

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

**MISC. APPLICATION NO. 21/ 2021  
IN O.A. NO. 33/2015**

**IN THE MATTER OF**

THE GOA FOUNDATION

...APPLICANT

VERSUS

GOA STATE ENVIRONMENT IMPACT  
ASSESSMENT AUTHORITY AND OTHERS

...RESPONDENTS

**PRELIMINARY OBJECTION ON BEHALF OF THE  
RESPONDENT NO. 3, GOA STATE INFRASTRUCTURE  
DEVELOPMENT CORPORATION**

**INDEX**

1.	Preliminary Objections to M.A. 21/2021 in O.A. 33/2015 on behalf of the Respondent No. 3	<b>1-5</b>
2.	Affidavit of the Respondent No. 3	<b>6-7</b>
3.	<b><u>Annexure R-1</u></b> A true copy of the bare text of the National Green Tribunal (Practices and Procedure) Rules, 2011.	<b>8-33</b>
4.	<b><u>Annexure R-2 Colly</u></b> True copies of the order dated 23.03.2020 and the final order dated 08.03.2021 passed by the Supreme	<b>34-36</b>

	Court in Suo Moto Writ Petition (Civil) No. 3/2020	
5.	<b><u>Annexure R-3 Colly</u></b> True copies of the Affidavit in Response to the NIOT report and Additional Affidavits filed by the Applicant.	<b>37-48</b>
	<b>LAST PAGE</b>	<b>48</b>

**BHAVYA PANDE  
ADVOCATE FOR THE  
RESPONDENT NO. 3**

**PLACE: PUNE  
DATE: 14.01.2022**

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**THE RESPONDENT NO. 3 IN THE ABOVE-CAPTIONED  
APPLICATION MOST RESPECTFULLY SHOWETH:**

1. By the present Application read with the I.A. No. 124/2021, the Applicant has requested for recalling the order dated 22.01.2020 passed by the Hon'ble National Green Tribunal, Principal Bench, New Delhi, in O.A. No. 33 of 2015 disposing off the aforesaid O.A.

2. The Respondent No. 3 hereby raises the following preliminary objections in respect of the maintainability of above-captioned Application.

3. Reference may be made to the National Green Tribunal (Practices and Procedure) Rules, 2011 [hereinafter referred to as *the Rules* for the

sake of brevity and convenience] which have been framed under Section 4 (4) read with Section 35 of the National Green Tribunal Act, 2010. A true copy of the bare text of the National Green Tribunal (Practices and Procedure) Rules, 2011 is annexed and is marked as **ANNEXURE R – 1 [PAGE NO. 8 TO 33]**.

4. Rule 20 of the Rules reads as under:-

***“20. Action on application for applicant's or appellant's default. - (1) Where on the date fixed for hearing of the application or appeal, as the case may be, or on any other date to which such hearing may be adjourned the applicant or appellant, as the case may be, does not appear when the application or appeal, as the case may be, is called for hearing, the Tribunal may in its discretion, either dismiss such application or appeal for default or hear and decide it on merit.***

*(2) Where an application or appeal, as the case may be, has been dismissed for default and the applicant or appellant, as the case may be, files an application within thirty days from the date of dismissal and satisfies the Tribunal that there was sufficient cause for his non-appearance when the application or appeal was called for hearing, the Tribunal shall make an order setting aside the order dismissing the application or appeal, as the case may be, and restore the same:*

*Provided that where the case was disposed of on merits the decision shall not be reopened except by way of review.”*

[Emphasis supplied]

As is clear, Rule 20 provides for action on an Application for Applicant's or Appellant's default. The aforesaid Rule *inter alia* provides that where on the date fixed for hearing of the Application or Appeal, the Applicant or the Appellant does not appear, the Tribunal may in its discretion either dismiss such Application for default or decide it on merits. Where an Application has been dismissed for default due to the Applicant's non-appearance, the Applicant may file an Application for setting aside the order of the Tribunal dismissing the Original Application and for restoration of the same within 30 days from the date of the order dismissing the Original Application. The Proviso to Rule 20 (2) provides that where the case is disposed off on merits the decision shall not be reopened except by way of review. In the present case, the Application has been disposed off on merits. Consequently, in terms of the Proviso to Rule 20 (2), the order dated 22.01.2020 can be reopened only by way of a review.

5. The Applicant ought to have filed an Application for review in terms of Rule 22 of the aforesaid Rules. Even in so far as the Application for review under Rule 22 is concerned, it has to be filed within a period of 30 days from the date of receipt of the copy of the order under review. Pertinently, there is no provision for condonation of any delay. Therefore,

any Application for setting aside or review of an order of the NGT Tribunal ought to be made within 30 days from the date of the order.

6. Secondly, the present Application is barred by limitation. It is contended by the Applicant in paragraph 15 that there is no delay as the Applicant had approached the Hon'ble Bombay High Court at Goa *vide* Writ Petition No.183 of 2021 which was filed on 19.01.2021 and subsequently there was a lockdown. The Applicant also makes reference to the orders passed by the Hon'ble Supreme Court in *Suo Moto* Writ Petition (Civil) No. 3/2020 [*In Re* Cognizance for Extension of Limitation] during the pandemic to get the benefit of the extension of the limitation. However, it is pertinent to point out that those orders extended the period of limitation with effect from 15.03.2020. The present order was passed on 22.01.2020 and the period of 30 days expired on 21.02.2020. Therefore, the benefit of extension of limitation period during the pandemic cannot be given to the Applicant in this case.

True copies of the order dated 23.03.2020 and the final order dated 08.03.2021 passed by the Supreme Court in *Suo Moto* Writ Petition (Civil) No. 3/2020 are annexed and are marked as **ANNEXURE R – 2 Colly [PAGE NO. 34 TO 36]**.

7. It is also pertinent to note that the aforesaid report of the NIOT on the Study of Hydrodynamic and Morphological Change at Tiracol Estuary Goa is dated 17.02.2016. Thereafter, the Applicant filed an Affidavit in Response dated 30.03.2016 in response to the said report of the NIOT. Certain Additional Affidavits were also filed by the Applicant in respect

of the aforesaid Report. Thus, the Applicant's submission on the report before the Hon'ble NGT at the time of deciding the aforesaid application was considered. Therefore, the contention of the Applicant that the principles of natural justice have not been followed while passing the order dated 22.01.2020 is factually incorrect.

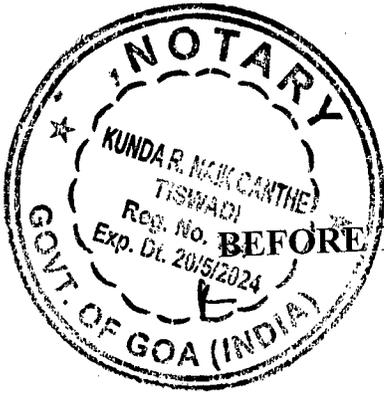
True copies of the Affidavit in Response to the NIOT report and Additional Affidavits in respect of the said report filed by the Applicant are annexed and are marked as **ANNEXURE R – 3 Colly [PAGE NO. 37 TO 48]**.

8. In light of the aforesaid objections raised as to the maintainability of the instant Application, it is most respectfully submitted that the Applicant is not entitled to any relief and the Application is liable to be dismissed.



**BHAVYA PANDE  
ADVOCATE FOR THE  
RESPONDENT NO. 3**

**PUNE  
14.01.2022**



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...RESPONDENTS

**AFFIDAVIT IN SUPPORT OF PRELIMINARY OBJECTIONS ON  
BEHALF OF RESPONDENT NO. 3**

I, Harish Adconkar, Age: Adult, Occupation: Managing Director, Goa State Infrastructure Development Corporation Ltd., having my office at: 7<sup>th</sup> Floor, EDC House, Dr. A.B. Road, Panaji, Goa – 403001, do hereby solemnly affirm and state as under: -

1. That, I am the Managing Director of the Respondent No. 3 Corporation in the above-captioned Application and as such I am well conversant with the facts and circumstances of the case and competent to swear this Affidavit on behalf of the Respondent No. 3 who have authorized me to file this Affidavit.
2. That, the facts stated in the accompanying Preliminary Objections to the Application (Paras 1 to 8) are based on legal submissions which I believe to be true and correct.
3. That, the annexures annexed to the Preliminary Objections are the true copies of the respective originals.

4. That, the statements made by me in this affidavit are true and correct to the best of my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.



