



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

I.A. NO 243 of 2023  
IN  
M.A. NO. 16 of 2023  
IN  
APPEAL NO. 24 of 2023

IN THE MATTER OF:

Suhas Rao Rane

...Appellant

Versus

Ministry of Environment,

Forest & Climate Change Ors.

...Respondent

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NDoH: 06.03.2024

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Date: 27.02.2024

Place: Pune

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OBJECTIONS OF RESPONDENT NO. 5 (FARROKH FRAMJI  
WADIA, PARTNER, SAGITARIUS ECOSPACES LLP) TO THE  
INTERLOCUTORY APPLICATION NO. 243/2023 FOR  
CONDONATION OF DELAY IN FILING M.A. NO. 16/2023 FOR  
RESTORATION OF APPEAL NO. 24/2023



I, **Dr. Farrokh Wadia**, son of Mr. Framji Wadia, aged 86 years, residing in Plot no. FP 3, Nagar Road, Yerwada, Pune 411006, Respondent No. 5 in the present Appeal, having my office at Sagitarius Ecospaces LLP, 8, Nagar Road, Mumbai 411 006, do hereby solemnly affirm and state as under:

1. I am a partner of M/s. Sagitarius Ecospaces LLP and I am well acquainted with the facts and circumstances of the case, and I am competent to make and affirm the instant Affidavit-in-Reply in the present matter.
2. That this Hon'ble Tribunal vide its order dated 03.01.2024 passed in the present matter issued notice to the Respondents limited to filing objections to the Application for condonation of delay in filing the M.A 16/2023.
3. That I have been served with a copy of an Application being Interim Application No. 243 of 2023 [hereinafter referred to as "**Application**"] along with the M.A. No. 16/2023 filed in the present Appeal in view of the

order passed by this Hon'ble Tribunal on 03.01.2024. I have read the Application and understood the scope, meaning, effect, and purport thereof.

4. That, accordingly, this Affidavit is filed for the limited purpose of objecting to the Application for Condonation of Delay filed by the Appellant in filing the Miscellaneous Application for re-call of Order dated 13.07.2023 and for restoration of Appeal No. 24/2023. I reserve the right to file a more detailed reply on the merits of the matter, if required or if so advised.
5. That save and except for what has been denied and disputed hereinbelow and what are specifically admitted hereinbelow, all allegations and/or contentions contained in the Application are denied and disputed as if the same is set out hereinbelow and specifically traversed in seriatim. Any failure on my part in dealing with the averments contained in any paragraph of the instant Application should not be construed as an admission of any allegation and/or contention, factual or otherwise unless stated to the contrary.
6. That at the very outset, I state that the instant Application for condonation of delay for filing the Application for restoration of Appeal No. 24/2023 (WZ) is baseless and frivolous and is hopelessly barred with limitation. I also state that the Appellant is a serial litigator who has been filing multiple cases against me with a mala fide intent to illegally and wrongfully impede me and my enterprise and malign our reputation and goodwill. The present Application is not only a grave misuse of the sanctity of judicial remedy but also reflects a sad state of affairs where such judicial remedy can be misused by an individual/organization against a bona fide person just to serve their hidden mala fide agendas, intentions and vested interests.



7. Further, it is raised that in the Application or in the Appeal, the Appellant has failed to clarify his bonafides and it is submitted that he is not an aggrieved person as understood under Section 18 of the National Green Tribunal Act 2010 (hereinafter NGT Act). In this regard, reliance is placed, interalia, on the Judgment dated 21.10.2022 of Hon'ble Supreme Court in *Uttar Pradesh and Others v. Uday Education and Welfare Trust and Others [2022 SCC OnLine SC 1469]* and Judgment dated 15.05.2023 of this Hon'ble Tribunal in *Anand Kumar Jha v. UOI & Ors.* (Appeal No. 05/2021 – EZ). That in this regard I submit that the Appellant is a resident of Mumbai and the project in question is being constructed in the city of Pune. This raises an immediate question on the Appellant's *bona fides* especially when the Appellant has initiated this sixth round of litigation and in the Interim Application, he states that he is willing "*to pay any costs for the delay as this Hon'ble Tribunal deems fit.*"



8. That it is submitted that the present Appeal was filed by the Appellant under Section 16 read with Section 18 of the National Green Tribunal Act 2010 (hereinafter referred as NGT Act 2010) on 16.05.2023 against the amendment of Environmental Clearance which was later advised by SEIAA to be reapplied as seeking Environmental Clearance for expansion in view of the Circular dated 29.11.2021, which was granted on 29.08.2022 issued by Respondent No. 2 - State Environment Impact Assessment Authority, Maharashtra (hereinafter referred as SEIAA) to our proposed Residential Cum Commercial Project named BELLRUE at FP No. 3/3 & FP No. 70/11, Nagar Road, Yeravada, Pune. That, therefore, not only is the present application for restoration barred under limitation but also the said Appeal itself which was filed after 260 days from the issuance of the impugned EC which is already way beyond the period which can be

condoned by this Hon'ble Tribunal under Section 16 of the NGT Act 2010.

That it is submitted that the said Appeal has been filed after 230 days from the condonable delay period (which starts from the 31<sup>st</sup> day and remains till the 90th day from the date of communication of the impugned EC).

That it can also be said that the said Appeal has been filed after 170 days from the start of the non-condonable delay period (being beyond 90 days).

Thus, the Appeal is hopelessly barred by limitation under the NGT Act 2010.

