

**BEFORE THE NATIONAL GREEN TRIBUNAL  
(WESTERN ZONE) BENCH, PUNE  
M.A. No. 111/2014  
APPLICATION No. 12(THC)/2014 (WZ)**

**CORAM:**

**Hon'ble Mr. Justice V.R. Kingaonkar  
(Judicial Member)  
Hon'ble Dr. Ajay A. Deshpande  
(Expert Member)**

**B E T W E E N:**

**1. Mrs. Marie Christine REBILLET, PERDRIAU,**

Major, Occn : Business,  
R/o. H.No.511, Murrod Vaddo,  
Candolim, Bardez Goa,  
Managing Director of Flying Maya  
Guest House Ltd.

**2. FLYING MAYA GUEST HOUSE PVT. LTD.**

Registered under the Indian Companies  
Act 1956, Having office at :  
House No.511, Murrod Vaddo,  
Candolim, Bardez 403 515

**....Appellants.**

**A N D**

**1. GOA COASTAL ZONE MANAGEMENT AUTHORITY,**

Through Its Member Secretary,  
Having office at Department of Science,  
Technology and Environment (Govt. of Goa)  
3<sup>rd</sup> Floor, Dempo Towers,  
Patto, Panaji 403 001 (Goa)

**2. THE SENIOR TOWN PLANNER,**

Town & Country Planning Department,  
Having office at Mapusa,

Bardez-Goa.

**3. VILLAGE PANCHYAT OF CANDOLIM,**

Through : Its Secretary,  
Village Panchayat of Candolim,  
Candolim, Bardez-Goa.

**4. STATE OF GOA,**

Through Chief Secretary,  
Secretariat,  
Alto Porvorim,  
Bardez-Goa.

**5. M/s. SHAM HOTELS PVT. LTD.**

Having office at 3<sup>rd</sup> floor,  
Adwalparkar Avenue,  
Opp : Public Works Department,  
St. Inez Panaji Goa,  
Through : Its Director,  
Mr. Esmail Sham, 141K,  
Maker Tower, G.D. Somani Marg,  
Cuffe Parade-Colaba  
Mumbai 400 005.

**6. Mr. LYNDON ALVES,**

Major, Director of Sunset Getaways,  
411, Gera Imperium Patto Plaza,  
Panjim, Goa 403 001.

**7. M/s. PERCEPT GROUP,**

Through : Its Director,  
Shailendra Singh,  
Office at 11/12, Senapati Bapat Marg  
Lower Parel Mumbai 400 013.

**8. Collector North Goa,**

With office at Panaji,9.

**9. Deputy Collector and**

Sub Divisional Magistrate  
With office at Mapsa Bardez Goa,

**10. P.I. Calangute Police Station**

Calangute

**11. Goa State Pollution Control Board,**  
With office at Patto Plaza Panaji Goa

**12. Director of Tourism**  
Directorate of Tourism,  
With office at Panaji Goa.

.....**Respondents**

**Counsel for Appellant :**

Mr. Asim Sarode, Adv.

Ms. Alka Babaladi, Adv.

**Counsel for Respondent No.1,2,8 to 11 :**

Mrs. F.M. Mesquita, Adv.

**Counsel for Respondent No. 5 :**

Mr. Shivam Desai, Adv.

**Counsel for Respondent No.6 & 7 :**

Mr. Jeetendra P. Supekar, Adv.

Mrs. Supriya Dangare, Adv.

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**DATE : May 29<sup>th</sup>, 2015**

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**J U D G M E N T**

**1.** The Application is registered after transfer of the Writ Petition No.872 of 2012 by the Hon'ble High Court of Bombay at Goa. The Hon'ble High Court of Bombay at Goa, transferred the matter to this Tribunal vide order dated 2<sup>nd</sup> December, 2013. In fact, we heard the matter for final disposal and reserved it for Judgment.

**2.** Perusal of reliefs claimed by the Applicants, go to show that the Application is amended during pendency thereof and demolition of construction put up on Survey No.139/1 (Part), is also sought as relief, which is subject

matter of the Appeal No.18 of 2014. This kind of relief cannot be considered in the Application, when separate Appeal is now decided.

**3.** The other reliefs show that the Application is regarding mandamus against holding of 'Sun-burn' festival at the site, i.e. property Survey No.139/1 (Part). Thus, it is clear that the original Writ Petition was filed as Public Interest Litigation (PIL), and thereafter it came to be transferred to this Tribunal by order dated December 2<sup>nd</sup>, 2013, passed by the Hon'ble High Court of Bombay at Goa. The orders passed in the Writ petition would show that 'Sun-burn' festival was directed to be disallowed unless and until statutory permission as well as permission from GCZMA, as per the Judgment of Hon'ble Division Bench in PIL ( W.P. No.30 of 2012), would be granted. This specific order is passed by learned Single Judge ( Hon'Ble Justice F.M.Reis), on December 26<sup>th</sup>, 2012. It reads as follows:

*“ I have duly considered the submissions of the learned Counsel for the respective parties and I have also gone through the records. The learned Division Bench of this Court in PIL WP No.30 of 2012, has already taken into consideration the allegations made by the petitioners therein with regard to the violation of CRZ Notification 1991 as amended in the year 2011. The learned Division Bench inter-alia has directed that the disputed festival will proceed only after obtaining the statutory permissions*

*including the permission from the GCZMA. The learned Advocate General has pointed out that the matter is still under consideration by the State Government as well as the GCZMA and a decision is likely to be taken only. The learned Advocate General has pointed out that unless and until all the statutory permissions as well as the permission from the GCZMA as directed by the learned Division Bench in the said Judgment dated 20.12.2012 are obtained, the said festival will not be allowed to be conducted. Shri. Nadkarni, learned Advocate General further points out that as far as noise pollution is concerned, a high level monitoring committee has been constituted on that count which will ensure that no violation of any provision of law are committed by the said respondents. Considering the said statements of the learned Advocate General which are accepted, I find no reason for any ad-interim relief at this stage. Place the matter for further hearing by consent in the week commencing from 21-03-2013”.*

**4.** It is obvious that without approval and statutory permission of GCZMA no such ‘Sun-burn’ festival can be held at any place in Survey No.139/1(Part). We have carefully perused relevant provisions of the CRZ Notification. It is significant to note that seasonal and temporary activity in the CRZ area can be permitted. GCZMA has the powers to permit such temporary activity, in view of Regulation 5(x) and 8(i)(V)3; Clause (iii). The sub clause may be reproduced as follows :

5(x) All developmental activities listed in this notification shall be regulated by the State Government, Union Territory Administration, the local authority or the concerned CZMA within the framework of such approved CZMPs as the case may be in accordance with provisions of this notification;

8. Norms for regulation of activities permissible under this notification,- (i) The development or construction activities in different categories of CRZ shall be regulated by the concerned CZMA in accordance with the following norms, namely:-

(i).....

I)...

II)...

III)...

IV).....

V)...

1....

2...

3. CRZ of Goa.- In view of the peculiar circumstances of the State Goa including past history and other developments, the specific activities shall be regulated and various measures shall be undertaken as follows:-

(i) .....

(ii) .....

(iii) purely temporary and seasonal structures customarily put up between the months of September to May;

(iv) .....

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(viii) no developmental activities shall be permitted in the turtle breeding areas referred to in sub-paragraph (vii).

*(Emphasis supplied)*

**6.** Apart from permission of the CRZ authority, organizers of “Sun-burn” festival also obtained permission dated 13-12-2013 which shows that such permission was granted on payment basis and under various conditions.

**7.** Perusal of the record shows that the conditions imposed by the State Tourism Department were duly observed by the organizers of the festival. The original pleadings of the Writ Petition before the Hon’ble High Court would show that the original case of the Applicants related to the legality of property surveyed under Survey no. 139/1 (part) situated at Condolim (Goa) of which 85 % portion is under NDZ area. The main prayer in that Writ Petition was to the effect that the construction standing on S.No. 139(1) was illegal and the “Sun- burn” in the adjoining land bearing S.no.140 is not permissible activity and ought not to have been allowed. Para 72(c) of the Writ Petition clearly relates to such kind of declaration sought by the Applicants in this context. The Applicants further came out with a case that the music played in land S.no.140 causes nuisance/pollution. It is stated in the pleadings that “No permission has been granted to hold such festival in part of land S.no.139 or S.no.140”.

**8.** Grievances of the Applicants may be made clear from prayers in the Writ Petition which are reproduced as follows :

a) For a Writ of mandamus, a writ in the nature of mandamus, or a writ, order or direction thereby commanding the Respondents 1, 2 and 3 in terms of law against the constructions put up by the Respondents No.5 “By demolishing the construction put up by the Respondents No.5, in the property surveyed under 131/1 (part) and further, directing the Respondents to decide the complaints/representations made by the Petitioners.

aa) For declaring that the order dated 4-12-12 is null and void, ultravirus Article 14 of the Constitution of India and in the alternative for appropriate writ, direction or order quashing the order dated 4-12-2012.

b) For a writ of certiorari, a writ in the nature of certiorari, any other appropriate writ direction for order quashing the sanctions, permissions, licences 5/9/05, 21/8/2006, 24/1/2007, granted by the Respondents No 1, 2, 3 in favour of Respondents No.5 to 7.

For a declaration that holding of such Sunburn festival in the “No Development Zone” of the CRZ and without obtaining conversion Sanad is illegal and impermissible.”

**9.** Considering the statement made by the learned Advocate General, at the stage of interim hearing of the Application that due care would be taken to ensure non-violation, of the conditions of the permission granted to organizers of the “Sun-burn” festival and in view of the fact that the issue regarding legality of construction standing in S.no.139/1 is separately decided in Appeal No.18 of 2014, by this Tribunal, we find that, nothing survived in the Application.



**10.** The Application alongwith M.A. No. 111/2014 is accordingly disposed of. No costs.

....., **JM**  
**(Justice V. R. Kingaonkar)**

....., **EM**  
**(Dr.Ajay A. Deshpande)**

Date : 29-5-2015  
ajp.