*[Handwritten Signature]*

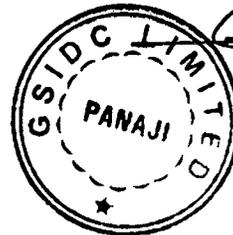
DEPONENT

VERIFICATION

I, Harish Adconkar, Age: Adult, Occupation: Managing Director, Goa State Infrastructure Development Corporation Ltd., having my office at: 7<sup>th</sup> Floor, EDC House, Dr. A.B. Road, Panaji, Goa - 403001, the above-named deponent, do hereby state on oath that the statements made by me in the above affidavit are true and correct to the best of my knowledge, information and belief. No part of it is false and nothing material has been concealed there from.

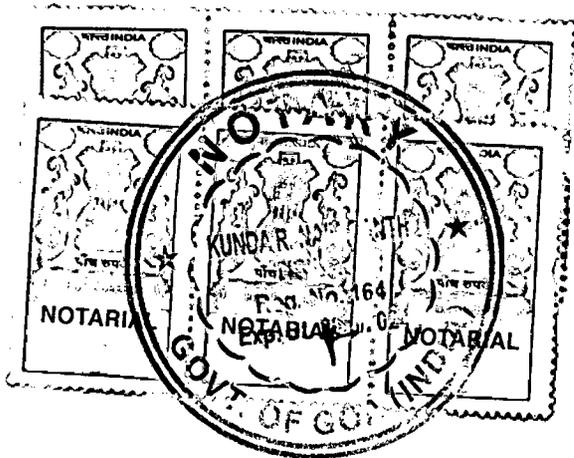
Place: Panaji - Goa

Date: 14/01/2022



*[Handwritten Signature]*

DEPONENT



SOLEMNLY AFFIRMED AND VERIFIED  
BEFORE / ME BY *Harish Adconkar*  
WHO IS IDENTIFIED BEFORE / ME  
BY *POORAG V P B 6220A*  
WHOM I KNOW  
SERIAL No. *12012022*  
DATED *14/1/2022*

*[Signature]*  
KUNDA R. NAIK GANTHE  
NOTARY AT PANAJI  
STATE OF GOA, INDIA

**ANNEXURE R-1****MINISTRY OF ENVIRONMENT AND FORESTS****8****NOTIFICATION**

New Delhi; the 4th April, 2011

**G.S.R. 296(E).**—In exercise of the powers conferred by sub-section (4) of Section 4 read with Section 35 of the National Green Tribunal Act, 2010 (19 of 2010), the Central Government hereby makes the following rules, namely :—

**1. Short title and commencement.**— (1) These rules may be called the National Green Tribunal (Practices and Procedure) Rules, 2011.

(2) They shall come into force on the date of their publication in the Official Gazette.

**2. Definitions.**— (1) In these rules, unless the context otherwise requires.—

- (a) “Act” means the National Green Tribunal Act, 2010 (19 of 2010);
- (b) “agent” means a person duly authorised by a party to present an application, appeal, written reply, rejoinder or any other document on behalf of such party before the Tribunal;
- (c) “applicant” means person making an application or appeal to the Tribunal under section 18;
- (d) “appellant” means person making an appeal to the Tribunal under section 16 read with section 18;
- (e) “Environmental Relief Fund” means the Fund established under section 7 A of the Public Liability Insurance Act, 1991 (6 of 1991);
- (f) “Form” means a form appended to these rules;

- (g) "legal practitioner" shall have the same meaning as is assigned to it in the Advocates Act, 1961 ( 25 of 1961 );
- (h) "legal representative" means a person who in law represents the estate of the deceased person and includes the person or persons in whom the right to receive compensatory benefits vests;
- (i) "Registrar" means an officer of the Tribunal appointed under the Act and designated as the Registrar and includes the Deputy Registrar;
- (j) "Registry" means the Registry of the Tribunal;
- (k) "section" means a section of the Act;
- (l) "transferred case" means the application or appeal or other proceeding which has been transferred to the Tribunal under sub-section (5) of section 38 ;
- (m) "Tribunal" means the National Green Tribunal established under section 3 ;

(2) The words and expression used in these rules but not defined herein and defined in the Act shall have the same meanings, respectively, assigned to them in the Act.

**3. Distribution of business amongst the different ordinary place or places of Sittings of Tribunal.—** (1) The Chairperson may constitute a bench of two or more members consisting of at least one Judicial Member and one Expert Member.

(2) The Chairperson shall have the power to decide the distribution of the business of the Tribunal amongst the members of the Tribunal sitting at different places by order and specify the matters which may be dealt with by each such sitting in accordance with the provisions of clause (d) of sub-section(4) of section 4 of the Act.

(3) If any question arises as to whether any matter falls within the purview of the business allocated to a place of sitting, the decision of the Chairperson shall be final.

Explanation.- The expression "matter" includes application for interim relief.

**4. Circuit procedure.**— The Chairperson may, by general or special order, decide the cases or class of cases for which circuit procedure may be adopted by the Tribunal under clause (b) of sub-section(4) of section 4 of the Act and may delegate such powers to a Judicial Member as he may deem fit.

**5. Minimum number of members who shall hear application or appeal.**—(1)The Tribunal shall hear an application or appeal, as the case may be, consisting of at least by a Judicial and an Expert Member.

(2)Where the Chairperson considers it necessary that a particular case or cases be heard and decided by the Tribunal consisting of more than two members he may by order in writing direct that such case or cases, be heard by such members of the Tribunal as may be specified in that order.

**6. Sitting at place other than the place where it shall ordinarily sit.**— If at any time the Judicial Member of Tribunal is satisfied that circumstances exist which render it necessary to have its sitting at any place, other than the place at which it ordinarily sits, falling within its territorial jurisdiction, he may with the previous approval of the Chairperson direct that the sitting shall be held at any such appropriate place.

**7. Functions of Registrar.**— (1) The Chairperson may, by general or special order, entrust the following functions to the Registrar, namely:—

- (a) to receive all applications, appeals and other documents including transferred applications or appeals;
- (b) to decide all questions arising out of the scrutiny of the applications and appeals before they are registered;
- (c) to require any application or appeal presented to the Tribunal to be amended for compliance with the provision of the Act or the rules made thereunder;
- (d) subject to the directions of the Tribunal to fix the date of hearings and to issue notices therefor;

1226 GI/II-7

- (e) to direct any formal amendment of records;
  - (f) to order grant of copies of documents to parties to the proceeding;
  - (g) to grant leave to inspect the records of the Tribunal;
  - (h) to dispose of all matters relating to the service of notices or other processes, application or appeals for the issue of fresh notices and for extending the time for filing such application or appeals, to grant time not exceeding thirty days for filing a reply or rejoinder, if any, and to place the matter before the Tribunal for appropriate orders after the expiry of the aforesaid period;
  - (i) to requisition or transfer of any records of such suit, claim or other legal proceedings as are transferred to the Tribunal from any court or other authority;
  - (j) to receive and dispose of application for substitution, except where the substitution would involve setting aside an order of abetment;
  - (k) to receive and dispose of application by parties for return of documents; and
  - (l) to call for information and records and to inspect or cause to be inspected the registry of the other place of sittings under general or special orders as may be issued by the Chairperson from time to time.
- (2) The official records shall be kept in the custody of the Registrar.

**8. Procedure for filing application or appeal.-** (1) An application or appeal to the Tribunal under section 18 shall be presented in Form I by the applicant or appellant, as the case may be, in person or by an agent or by a duly authorised legal practitioner, to the Registrar or any other officer authorised in writing by the Registrar to receive the same or be sent by registered post with

acknowledgement duly addressed to the Registrar of the Tribunal at and sent to concerned place of sitting:

Provided that where the application is for relief and compensation, it shall be made in Form II.

(2) The application or appeal, as the case may be, under sub-rule (1) shall be presented in triplicate in the following two compilations-

- (i) Compilation No. 1 - application or appeal, as the case may be, along with the impugned order, if any;
- (ii) Compilation No. 2 - all other documents and annexures referred to in the application or appeal, in a paper book form.

(3) Where the number of respondents is more than one, as many extra copies of the application or appeal, in paper-book form as there are respondents together with unused file size envelope bearing the full address of each respondent shall be furnished by the applicant or appellant, as the case may be:

Provided that where the number of respondents is more than five, the Registrar may permit the applicant or appellant, as the case may be, to file the extra copies of the application or appeal, as the case may be, at the time of issue of notice to the respondents.

(4) The applicant or appellant, as the case may be, may attach to, and present with, his application or appeal, as the case may be, a receipt slip in Form III which shall be signed by the Registrar or the officer receiving the application or appeal on behalf of the Registrar in acknowledgement of the receipt of the application or appeal.