9. That this Hon'ble Tribunal in a catena of orders/judgments has held that this Hon'ble Tribunal has no jurisdiction in condonation of delay for filing an Appeal under Section 16 of the NGT Act 2010 which is beyond the period of ninety days. That in this regard, this Hon'ble Tribunal in the matter titled *Mr. Aman Sethi Vs State of Rajasthan & Ors. (Appeal No. 61 of 2013)* vide its judgment dated 07.05.2015 has relied on its finding made in the case titled *Nikunj Developers Vs. State of Maharashtra 2013 All India NGT Reporter (Delhi) (1) 40* where, after discussing various Judgments of the Hon'ble Supreme Court and while referring to para-materia provision existing in other statutes, this Hon'ble Tribunal held that under section 16 of the NGT Act 2010, this Hon'ble Tribunal has no jurisdiction to condone the delay when the same is in excess of ninety days from the date of communication of the order to any person aggrieved. That the said ratio decidendi has been relied upon by this Hon'ble Tribunal thereafter in various cases such as the case titled *Sunil Kumar Samanta V West Bengal Pollution Control Board 2014 (2) All India NGT Reporter Part 5 (Delhi) 250*; *Krishna Stone Crusher Vs Haryana State Pollution Control Board 2014 All India NGT Reporter (1) Delhi 42* among others. Further, an Appeal was also filed against the judgment passed in the Sunil



Kumar Samanta Case (Supra) before the Hon'ble Supreme Court (CA No. 10009/2014) which was dismissed on 21.11.2014 thus giving finality to the said judgment. That in view of the said observations, the Hon'ble Tribunal had dismissed the said Appeal [*Mr. Aman Sethi Vs State of Rajasthan & Ors. (Appeal No. 61 of 2013)*] while noting that the same has been filed after a period of ninety days among other reasons. That, therefore, at the outset, it is submitted that the present Appeal is similarly placed and the same is therefore liable to be dismissed and rejected on the ground of limitation alone.

10. Further, this Hon'ble Tribunal in a catena of orders/judgments has dismissed Appeals under section 16 of NGT Act 2010 challenging ECs as being barred by limitation. These include *Consumer Federation Tamil Nadu v. Union of India & Others* [2012 SCC OnLine NGT 57], *Mehnatkash Mazdoor Kishan Ekta Sangathan v. Union of India & Others* [2012 SCC OnLine NGT 76], *Rana Sengupta v. UOI & Ors.* [2013 SCC OnLine NGT 31], *Green Tribunal in Souhardha Charitable Club v. SEIAA, Kerala and Others* [2017 SCC Online NGT 1277] among others.

11. Further, as pointed out above, the present Application for restoration of the Appeal along with the Application for condonation of delay for filing the same has also been filed after a period which is also hopelessly barred by time under the NGT Act 2010 read with Rule 20(2) of the National Green Tribunal (Practices and Procedure) Rules, 2011 (hereinafter referred as NGT Rules 2011). That it is pertinent to mention that the said Appeal No. 24/2023 (WZ) filed on 16.05.2023 was dismissed by this Hon'ble Tribunal on 13.07.2023 due to non-appearance by the Appellant or any of his representatives after providing an opportunity for appearance vide order dated 11.07.2023. That after the said dismissal the Appellant had an



opportunity to file an application for restoration of the Appeal under the NGT Rules 2011 within thirty days from the date of dismissal of the same (viz thirty days from 13.07.2023 being 12.08.2023). However, instead of doing so, the Appellant, after the lapse of the said thirty days, approached the Hon'ble Supreme Court under a Civil Appeal 6814/2023 titled Suhas Rao Rane Vs Ministry of Environment Forest and Climate Change & Ors. against the order dated 13.07.2023 passed by this Hon'ble Tribunal on 09.12.2023 (which is after a lapse of 58 days from the end of limitation for filing the application for restoration before this Hon'ble Tribunal).

12. That thereafter, the Appellant has now filed the Miscellaneous Application No. 16/2023 for restoration of the Appeal no. 24/2023(WZ) on 11.12.2023 with the I.A. No. 243/2023 for condonation of delay 14.12.2023, which is after 121 days from the end of limitation the NGT Rules 2011.

13. That, therefore, on both counts, the Miscellaneous Application for restoration and the Appeal are hopelessly barred under limitation and the Appellant has provided no valid reason for its condonation which is in any case beyond the jurisdiction to be condoned by this Hon'ble Tribunal under the NGT Act 2010 and the Rules made thereunder.

14. In view of the same, the Application for condonation of delay is liable to be rejected with huge cost on the Appellant for causing harm to the reputation of the company and the financial implications which it carries, along with the expenses incurred due to the cases filed by him and for being inconsiderate towards the valuable time of this Hon'ble Tribunal and of the party Respondents due to the frivolous cases filed from time to time.

15. That before averring to the para wise objections to the I.A. 243/2023 filed for Condonation of Delay, I lay down my preliminary submissions against the I.A. for condonation of delay which also contains a summary of the





Maharashtra Pollution Control Board (MPCB) on 19.02.2019 and the same was granted on 02.11.2019.

20. That thereafter the construction of the said project was started.

21. That during all this time the Appellant herein, neither challenged the said EC nor the CTE and remained quiet for reasons best known to him.

22. That thereafter on 08.08.2020, we applied to SEIAA for the amendment of the EC dated 01.02.2019 in view of the addition of an adjacent plot area within the project having the same ownership just to compensate for the mandatory 15% amenity open space requirement for the said project.

Further, there were a few changes in the building configuration for which the said amendment in the earlier EC was sought. That it is pertinent to note that this change had no impact or any increase in the built-up area or the Floor Space Index (FSI) or Non-Floor Space Index (non-FSI) area of the project and did not involve any increase in the pollution load. That the said proposal for amendment/expansion was considered by the SEAC in its 119<sup>th</sup> and 123<sup>rd</sup> meetings held on 17.06.2021 and 08.09.2021 respectively. That under the said meetings the SEAC again deliberated and scrutinized the proposed amendment to EC/expansion. That under these meetings, the SEAC also sought additional information from us in response to a complaint filed against the project.

