. Shri Raymond De Sa,

major of age, Partner of
M/s. De Sa Engineering
Works, resident of H.No.907,
Maddant, Cortalim Goa.

... Respondents

Shri Nitin Sardessai, Senior Advocate with Shri G. Panandikar,
Advocate for the petitioners.

Shri R. Shivolkar, Additional Government Advocate for the
Respondents No.4, 6 & 7.

Ms. Susan Linhares, Advocate for the Respondent No.5.

Shri S.S. Kantak, Senior Advocate with Shri A. Kamat and Shri
P. Talaulikar, Advocates for the Respondent No.9.

**WITH
PIL WRIT PETITION NO.10 OF 2013**

1. Voice of Villagers,
A Society registered under Societies,
Registration Act, 1860
with its office at H.No.248,
Senaulim, Verna, Salcete Goa,
403722. Through its member
and authorised representative,
Mr. John Philip Pereira,
55 years of age,
r/o H.No.520, Mazilvaddo
Verna, Salcete Goa.
Phone No.08322782473
Fax No. Nil
Mobile No. 9860043800
PAN Number ANSPP2619M
National Unique Identity Number:Nil
Email-Address : johnolinda@hotmail.com.
Annual Income : 1.5 lakhs Petitioner.

V/s.

1. The State of Goa,
Through its Chief Secretary,
Secretariat, Porvorim Goa.
2. The Goa Coastal Zone Management
Through its Member Secretary,

- Saligao, Bardez Goa.
3. The Goa State Pollution Control Board,
Through its Member Secretary
Patto, Panaji Goa.
 4. The Deputy Collector & SDO,
Mormugao, Vasco-da-Gama,
Goa.
 5. The Chief Town Planner,
Town and Country Planning
Department, Panaji Goa.
Dempo Tower Patto Plaza,
 6. The Deputy Director of Panchayats,
South Goa, Collectorate
(Comunidade Building)
Margao Goa.
 7. The Village Panchayat of
Cortalim – Quellossim,
Through its Secretary,
Cortalim, Mormugao Goa.
 8. The Captain of Ports,
State of Goa,
Capt. of Ports Building,
Panaji Goa.
 9. M/s Desa Engineering Works,
Through its partners,
 - i) Mr. Raymond De Sa,
Major of age,
 - ii) Mr. Antonio De Sa,
major of age,
 - iii) Mr. Rosario De Sa,
Major of age,All residents of H.No.907,
Maddant, Cortalim,
Mormugao Goa.
- ... Respondents.

Shri Nigel Da Costa Frias, Advocate for the Petitioners.
Shri S. Dhargalkar, Additional Government Advocate for the

Respondents No.1, 2 & 4.

Ms. S. Linhars, Advocate for the Respondent No.7.

Shri S.S. Kantak, Senior Advocate with Shri A. Kamat & Shri P. Talaulikar, Advocates for the Respondents No.8 & 9.

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

Date : 31st JULY, 2017

JUDGMENT : (Per F.M. REIS, J.)

Heard the learned Counsel for the parties.

2. The above public interest litigation inter alia seeks a direction to the respondents no.2,4,5 & 7 to take immediate action for demolition of the illegal structures constructed in the riverine land and further to quash and set aside the permission dated 19/08/2010 granted to the respondent no.8 by the respondent no.4 and also to quash and set aside the permission dated 8/09/2010 granted to the respondent no.8 by the respondent no.7 as well as the construction license dated 30/09/2010 granted by the respondent no.5 to the respondents no.8 & 9 and consequently issue direction to demolish the subject dry dock and to restore the riverine area.