(5) Notwithstanding anything contained in sub-rules (1) to (3), the Tribunal may permit more than one person to join together and file a single application or appeal, as the case may be, if it is satisfied, having regard to the cause and the nature of relief prayed for that they have a common interest in the matter:

Provided that such permission may also be granted to an agent representing the person desirous of joining in a single application or appeal provided, however, that the application or appeal shall disclose the class, grade, categories or persons on whose behalf it has been filed:

Provided further that at least one affected person joins such an application or appeal.

13

**9. Presentation and scrutiny of application or appeal.**—(1) The Registrar, or the officer authorised by him under rule 8, shall endorse on every application or appeal, as the case may be, the date on which it is presented or deemed to have been presented under that rule and shall sign the endorsement.

(2) If, on scrutiny, the application or appeal, as the case may be, is found to be in order, it shall be duly registered in a register in Form IV and assigned a serial number.

**10. Rectification of defects.**—(1) If on scrutiny, any application or pleadings filed in the Tribunal is found to be defective, the Registrar or the authorised officer of the Registry shall notify in Form V on the Notice Board of the Tribunal fixing the time for rectifying the same.

(2) The papers shall be returned to the party or his legal practitioner only after obtaining acknowledgment thereof in the Inward Register.

(3) The Registrar may, for good and sufficient reasons extend the time for rectifying the defects, provided the total period for rectification including the extended period does not exceed thirty days.

(4) If the party or his legal practitioner contests the office objection and the Registrar is not satisfied, the matter shall be placed before the Tribunal for appropriate orders.

(5) If the party or his legal practitioner rectifies the defects and represents the application or appeal or pleading within the time granted, the Registrar on being satisfied may order for its registration and acceptance and numbering as specified in rule 9.

**11. Place of filing application or appeal.**—An application or appeal, as the case may be, shall ordinarily be filed by an applicant or appellant, as the case may be, with the Registrar of the Tribunal at its ordinary place of sitting falling within the jurisdiction, the cause of action, wholly or in part, has arisen.

**12. Fee.**—(1) An application or appeal where compensation has been claimed, shall be accompanied by a fee of equivalent to one per cent of the amount of compensation claimed, subject to a minimum of one thousand rupees:

Provided that where the Tribunal permits a single application or appeal to be filed either by more than one person or by an association of persons, the fee payable shall be equivalent to one per cent of the total amount of compensation claimed.

Provided further that, there shall be no fee for filing of application or appeal for claiming compensation by any person who is below the poverty line determined in accordance with the guidelines or instructions issued by the Central Government or the State Government from time to time in this regard or indigent person determined in accordance with the provisions of the Code of Civil Procedure, 1908 (5 of 2008).

(2) An application or appeal where no compensation has been claimed shall be accompanied by a fee of one thousand rupees.

(3) The fee under this rule shall be remitted either in form of a crossed demand draft drawn on a nationalised bank in favour of the Registrar payable at the main branch of that bank at the station where the place of sitting of the Tribunal is situated or remitted through a crossed Indian Postal Order drawn in favour of the Registrar and payable at the Post Office of the station where the sitting of the Tribunal is situated.

**13. Contents of application or appeal.-** (1) Every application or appeal filed under rule 8 shall set forth concisely under distinct heads the grounds for such application or appeal and such grounds shall be numbered consecutively.

(2) Every application or appeal including any miscellaneous application shall be typed in double space on one side on thick paper of good quality.

(3) It shall not be necessary to present a separate application or appeal to seek an interim order or direction if in original application or appeal the same relief is prayed for.

(4) An applicant or appellant may, subsequent to the filing of an application or appeal under section 18 of the Act, apply for an interim order or direction by way of an application in Form I or Form II, as the case may be.

(5) Every application or appeal, as the case may be shall be accompanied by the following documents, namely:- (a) attested true copy of the order against which the application or appeal, as the case may be, is filed;

(b) copies of the documents relied upon by the applicant or appellant, as the case may be, and referred to in the application or appeal;

1226 GI/11-8

(C) an index or the documents.

15

(6) The documents referred to in sub-rule(5) may be attested by a legal practitioner or by a gazetted officer and each document shall be marked serially as Annexures- A1, A2, A3 and so on.

(7) Where an applications or appeal, as the case may be, is filed by any agent, the documents authorising him to act as such agent shall also be appended to the application or appeal:

Provided that where an application or appeal, as the case may be, is filed by a legal practitioner, it shall be accompanied by a duly executed 'Vakalatnama'.

**14. Plural remedies.**- An application or appeal, as the case may be, shall be based upon a single cause of action and may seek one or more relief provided that they are consequential to one another.

**15. Service of notice and processes.**- (1) Notices to be issued by the Tribunal may be served by any of the following modes-

- (i) by hand delivery (dasti) to the party itself or to the authorised agent, as the case may be, through process server;
- (ii) by registered post with acknowledgement due;
- (iii) through the concerned head of Office of the same Department involved in the proceedings.

(2) Where notice issued by the Tribunal is served by the party himself by hand delivery' (dasti), he shall file in the Registry of the Tribunal, the acknowledgement together with an affidavit of service.

(3) Notwithstanding anything contained in sub-rule (1), the Tribunal may, taking into account the number of respondents and their places of residence or work and other circumstances, direct the notice of the application or appeal, as the case may be, shall be served upon the respondents in any other manner, including any manner of substituted service, as it appears to the Tribunal just and convenient.

(4) Notwithstanding anything contained in sub-rule (1), the Tribunal, may in its discretion, having regard to the nature of the case, direct the service of the notice on the Standing Counsel, authorised to accept the service, for any Department or Organisation of the Central Government

or the State Government or Union territory, or an authority, a corporation or a body owned or controlled by the Central Government or the State Government or Union territory, as the case may be.

16

(5) Every notice issued by the Tribunal shall unless otherwise ordered, be accompanied by a copy of the application or appeal, as the case may be, and a copy of the impugned order.

(6) Notwithstanding anything contained in sub-rules (1) to (4), if the Tribunal is satisfied that it is not reasonably practicable to serve notice of application or appeal, as the case may be, upon all the respondents, it may, for reasons to be recorded in writing, direct that the application or appeal, as the case may be, shall be heard notwithstanding that some of the respondents have not been served with notice of the application or appeal:

Provided that no application or appeal, as the case may be, shall be heard unless-

(i) the notice of the application or appeal, as the case may be, has been served on the Central Government or the State Government or Union territory, as the case may be, if such Government is a respondent;

(ii) the notice of the application or appeal, as the case may be, has been served on the authority which passed the order against which the application or appeal has been filed; and

(iii) the Tribunal is satisfied that the interests of the respondents on whom notice of the application or appeal, as the case may be, has not been served are adequately and sufficiently represented by the respondents on whom notice of the application or appeal, as the case may be, has been served.

(7) Every applicant or appellant, as the case may be, shall pay for the service or execution of processes, in respect of an application or appeal where the number of respondents exceeds five, as under:-

(a) a sum of five rupees for each respondent in excess of five respondents;

(b) where the service is in such manner as the Tribunal may direct under sub-rule (3) such a sum not exceeding the actual charges incurred in effecting the service as may be determined by the Tribunal.

17

(8) The fees for the service or execution of process under sub-rule (7) shall be remitted in the manner specified under rule (12) within one week of the date of order determined the fees or within such extended time as the Registrar may permit.

- 16. Filing of reply and other documents by respondents.**— (1) Each respondent intending to contest the application or appeal, as the case may be, shall file in triplicate the reply to the application or appeal, as the case may be, and the document relied upon in paper book form with the Registry within one month of the service of notice of the application or appeal on him.
- (2) In the reply filed under sub-rule (1), the respondent shall specifically admit, deny or explain the facts stated by the applicant or appellant, as the case may be, in his application or appeal, as the case may be, and may also state such additional facts as may be found necessary for the just decision of the case.
- (3) The reply shall be signed and verified as a written statement by the respondent or any other person duly authorised by him in writing in the same manner as provided for in Order VI, rule 15 of the Code of Civil Procedure, 1908 (5 of 1908).
- (4) The documents accompanying reply shall also be filed along with the reply and the same shall be marked as R1, R2, R3 and so on.
- (5) The respondent shall also serve a copy of the reply along with documents as mentioned in sub-rule (1) on the applicant or appellant, as the case may be, or his legal practitioner, if any, and file proof of such service in the Registry.
- (6) The Tribunal may allow filing of the reply after the expiry of the specified period with or without cost.
- (7) The Tribunal may permit the parties to amend the pleadings in the same manner as provided under Order 6, Rule 17 of the Code of Civil Procedure, 1908 (5 of 1908).

**17. Date and place of hearing.**- The Tribunal shall notify to the parties the date and the place of hearing of the application or appeal in such manner as the Chairperson may by general or special order direct.