23. That thereafter, one, Mr. Rajendra Keshav Gorde, filed an Original Application before this Hon'ble Tribunal on 01.10.2021 titled Rajendra Keshav Gorde Vs Union of India & Ors. (O.A. 71/2021 – WZ) against the project in question.

24. That it was only at this stage that the Appellant herein had made its first move against our project by filing an I.A. no. 104/2021 for intervention on 08.11.2021 in the above-mentioned case.



25. That by that time the said Original Application had already been listed on two occasions, viz on 22.10.2021 and 26.10.2021 wherein no one had appeared on behalf of the Original Applicant - Mr. Rajendra Keshav Gorde.

26. That thereafter, the said Interlocutory Application of the Appellant herein (I.A. no. 104/2021) was taken up with the O.A. 71/2021 on 11.11.2021 and order was passed while noting the submissions of the Respondents that the antecedent bona fide of the Applicant to the I.A. (Appellant herein) is doubtful. That under the said hearing, the Appellant has gone so far as to accuse a collision between us and the Original Applicant – Mr. Rajendra Keshav Gorde for his non-appearance, without any basis. Further, the said case was passed over for hearing on the same day, however, none appeared on behalf of the Appellant herein or the Original Applicant later in that day as noted in the said final order dated 11.11.2021.

27. That thereafter, the matter was finally listed on 06.12.2021 wherein after noting that none had appeared for the Original Applicant and noting the liberty is available with Appellant herein to work out his remedy in accordance with the law, the case was dismissed in default.

28. That after the dismissal of the said case, between December 2021 to September 2022, the Appellant made several representations before the MoEF&CC among other authorities alleging irregularities in obtaining the Environment Clearance for the Project.

29. That in this regard, the Appellant herein emailed a complaint to MoEF&CC dated 09.12.2021 while referring to the observations made in the 119<sup>th</sup> minutes of the meeting of SEAC held on 17.06.2021 among other references. That this shows that the Appellant was vigilant on the developments made towards the statutory processing of the project and has



been closely monitoring the same and therefore it is hard to believe that any document/clearance made available on public domain would surpass the attention of the Appellant except for an absolute negligence or changing agendas of the Appellant.

30. That after the dismissal of the said OA along with the I.A. of the Appellant, he subsequently filed an O.A. No. 6/2022 – WZ titled Suhas Rao Rane Vs MoEF&CC & Ors. wherein the EC granted on 01.02.2019 to our BELLRUE Project was challenged while raising frivolous grounds. That as the said application mainly challenged the EC dated 01.02.2019, for which the NGT Act 2010 provides a specific provision of Appeal under section 16, the said Original Application filed under section 14 of the NGT Act was dismissed by this Hon'ble Tribunal vide its order dated 18.02.2022 for filing an appropriate application before the appropriate forum. That the true copy of the said order dated 18.02.2022 is marked and annexed as ANNEXURE R5/1.



31. That in the meanwhile, the 134<sup>th</sup> meeting of SEAC was held on 16.02.2022 wherein the responses provided by us towards the complaint noted by SEAC in its 123<sup>rd</sup> meeting were considered. Further, the responses to the rest of the queries/observations made by the SEAC were also considered, and accordingly, the proposed amendment/expansion was recommended for grant of EC. That the Minutes of the said 134<sup>th</sup> meeting were uploaded on the PARIVESH Portal of the Ministry of Environment Forest and Climate Change (hereinafter referred to as MoEF&CC) and is available in the public domain. (The link to the 134<sup>th</sup> Minutes of the meeting is mentioned here for your kind perusal - [https://www.ecmpcb.in/login/download\\_ec\\_document/Qjk5OUMzNEVEOUJDNDM2RTIFMDk4QzA2QzI4NUYwRUUucGRm](https://www.ecmpcb.in/login/download_ec_document/Qjk5OUMzNEVEOUJDNDM2RTIFMDk4QzA2QzI4NUYwRUUucGRm))

32. That in the said minutes of the meeting, Respondent No. 3 - SEAC notes that there is no change in the Floor Space Index and Non-Floor Space Index of the Project. It is noted that the amendment is proposed due to the change in the Building Configuration and the same involves a reduction in resource requirement and waste generation. The SEAC also noted that the project is a Zero Liquid Discharge (ZLD) Project. It notes that the proposal was appraised as a Category 8(b) B1 Project after examining all aspects of the project.

33. That in view of the same, the SEIAA further appraised the project in its 240<sup>th</sup> and 247<sup>th</sup> meetings held on 08.04.2022 and 29.07.2022 respectively wherein, the project was approved for amendment of EC/expansion on 29.07.2022.

34. That in view of the same the EC for amendment/expansion was granted on 29.08.2022, and the same was uploaded on the portal of SEIAA Maharashtra on the same day. That the said fact is evident from the timeline provided for the project under the said portal wherein the date of uploading the EC letter is provided as 29.08.2022. That the true copy of the webpage showing the said timeline under the portal of SEIAA, Maharashtra is marked and annexed as **ANNEXURE R5/2**

35. That thereafter, in compliance with EC Condition No. XI of the EC dated 29.08.2022, we published the information regarding the grant of EC on 12.09.2022 in 'The Free Press Journal' (English) and 'Tarun Bharat' (Marathi). That the True Copies of the pages from the newspapers evidencing the publication of the EC is annexed hereto and collectively as **ANNEXURE R5/3 (Colly)**.

