

Filed on : 03.11.2021

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONAL BENCH, CHENNAI

Interim Application No. 147 of 2021

In

Original Application No. 76 of 2021

K.G. Anil Kumar : Petitioner/Applicant

Vs.

Tomy Thomas : Respondent/3rd Respondent

**REPLY STATEMENT FILED BY THE RESPONDENT IN THE
ABOVE INTERIM APPLICATION**

JOBI JOSE KONDODY (J-493) (K-666/96)

Counsel for the petitioner.

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ABOVE INTERIM APPLICATION**

I, Tomy Thomas, aged 54 years, S/o. Thomas, Pulickal House, Kalathukadavu P.O., Erattupetta, Kottayam District-686579, Kerala State, do hereby solemnly affirm and state as follows:-

1. I am the respondent in the above interim application and the 3rd respondent in the Original Application. I know the facts of the case and as such I am duly competent to swear this affidavit.
2. All the averments contained in the interim application, save those that which are specifically admitted hereunder are denied.



3. The above application is filed without the support or reference to any of the provisions of law and the said application can only be considered as a fishing exercise, in the attempt of the applicant to terrorize this respondent under the guise of proceedings sought to be initiated.

4. I am constrained to state that the present application is the end product of ignorance of law and without advertent even to the order passed by the Tribunal on 31.08.2021. On 31.08.2021, even before bringing on record the written objections stated to have filed by this respondent, it was the applicant who brought it in the notice of the Tribunal regarding the filing of an objection raising apprehensions in the judicial impartiality of the member, while deciding matters in cases in which Sri P.B. Sahasranaman is appearing for a party.

5. On appraising the Tribunal regarding the filing of such an objection, the Tribunal on its own has passed the following order. The relevant portion of the said order reads as follows:

A handwritten signature in black ink, appearing to be 'S. V. S.', written in a cursive style with a horizontal line underneath.

"However, most of the allegations made in the written objections were not correct and in fact, on going through the proceedings papers, it can be seen that no orders were passed in favour of the applicant as well. On 24.08.2021, when advance hearing application viz. I.A.No. 119 of 2021 (SZ) and injunction application viz. I.A.No. 120 of 2021 (SZ) were considered, this Tribunal advanced the hearing to 31.08.2021, but disposed of I.A.No. 120 of 2021 (SZ), holding that no interim injunction can be granted at this stage without getting the report from the State Environment Impact Assessment Authority (SEIAA), Kerala and that question can be considered in main application after getting the report from the State Environment Impact Assessment Authority (SEIAA), Kerala. So, the allegation that the Judicial Member was favouring the particular counsel mentioned in the application is without any basis. Further, the allegation that in cases where the said advocate appeared for the applicant, the position is also same is without any basis. Though there is no ground made out for the Judicial Member to rescue, however, since the 3rd respondent has filed such written objections raising non confidence and bias in this Tribunal, we feel that it is not proper for this Tribunal to proceed with the matter applying the Principle that justice should not only be done, but



appear to have been done as well. So, place the same before the Hon'ble Chairperson, National Green Tribunal, New Delhi, for passing appropriate orders of constituting a different Bench to hear the matter or withdraw the case to the Principal Bench for consideration".

From the extracted portion as above, even for the judicial member, who dictated the order, there is no case that the reservation expressed by the respondent is fully unfounded. It is taking note of the above, the Judicial Member had recused from hearing the above case any further and directed the same to be listed before another bench after obtaining orders from the Chairman. From the order passed on 31st August 2021, it can further be seen that the companion member had also agreed to what is contained in the order and the recusal by the judicial member is not an order by the judicial member alone but by the bench. From the above it is evident that the bench which heard the matter was conscious and aware of the sequence and events which led to the order on 31.08.2021.



6. As stated earlier, the present petition is an experimental exercise which has no legal legs to stand, as the law does not provides for an action as visualized or comprehended by the applicant. The application is lacking legal merit, as it is a misconceived exercise by an applicant, who had already exhibited his skill of forum shopping even by filing the original application. As such, the application does not deserve consideration and it is only to be dismissed. It is prayed accordingly.

All facts stated herein are true and correct.


Respondent in I.A.

Solemnly affirmed and sworn before me by the deponent who is personally known to me on this the 3rd day of November, 2021 at my office in Ernakulam.


Advocate

Dated this the 3rd day of November, 2021.

JOBIOSE KONDODY
ADVOCATE
HIGH COURT OF KERALA
ERNAKULAM
Advocate

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