**18. Calendar of cases.**- (1) The Tribunal shall draw up a calendar for the hearing of transferred cases and, as far as possible, hear and decide the cases according to the calendar.

(2) The Tribunal shall have the power to decline an adjournment and also to limit the time for oral arguments.

(3) Every application or appeal shall be heard and decided finally, as far as possible within six months from the date of filing an application or appeal, as the case may be.

**19. Maintenance of diary.** - (1) The concerned officer of the Tribunal shall maintain legibly a case diary, wherein he shall record the proceedings for each case listed in the daily cause list.

(2) The matters to be recorded in the diary shall include details as to whether the case is adjourned, or part-heard or heard and disposed of or heard and orders reserved, as the case may be.

**20. Action on application for applicant's or appellant's default.**- (1) Where on the date fixed for hearing of the application or appeal, as the case may be, or on any other date to which such hearing may be adjourned the applicant or appellant, as the case may be, does not appear when the application or appeal, as the case may be, is called for hearing, the Tribunal may in its discretion, either dismiss such application or appeal for default or hear and decide it on merit.

(2) Where an application or appeal, as the case may be, has been dismissed for default and the applicant or appellant, as the case may be, files an application within thirty days from the date of dismissal and satisfies the Tribunal that there was sufficient cause for his non-appearance when the application or appeal was called for hearing, the Tribunal shall make an order setting aside the order dismissing the application or appeal, as the case may be, and restore the same:

Provided that where the case was disposed of on merits the decision shall not be reopened except by way of review.

1296 GI/11-9

**21. Ex-parte hearing and disposal of cases.-** (1) Where on the date fixed for hearing the application or appeal, as the case may be, or on any other date to which such hearing may be adjourned, the applicant or appellant, as the case may be, appears and the respondent does not appear when the application or appeal is called for hearing, the Tribunal may, in its discretion adjourn the hearing, or hear and decide such application or appeal ex-parte.

(2) Where an application or appeal, as the case may be, has been heard ex-parte against a respondent or respondents such respondent or respondents may apply within thirty days from the date of the order to the Tribunal for an order to set it aside and if such respondent or respondents satisfy the Tribunal that the notice was not duly served, or that he or they were prevented by any sufficient cause from appearing when application or appeal was called for hearing, the Tribunal may make an order setting aside the ex-parte order as against him or them upon such terms as it thinks fit, and shall appoint a day for proceeding with such application or appeal:

Provided that where the ex-parte order of the application or appeal is of such nature that it cannot be set aside as against one respondent only, it may be set aside as against all or any of the other respondents also:

Provided further that the Tribunal shall not set aside ex-parte order of an application or appeal, as the case may be, merely on the ground that it was not served upon a respondent or respondents.

**22. Application for review.-** (1) No application for review shall be entertained unless it is filed within thirty days from the date of receipt of copy of the order sought to be reviewed.

(2) A review application shall ordinarily be heard by the Tribunal at the same place of sitting which has passed the order, unless the Chairperson may, for reasons to be recorded in writing, direct it to be heard by Tribunal sitting at any other place.

(3) Unless otherwise ordered by the Tribunal sitting at the concerned place, a review application shall be disposed of by circulation and the Tribunal may either dismiss the application or direct notice to the opposite party.

(4) When an application for review of any judgment or order has been made and disposed of, no further application for review shall be entertained.

(5) No application for review shall be entertained unless it is supported by a duly sworn affidavit indicating therein the source of knowledge, personal or otherwise, and also those which are sworn on the basis of the legal advice.

(6) The counter affidavit in review application shall also be on a duly sworn affidavit wherever any averment of fact is disputed.

**23. Order to be signed and dated.-** (1) Every order of the Tribunal shall be signed and dated by the Members constituting the sitting of the Tribunal, which pronounced the order.

(2) The order shall be pronounced in open court.

**24. Order and directions in certain cases .-**The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its order or to prevent abuse of its process or to secure the ends of justice.

**25. Publication of orders -** The Tribunal shall get its decisions or orders reported, to be fit for publication in any authorised legal report or Journal or such of the order of the Tribunal as are deemed fit for publication in any authoritative report or Journal or the press may be released for such publication on such terms and conditions as the Chairperson may specify by general or special order.

**26. Dress of the Members and staff of the Tribunal.-** The dress for the Members of the Tribunal (including Chairperson) and members of the staff shall be such as the Chairperson may specify.

**27. Dress of the parties.-** A legal practitioner or, as the case may be, the presenting officer shall appear before the Tribunal in his professional dress as prescribed for appearance before the courts and if there is no such dress, then-

(a) in the case of a male, a suit with a tie or close coat or any other customary dress of sober colour;

(b) in case of female, in a saree or any other customary dress of sober colour.

**28. Communication of order to parties.-** (1) Every interim order, granting or refusing or modifying interim relief or final order shall be communicated to the applicant or appellant, as the case may be, and to

the concerned respondent either by hand delivery or by Registered Post, free of costs: 21

Provided that unless ordered otherwise by the Tribunal, a copy of the final order need not be sent to any respondent who has not entered appearance:

(2) The applicant or, as the case may be, the appellant or the respondent who is duly represented by an Advocate or other authorised agent requires a copy of any document, proceeding or order, the same shall be supplied to him on such terms and conditions on payment of such fees or cost as may be fixed by the Chairperson by general or special order.

**29. Inspection of records -** (1) The parties to any case or their counsel may be allowed to inspect the record of the case on making an application in Form VI to the Registrar.

(2) Subject to such terms and conditions as may be specified by the Chairperson by a general or special order, a person who is not a party to the proceeding, may also be allowed to inspect the proceeding after obtaining the permission of the Registrar in writing.

(3) The applicant or his Counsel or other authorised representative shall pay such fees or charges as may be specified by the Chairperson by general or special order for the inspection of the records of a case.

**30. Working hours of Tribunal.-** Except on second Saturday of month, Sundays, and other public holidays, the office of the Tribunal shall, subject to any order made by the Chairperson remain open from 9:30 hours to 17:30 hours of a day.

**31. Sitting hours of Tribunal.-** The sitting hours of the Tribunal shall ordinarily be from 10.30 hours to 13.30 hours and 14:30 hours to 16:30 hours subject to any general or special order made by the Chairperson.

**32. Seal and emblem.-** (1) The official seal and emblem of the Tribunal shall be such as the Central Government may, in consultation with the Chairperson, specify and the same shall be kept in the custody of the Registrar.

(2) The seal of the Tribunal shall not be affixed to any order, summons or other process save under the authority in writing given by the Tribunal to the Registrar.

(3) The seal of the Tribunal shall not be affixed to any certified copy issued by the Tribunal save under the authority in writing given by the Tribunal to the Registrar.

**33. Language of Tribunal.-** (1) The language of the Tribunal shall be English:

Provided that the parties to a proceeding before the Tribunal may file documents drawn up in Hindi, if they so desire:

Provided further that-

(a) the Tribunal may, in its discretion permit the use of Hindi in the proceedings;

(b) the Tribunal, hearing the matter may in its discretion direct English translation of pleadings and documents to be filed;

(c) the Tribunal may, in their discretion, make final orders either in Hindi or in English.

(2) Notwithstanding anything contained in sub-rule (1), where a final order is made in Hindi, and authenticated English translation thereof shall simultaneously be prepared and kept on record.

**34. Manner of giving notice.-** The manner of giving notice under clause (b) of sub-section(1) of section 30 of the Act shall be as follows:-

(a) the notice shall be in writing in Form V; and

(b) the person giving notice shall send a copy of the same,-

(i) to the person concerned against whom the order or award has been passed by the Tribunal or the Central Government or the State Government or Union territory or the Board or Authority or Committee dealing with the matters relating to environment or forests constituted under the Act specified under Schedule I to the Act;

(ii) to the District Collector of the concerned District where the cause of action has arisen or the property damaged is situated or environmental damage has arisen;

(iii) to the authority specified under sub-section (3) of section 7A of the Public Liability Insurance Act, 1991 (6 of 1991).

1226 G.I/11-10

**35. Manner and the purposes for which amount of compensation or relief or restitution credited to Environment Relief Fund shall be utilised:** - 23

(1) The amount by way of compensation or relief to the victim or restitution of property and the environment, ordered by the Tribunal to be paid shall be remitted to the authority, specified under sub-section (3) of section 7A of the Public Liability Insurance Act, 1991(6 of 1991), within a period of thirty days from the date of order or award or as otherwise ordered by the Tribunal.

(2) In the case of failure to remit the amount by the concerned person, under sub-rule (1), within the time so specified, the District Collector of the concerned district shall file a complaint, before the Court having jurisdiction, under clause (a) of sub-section (1) of section 30 of the Act.

