

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

I.A. NO. 94/2024 WZ

IN

APPEAL NO.36/2024 WZ

Mr. Sayyed Mohammed Sabir Usman ...Applicant

Versus

Union of India through Secretary –

MOEFCC & Others ...Respondents

AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT NO. 4

I, Mr. J. K. Jain, being an adult, Indian inhabitant and authorised signatory of Skylark Buildspace Private Limited i.e. Respondent No.4, having office at 3rd & 4th Floor, Viraj Towers, Western Express Highway, Andheri (E), Mumbai 400 093, do hereby solemnly affirm and state as follows:

1. I say that I am the authorized representative of Respondent No. 4. I am conversant with the facts and circumstances of the present case, and therefore, competent to depose thereto.
2. I say that I am filing this Affidavit for the limited purpose of challenging the maintainability of the captioned Interim Application for Condonation of Delay. I am presently not dealing with the said Appeal and the allegations made therein. I crave leave to file a detailed Affidavit to the captioned Appeal.



3. I say that I am filing this Affidavit for opposing the reliefs sought in the captioned Interim Application (“**said Application**”) filed by the Appellant seeking Condonation of Delay in filing of the captioned Appeal. I crave leave to file such further/ detailed Affidavit/s as and when required.
4. At the very outset, I deny each and every allegation, contention and insinuation made by the Appellant/Applicant in the captioned Appeal and the said Application. The said Application is devoid of any merits. Nothing contained in the said Application, or the captioned Appeal shall be deemed to have been admitted by the Respondent No. 1 for the want of specific traverse or otherwise.
5. The Appellant has filed the captioned Appeal on 30th April, 2024 challenging the Environment Clearance dated 6th February, 2024 issued to Respondent No. 4 with a delay of 54 days.
6. I say that the Appellant claims that the delay of 54 days is ‘unintentional’ as this is an Appeal from a bunch of 105 Appeals having large number of documents and the same created confusion in numbering. Firstly, as is evident from the above, the Appellant appears to be a habitual litigant whose intention is to harass and arm twist authorities for reasons best known to him. Secondly, I submit that the volume of documents and appeals filed by the Appellant can never be ‘*sufficient cause*’ for condoning the delay in filing of an Appeal. In any event, the entire proceeding in the captioned Appeal (including the said Application) is only approximately 50 pages and the same cannot be termed ‘bulky’ in any manner.



7. The Appellant has further stated that there was a delay in filing of the captioned Appeal on account of the Appellant's Advocate being in a personal difficulty and priorities in family to be attended. Pertinently, save and except the aforesaid vague averments, no details have been provided by the Appellant in this regard. Merely on the aforesaid statement being made by the Appellant bereft of details, the delay in the present Appeal ought not to be condoned.
8. Furthermore, it is the case of the Appellant that the previous Appeal against the said Environment Clearance was filed on 6th March, 2024 which is within limitation, however on account of the Registry pointing out defects the same could not be refiled in time. It is submitted that for justifying this delay, the Appellant has made vague averments without producing any proof in support thereof. There is no justifiable reason mentioned by the Appellant for filing an Appeal after the delay of 54 days. The Appellant has conveniently blamed the Registry of the Hon'ble National Green Tribunal for the delay in filing the present Appeal.
9. I say that Section 16 of the National Green Tribunal Act, 2010 gives an aggrieved party 30 days to file an appeal. Pertinently, the appeal filing process is also online and does not require physical presence. Furthermore, the volume of the entire Appeal along with the said Application is approximately 50 pages which can hardly be said to be voluminous. It therefore is evident that no justifiable ground and/or sufficient cause exists for justifying the delay on part of the Appellant in filing the captioned Appeal.



10. It is evident that the Appellant is merely attempting to circumvent the provisions of the National Green Tribunal Act, 2010. I say that not a single document is produced by the Applicant to justify any of the reasons stated in the said Application for condonation of the delay in filing the captioned appeal. The reasons given are all the Appellant's versions and cannot be accepted on face value.
11. I say that the Appellant needs to show how he bonafidely took steps to file the appeal within limitation period and was prevented from doing so due to reasons beyond his control. Frivolous reasons like the Advocate filing the Appeal was unavailable, the volume of the proceedings was bulky (albeit the captioned Appeal is not in any manner bulky) are all far from being bonafide are not even reasons which are beyond the Applicant's control. They are all factors which the Applicant could have controlled to abide by the timelines prescribed under the statute.
12. Pertinently, the Applicant is in no manner concerned with the said Project. The Applicant claims to be a '*RTI activist*'. However, it is settled law that persons ought not be permitted to misuse the provisions of the Right to Information Act by harassing public officers and individuals. Such individuals filing frivolous litigations must therefore be put to strict terms. I submit that this is all the more reason to not show any equities in favour of the Appellant and condone the negligence and casual manner in which he has pursued the present Appeal. The Applicant is only indulging in luxury litigation and is not a aggrieved citizen in any manner.



13. I say that in furtherance to the above the principal grievance raised by the Appellant in the captioned Appeal is that the said EC was issued by the Member Secretary after his tenure had ended. I say that at the 272nd Meeting of the SEIAA held on 13th December, 2023 (i.e. during the tenure of the Member Secretary and the SEIAA), the Application submitted by Respondent No. 4 was duly considered and accordingly, the SEIAA decided to grant the said EC in favour of Respondent No. 4. Therefore, the said EC issued in favour of Respondent No. 4 is validly issued and no fault can be attributed to it. In view thereof, I submit that there is no merit whatsoever in the contention of the Appellant that the said EC is invalid and liable to be set aside, as alleged.
14. The Appellant has further contended that Respondent No. 4 has submitted false, baseless and misleading information to SEIAA while obtaining the said EC. This is entirely false and unsubstantiated. I say that the Appellant has not produced a semblance of proof of how the said EC is violative of any of the environmental laws and what are the purported “false, baseless and misleading information” submitted by Respondent No. 4 to the SEIAA. This evidences the falsity in the case of the Appellant and on this ground alone the captioned Appeal ought to be dismissed.
15. I say and submit that Respondent No. 4 as well as Respondents No. 2 and 3 have duly complied with the procedure laid down in the notifications governing the grant of the said EC in favour of Respondent No. 4. I crave leave to refer and rely upon necessary documents in this regard.



16. In light of everything that has been stated hereinabove, I say that the said Application be rejected and the captioned Appeal, as a consequence, be dismissed as time barred.

Solemnly affirmed at Mumbai)
On this 6 day of December, 2024)



Before me,

For Wadia Ghandy & Co.

Partner

Advocates for the Respondent No.4

BEFORE ME

SHANE CARDOZ

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Notary Register Serial No.	6690/24
Date:	= 6 DEC 2024



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AFFIDAVIT IN REPLY

Dated this day of December, 2024

- 6 DEC 2024



M/S. WADIA GHANDY & CO.
Advocates for the Respondent No. 4
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