3. Briefly, it is the contention of the petitioners that the respondent no.2 granted approval to the respondents no.8 & 9 to start a barge repairing workshop on 30/05/2008 and thereafter on 28/08/2008 the respondent no.4 also granted approval for such activity which clearly stated that the riverine land would be water fronted for barge repairs only, which would be done in plot bearing survey no.30/8. It was also stated that the said permission also contained a condition that no construction of any nature would be carried out in the said portion of the encroached Government riverine land. Thereafter on 9/09/2008, the respondent no.8 applied to the respondent no.2 for permission to construct a dry dock in the said property surveyed under no.30/8. It is contended by the petitioners that the plan produced by the said respondent shows that the construction would go much beyond the property surveyed under no.30/8 into the river Zuari. It is further contended that the said plan was different from the plan where the dry dock was to be located. An approval was granted on 27/01/2010 by the respondent no.2 for the construction of the dry dock in the property under survey no.30/8 although the plan showed that the construction would come up much beyond the low tide line in the river. It is

contended by the petitioners that such permission is bad in law issued by the respondent no.2 as it had no powers to permit construction beyond the low tide line into the river and that such permission could not be granted without demarcating the low tide line. It is also pointed out that appropriate Authority to grant such permission was the respondent no.3. It is further pointed out that the said permission contained condition that prior to the commencement of the work, the respondent no.8 should obtain an NOC from the respondent no.4 and other Authorities. The respondent no.4 granted approval on 19/08/2010 for the construction of the said dry dock in survey no.30/8. It is contended that the said permission is illegal as the respondent no.4 has no powers to grant permission for construction in the Government riverine land. Thereafter, on 8/09/2010, the respondent no.7 granted approval for the said construction and a construction license was issued on 30/09/2010 by the respondent no.5 to the respondents no.8 & 9 for the construction of the said riverine land. It is contended by the petitioners that the said approval dated 8/09/2010 and the license dated 30/09/2010 are bad as the same refer to the construction coming up in the property

surveyed under no.30/8 but however the plan shows that the same would be constructed in the river Zuari. Subsequently by letter dated 8/10/2010, the respondent no.2 informed the respondent no.8 that the permission granted by the respondent no.2 was kept in abeyance and no work was permitted to be carried out based on such license. Thereafter, on 22/02/2011 the respondent no.2 passed an order observing that the respondent no.8 had produced various permissions and that the activity is permissible under the CRZ Notification. It was also observed that the member of the respondent no.2 would visit the site and conduct a spot inspection. Subsequently on 11/04/2011 a letter was issued to the respondent no.8 withdrawing the letter dated 8/10/2010. Such letter was issued based on the Inspection Report prepared on 17/03/2011 which indicated that no encroachment was observed when admittedly no construction could be carried out during that period. Though occupancy certificate was not granted, a vessel was permitted to enter in such dry dock. The petitioners addressed a complaint on 17/08/2012 to the respondent no.2 to take immediate action. No reply came forward to such complaint. It is further contended that the Authorities on 17/09/2012 remained

present at the site though the petitioners were denied entry into the dry dock. The complaint was lodged by the petitioners with the Directorate of Panchayat about such incident and thereafter the petitioners obtained the report of the site inspection. It is further contended that the respondents no.4 & 5 have observed that the complainants refused to enter the subject premises. It is also pointed out that the Inspection Report relied is erroneous and cannot be relied upon and consequently the petitioners addressed a letter dated 17/12/2012 to the respondent no.4 with a copy to the respondent no.1 calling upon the respondent no.4 to initiate immediate action for the removal of the encroachment in the river. As no action was being taken and being aggrieved by the inaction thereof, the petitioners filed the above petition for the reliefs stated herein above. The challenge of the petitioners is essentially that based on the said licenses no construction should be done in the river of Zuari.

4. The other Public Interest Litigation bearing no.10/2013 is in respect of the permissions granted by the statutory Authority inter alia contending that the CRZ area cannot be

used for putting up construction besides laying more emphasis upon the powers of the respondent no.8 Captain of Ports in granting such permission to the private respondents who carried out construction in the riverine land between the low tide and high tide.