(3) The amount referred to in sub-rule (1), shall be credited to the Environment Relief Fund under section 24 of the Act for utilisation under any heads specified in Schedule II to the Act.

(4) A separate account shall be created and maintained by the authority referred to in sub-rule (1) for the purpose of receiving and disbursement of the amount pursuant to the order or award of the Tribunal.

**36. Procedure for disbursement of relief or compensation or restitution of property damaged.**- (1) A copy of the award or order or decision of the Tribunal passed under clause (a) or clause (b) of sub-section (1) of section 15 of the Act shall be transmitted to the authority referred to in sub-rule (1) of rule 35 and the District Collector having local jurisdiction for disbursement.

(2) The authority referred to in sub-rule (1) of rule 35 shall transfer the amount so deposited in the Environment Relief Fund to the concerned District Collector within a period of thirty days from the date of deposit.

(3) The District Collector shall arrange to disburse the amount of compensation or relief and restitution of property damaged within a period of thirty days of the receipt of the amount under sub-rule (2), to the affected persons or victims of pollution or other environmental damages arising under the enactments specified in Schedule-I, under the heads specified in Schedule II, to the Act.

**37. Procedure for disbursement of amount for restitution of environment.**(1) For the purpose of restitution of environment of such area or areas, affected by pollution and other environmental damages arising under the enactments specified in the Schedule-I to the Act, the concerned Department of the State Government dealing with environment and forests shall be the Nodal Agency for execution of projects or scheme or schemes for restoration and remediation of environment in accordance with the direction or award of the Tribunal.

(2) A copy of the award or order or decision of the Tribunal passed under clause(c) of sub-section (1) of section 15 of the Act shall be transmitted to the authority referred to in sub-rule (1) of rule 35 and the Nodal Agency for disbursement.

(3) The authority referred to in sub-rule (1) of rule 35 shall transfer the amount so deposited in the Environment Relief Fund to the concerned Nodal Agency within a period of thirty days from the date of receipt of the order of the Tribunal.

(4) The Nodal Agency shall execute such projects or scheme or schemes by itself or through other Department or authority or agency of the State Government or in such manner as may be directed by the Tribunal.

(5) The projects or scheme or schemes referred to in sub-rule (4) prepared by the Nodal Agency shall commence within a period of one hundred eighty days from the date of the order or award of the Tribunal.

(6) The Nodal Agency or other Department or authority or agency referred to in sub-rule (4) may associate expert agencies, like, the State Pollution Control Board or other technical institutions having expertise in the formulation and execution of project or schemes for restitution of environment, in accordance with the directions of the Tribunal.

**FORM I**  
[See rule 8(1)]

*Before The National Green Tribunal sitting at .....*

**MEMORANDUM OF APPLICATION/APPEAL**

(Under Section 18(1) read with Sections 14,15,16 & 17 of National Green Tribunal Act, 2010)

Application/Appeal No.....of.....

Between:

- 1.
- 2.

.....Applicant(s)/Appellant(s)

And

- 1.
- 2.

.....Respondent/s

1) The addresses of the Applicant/Appellant/s is/are as given above for the service of notices of this application/appeal and that of their representative(s).....

2) The addresses of the Respondent/s is/are as given above for service of notices of the application/appeal.....

3) The Applicant(s)/Appellant(s) above-named begs to present the Memorandum of Application/Appeal against the order dated.....of.....Respondent/s on the grounds set-out hereunder:

Facts in brief:

- 1.
- 2.
- 3.

Grounds:

- 1.
- 2.
- 3.

Limitation:

- 1.
- 2.

Prayer:

.....

Signature of Applicant(s)/Appellant(s)

.....

Signature of authorised representative of applicant(s)/appellant(s)

**VERIFICATION**

I .....(Name of the applicant/ appellant) S/o, W/o, D/o  
 ....., age ..... resident of ..... do  
 hereby verify that the contents of paras ..... to .....are true to my  
 personal knowledge and paras.....to ..... believed to be true on  
 legal advice and that I have not suppressed any material fact.

Date .....

Place.....

Signature of the applicant/appellant

1226 GI/11-11

**FORM II**  
[See rule 8(1)]

27

**FORM OF APPLICATION FOR RELIEF AND COMPENSATION**  
(Under section 15, read with section 18(1), of National Green Tribunal Act,  
2010)

*Before The National Green Tribunal sitting at .....*

Application No.....of.....

Shri / Srimati / Kumari ----- Son of/Daughter of/Widow  
of Shri ----- who died/had sustained injuries in an accident on ----  
----- at ----- particulars in respect of accident and  
other information are given below:

1. Name and father's name of person injured/dead (husband's name in case of married woman or widow)
2. Address of the person injured/dead
3. Age ----- Date of birth -----
4. Sex of the person injured/dead:
5. Place, date and time of the accident:
6. Occupation of the person injured/dead:
7. Nature of injuries sustained:
8. Name and address of Police Station in whose jurisdiction accident took place or was registered:
9. Name and address of the Medical Officer/Practitioner who attended on the injured/dead:
10. Name(s) and addresses of the claimant/claimants:
11. Relationship with the deceased:
12. Facts of the case:

(Give here a concise statement of facts in a chronological order, each paragraph containing as nearly as possible a separate issue or fact).

13. Grounds for relief with legal provisions:

14. Details of the remedies exhausted:

The applicant(s) declares that he/they has/have availed of all the remedies available to him/them under the relevant rules etc.

(Give here chronologically the details of representations made and the outcome to such representations with reference to the number of Annexure to be given in support thereof).

15. Matters not previously filed or pending with any other court:

The applicant further declares that he/they had not previously filed any application/appeal, writ petition or suit regarding the matter in respect of which this application has been made, before any court or any other authority or any other place of sitting of the Tribunal nor any such application/appeal, writ petition or suit is pending before any of them.

In case the applicants had previously filed any such application/appeal, writ petition or suit, the stage at which it is pending, and if decided, the list of the decisions should be given with reference to the number of Annexure to be given in support thereof.

16. Relief sought:

In view of the facts mentioned above the applicant(s) prays for the following relief(s):-

(Specify below the relief(s) sought explaining the grounds for such relief(s) and the legal provisions, if any, relied upon).

17. Interim order, if any, prayed for:

Pending final decision on the application/appeal, the applicant seeks the following interim relief:

(Give here the nature of the interim relief prayed for).

18. In the event of application/appeal being sent registered post, it may be stated whether the applicant desires to have oral hearing at the admission stage

and if so, he/she shall attach a self addressed Post Card or Inland Letter, at which intimation regarding the date of hearing could be sent to him.

19. The applicant/appellant who is below the poverty line or indigent in terms of the provisions contain in the order of Code of Civil Procedure, 1908, shall attach an attested copy of proof of below the poverty line or indigent to claim waiver of fee.

20. Particulars of Banks Draft/Postal Order filed in respect of the application fee.

21. List of enclosures:

1.

2.

Signature of the applicant(s)

Signature of authorised representative of applicant(s)

Date:

Place:

FORM III

[see rule 8 (4)]

### RECEIPT SLIP

Receipt of the application/appeal filed in the National Green Tribunal Sitting at.....byShri/Kum/Smt.....

Residing at .....is hereby acknowledged.

Dated:

For Registrar  
The National Green Tribunal  
Seal: .....Place of Sitting

## FORM IV

[See rule 10]

BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT .....

Application / Appeal No.....of.....

.....

Applicant(s)/ Appellant(s)

Versus

.....

Respondent(s)

The papers filed in the following cases have been found on Scrutiny to be defective. Hence, it is hereby notified that the applicant(s) / appellant (s) / Respondent(s) or his/their Legal practitioner is/are required to rectify the defects in the Registry itself if they are formal in nature or to take back the papers for rectification of the defects and representation if they are not formal in nature, within the time shown against each case.

Sl. No	Diary No./ Application/ Appeal No.	Papers/ documents in which defects are notified	By whom defects are to be rectified	Defects for rectification	Time allowed for rectification/ representation
1	2	3	4	5	6
1					
2					
3					

Dated this .....day of ..... 20.....

Signature of the Registrar or  
Authorised officer

1226 GI/11-12

FORM V

[See rule 34]

31

FORM OF NOTICE

By registered post  
Acknowledgement due

From (1)  
Shri.....  
.....  
.....

To  
.....  
.....  
.....

Notice under Section 30 (1) of the National Green Tribunal Act, 2010

Whereas an offence under the National Green Tribunal Act, 2010 has been committed/is being committed by.....(2) I/we hereby give notice of 60 days under section 30(1) of the National Green Tribunal Act, 2010 of my/our intention to file a complaint in the court against.....(2) for violation of section.....of the National Green Tribunal Act, 2010.

