

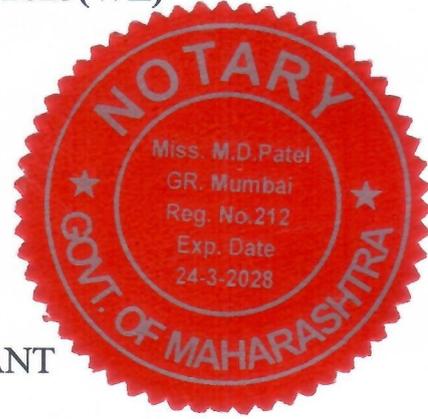
BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL, WESTERN ZONE BENCH AT PUNE

MAHARASHTRA

INTERLOCUTORY APPLICATION NO.119/2023(WZ)

IN

APPEAL NO. 19/2023(WZ)



RAJIV DATTA

...APPELLANT

Vs

STATE OF MAHARASHTRA AND OTHERS ...RESPONDENTS

AFFIDAVIT-IN-REPLY ON BEHALF OF RESPONDENT NO. 2

MAHARASHTRA COASTAL ZONE MANAGEMNT AUTHORITY

MAY IT PLEASE YOUR HONOUR

I, Abhay Madhukar Pimparkar, age about 49 years, am working as
Director of the Environment and Climate Change Department, Government of

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Maharashtra and the Member Secretary of the Respondent No. 2 abovenamed having my office address at 15th Floor, New Administrative Building, Mantralaya, Mumbai- 400 032, do hereby beg to state on solemn affirmation as under:

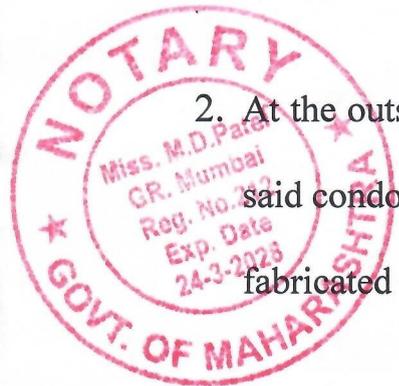
1. The present Appeal is filed under Section 16(h) of the National Green Tribunal Act, 2010, challenging the legality and correctness of order dated 7.12.2022 passed by the Maharashtra Coastal Zone Management Authority (MCZMA) extending the validity of Coastal Regulation Zone (CRZ) Clearance dated 11.01.2018 issued by MCZMA to M/s Mistry Construction Pvt. Ltd for construction of 'Golf Course Project' situated at Sector 60, Nerul, Navi Mumbai. The appellant has filed the said appeal after an alleged delay of 58 days and is seeking condonation of delay for filing the same.

2. At the outset this Respondent states that this Respondent is objecting to the said condonation of the delay as the said application is filed upon untrue and fabricated grounds.

3. This Respondent states that the impugned order dated 07/12/2022 was uploaded to the MCZMA website on 19/01/2023. The limitation as prescribed under Section 16 of the NGT Act commences from the date the order is communicated by putting the same in public domain for the benefit

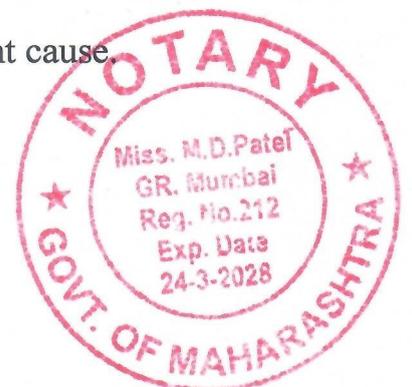
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of the public at large. Thus in the present case, the limitation commenced on 19/01/2023 when the impugned order was uploaded by putting the same in public domain and the appeal ought to have been filed by the Appellant within 30 days i.e. by 17/02/2023. The appeal was filed however on 25/04/2023 i.e. after a considerable delay of 66 days. As per section 16 of the NGT Act, 2010 further 60 days are allowed to file an Appeal provided the Tribunal get satisfied that the Appellant was prevented by sufficient cause from filing the Appeal within the said period.

4. The reason attributed to the delay as stated in paragraph 7 of the IA is the unfortunate passing away of the mother of the Appellant who passed away on 10/11/2022, i.e. 70 days prior to the uploading of the impugned order to the website.
5. With due respect to the feelings and emotions of the Appellant, this Respondent would like to state that the delay in filing the appeal is inexplicable and cannot be attributed to the sad demise of the mother of the Appellant.
6. In any event, it is submitted that the present application is filed with the false reasons. It is denied that the Applicant has shown sufficient cause.



7. In sum and substance, all the above facts shows that the Appellant is before this Hon'ble Court with unclean hands and for which, this Hon 'ble Court shall not have liberal approach. It is settled law that once the Court finds that the Applicant before the Court has made false statement in Application and giving reasons for condonation of delay, such applications shall be forthwith dismissed with heavy costs.
8. Further the grounds pleaded in the Application and overall conduct of party does not meet the criterial of "sufficient test" enumerated in Section 16 of the National Green Tribunal 2010. It is a settled principle of law that delay can not be condoned if applicant doesn't approaches the concerned forum with clean hands and also on equitable grounds the applicant is required to explain the day to day delay with sufficient reason to support his contention .
9. In light of the above facts, this Hon'ble Tribunal should not condone the delay in the present case.

Place: Mumbai

Abhay Madhukar Pimparkar
(Abhay Madhukar Pimparkar)

Date: 10-8-2023

Deponent

Director, Environment & CC and

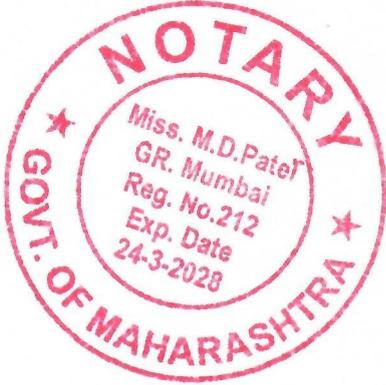
Member Secretary, MCZMA



VERIFICATION

I, Abhay Madhukar Pimparkar, Age about 49 years, Director, Environment and Member Secretary of the Maharashtra Coastal Zone Management Authority, having my office address at 15th Floor, New Administrative Building, Mantralaya Mumbai- 400 032 do hereby verify and declare that statements made in the aforesaid Paras are true and correct to the best of my knowledge and information and I believe the same to be true and that nothing material has been concealed therefrom.

Verified at Mumbai on this 10th day of August, 2023



Identified by

Under Secretary & Sci
II, Env & CC Dept

(Abhay Madhukar Pimparkar)

Deponent

Director, Environment & CC and
Member Secretary, MCZMA

BEFORE ME

M. D. Patel

10-8-2023

Sr. No. 544

Bk. No. 4

MISS M. D. PATEL
ADVOCATE & NOTARY
Kohiar House,
4, Dhuswadi, Dhobitalao,
MUMBAI - 400 002.