5. The respondents no.8 & 9/private respondents in both the petitions have filed their reply essentially disputing all the claims put forward by the petitioners. The respondents have also raised preliminary objections claiming that the petition has been filed at the instance of Mr. Joaquim Rosario D'Sa. There are civil and criminal litigations between the private respondents and said Joaquim D'Sa. It is also pointed out that the said Mr. Joaquim D'Sa is working at the behest of a business rival of the private respondents. It is also contended that the petition is barred by laches and deserves to be rejected. It is further contended by the respondents no.8 & 9 that the dry dock has been constructed by the respondents after having obtained all the permissions from all the statutory Authorities and that such dry dock is completely legal. It is also pointed out that by permissions dated 30/05/2008 the Goa Coastal Zone Management Authority

respondent no.2 herein, after examining the proposal of the private respondents no.8 & 9 granted permission for the construction of the dry dock to the said respondents. It is further pointed out that the Captain of Ports after inspection and after obtaining permission of the Government by letter dated 27/01/2010 granted permissions to the private respondents for the construction of the dry dock in the area admeasuring 1330.56 sq. mts. along the water front in the river Zuari under survey no.30/8. It is further pointed out that the permissions obtained by the said respondents are legal and valid having obtained permissions to carry out a construction in the said riverine land. It is also pointed out that after obtaining all the necessary permissions from the Village Panchayat Cortalim, the activities were carried out by the private respondents. It is also pointed out that the Town and Country Planing Authorities and the Chief Town Planner, Mormugao has by a letter dated 2/05/2013 addressed to the Deputy Collector, Mormugao that no hill cutting was carried out for such period. It is also pointed out that the dry dock was in operation till September, 2012. It is also pointed out that pursuant to the complaint lodged by M/s. Vipul Shipping in connection with the subject dry dock a show cause notice

was issued to the respondent no.9 by the respondent no.2. After conducting the inspection and hearing the respondent no.9, the respondent no.2 observed in his order dated 11/04/2011 that the works are carried out as per the plans dated 19/08/2012, which are approved by the Captain of Ports. It was further submitted that as per the CRZ Regulations of 2011, the competence to sanction the project even though the cost of the same is above 5 crores is with the GCZMA. The said respondents also disputed that there is any navigational hazard while putting up such construction. It is also contended that the petition is filed with long delay. The affidavit of the private respondent in other petition is also on same lines as not disputed by the learned Counsel for the private respondents.

6. The respondent no.9 has also filed the reply on similar lines as that of the respondent no.8. A rejoinder has also been filed by the petitioners disputing the allegations made. The secretary of the Village Panchayat of Cortalim has also filed an affidavit. The learned Counsel appearing for the respondent no.8 has fairly stated that the defence in both the petitions of the private respondents is similar. The respondent

no.8 Captain of Ports in PIL WP No.10/2013 has filed a reply inter alia contending that there are more similarly placed dry docks.

7. When the matter was heard for admission, by a reasoned order Rule came to be issued by an order dated 25/03/2014 inter alia issuing directions to the State Government and all the statutory Authorities, more specifically the GCZMA, MEF and the Captain of Ports in PIL WP No.6/2013 and the Ministry of Environment and Forest and the Captain of Ports to file a detailed affidavit considering the construction of the respondents no.8 & 9. The observations made in the said order also disclose the position of the subject construction vis-a-vis the other docks of the third parties to show to what extent the construction can be allowed and disallowed. The State Government had also been given liberty to take action in accordance with law. An affidavit came to be filed by the Captain of Ports/the respondent no.8 in PIL WP No.6/2013. It is contended that the said respondents alongwith the other concerned Officials of the Goa Coastal Zone Management Authority conducted joint inspection of the structures under dispute. It is further

contended that as the activities of the dry dock are in the nature of foreshore activity, permissions under clause no.4 of the Coastal Zone Regulations of 2011 came to be granted. It is also pointed out that it is only meant to bring the barges. The rejoinder also is filed disputing the allegations.

8. Shri Nitin Sardesai, learned Senior Counsel appearing for the petitioners in PILWP No.6/2013 and Shri Nigel Da Costa Frias, learned Counsel appearing for the petitioners in PILWP No.10/2013 have vehemently contended that the activities carried out by the respondent no.9 in both the petitions are illegal being carried out in the CRZ area. The learned Counsel has brought to our notice that the GCZMA sanctions and considers projects up to 5 crores whereas the subject project is of more than 10 crores and it was not within the permissible limits of the respondent no.2/GCZMA. The learned Senior Counsel further pointed out that such permission if any have to be granted by their MOEF at Delhi and, as such, the permissions granted by the GCZMA are nonest in law and deserve to be quashed and set aside. The learned Senior Counsel further pointed out that admittedly construction activity is not permissible in the CRZ area and

