



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

INTERLOCUTORY APPLICATION NO. 227 OF 2023 [WZ]

IN

APPEAL NO. 31 OF 2023 [WZ]

BETWEEN:

PRAVINSINGH ARJUN SHEDGAONKAR AND ORS.
...APPELLANTS

AND

THE GOA STATE ENVIRONMENT IMPACT
ASSESSMENT AUTHORITY AND ORS.
...RESPONDENTS

REJOINDER AFFIDAVIT OF THE APPELLANT

I, Pravinsingh Arjun Shedgaonkar, Indian national, age 39 years, Indian national, r/o H. No. 1615/2, Satyabhama Krishna Walkeshwar Wada, Opp. Goa Assembly, Betim, Bardez, Goa – 403101, the Appellant/Applicant No. 1 herein, do hereby solemnly affirm and state as under:

1. I am filing this common affidavit in rejoinder to the affidavit-in-reply dated 21st February 2024 filed by the Member Secretary of the G.S.E.I.A.A., Respondent No. 1 in this Appeal [*received on 26.02.2024*]; and the affidavit of M/s. Delta Corp Ltd., Respondent No. 2 in this Appeal [*received on 01.03.2024*]. Both the replies are much beyond the prescribed date of 2 weeks (i.e 15.2.2024) fixed by this Hon'ble Tribunal vide its order dated 1.2.2024. I state that this affidavit is filed with the concurrence of the other Appellants in this matter.

2. At the outset, I state that I am not replying to each and every statement and averment made in the said replies of the R. 1 and R. 2, and nothing may be deemed to be admitted unless the same is specifically admitted herein but should be treated as though the same has been set out seriatim and denied and disputed specifically. The averments in this rejoinder are only with reference only to the submissions of the respondents on the issue of condonation of delay and not on the merits of the appeal, which the applicant will respond to once this Hon'ble Tribunal has decided the I.A for condonation of delay.

3. Before dealing with the objections of the Resp. No.s 1 and 2 to the I.A. on merits, the Appellants raise a preliminary legal objection namely, that as the said Respondents have failed to comply with their respective obligations regarding communication of the E.C., no objection regarding limitation may be raised by them, and they cannot be permitted to take advantage of their own wrongs. This is the well established view of this Hon'ble Tribunal in the cases of Padmabati Mohapatra Vs Union of India (MA No.79 of 2012 in Appeal No.29/2012) and Arvind V. Aswal vs. M/S Arihant Realtors (Appeal No. 77/2013 [WZ]).

4. In the case of the Resp. No. 1 (SEIAA), it has not uploaded on its own website the EC as required by the *E.I.A. Notification 2006, Clause 10*, and has therefore failed to discharge its obligations regarding communication of E.C.

5. In the case of the Resp. no. 2, it has failed to upload the E.C. on its own website, and has also failed to provide a copy of the E.C. to the local village Panchayat of Dhargalim as required by *E.I.A. Notification 2006, Clause 10*. I enclose letter dt. 15.12.2023 of the V.P., which was received in response to an RTI by the Appellant No. 1 dt. 17.11.2023, which clearly establishes that the impugned E.C. was not provided by the Resp. No. 2 to the Village Panchayat. The letter of the V.P. dt. 15.12.2023, along



with the RTI Application of the 1st Appellant dt. 17.11.2023, is enclosed herewith as Annexure 1 Colly.

6. For these reasons, it is submitted that the objections raised by the R. 1 and the R. 2 on the aspect of limitation cannot be considered by this Hon'ble Tribunal, as the said Respondents have themselves failed to duly and fully communicate the E.C. as required by law and the directions of this Tribunal from time to time.

[Regarding date of E.C. being uploaded on the website]

7. Both the Respondents submit that the impugned E.C. dt. 28.08.2023 was uploaded on the PARIVESH website on the same day itself, i.e. 28.08.2023, and as such, that the date of commencement of limitation for the purpose of Section 16 ought to be regarded as 28.08.2023. The Respondents rely on the date shown on the first page and footer of the E.C. as being the date of upload of the E.C.
8. In response, the Appellant submits that the date reflected in the first page and footer of the E.C. is only the date of the E.C. being granted, and does not have any linkage with the date of upload of the E.C. on the Ministry Website.
9. As such, it is submitted that mere reliance on the E.C. date cannot be treated as the date the E.C. was uploaded on PARIVESH website. The definitive proof of the date of upload of the E.C. would have to be provided in the form of an N.I.C. [*National Information Centre of the Govt.*] Certificate/documents, providing the web hosting details of the document in question. Neither of the Resp. Nos 1 and 2 have provided any documentary evidence to support their stance regarding the date of upload of E.C.