In support of my/our notice, I am/we enclosed the following documents (3) as evidence of proof of the National Green Tribunal Act, 2010.

Signature(s)

Place.....

Dated.....

Explanation:

- 1) In case the notice is given in the name of a Company, documentary evidence authorising the persons to sign the notice on behalf of the company shall be enclosed to this notice.

Company for this purpose means a company defined in explanation to section 27 (1) of the Act.

- 2) Here give the name and address of the alleged offender. In case of a manufacturing/processing/operation unit, indicate the name/location/nature of activity etc.
- 3) Documentary evidence shall include photograph/technical reports/health report of the area, etc. for enabling enquiry into the alleged violation/offence.

FORM VI

[See rule 29]

BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT .....

Application / Appeal No.....of.....

..... Applicant(s)/ Appellant(s)

Versus

..... Respondent(s)

APPLICATION FOR INSPECTION OF DOCUMENTS/RECORDS

I hereby apply for grant of permission to inspect the documents / records in the above case. The details are as follows:-

1. Name and address of the person seeking inspection :
2. Whether he is a party to the case/ his legal practitioner. :
3. Details of the papers / documents sought to be inspected :
4. Reasons for seeking the inspection :

5. The date and duration of the inspection sought :

6. Whether any fee is payable and if So, the mode of payments :

Place:

Date:

APPLICANT

Office use:

Granted/Rejected inspection for \_\_\_\_\_ hours on \_\_\_\_\_.

Registrar

[F. No. 17(19)/2010-PL (NGT)]  
Dr. RAJNEESH DUBE, Jt. Secy.

2020 SCC OnLine SC 343

In the Supreme Court of India

Extended in *Cognizance of Extension of Limitation, In Re, (2020) 9 SCC 468*

Record of Proceedings

(BEFORE S.A. BOBDE, C.J. AND L. NAGESWARA RAO AND SURYA KANT, JJ.)

In Re: Cognizance for Extension of Limitation ... Petitioner(s);  
Suo Motu Writ Petition (Civil) No(S).3/2020  
Decided on March 23, 2020

Advocates who appeared in this case :

By Courts Motion

Mr. Tushar Mehta, SG1  
Ms. Swati Ghildiyal, Adv.  
Mr. Ankur Talwar, Adv.  
Mr. G.S. Makkar, Adv.  
Mr. Raj Bahadur, Adv.  
Mr. B.V. Balaram Das, AOR

ORDER

1. This Court has taken *Suo Motu* cognizance of the situation arising out of the challenge faced by the country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the country in filing their petitions/applications/suits/ appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under Special Laws (both Central and/or State).

2. To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunals across the country including this Court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th March 2020 till further order/s to be passed by this Court in present proceedings.

3. We are exercising this power under Article 142 read with Article 141 of the Constitution of India and declare that this order is a binding order within the meaning of Article 141 on all Courts/Tribunals and authorities.

4. This order may be brought to the notice of all High Courts for being communicated to all subordinate Courts/Tribunals within their respective jurisdiction.

5. Issue notice to all the Registrars General of the High Courts, returnable in four weeks.

-----  
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452

SUPREME COURT CASES

(2021) 5 SCC

3J

(2021) 5 Supreme Court Cases 452

(BEFORE S.A. BOBDE, C.J. AND

L. NAGESWARA RAO AND S. RAVINDRA BHAT, JJ.)

COGNIZANCE FOR EXTENSION OF  
LIMITATION, IN RE

.. Petitioner;

Suo Motu Writ Petition (C) No. 3 of 2020, decided on March 8, 2021

**Practice and Procedure — Delay/Laches/Limitation — Filing of petitions/ applications/suits/appeals/all other proceedings — To obviate physical presence of lawyers or litigants during COVID-19 Pandemic, limitation period for filing all proceedings before courts and tribunals from 15-3-2020 had been extended till further orders — In view of changing scenario relating to Pandemic, extension of limitation, held, should come to an end — In this regard consequential directions issued**

— In computing period of limitation for any suit, appeal, application or proceeding, period from 15-3-2020 till 14-3-2021 shall stand excluded — Consequently, balance period of limitation remaining as on 15-3-2020, if any, shall become available with effect from 15-3-2021

— In cases where limitation would have expired during period between 15-3-2020 till 14-3-2021, notwithstanding actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15-3-2021 — In the event actual balance period of limitation remaining, with effect from 15-3-2021, is greater than 90 days, that longer period shall apply

— Period from 15-3-2020 till 14-3-2021 shall also stand excluded in computing periods prescribed under Ss. 23(4) and 29-A of the Arbitration and Conciliation Act, 1996; S. 12-A of the Commercial Courts Act, 2015 and provisos (b) and (c) of S. 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits within which the court or tribunal can condone delay and termination of proceedings on grounds of delay — Disaster Management Act, 2005, S. 6(2)(i)

*Cognizance for Extension of Limitation, In re*, (2020) 19 SCC 10 : 2020 SCC OnLine SC 343, modified

RM-D/67527/CLRV

*Chronological list of cases cited*

*on page(s)*

- |  |      |
|--|------|
| 1. (2020) 19 SCC 10 : 2020 SCC OnLine SC 343, <i>Cognizance for Extension of Limitation, In re</i> | 452h |
|--|------|

ORDER

1. Due to the onset of COVID-19 Pandemic, this Court took suo motu cognizance of the situation arising from difficulties that might be faced by the litigants across the country in filing petitions/applications/suits/appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under any special laws (both Central or State). By an order dated 27-3-2020 (sic 23-3-2020<sup>1</sup>) this Court extended the period of limitation

<sup>1</sup> *Cognizance for Extension of Limitation, In re*, (2020) 19 SCC 10 : 2020 SCC OnLine SC 343

COGNIZANCE FOR EXTENSION OF LIMITATION, IN RE

453

*a* prescribed under the general law or special laws whether compoundable or not with effect from 15-3-2020 till further orders. The order dated 15-3-2020 was extended from time to time. Though, we have not seen the end of the pandemic, there is considerable improvement. The lockdown has been lifted and the country is returning to normalcy. Almost all the Courts and Tribunals are functioning either physically or by virtual mode. We are of the opinion that the order dated 15-3-2020 has served its purpose and in view of the changing scenario relating to the pandemic, the extension of limitation should come to an end.

*b* **2.** We have considered the suggestions of the learned Attorney General for India regarding the future course of action. We deem it appropriate to issue the following directions:

*c* **2.1.** In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15-3-2020 till 14-3-2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15-3-2020, if any, shall become available with effect from 15-3-2021.

*d* **2.2.** In cases where the limitation would have expired during the period between 15-3-2020 till 14-3-2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15-3-2021. In the event the actual balance period of limitation remaining, with effect from 15-3-2021, is greater than 90 days, that longer period shall apply.

*e* **2.3.** The period from 15-3-2020 till 14-3-2021 shall also stand excluded in computing the periods prescribed under Sections 23(4) and 29-A of the Arbitration and Conciliation Act, 1996, Section 12-A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.

**2.4.** The Government of India shall amend the guidelines for containment zones, to state:

*f* “Regulated movement will be allowed for medical emergencies, provision of essential goods and services, and other necessary functions, such as, time bound applications, including for legal purposes, and educational and job-related requirements.”

**3.** The suo motu writ petition is disposed of accordingly.

*g*

*h*

## ANNEXURE R-3 Colly

37

BEFORE THE NATIONAL GREEN TRIBUNAL AT PUNE

APPLICATION NO. 33 OF 2015

Between

THE GOA FOUNDATION ... .. APPLICANT

And

GOA STATE ENVIRONMENT IMPACT  
ASSESSMENT AUTHORITY & ORS ..... RESPONDENTSAFFIDAVIT OF THE GOA FOUNDATION IN RESPONSE TO THE NIOT  
REPORT

I, Dr Claude Alvares, Secretary, applicant abovenamed, aged about 67 years, r/o Parra, Bardez, Goa, do hereby solemnly affirm and declare as under:

1. I have been provided with a copy of the NIOT report dated 17.2.2016 on the proposed Tiracol bridge and its impact on the Tiracol estuary. I have read the report and understood its contents. I have also studied its findings in the context of the Work Order which was shown to the Applicant and with whose terms of reference we concurred. I have also perused again the interim report submitted earlier on 30.11.2015 which gave an indication of the direction in which the study was then progressing. My comments on the reports, given below, are the submissions of the Applicant Organisation, The Goa Foundation, which I represent.
2. At the outset, I wish to state that the final report indicates that the NIOT has considerably reduced the scope of the study that it had agreed to carry out, since the final report focusses solely and exclusively on the impact of construction of pier 6 on the spit on the southern side of the river mouth, and not on the impact of both the proposed piers to be constructed in the Tiracol river and their impact on the fragile estuarine area. The final report does not display that any effort was made to study the impact of the bridge construction with both pillars or pylons on the estuary in the long term.