36. Further, the said EC dated 29.08.2022 was also published on the project's website by us in the month of March 2023.



37. That the Appellant herein, who was closely monitoring the project beforehand ought to have been aware of the said developments, especially in view of the fact that we had taken all measures as per law and conditions of the EC for publicizing the said EC and therefore in any case, it is deemed that he should have been aware of the EC on and from at least 12.09.2022 when the same was published in newspapers, if not before.

38. However, the Appellant chose to remain quiet thereafter and instead of moving an Appeal against the EC dated 29.08.2022 under section 16 of the NGT Act 2010, he filed a Civil Writ Petition No. 3702 of 2023 before the Bombay High Court on 13.03.2023. That by the time that the said Writ Petition was moved by the Appellant herein, a period of 196 days from the date of issuance of the said impugned EC had already lapsed which is way beyond the condonable time period of sixty days after the initial thirty days when such Appeal ought to have been preferred under the NGT Act 2010. That there was no explanation provided by the Appellant herein for such an inordinate delay before the Hon'ble High Court. Further, there is no explanation provided by the Appellant before this Hon'ble Tribunal for the said delay either. However, thereafter, the Hon'ble High Court rightly disposed of the said Writ Petition vide its order dated 28.03.2023 while noting that a remedy in this regard is available before this Hon'ble Tribunal and appropriate steps may be taken in this regard. It is obvious that such appropriate steps have to be taken in accordance with law.

39. That accordingly, the Appellant herein, filed the present Appeal, which is Appeal No. 24/2023 (WZ) challenging the EC granted for the BELLRUE Project dated 29.08.2022 before this Hon'ble Tribunal on 16.05.2023. That it is reiterated that this Appeal has been filed after a delay of 260 days from the date of grant of the said EC and is therefore severely time-barred under



limitation. Therefore, the purported inability or failure on the part of the Appellant to access the EC, which remains duly available and accessible in public domain on and from 29.08.2022 does not and cannot constitute sufficient cause to condone the delay in filing of the Appeal No. 24 of 2023 (WZ). That it is pertinent to mention that the Appellant had not even filed any Application for the condonation of the said non-condonable delay of 260 days while filing the said Appeal and the same has not been filed till date.

40. That it is submitted that the Appellant cannot be permitted to plead ignorance of the advertisements and aforementioned publications which have been duly publicized by us, as per statutory requirements, and seek liberty to file an Appeal under Section 16 of the National Green Tribunal Act, 2010 ("the Act") well beyond the expiry of the limitation period and without explaining the delay. The Appellant is not entitled to plead ignorance of the advertisements under any circumstances and render the entire purpose of such advertisements and publications, and resultantly the statutory rationale therefore, nugatory. Such ignorance claimed in the Application is evidently false and has been made with male fide intent.

41. That it is further pertinent to mention that when the said Appeal 24/2022 was taken up by this Hon'ble Tribunal on 11.07.2023, the Appellant chose not to appear, and neither did any counsel appear on his behalf. That in view of the same this Hon'ble Tribunal had granted an opportunity to the Appellant for making an appearance in the said case and therefore adjourned the matter to 13.07.2023. However, on the said date, the Appellant again chose not to appear for the case, and therefore vide order dated 13.07.2023, this Hon'ble Tribunal dismissed the said Appeal. That the True Copy of the order dated 11.07.2023 is marked and annexed as



ANNEXURE R5/4. That the true copy of the order dated 13.07.2023 is marked and annexed as ANNEXURE R5/5.

42. That this shows the callous approach of the Appellant in raising these frivolous litigations which in turn has caused grave harm to us and the reputation of our Company.

43. That thereafter, the Appellant, instead of filing an Application for restoration of the said Appeal, chose to approach the Hon'ble Supreme Court under Civil Appeal No.6814 of 2023 (the "Civil Appeal") under section 22 of the NGT Act 2010 against the Order of this Hon'ble Tribunal dated 13.07.2023. It is relevant to note that I was not aware of the Civil Appeal as no service in the proceedings before the Hon'ble Supreme Court was made on me. It appears that the Appellant had made an attempt to obtain favorable orders from the Hon'ble Supreme Court behind my back. However, after perusal of the Civil Appeal, the copy of which has now been provided under the present Miscellaneous Application, it would be apropos to say that the Appellant had made false and baseless allegations before the Supreme Court of India with respect to the Appeal.

44. In ground (C) of the Civil Appeal, the Appellant stated before the Hon'ble Supreme Court of India that:

*“(C) The Ld. National Green Tribunal WZB has not fulfilled its duty to decide and hear cases pertaining to violation of environmental laws and the duty to protect and preserve the environment, which is cast upon it by the legislation. Instead, the Ld. Tribunal dismissed the appeal placed before it without even venturing into the merits of the case and merely on a minor technicality i.e. default in*



*appearance which could have been rectified by the Ld.*

*NGT by taking appropriate measures.”*

45. In under averment No. 1A of the Civil Appeal, the Appellant wrongly stated before the Hon’ble Supreme Court of India that:

*“1A. that against the impugned final judgment and order [referring to this Hon’ble Tribunal’s order dated 13 July 2023], no other remedy such as an LPA or writ appeal etc. lies elsewhere.”*

Clearly this was a misrepresentation of the law itself where the power to restore when an application is dismissed in default is available as a remedy as prescribed under the NGT Rules 2011

46. That thereafter, the Hon’ble Supreme Court took up the said Civil Appeal on 24.11.2023 wherein the matter was disposed of as withdrawn with liberty to make an application before the National Green Tribunal for restoration of the Appeal which was dismissed in default by this Hon’ble Tribunal.

47. That in view of the same, the Appellant after a non-condonable delay of 121 days has now filed its application for restoration of the Appeal on 11.12.2023 along with application for condonation of delay for moving the restoration application on 14.11.2023.

