



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

INTERLOCUTORY APPLICATION NO. 24/2023(WZ)

IN

APPEAL NO. 54/2022(WZ)

CAVELOSSIM VILLAGERS FORUM ...APPELLANT

V/S

STATE OF GOA AND OTHERS ...RESPONDENTS

AFFIDAVIT-IN-REPLY ON BEHALF OF RESPONDENT

NO. 5 AND 6

MAY IT PLEASE YOUR HONOUR:

The Respondent no. 5 and 6 states and submits as under:

1. At the outset, it is stated that this Respondent is not supplied with the complete annexures annexed to the present application seeking condonation of delay.
2. On the hearing dated 29/03/2023, this Respondent pointed out the said fact to the Appellant and Appellant undertook

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to supply the copies of the annexures filed to the Application for condonation of delay i.e Annexure A of the said application. However, the Appellant did not serve copies of Annexure A of the Application upon this Respondent before or on the adjourned date.

3. On subsequent hearing dated 24/4/2023, this Respondent again requested the Appellant to supply the copies of the said affidavit and medical certificate to the Respondent. Again, the Appellant made statement before this Hon'ble Court that the said annexures will be supplied to this Respondent before next date. In fact, the advocate appearing for the Appellant had also stated that necessary medical documents would be supplied to this Respondent. It is stated that the said medical documents otherwise ought to have been part of said application.
4. Accordingly, this Hon'ble Court adjourned the matter on 21/7/2023. This Respondent shall rely upon the orders passed by this Hon'ble Court.
5. This Respondent states that the copy of so-called medical certificate was supplied to this Respondent only on 17/7/2021. However, the copies of discharge documents are not supplied to this Respondent till date.



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6. This Respondent therefore reserve its right to file additional reply in case the said medical documents are served upon this Respondents.
7. 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. This Respondent's Advocate is served on 17/7/2023 with a copy of the Medical certificate dated 29/10/2022. Said Affidavit is issued by a doctor from Graca Polyclinic and Pathology laboratory whose qualification is B.A.M.S (Bachelor of Ayurvedic Medicine and Surgery). It is absolutely unfathomable as to how can a Ayurvedic Doctor diagnosing and prescribing the treatment to the advocate for the Petitioner for an ailment which can be cured only through allopathic treatment.
8. Further said Certificate is totally silent as to whether said Mr. Basilio Pacheco was admitted in the hospital or not. Even Doctor's name is not clearly visible. Said certificate is concocted and has been obtained to suit the Advocate and has been obtained post filing of the application.
9. In any event, it is submitted that the present application is filed with the false reasons. It is denied that the Applicant contacted his advocate immediately on 15/9/2022. It is denied that the Applicant has shown sufficient cause.

10. It is respectfully submitted that the affidavit filed by the Concerned advocate does not lay out the proper facts.

11. In sum and substance, all the above facts show that the Appellant is before this Hon'ble Court with unclean hands and for which, this Hon'ble Court shall not have a liberal approach. It is settled law that once the Court finds that the Applicant before the Court has made a false statement in Application for condonation of delay, such applications shall be forthwith dismissed with heavy costs.

12. Further the grounds pleaded in the Application and overall conduct of parties does not meet the criteria of "sufficient test" enumerated in Section 16 of the National Green Tribunal 2010.

13. In the case of **Maniben Devraj Shah v Municipal Corporation of Brihanmumbai** reported in **2012 5 SCC 157**, the Hon'ble Supreme Court has observed as follows:

What needs to be emphasised is that even though a liberal and justice oriented approach is required to be adopted in the exercise of power under Section 5 of the Limitation Act and other similar statutes, the Courts can neither become oblivious of the fact that the successful litigant has acquired certain rights on the basis of the judgment under challenge and a lot of time is consumed at various stages of litigation apart from the cost. What colour the expression sufficient cause would get in the factual matrix of a given case would largely depend on bona fide nature



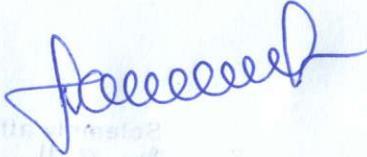
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of the explanation. If the Court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay.

14. In the light of facts of this case and law, this Hon'ble Court should not condone the delay in the present case.

Place: Margao, Goa

Date: 19/07/2023.


Advocate for the Respondent no. 5 and 6

AFFIDAVIT

I, Mrs Radha Satish Timblo, wife of Late Shri Satish Timblo, Partner of Respondent no. 6, Residing behind Hotel Majestic, Porvorim, Goa, the Respondent no. 5 above named, do hereby verify that the contents of paras 1 and 14 are true to my knowledge and whatever stated in the remaining paras are based on legal submissions.

Place:-Margao, Goa

Date:- 19/07/2023

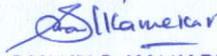

DEPONENT



Solemnly affirmed before me by
Mn. Radha Satish Timblo
who is identified to me by

to whom I personally know on
this 19th day of July, 2023

Sr. No. 235/2023 -


SANJAY S. MALKARNEKAR
NOTARY
SOUTH GOA (INDIA)