3. In order to make this clear, I reproduce below the terms of the Work Order of the proposed study that was assigned to the NIOT under the subject title "Design and Construction of Bridge connecting Keri to Tiracol over river Tiracol including approaches – Study of Hydrodynamics and Morphological change at Tiracol Estuary." The Work Order, which is based on the order dated 17.4.2015 passed by this Hon'ble Tribunal, encompassed the following terms:
- a) Tide measurements especially at the two pylon locations.
  - b) Current measurements, Wave measurements, river discharge, bathymetry, etc.
  - c) Shoreline mapping for both sides of river bank at the two pylon locations.
  - d) Hydrodynamics, wave and sediment transportation to evaluate the flow condition with and without the presence of bridge pylons.
  - e) Any other measurement/study which the NIOT, Chennai feels necessary for the completion of report.
4. Thus, the Work Order clearly indicates that the NIOT study would deal with the impact of both proposed pillars, their shoreline impact, sedimentation and report of the flow of the river with and without the proposed pillars to examine long term effect of the proposed bridge on the estuary. Copy of the work order is at Annexure A to this affidavit.
5. In fact, the interim report did make some comments on both the proposed pillars, which led the applicant to believe that the study was proceeding in the right direction. The title of the interim report in fact reads as follows: "Studies on morphological impact by planned bridge piers on Tiracol river mouth, Goa." Page 6 of the interim report also notes that "the proposed suspension bridge will have two main columns into the bed, near shore, on either banks of the mouth."
6. Between the interim report and the submission of the final report, a unilateral decision appears to have been made by the NIOT to focus solely on the impact of construction of pier 6 on the spit on the southern side of the river mouth. There is no longer any effort made to study the impact of the bridge construction with both pillars or pylons on the estuary in the long term. Instead, NIOT appears to have got into a frame of mind to concentrate its efforts only on

pillar No. 6., i.e., the pillar proposed to be constructed on the spit. This obvious deficiency in the final report ought to have been brought to the notice of the NIOT by the GSIDC. The GSIDC has received the NIOT's report at the same time as the applicant has received it, since the NIOT sent copies directly to the NGT, from where the parties to the application have obtained copies.

7. Applicant submits that if the GSIDC has not found out this deficiency and/or not taken any action on the same, it is perhaps because NIOT's report has basically sought to legitimise construction of the pillar No.6 on the spit which is as per the GSIDC's proposed plan of construction. The location and alignment is under challenge in the application as it is in violation of the CRZ notification.

8. Some of the NIOT's comments on the site as per its interim report are as the following:

- The site is identified as seasonally varying wide sandy beaches with spit at the mouth of the river. The beaches were subject to heavy monsoon wave climate from the Arabian sea and are prone to severe erosion.
- The proposed suspension bridge will have two main columns into the bed, near shore, on either banks of the mouth.
- Longshore drift is a transport of sand parallel to the coast in the be<sup>a</sup>ches, when waves attack them at oblique angle. Spits are bars formed by deposition of longshore drift by destabilised carrying capacity, when an opening inland or similar feature is encountered.
- Jayakumar et al, 2014, were already involved in long term observation of the spit dynamics at the site and have concluded that the spit is unstable by ensuing wave climate on the west coast.

9. These initial comments seem to have been considerably watered down and the NIOT's conclusions in its final report on the impact of the spit on — sedimentation and river flow are summarised as below:

“The dimensions of the bridge pillar are not significant when compared to the natural variation of the sand pit. However, a detailed analysis was conducted to study the migration of sand spit at pillar 6 with respect to the season and its impact. The study indicates that pillar 6 has no influence during monsoon and limited accretion during fair weather,

when estuary is wide opened. The flow simulation with accretion at pillar 6 shows no significant changes in the exchange of flow between estuary and the open sea. As a precautionary measure, it is recommended to increase the pile cap elevation by 1 m above highest flood level (HFL) to avoid blockage of sediment, if any in future." (Executive Summary).

10. The impact of the bridge pier No.6 is provided in two places in the report with two different sets of data:
  - a) On p.12, the NIOT report states: "The pillar No.6 with a projected area of 4.8 sq.m. m/m depth across the floor is small compared to the mouth dimension of 200 m approximately."
  - b) On p.31, the same report states: "Obstruction of pillar No.6 is 3.84 sq.mts., across the total cross sectional area of the channel 900 sq.mts, which is not significant."

Applicant states that these two measurements are of the same area and appear to emerge from two separate authors. The area of the second pylon and its location in the actual bed of the flowing river is not considered.

11. Admittedly, the conclusion does not include the impact of pillar 7 on the tidal flow, since the pillar is due to be constructed at a distance of approximately 20 metres from the base of the hill of Tiracol on the northern side, but well within the river bed, in contrast to pillar No.6 which is proposed to be constructed on a spit (which also periodically disappears from view). Hence the study is, for this reason, only half done and therefore incomplete.
12. The report makes three recommendations. One is to increase the elevation of the pile cap of pillar No.6 by 1 m above high flood level to allow natural movement of sand. The second and third recommendations are to monitor morphological changes of the sand spit at the bridge pillar No. 6 at closed interval to study seasonal and long term variability and to monitor the shoreline changes up to 2 km on either side of pillar No. 6 both in the open coast as well as the estuary. These latter two recommendations appear to indicate that the NIOT itself is not confident of its own conclusions that there will be no significant changes from the construction of the pier on the spit. Applicant also raises the issue of: to what purpose the monitoring after the pier is constructed? The damage by then will have been done and will be irreversible. Hence it is necessary that a thorough and proper study be completed before coming to conclusions that the pier can be constructed and thereafter asking for

monitoring of its impact. It is for this reason that these recommendations are not acceptable to us since in our own limited survey of bridges worldwide, there is no such construction made on a dynamic spit (in fact, a sand dune) which the NIOT itself admits, relying on studies, is fundamentally unstable.

13. Not only is the instability admitted in the interim report, the dynamic nature of the sandy spit is indicated in Google images annexed by the Applicant in his affidavit of April 2015. Applicant therefore stands by the apprehensions raised by him in the said affidavit filed by him in April 2015. In contrast, while the applicant has presented Google images from the last decade as well, NIOT has for some reason relied only on 2014 and 2015 images. For a long term study, the organisation ought to have taken a longer view of the evolution of the spit. Even the limited Google images included in the report from March 2014 to December 2015 (pp. 13-14) show vast changes practically every month in the sandy spit formation.
14. The NIOT report has definitely not considered the "worst-case" scenario that could impact the bridge itself and/or the local geomorphology. Pier 6 is located about 30 metres from the Keri dune vegetation line or permanent shoreline. Considering this gap, the report ought to have considered the impact of a swollen river in spate which could isolate the pillar completely from the shore. This is because the spit is highly vulnerable to changes. In such an eventuality, the spit would get detached, the sand would be pushed into the channel, and the column itself would become an island. The Google images provided with its affidavit in April 2015 by the applicant (and also by the NIOT report, pp.13-14) show periods during which the spit itself in fact entirely disappears.
15. The NIOT report also concludes that the pillar would be on the sand dune itself and that the dune is 2 metres high (p.28). "Location of Pillar no.6 is always in the shallow waters in the wake of spit or on dunes for most of the time." (p.12). Constructions are not permitted on sand dunes, whether dynamic or stabilised, since this would interfere with the dune formation or movement or worse, destabilise and destroy it completely. If done, the ecological functions of such dunes would be extinguished, leading to ecosystem loss. The NIOT ought to have drawn attention to the proposed violation of the CRZ notification, which is in fact subject matter of the application.