according to them foreshore activities permissible under the CRZ notification are only for the purpose of docking the vessels alongwith the property of the private owners and not to put up any construction in the riverine land. It is further pointed out that there is a permanent structure/platform constructed by the private respondents in the riverine land from low tide line to the high tide line which is not permissible in terms of the CRZ notification. The learned Senior Counsel further submits that the Captain of Ports has no jurisdiction to grant construction permission for riverine land and, as such, the permission granted by the Captain of Ports is totally unsustainable in law. The learned Senior Counsel further pointed out that in terms of the Port Rules riverine land is at a distance of 50 yards from the high tide line of the river and, as such, according to him the Captain of Ports is not entitled to grant any permission to put up a permanent structure in the riverine land. The learned Senior Counsel further pointed out that the Apex Court in the recent judgment dealing with the fees to be paid to use riverine land in the case of **M/s. Delta Engineers V/s. State of Goa & Ors. [2009 12 SCC 110]** has clearly held that riverine land can be used only for specific activities and by no stretch of imagination can such

activities include permanent structure in the riverine land. The learned Senior Counsel has placed reliance at para 17 of the said judgment that no permanent activities can be carried out by the private respondents. The learned Senior Counsel further submits that the GCZMA apart from not having any jurisdiction or power to consider the subject permission has proceeded to grant permission in CRZ area which is a no development zone. It is further pointed out that the foreshore activities cannot by any stretch of imagination include any permanent construction in the riverine land and according to them the respondent no.2 GCZMA is not justified to grant such permission. The learned Senior Counsel has also taken us through the report submitted by the Captain of Ports pursuant to the directions issued by this Court and pointed out that the respondent no.8 has assumed jurisdiction that it has powers to allow permanent structure in the riverine land. The learned Senior Counsel has also taken us to the different rules as framed by the State Government to point out that after using such riverine land, the land has to be reverted to its original condition and, as such, according to them putting up such permanent structure would lead to an irretrievable situation. It is further pointed out that the permissions which

have been granted by the statutory Authorities as well as the Village Panchayat revolve around the permission granted by the GCZMA and, as such, considering that the permission granted by the GCZMA is nonest in law, the subsequent permissions granted by the statutory Authority would have no legal effect. The learned Senior Counsel further pointed out that the area of the property surveyed under no.30/8 admeasures 671 sq. mts. having a very small width whereas the riverine land allowed by the Captain of Ports is 1947 sq. mts. which is three times the land area belonging to the private respondent which itself shows the non-application of mind by the Captain of Ports in granting such permission. The learned Senior Counsel further submits that the Government land cannot be appropriated by the private owners or owners of properties adjoining rivers for their personal use as such, the lands belong to the State Government.

9. Shri Nigel Da Costa Frias, learned Counsel for the petitioners in PIL WP No.10/2013 has also brought to our notice the plan produced by the petitioners DSLR which clearly shows the extension carried out by the private respondent which shows that the dry dock exists beyond the

riverine land into the river. The learned Counsel as such pointed out that the the permissions be quashed and set aside.

10. On the other hand, Shri S.S. Kantak, learned Senior Counsel appearing for the respondent no.9 has pointed out that the Public Interest Litigation filed by the petitioners is only to vindicate their private interest as according to him such litigation has been filed by rivals in the business. The learned Senior Counsel further pointed out that as the petition itself is vitiated, the question of granting any relief in such petition would not arise. The learned Senior Counsel further pointed out that permissions were granted way back in the year 2009. It is further pointed out that though GCZMA permission was granted in the year 2011 the construction of the dry dock was completed and, as such, the petitions are to be rejected on the ground of laches. It is further pointed out that inaction on their part from seeking any relief at the initial stage of the construction of the dry dock would itself disentitle the petitioners for any relief in the exercise of powers under Article 226 of the Constitution of India. It is further pointed out that the construction of the dry dock is within 50