48. That Rule 20(2) of the NGT Rules 2011 requires a party to file an Application for restoration within thirty days from the date of dismissal of the Appeal, i.e. on or before 12.08.2023 in the present case while explaining the sufficient cause, which the Appellant has failed to do.

49. The Appellant’s prayer for condonation of delay to restore the Appeal No. 24 of 2023 (WZ) filed after five months of the issuance of Order dated



13.07.2023 is with no 'sufficient cause' for his non-appearance in the Appeal as mandated by Rule 20(2) of the NGT Rules. No cogent reasons have been provided by the Appellant to justify the delay.

50. It is deemed fit to state here that the Appellant was, at all material times, aware of the stages involved in the grant and issuance of the EC to us as the Appellant is a serial litigator and a forum shopper and this is the sixth litigation initiated by the Appellant, who would for all malicious intent keep a close tab on the activities related to the Project.

51. The Appellant has used different sets of lawyers in each of the above-referred proceedings filed by him.

52. The instant Appeal is premised on deliberate and malicious falsehood and forms a part and substance of the mala fide pattern of the Appellant to cause illegitimate and unlawful hindrances and obstruction to the business operations of the BELLRUE Project.

53. The Appellant has filed the Application in gross suppression of material facts mentioned above which unambiguously demonstrate that the delay in filing the Appeal and the restoration of the Appeal cannot have any reasonable explanation and justification and that the pleadings of the Application are false and incorrect.

54. That this Hon'ble Tribunal has held in its judgement dated 19.08.2022 in the case titled *R. Shreedhar Vs. Union of India; Appeal No. 13/2019/EZ(IA No. 77/2019/EZ)*, that the behavior of the litigant to seek condonation of delay in approaching the Court also needs to be examined while considering whether the Appellant had indeed been able to make out a sufficient cause for condonation of delay and he should not have been negligent. In that case, the Appellant was well aware of the facts of the case since he was already prosecuting other appeals with regard to the same



project. On that ground, this Hon'ble Tribunal refused to condone the delay. The facts of the present case are far more compelling than the facts in R. Sreedhar's case. In the instant case there has been a similar length of delay and in addition to that not only is the Appellant aware of the facts of the case all along, he has been litigating against the same project with unusual and suspicious alacrity and speed all throughout the expansion process. The purported delay in filing the appeal is in stark contrast with the alacrity with which the Appellant has acted by filing several litigations before various Judicial Forums as also proceeding before various statutory authorities with lightning speed. Therefore, the ratio laid down in R. Sreedhar's case is squarely applicable to the facts of the instant case which are in fact more compelling and which merits dismissal of the application ad limine and with exemplary costs. Further, it is also settled law that conduct and delay of and on the part of the Appellant must not be lacking in bona fides. As the facts of the instant case shows, the conduct of the Appellant has been full of mala fides and the delay is also lacking in bona fides.

55. The Appellant's conduct in initiating multiple legal proceedings illustrates clearly that he is motivated somehow to derail the project by raising false environmental issues. That it is reiterated that the Appellant has filed all of the above proceedings with *mala fide* and ulterior motives.

#### PARA-WISE OBJECTIONS:

I shall now provide my submission para-wise to the Interim Application, which are as follows:

1. With reference to paragraph 1 of the Interim Application, I deny the contents as wrong, false and devoid of any merits. I submit that the Appellant should have been diligent, conscious, and responsible for an



issue that, in his opinion was considered necessary to be agitated in this Hon'ble Tribunal. It is submitted that the standard procedure for listing of cases, which is uploading of the Cause List on the website of this Hon'ble Tribunal, was followed, and which is how the answering Respondent herein also got to know about the listing of the said case. Further, this Hon'ble Tribunal also has the practice of issuing Advance Cause Lists at least two days prior to the hearing of the matter. Accordingly, the Advance Cause List for 11.07.2023 was issued on 09.07.2023, which listed the case of the Appellant as Item No. 1. This submission of the answering Respondent is further supported by the precedent laid down by the Hon'ble High Court of Bombay, in *Kanta v. Manjulabai* 2020 (1) MhLJ 918 which held that:

*“2. ....A litigant who approaches to the Court must be diligent. He or she must take all steps to pursue his or her litigation. It is expected from the litigant that he or she is in contact with the lawyer who is representing his or her cause in the Court of law. A litigant cannot take a specious plea that once the case is entrusted with an advocate his or her work is over and the advocate will take care of the matter. An Advocate always discharges his duties on the instructions given to him by his client.”*

Furthermore, on the date of the first listing of the case on 11.07.2023, this Hon'ble Tribunal categorically deferred the case to another date, i.e., 13.07.2023 owing to the non-appearance of the Appellant or his legal representative, in the interest of justice. It is thus humbly submitted that the conduct of the Appellant has been negligent and lackadaisical and has been to blame non-existing circumstances for his deliberate defaults, and



amounts to wasting the time and resources of this Hon'ble Tribunal. That I pray for dismissing the instant IA on this ground alone with huge costs. That the Hon'ble Supreme Court in the case of *Esha Bhattacharjee v. Managing Committee of Raghunathpur Academy and Ors.* (2013) 12 SCC 649 has also laid down the following principles to consider an application for condonation of delay:

*"21.4. No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of."*

*"21.5. Lack of bona fide imputable to a party seeking condonation of delay is a significant and relevant fact;"*

*"21.7. The concept of liberal approach has to encapsulate the conception of reasonableness and totally unfettered free play is not allowed;"*

*"21.8. There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation."*

*"21.9. The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach."*

*"21.10. If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be*



*vigilant not to expose the other side unnecessarily to face such a litigation.”*

*“22.1. (a) An application for condonation of delay should be drafted with careful concern and not in a haphazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.”*

