

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

**Appeal No. 104/2013**

**And**

**M.A. No. 1058/2013**

**Felix Britto Vs Goa Coastal Zone Management Authority**

**CORAM: HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER  
HON'BLE DR. G.K. PANDEY, EXPERT MEMBER  
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER**

**Present:**

<b>Applicant(s)</b>	<b>: Mr. Parag. S Rao, Adv.</b>
<b>Respondent No. 1</b>	<b>: Ms. Anvita Cawshish, Adv. for Mr. Bansuri Swaraj, Adv.</b>
<b>Respondent No. 2</b>	<b>: Mr. P. Shahapurkar, Adv.</b>

<b>Date and Remarks</b>	<b>Orders of the Tribunal</b>
<b>Item No. 2 May 30, 2014</b>	<p>Heard. Perused.</p> <p>This Appeal assails the Order dated 15.11.2013 passed by the Respondent No. 1 (Goa Coastal Zone Management Authority) herein for demolition and removal of the structures of the Appellant.</p> <p>In Original Application No. 49/2013, this Tribunal directed the Goa Coastal Zone Management Authority to pass appropriate orders against the Noticees who are found guilty of violation of CRZ Regulation. Accordingly, the Respondent No. 1 (for short, GCZMA) issued show cause notice dated 18.09.2013 to M/s. Roccoco - a proprietary concern of the Appellant to show cause notice as to why the establishment and the construction mentioned in the notice be not demolished. The reason given for the proposed demolition was the violation of the provisions of CRZ Notification, 2011. The Goa Coastal Zone Management Authority had also described the offending structures as under:</p> <ol style="list-style-type: none"><li>1. Walls of resort comprising of concrete sheets.</li><li>2. A huge swimming pool constructed on the rocky shores overlooking and extending into the sea.</li></ol>

3. The whole structure standing in NDZ and intertidal zone at an elevation.

The Appellant herein had responded to the said notice with reference to the photographs of the structures shown to him that he had permissions obtained by him from the village Panchayat in the Years 1990-1991 and as such his construction needs to be permitted under the provisions of the CRZ Notification, 2011. However, it appears from the perusal of the impugned order that the Appellant while responding to the said notice could not produce any document to substantiate case.

It is the case of the Appellant that he had duly replied the show cause notice with the reply dated 3.10.2013 along with all the relevant documents in support of his contention, namely construction license, house tax receipts, occupancy certificates issued by the Village Panchayat of Mandrem and yet the Respondent (Authority) did not consider those documents vis-à-vis the structure in question and simply dismissed the contention of the Appellant in the following words :

*“As such in light of the above, having considered the material on record the members of the GCZMA have unanimously decided that the permanent structure of M/s. Roccoco located at Ashvem – Mandrem, Pernem Taluka is in violation of CRZ notification which lies in the NDZ should be demolished/removed and the site be restored to its original state by the Management of M/s. Roccoco, within 15days from the receipt of this order failing which the Collector (North Goa) shall execute this order, and the cost incurred shall be recovered from the respondent as though they were arrears of Land Revenue Code.”*

Thus, it can be seen that the Respondent (Authority) did not give its mind to the material documents, namely,

construction permissions/occupancy certificates Ref. No. VPM/334/(2)DKM/223/202 dated 23.12.1990 [(i) Occupancy Certificated Ref No. VPM/DKM/373(2)2738 dated 18/02/1991. Permission No. 3/90-91 dated 23/12/1990. (ii) Occupancy Certificate Ref No. VPM/DKM/223(3) 334 (3) dated 15/02/1991. Permission No. 4/1990-91 dated 5/1/1991. (iii). Occupancy Certificate Ref No. VPM/DKM/334(4)90-91 dated 15/2/1991. Permission No. 5/1990-91 dated 15/1/1991. (iv) Occupancy Certificate Ref No. VPM/DKM/334(2)/1990-91 dated 10/12/1991. Permission no. 3/1990-1991 dated 23/12/1990.] granted to Smt. Durgabai Keshav Mandrekar, predecessor in title to the appellant, R/o 334/2, Pernem Goa for construction of her house as per the specifications shown in the attached Plans vis-a-vis the construction at the site in question and come to the conclusion as to whether the offending structures at the site were constructed as per the permissions granted by the Village Panchayat Mandren prior to the CRZ Notification, 1991 coming into effect.

Learned Counsel appearing for the Appellant submits that he would be producing all the aforesaid permissions/occupancy certificates along with the sanctioned plans attached thereto and relied upon by him before the Goa Coastal Zone Management Authority within a fortnight and the Authority may verify its authenticity and if necessary examine the officials of Village Panchayat Mandrem for such purpose, and after hearing the Appellant may pass a speaking order.

Perusal of the impugned order reveals that the material aspect as to whether the offending structures existed prior to 1991 as shown in the permissions for constructions granted by village Panchayat Mandrem in the years 1990-1991 remained unanswered. Learned Counsel appearing for the Appellant fairly

conceded that the Swimming Pool referred to in the show cause notice shall be demolished and the land restored back to its original condition within a fortnight.

Considering these facts and circumstances, the impugned order dated 15.11.2013 needs to be set aside and the matter remanded back to the Goa Coastal Zone Management Authority for reconsideration of the issue as to whether the offending structures were constructed prior to the CRZ Notification, 1991 coming into effect and to pass a speaking order thereafter. Accordingly, the impugned order dated 15.11.2013 is set aside and the matter is remanded back to the GCZMA (Respondent No. 1) herein to give fresh hearing to the Appellant and answer as to whether the offending structures referred to in the show cause notice existed prior to the CRZ Notification, 1991 or not and thereupon pass a speaking order with reference to the documents tendered by the Appellant before them.

The Appellant shall remove the Swimming Pool referred to in the show cause notice dated 18<sup>th</sup> September 2013 and restore the land back to its original condition within fortnight of this order. The Appellant shall appear and file all the documents relied upon by him before the Goa Coastal Zone Management Authority on 18<sup>th</sup> June, 2014. Liberty is granted to the Appellant to raise all contentions before the Goa Coastal Zone Management Authority. The main Appeal No. 104/2013 and the application therein-M.A. No. 1058/2013 stand disposed of accordingly with no order as to costs.

....., JM  
(U.D. Salvi)

....., EM  
(Dr. G. K. Pandey)

....., EM  
(Ranjan Chatterjee)