yards from the high tide line of the river and, as such, within the permissible limits. It is further submitted that the word 'foreshore' itself suggests that such activities can be carried out in the riverfront area and not in the land as suggested by the learned Senior Counsel appearing for the petitioners. The learned Senior Counsel further submits that the initial valuation of the project was 5 crores, and as such does not invalidate the permissions granted to the project of the private respondent no.9 as the cost exceeded beyond 5 crores. The learned Senior Counsel further pointed out that as the GCZMA has rightly considered the matter there is no question of interference in the impugned permissions. The learned Senior Counsel further submitted that all the activities carried out by the private respondent no.9 are in accordance with the statutory regulations and, as such, according to him there is no case made out for any interference in such direction. The learned Senior Counsel further points out that the Port Rules itself contemplate that riverine land can be used to permit foreshore activities for the purpose of carrying out repairs of the vessels during the dry season. It is further submitted that the dry dock functions on the premise that repairs can be carried out during the low tide without any

waterfront. The learned Senior Counsel, as such, points out that as the foreshore activities are permissible in terms of the CRZ Regulations of 2011 such activities can be carried out in the CRZ areas and, as such, there is no case made out for any interference.

11. Shri Dhargalkar, learned Additional Government Advocate appearing for the respondent no.8 has vehemently argued that there are similarly placed dry docks in the vicinity in the riverine land beyond the high tide line of the river and, as such, according to him the activities carried out by the respondent no.9 is a permissible activity. The learned Additional Government Advocate further submits that the Captain of Ports has rightly granted the permission to the respondent no.9 and as such there is no case made out for any interference in such activities.

12. Ms. Susan Lihares, learned Counsel appearing for the Village Panchayat points out that the activities permitted are based on the GCZMA permissions.

13. The learned Additional Government Advocate further

points out that the area of riverine land cannot be restricted to 50 yards as it can go beyond 50 yards from the high tide line into the river. The learned Additional Government Advocate further points out that the restriction of 50 yards is towards the land from the high tide line of the river. As far as towards the river is concerned, it can be even more than 50 yards.

14. We have considered the contentions of the learned Counsel appearing for the respective parties and with their assistance, we have also proceeded to examine the relevant records. Considering the view we propose to take we shall deal with the first contention raised by the petitioners to the effect that the respondent no.2 GCZMA had no jurisdiction to grant the permission to the petitioners under the relevant CRZ notification. It is not disputed that the subject permission in the present case was granted by the GCZMA in terms of the CRZ notification 1991. The said CRZ notification 1991 which deals with the regulation of permissible activity inter alia provides at clause 3(2)(v) & 3(3)(ii) as under:

3(2)(v) – All other activities with investment of five crores rupees or more:

Provided that activities involving investment

of less than five crores rupees shall be regulated by the concerned authorities at the State or Union territory level in accordance with the provisions of sub paragraph (2) of paragraph 6 of Annexure I of this Notification.

3(3)(ii) – Within the framework of such approved plans, all development and activities within the CRZ other than those covered in para 2 and para 3(2) above shall be regulated by the State Government, Union Territory Administration or the local authority as the case may be in accordance with the guidelines given in Annexures-I and II of the Notification.

The said provision clearly provides that the regulation of activities involving investment of less than 5 crores would be examined by the concerned Authorities at the State level in accordance with the provisions of sub paragraph (2) of paragraph (6) of the Annexure I of the notification. As pointed out herein above, it is not disputed by the learned Counsel appearing for the private respondent no.9 that the investment involved in the subject project was more than 5 crores. Consequently, the question of examining the permissions at the State level as carried out in the present case would not arise at all. It is an admitted position that the jurisdiction assumed by the respondent no.2 GCZMA is on the assumption that the investment involved in the subject project was less than 5 crores which apparently is not correct.

Such permissions are to be examined by the Ministry of Environment and Forest which are the respondent no.3 herein. As the permissions have not been issued by the competent Authority as maintained under the CRZ notification 1991 as admittedly in force at the relevant time, without going into the merits of the rival contentions such permissions are unsustainable in law and deserve to be quashed and set aside.