*“22.4. (d) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be annexed in a nonchalant manner requires to be curbed, of course, within legal parameters.”*

2. With reference to paragraph 2 of the Interim Application, I deny that the Appellant was not able to keep track of the cause list as he was occupied with personal responsibilities. That the Appellant is a serial litigator and a forum shopper, and this is his sixth round of litigation against our project. The Appellant would for all malicious intent keep a close tab on the activities related to the Project. The Appellant does not deserve another opportunity to present any further documents to explain the delay. The Appellant ought to have produced all such documents at the time of filing the Interim Application. Since the Appellant is accustomed to the proceedings of the Court owing to the number of litigations in his name, he should have annexed such documents that would have been considered “sufficient cause” for condonation of delay. No ‘sufficient cause’ has been shown by the Appellant for his non-appearance in the Appeal as mandated by Rule 20(2) of the NGT Rules for seeking restoration of the Appeal. No cogent reasons have been provided by the Appellant to justify the delay.



3. With reference to paragraph 3 of the Interim Application, I state that the Appellant has failed to provide a clear date on which the Appellant allegedly became aware of this Hon'ble Tribunal's order dated 13.07.2023. I deny that the Appellant became aware of such an order 'much later' as alleged or at all. As mentioned in response to paragraph 2, the Appellant has been in continuous pursuit of litigation against us and for all intent and purposes has kept a close tab on the operations of the Project and the litigation related thereto. The excuses made by the Appellant is fictitious and deceitful. Further the Orders of this Hon'ble Tribunal gets uploaded almost immediately on the website and therefore such a frivolous excuse ought to be rejected outrightly.
4. With reference to paragraph 4 of the Interim Application, it is submitted that the proceedings of the Hon'ble Supreme Court are a matter of record. The Appellant in order to overcome the statutory bar, provided in Rule 20(2) of the NGT Rules, 2011, approached the Hon'ble Supreme Court with Civil Appeal No. 6814 of 2023, as he had surpassed the limitation period of 30 days as provided by 19(4)(h) of the NGT Act, 2010 to be read with Rule 20(2) of the NGT Rules 2011 for seeking restoration of appeal and setting aside the Order dated 13.07.2023 in Appeal 24 of 2023 (WZ). This clear misadventure needs to be nipped in the bud by this Hon'ble Tribunal.
5. With reference to paragraph 5 of the Interim Application, I submit that the Appellant who is the Applicant herein had withdrawn his Appeal and Hon'ble Supreme Court had disposed of the Appeal with a liberty granted to file an Application for restoration of appeal before this Hon'ble Tribunal, which obviously needs to be decided in accordance with law. As noted above, the Interim Application seeking condonation of delay is not



maintainable as there is no provision in the NGT Act, 2010 or the NGT Rules, 2011 for condonation of delay in an application for restoration. It is evident that only to overcome the statutorily prescribed period of limitation, the Appellant chose to approach the Hon'ble Supreme Court. The Appellant sought to misuse the liberty granted by the Hon'ble Apex Court by filing of the present appeal. The Civil Appeal No. 6814 of 2023 was disposed of on 24.11.2023 with the following observation:

*“The learned counsel appearing for the appellant seeks permission to withdraw the appeal with liberty to make an application before the National Green Tribunal for restoration of the appeal which was dismissed in default. By granting liberty as aforesaid, the appeal is disposed of.”*

The Hon'ble Supreme Court felt it appropriate not to issue further clarification regarding the scope of the liberty granted to the Appellant. Therefore, it is submitted that this Hon'ble Tribunal has complete jurisdiction to decide all contentions including whether the delay ought to be condoned or not. Therefore, the liberty granted by the Hon'ble Supreme Court, cannot be deemed to be condoned on the basis of the Order of 24.11.2023.

It is a settled principle that no directions can be passed to any statutory Tribunal to act outside the scope of its powers. This is so even when an order is passed under Article 142 as is settled law that vesting of jurisdiction cannot violate a statute. In *Nidhi Kaim Vs. State of M.P. (2017) 4 SCC 1* (Para 91) the Hon'ble Supreme Court stated that *“In terms of the judgements in Supreme Court Bar Assn case, with which we express our unequivocal concurrence, it is not possible to accept that the words*



*'complete justice' used in Article 142 of the Constitution would include the power to disregard even statutory provisions...".*

6. With reference to paragraph 6 of the Interim Application, I deny that the Appellant's delay deserves to be condoned. I deny that there are any environmental issues with respect to the project as alleged or at all. The amendment is only with respect to the Building Configuration which includes reduction in resource requirement and waste generation for which a Environmental Clearance has been granted by the SEIAA in accordance with law. The SEAC also noted that the project is a Zero Liquid Discharge (ZLD) Project. These amendments are rather made to protect the environment with better judicious use and handling of resources. However, at this opportune time it is apposite to state that the Hon'ble Supreme Court in *C. Jacob Vs. Director of Geology and Mining, (2008) 10 SCC 115*, Para 8-16 and *Union of India Vs. M.K. Sarkar, (2010) 2 SCC 59* made it clear that the law of limitation or the bar of laches ought not be ignored, so as to have the effect of reviving a 'stale claim', i.e., a claim otherwise barred by the law of limitation. It was further held that an Order directing consideration of issue/representation on merits does not revive the law of limitation, which is still to be determined with reference to the original cause of action.

The Appeal deserves to be dismissed at the threshold on ground of limitation as the Hon'ble Supreme Court in the case of *Ujjam Bai Vs. State of UP, AIR 1962 SC 1621*, (Para 19) states that "*The question, whether a tribunal has jurisdiction depends not on the truth or falsehood of the facts into which it has to enquire, or upon the correctness of its findings on these facts, but upon the nature, and it is determinable 'at the commencement,*



*not at the conclusion, of the inquiry'.*” Therefore, the issue of jurisdiction ought to be disposed of at the threshold before merits are examined.