16. The <sup>other</sup> second column, whose impact lies unexamined in the report, as per what (Pillar No 7) the applicant has been able to ascertain is to be located close to the cliff toe on the northern side of the river mouth. The Tiracol cliff is prone to erosion and periodic collapse as evidenced by the boulders strewn all over the near-shore zone, from the river mouth to the open sea face. In fact, there is no beach in the entire northern segment of the river estuary since the area is occupied mainly by boulders that have dislodged from the cliff. What could be the impact of drilling / piling at the toe of a vulnerable cliff is not indicated anywhere in the report. In fact, the presence of the unique formation of lateritic boulders all across the northern river bank and their source has been completely ignored in the report.
17. This is a significant issue since at this point, the cliff projects itself into the estuary; there is a sort of protuberance. This means that the column (No. 7) will be at the mercy of tidal currents, but more importantly, also the sea waves which propagate into the estuary. Since this column will be located entirely in the water, and more so, at the mouth of the estuary, its effect on the estuarine circulation patterns has simply not been considered. Unfortunately, the NIOT has not provided any reason for the exclusion of the impact of pillar 7 in the report.
18. The NIOT report does not provide a holistic picture of the incremental load of the proposed bridge construction on the Tiracol estuary, considering the latter's fragility. The erosion of the southern river mouth is well established in the report, especially in the interim report (p.11); the degeneration of the tetrapods on the southern extreme of the beach; the reduction of beach side by 10 m (p.28) are all mentioned. This data reinforces the averments made in the application, that this area is already subject to severe erosion, hence the use of tetrapods (which have failed) and the need for a shore-line wall. However, the cumulative impact of additional development in this area is simply not assessed. Either the pillar will contribute to further erosion or changes, or it will not. There is no categorical <sup>new expressed</sup> statement in the NIOT report, one way or the other.
19. Finally, the NIOT report also does not report on the implications of widespread extraction of sand from the Tiracol estuary towards the hinterland and Kiran pani bridge by illegal sand miners which has continued despite ban orders of this Hon'ble Tribunal. Therefore it does not make a realistic assessment of the actual supply of sediment available at the river mouth in contrast when sand mining had not become the scale it has touched nowadays.

20. Thus, from the deficiencies found in the report, it is clear that the impact of the bridge on the Tiracol estuary is yet to be fully established. The fact that NIOT itself recommends monitoring indicates doubt. But more important, I wish to highlight the fact that this bridge in some documents is reported to be under construction for the benefit of the settlement of Tiracol village which has some 50 families. Even if that be the case, it does not justify the massive destruction of the priceless Querim beach (CRZ I) and the threat the bridge poses to the integrity of the Tiracol estuary, that too at a cost of Rs. 77 crores, by the insistence that the bridge be located at the mouth of the estuary. The livelihood of the same villagers, predominantly fishing, stands to be totally decimated, even as one presumes to give them motorable access across the river. There is still time to reconsider the alignment. In fact, applicants have been informally told that the original alignment was never on the beach of Querim, but following the route of the existing road. We have provided on pg. 38 of the application a map showing the access already created by an all-weather road to connect Tiracol to Goa via the Kiran pani bridge. If the bridge must be constructed, a fair EIA conducted would establish whether the present alignment of the bridge and approaches cannot be taken further inward from the estuary point, where there would be, in comparison, much less damage than the present scheme demands.

Solemnly affirmed this at Pune  
the 30th day of March, 2016

Deponent

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

**Application No.33/2015 (WZ)**

**The Goa Foundation**

-- Applicant

Vs

**Goa Coastal Zone Management  
Authority And Anr**

-- Respondents

**AFFIDAVIT-IN-REPLY OF THE GOA FOUNDATION**

I, Dr Claude Alvares, Secretary, Applicant organization above named, residing at Parra, Bardez, Goa do hereby on solemn affirmation state as under:

1. I have perused the two affidavits of Mr Sanjit Rodrigues, Mg. Director, Resp No. 3, one dated 24.10.2016 in relation to the comments of the Goa Foundation on the NIOT report dated 18/02/2016 and his most recent affidavit-in-reply dated 16/11/2016 regarding the affidavit of the Goa Foundation dated 26/09/2016. I am filing this affidavit-in-reply in respect of both affidavits of Mr Rodrigues.
2. In respect of the affidavit dated 24.10.2016, Mr. Rodrigues has not annexed the communication addressed to him by the NIOT (see para 12) and instead has paraphrased its comments to the objections raised by the applicant. Since no quotation marks are used to quote from the report, there is no way of coming to know what is stated by NIOT and what is being reported by the deponent therein. This Hon'ble Tribunal is an expert body and should be provided with a copy of the NIOT reply

referred to in para 12 so that it can come to its own findings in the matter and not have to rely upon the reporting of the same by the GSIDC. The NIOT's response is more particularly required since in paras 11 and 16, the deponent makes a categorical statement that the NIOT study is in terms of the TORs but not the Work Order issued by the GSIDC. It may be recalled that it is pursuant to the Hon'ble NGT's order dated 17/4/2015, that Work Order dated 24/6/2015 was awarded to the NIOT wherein the scope of work was detailed. Subsequently, along with letter dated 31/7/2015 (which refers to both the Work Order and the Hon'ble NGT's Order dated 9/7/2015) the NIOT framed the TORs. Both the Work Order and the TORs were placed before this Hon'ble Tribunal and Applicant accepted the same. In fact, the TORs merely detail the methodology of the study, along with aspects like time frame, assistance required from the client, etc. It stands to reason that the TORs, the Work Order and the Hon'ble NGT's directions dated 17/4/2015 must all be in sync with each other. Therefore, it is most strange that statement is made that the NIOT study is in the terms of the TORs but not with the Work Order. Hence, the GSIDC ought to be directed to produce a copy of the NIOT response with a copy to the applicant, so that the true import of this averment and reasons for discrepancy can be ascertained.

3. In respect of the affidavit in reply dated 16/11/2016, the purpose is to object to the affidavit dated 26/09/2016. However, the affidavit of the applicant dated 26/09/2016 merely brings on record, the documents which the applicant has referred to, described the contents of and, in some cases, quoted the text of as well, in his Rejoinder Affidavit dated 09/09/2016. In his affidavit dated 09/09/2016, applicant had stated that

he had taken inspection of the file, applied under RTI for copies and would produce them as soon as they were given to him. Applicant's rejoinder affidavit dated 09/09/2016 has already been taken on record.

4. Further, as this is a Tribunal proceeding, and this Hon'ble Tribunal is still in the process of completing supervision of the pleadings being filed in the matter, any objections to filing of documents that will assist the Hon'ble Tribunal from coming to a finding in the matter should, in the deponent's humble opinion, be summarily rejected.

Solemnly affirmed this  
the \_\_\_\_ day of November, 2016

Deponent

**BEFORE THE NATIONAL GREEN TRIBUNAL (WZ)  
AT PUNE**

**APPLICATION NO. 33 OF 2015**

Between

**THE GOA FOUNDATION** .. ... **..APPLICANT**

and

**GOA STATE ENVIRONMENT IMPACT  
ASSESSMENT AUTHORITY & ORS** ..... **RESPONDENTS**

**ADDITIONAL AFFIDAVIT OF APPLICANT**

I, Dr. Claude Alvares, Secretary, Goa Foundation, Applicant, do solemnly affirm and state as under:

1. I have received copy of the reply dated 24.8.2016 submitted by the National Institute of Ocean Technology (NIOT) Chennai, in response to the queries raised by the Goa Foundation. The NIOT communication has been served on the Applicant in January 2017.
2. The NIOT reply admits that the NGT order dated 17.4. 2015 directed the State to seek a report regarding "environmental impacts on the estuarine area, particularly on the spit of Keri (Pillar no. 6) and particularly regarding change, if any, caused as a result of construction activity in the tidal water or change of estuarine area due to adverse impact of construction put in or that construction of pillar no. 6 is likely to influence the tidal movement of water or river whatsoever it may be. We make it clear that the said institute shall assess the factual position and *consider all aspects required to be covered in the study considering the points raised by the applicant.*" [emphasis added]
3. It is clear from the above directions that the study was as regards the estuarine area tidal movements and any construction activities that would be put in the area. Special attention was to be paid in regard to pillar no. 6 as it was proposed to be located on an unstable spit on one side of the

estuary. The report was to consider all the points raised by the applicant in the application.

4. I say that for these reasons, the work order, which was based on the TORs approved by the Hon'ble NGT and with the concurrence of the Applicant detailed the study to be done in the estuarine area covering both sides of the estuary/river. For these reasons, the interim report also refers to piers on both sides of the estuary/river. It is only in the final report that the NIOT decided, for reasons best known to it, to submit its report only with regard to pillar no. 6, ignoring the rest of the estuarine area.
5. For these reasons I state that the NIOT stand that the study is in compliance with the NGT order dated 17.4.2015 is incorrect. The NIOT commenced its work in terms of the order and TORs laid down and approved by all parties, but has concluded the study only with reference to part of the order. There is definitely reduction in the study for reasons not explained in the report. Hence the environmental impact of the bridge on the narrow and dynamic estuary of Tiracol river remains unassessed.

Solemnly affirmed this

the \_\_\_\_\_ day of February, 2017

Deponent