15. At this stage, Shri S.S. Kantak, learned Senior Counsel appearing for the private respondents brought to our notice the judgment passed by this Court in PIL WP No.21/07 dated 24/03/2009 in the case of **Mr. Atmaram Gopal Parab V/s. M/s. Alcom Cement Company, Jetty & Ors.** reported in **[2009 (1) Goa L.R. 427]** wherein this Court has taken a view that when such permissions are granted at the State level without the approval of the MOEF the Court can quash and set aside such permission but grant liberty to the concerned private respondent to obtain such permission from the MOEF within a specific period and protect the activities being carried out by the said respondents. We shall consider this aspect when we proceed to grant the relief in the above

petition.

16. The next aspect which we propose to examine is what are the nature of the activities which can be carried out in the riverine land. In terms of the judgment of the Apex Court in *M/s. Delta Engineers (supra)*, it was observed by the Apex Court in paras 13,18 & 19 thus:

13. All barges using the river pay a barge tax. Therefore, no separate fee or charge can be levied for use of any river space for anchoring or mooring any barge in any part of the river. "Landing place" refers to a land abutting the river or other navigable water, used for loading and unloading of goods or for embarking or disembarking of passengers or the terminus of a road on a river or other navigable water for the purpose of loading, unloading, embarking or disembarking. In short, "landing place", is a place where people can embark/disembark and/or where goods can be loaded/unloaded, from or into a vessel.

18. The barges/boats remained moored for periods extending from few hours to even a few weeks, depending upon the extent and nature of repairs to be carried out. Consequently, that portion of the river surface (during high tides) and riverine land (during low tides) alongside the workshop could not be used by anyone else for berthing, mooring, anchoring, or navigating. Thus, a portion of the river and the riverbed below, belonging to the government, alongside the appellant's workshop was regularly and exclusively used by the appellant for the mooring of barges/boats which come for repairs.

19. If several such areas of the river adjoining the banks were demarcated and put to exclusive use by private workshops and Boat operators without any regulation, it will affect the river traffic, navigation and mooring of vessels in the river. The port authorities have to ensure that no structures are erected in the river, that riverine land is not encroached, that siltation does not occur, and that there is no pollution by workshops or industries situated on the banks of the river. All these are incidental to the permission given by the port authorities to operate a workshop by berthing barges and other vessels in the river, alongside the workshop and carry out and undertake repairs.

17. We are not proceeding to examine the nature of the permissible activities in the CRZ areas along the river as any observation with that regard may influence the Authorities whilst taking a decision based on an application filed by the private respondents before the MOEF.

18. Rule 54(A) of the Goa, Daman and Diu Port Rules of 1983 inter alia provide the use of the Government riverine land. The said provisions clearly provide that after such use, the land would have to be restored to its pristine original position. In this context, the Captain of Ports would have to consider the said observation of the Apex Court and consider whether putting up a permanent structure of concrete in the

riverine land can ultimately restore the land to such condition. No doubt, the permissions granted by the Captain of Ports would depend upon the view by the MOEF if permissions are granted under the Environment Protection Act.

19. In such circumstances, we find that the impugned permission granted by the respondent no.2 GCZMA dated 27/01/2010 and 01/02/2010 cannot be sustained and are liable to be quashed and set aside. The respondent no.9 is accordingly directed to approach the competent Authority to get the permissions in terms of the applicable CRZ regulations within 6 months from today. For such period of 6 months, there will be status quo with regard to the existing construction activity carried out by the respondent no.4. Needless to say, all the other statutory permissions obtained from the Captain of Ports, the Village Panchayat Town Planning Authorities would be subject to the permissions if at all granted by the competent authority under the Environment Protection Act. In case no permissions are granted, the concerned Authorities will have to proceed in accordance with law. Mr. S.S. Kantak, learned Senior Counsel appearing for the respondents no.8 & 9, upon instructions, states that the

respondent no.9 shall not take any new contract with regard to the repairs of vessels other than the pending contracts which have already been taken by the private respondent no.9. Hence, status quo subject to the said statement of the learned Senior Counsel appearing for the private respondents no.8 & 9 which is accepted and shall automatically be vacated after a period of 6 months.

20. Rule is made absolute in the above terms. Both the petitions stand disposed off accordingly with no orders as to costs.

NUTAN D. SARDESSAI, J.

F.M.REIS, J.

NH