Reliance is also to be placed on the decision of the Hon’ble Supreme Court in the case of *Hardesh Ores Vs. Hede and Co. (2007) 5 SCC 614* (Paras 25 and 33), wherein it was emphasized that when it is evident from the averments from the plaint that a suit is barred by time on the face of it, Courts should refuse to entertain the same at the very outset by rejection of plaint under Order VII Rule 11(d) of the Code of Civil Procedure, 1908. In the instant matter, the condonation of delay application should therefore be considered and disposed of by the Tribunal at the threshold, otherwise if the Tribunal should proceed on the merit of the case it would have the effect of having allowed the Application of the Appellant and the delay having been condoned.

- 
7. With reference to paragraph 7 of the Interim Application, I once again submit that the Appellant’s submission that he is willing to pay any costs for the delay ex-facie indicated that the Appellant is motivated to cause disruptions to the project by raising false environmental issues.
  8. The Respondent reserves the right to file a detailed Reply on merits if required by this Hon’ble Tribunal.

In light of the above, it is prayed that the Application and consequently the Appeal be dismissed in the interest of justice and equity.

Date: 27.02.2024  
Place: Pune



DEPONENT

Dr. Farrokh Framji Wadia  
Partner  
Sagitarium Ecospaces LLP

VERIFICATION

I, DR. FARROKH FRAMJI WADIA, the Respondent No.5 in the above referred Application, adult, Indian inhabitant, having my office at Sagitarius Ecospaces LLP, 8, Nagar Road, Mumbai 411 006, do hereby solemnly affirm and state what is stated in paragraphs 1 to 8 of the foregoing affidavit are true to my knowledge and that what is stated in paragraphs 1 to 8 are stated on information and belief, and I believe such statements to be true.

Solemnly affirmed and declared at Pune )

On this 28<sup>th</sup> day of February 2024 )

Before me,

*Farrokh F Wadia*



**Noted & Registered**  
at. Sr. No. B.1259/2024

**BEFORE ME**

*[Signature]*  
**GORAKH V. KIRVE**  
NOTARY  
GOVT OF INDIA

**28 FEB 2024**



Item No. 02

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE**

(By Video Conferencing)

Original Application No.06/2022(WZ)

Suhas Rao Rane

Applicant(s)

Versus

MoEF &amp; CC &amp; Ors.

Respondent(s)

Date of hearing: 18.02.2022.

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER  
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant(s): Mr. Ziauddin Sherkar, Advocate

Respondent(s): Mr. Sanjay Upadhyay, Advocate

**ORDER**

Return in original for filing appropriate application before appropriate forum after corrected version of translation (of the documents filed).

Sheo Kumar Singh, JM

Dr. Vijay Kulkarni, EM

February 18, 2022  
Original Application No.06/2022(WZ)  
JG

### TimeLine Details

ANNEXURE R/2

Proposal received date at each stage of flow.

**Proposal No.\* :** SIA/MH/MIS/71259/2017

**Project Name\* :** Residential & Commercial Project: Bellrue

**Project Sector\* :** INFRA-2

**Date of submission\* :** 19 Jan 2022

Submitted by Proponent	Query for Shortcoming(if any) by SEIAA	Resubmission of Proposal by Proponent	Accepted by SEIAA and forwarded to SEAC	Query for Shortcoming(if any) by SEAC	Resubmission of Proposal by Proponent	Accepted by SEAC	Forwarded to SEIAA for EC	EC Letter Uploaded On/EC Granted
19/01/2022	N/A	N/A	19/01/2022	N/A	N/A	11/02/2022	12/03/2022	29/08/2022

-TRUR COPY-



8

POSSESSION NOTICE - (For immovable property Rule 8(i))  
Whereas, the undersigned being the Authorized Officer of the Home Finance Limited (Formerly known as India Infinito Housing Finance Ltd.) under the authorization and sanction of the Board of Directors of the said Home Finance Limited...

POSSESSION NOTICE - (For immovable property Rule 8(i))  
Whereas, the undersigned being the Authorized Officer of the Home Finance Limited (Formerly known as India Infinito Housing Finance Ltd.) under the authorization and sanction of the Board of Directors of the said Home Finance Limited...

PUBLIC NOTICE  
TO WHOMSOEVER IT MAY CONCERN  
This is to inform the general public that following Share Certificate(s) of Godrej Consumer Products Ltd having its Registered Office at Godrej, 4, B-Flr, Pimpri-Chinchwad Eastern Express Highway, Mumbai East, Mumbai - 400 075, registered in the name of the following shareholder(s) have been issued...

PUBLIC ANNOUNCEMENT  
The proposed amendment in Residential Commercial Project located at Plot No. 33 & FF No. 70/1, Nagar Road, Newpada, Pune by M/s. Saghai Ecopoles LLP has been accorded Environmental Clearance by the State Environment Impact Assessment Authority, Maharashtra vide letter dated 29th August 2022 having EC Identification No. EC/22/03/384/H/14/197 and F/14 No. SA/2018/57/259/2017. Copies of the said environmental clearance are available at the website of the Environment Department, Government of Maharashtra at: http://envdhep.mca.gov.in Date: 12/09/2022

GIC HOUSING FINANCE LTD.  
PANEL BRANCH: Shop No. 2/4, Suryajyoti Complex, Plot No. 05, Sec. 05, Behind Dharmapada, Near Nandivada, Mumbai - 400 022. Tel: 022-43041800. Email: corporate@gicfl.com. Website: www.gicfl.com

SYMBOLIC POSSESSION  
NOTICE UNDER SUB-RULE (1) OF RULE 8 OF RULES UNDER SARFAESI ACT, 2002

WHEREAS the undersigned being the authorized officer of GICFL, pursuant to the demand notice issued on the respective dates on or after section 13(2) of SARFAESI Act, 2002 calling upon you to attend the court and to pay the amount due on the respective dates from the date of issue of the demand notice, you all have failed to do so...

Table with columns: Sr. No., Loan A/C No / Name of Borrower, Address of the Mortgaged Property, Outstanding Dues As On 02.09.2022, Date of Demand Notice, Date of Possession, and Date of Symbolic Possession Notice. The table lists 100 entries of defaulted loans with borrower names and property details.

DATE: 12.09.2022  
PLACE: PUNE  
FOR GIC HOUSING FINANCE LTD.  
AUTHORISED SIGNATORY

Item No.1

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE**

[THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)]

**APPEAL NO.24 OF 2023 (WZ)**

Suhas Rao Rane

.... Appellant

Versus

MoEF&amp;CC &amp; Ors.

.... Respondents

Date of Hearing : 13.07.2023

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER  
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Appellant : ----

Respondents : Mr. Sanjay Upadhyay, Advocate for the Caveator – R5  
Mr. Rahul Kothari, Advocate for R-8 (Witwicky One Pvt.Ltd.)

**ORDER**

1. None has appeared from the side of the appellant despite repeated calls. On the previous date i.e. 11.07.2023 also, none had appeared on behalf of the appellant because of which reason only, this matter was fixed for admission today. But it appears that the appellant is not interested in prosecuting the present appeal.

2. From the side of respondent No. 5 – Dr. Farrokh Wadia, learned counsel Mr. Sanjay Upadhyay has appeared and states that the appeal is time-barred and that the appellant has been litigating against respondent No.5 repeatedly just to harass him.

3. Looking to the fact that the appellant is not interested in the present appeal, we dismiss the appeal in default.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

July 13, 2023  
APPEAL NO.24/2023(WZ)  
npj

Item No.1

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE**

[THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)]

**CAVEAT APPLICATION NO. 03 OF 2023 (WZ)  
IN  
APPEAL NO.24 OF 2023 (WZ)**

Suhas Rao Rane

.... Applicant

Versus

MoEF&amp;CC &amp; Ors.

....Respondents

Date of Hearing : 11.07.2023

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER  
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : ----

Respondents : Mr. Sanjay Upadhyay, Advocate for Caveator  
(respondent No.5)  
Mr. Rahul Kothari, Advocate for R-8

**ORDER**

1. None has appeared, on call, from the side of the appellant today.
2. From the side of respondent No. 5 – Dr. Farrokh Wadia, learned counsel Mr. Sanjay Upadhyay has appeared, who has also filed a caveat and says that this appeal is against the Environmental Clearance dated 29.08.2022, which is annexed at page 119 of the paper-book and that the appeal against it is exceedingly time-barred and as per the office report, there is no I.A. moved by the appellant seeking condonation of delay
3. From the side of respondent No. 8, learned counsel Mr. Rahul Kothari has appeared saying that probably name of respondent No.8 “Brookfields Properties Pvt.Ltd.” is being wrongly shown as the correct respondent No.8 should be “Witwicky One Pvt. Ltd.”

4. Since today the appellant is not appearing, it is considered appropriate by us to defer this matter day-after-tomorrow i.e. 13.07.2023 in the interest of justice.

5. We find that the Registry has shown Caveat Application No.03/2023 as the main application to be taken up today filed in Appeal No.24/2023, which is wrong approach because the appeal should have been listed for admission showing that the caveat application is also filed. Therefore, we direct the Registry to be careful in future in this regard.

6. Learned counsel Mr. Sanjay Upadhyay has brought to our notice that this is 4<sup>th</sup> litigation initiated by the appellant malafidely, who is sitting in Mumbai.

7. Put up this matter on 13.07.2023.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

July 11, 2023  
CAVEAT APPLICATION NO.03/2023(WZ)  
npj

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**Service in Suhas Rao Rane Vs. MoEF&CC & Ors. (MA. No. 16 of 2023 in Appeal No. 24 of 2023)**

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ELDF <eldflegal@gmail.com>

Wed, Feb 28, 2024 at 6:47 PM

To: p 1234 <poojaddun2011@gmail.com>, aniruddha1488@gmail.com, Secy-moef@gov.nic.in, Shri R P Gupta <secy-moef@nic.in>, yerawada@punecorporation.org, himani@aespl.co.in, nisha.vijarania@brookfieldproperties.com, "mco@punecorporation.org" <mco@punecorporation.org>

Cc: Saumitra Jaiswal <SAUMITRA@eldfindia.com>, Eisha Krishn <eisha@eldfindia.com>, Sparsh Peter <sparsh@eldfindia.com>

Respected Sir,

We are hereby serving upon you the corrected copy of the Objections of Respondent No. 5 (Dr. Farrokh Framji Wadia, Partner, Sagitarius Ecospaces LLP) to the Interlocutory Application No. 243/2023 for Condonation of Delay in filing M.A. No. 16/2023 for restoration of the Appeal No. 24/2023

Kindly ignore the email sent earlier. Apologies for the inconvenience caused.

Thanks & Regards

Sameer

*Thanks & Regards*

--

**Sameer Manher**

*Clerk*

*Enviro Legal Defence Firm*

*29, Presidential Estate LGF,*

*Nizamuddin East New Delhi – 110013*

*Ph. No. 011-40573181*

[Quoted text hidden]

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 **2024.02.28- Objections of Respondent No. 5.pdf**  
13621K