10. It is also pertinent to note that the Ministry of Environment, Forests and Climate Change [*Resp. No. 4*], the main Department concerned with the Parivesh Website, has not filed an affidavit with proof of the date of upload of E.C. on its website.

11. In these circumstances, i.e., when there is no documentary evidence on record to clearly establish the date of E.C. being uploaded, this Hon'ble Tribunal in the cases of *Krishan Lal Gera vs. State of Haryana and Others [Appeal No. 22/2015 [PB]]* and *Nature Club of Rajasthan vs. Union of India [2018 SCC ONLINE NGT 875]* has refused to accept mere averments regarding the date of the E.C. being the date of upload of the E.C.

12. Notwithstanding this stance of the Appellant, even assuming without admitting that the E.C. was indeed uploaded on 28.08.2023, it is submitted that even in this situation, the fact that the E.C. could not be accessed by the Appellants on multiple occasions, screenshots of which are enclosed to the I.A. [*Ann. 2 Colly*], proves that the obligations with regards to E.C. being uploaded are not discharged.



13. The Respondent Nos 1 and 2 have objected to the date of the screenshots, stating that the date is of the ask bar computer on which the screenshot is taken and could have been changed by the Appellants, and therefore cannot be relied upon. Appellant vehemently denies that the screenshot have been changed or manipulated in any manner. At any rate, screenshots/snapshots of websites have been relied upon by this Hon'ble Tribunal, as proof in as far as E.C. upload on websites is concerned in cases such as *Krishan Lal Gera vs. State of Haryana and Others [Appeal No. 22/2015 [PB]]*.

14. The Hon'ble N.G.T. in the cases of *Medha Patkar vs. MOEFCC and Ors. (Appeal No. 1/2013 [PB])* and *Grama Panchayat Salana Jeewan Singh Wala, Punjab v. Union of India (Appeal No. 78/2014)* has held that apart from the uploading of the E.C. on

the concerned websites, the E.C. has to be continually accessible to the public for the entire period of 90 days, without which the obligation of communication by way of uploading the E.C. cannot be discharged and complied. Appellant has already stated in its application for condonation of delay that the website could not be accessed on several occasions.

15. For these reasons, it is submitted that even assuming without admitting that the E.C. was duly uploaded on 28.08.2023 on the Parivesh Website, the fact that the E.C. was not available to download on multiple occasions in the following 90 days only means that the date of upload is non-compliant with the requirements of law, and cannot be reckoned as the starting point to determine the limitation period.

[Regarding sufficiency of explanation for condonation of delay]

16. It is also the case of the Resp. No. 2 that no sufficient cause has been made out for the condonation of delay of 59 days in preferring this Appeal. The Appellants once again reiterate that sufficient cause has been well spelt out in the I.A. as to why the Appellants were prevented from filing this Appeal earlier, *inter alia* as the subject matter involves highly technical and scientific aspects, for which extensive information had to be procured and experts consulted. The Appellants place reliance upon the decisions of the Hon'ble Supreme Court in the cases of Collector (LA) v. Katiji (1987) 2 SCC 107 and N. Balakrishnan v. M. Krishnamurthy [(1998) 7 SCC 123] to submit that sufficient cause has been made out in the instant case for this Hon'ble Tribunal to condone the delay of 59 days.



17. The Appellant once again reiterates that the date of the E.C. being communicated to the Appellants, as stated in the I.A., is 2nd September 2023, i.e. the date of the publication of the E.C. in the local newspaper. On this date the Appellants came to know of this project. Prior to this date the Appellants did not know of such

a project and therefore could not have randomly perused any website for details of approval granted. From 2nd September 2023, the present Appeal has been filed with a delay of 59 days. The Appellant has provided sufficient explanation and reasons in the I.A. as to why the Appellants could not file the Appeal within the statutory period of 30 days, and as such, it is humbly prayed that this Hon'ble Tribunal may kindly condone the delay of 59 days in preferring this Appeal.

18.I state that the Annexure/s enclosed are true and correct copies of their respective originals, and have been attested by me as such.

19.I verify that the contents of paras 1 - 18 of this affidavit are in the nature of facts which are true to my own knowledge and belief and as per official documents/records, as well as submissions made based on legal advice which I believe to be true and correct. No part of it is false and nothing material has been concealed therefrom.

Solemnly affirmed at Mapusa, Goa,
This the 7th day of March 2024



APPELLANT/DEPONENT



VERIFICATION

I hereby verify that the contents of paras 1 - 19 of my above affidavit are true to my knowledge and belief, and that no part of it is false and nothing material has been concealed therefrom.

Solemnly affirmed at Mapusa, Goa,

This the 7th day of March 2024

[Signature]

APPELLANT/ DEPONENT

[Handwritten] D. No. GA03 2003 0050183



Solemnly affirmed before me by *[Handwritten Name]*

Who has been identified by *[Handwritten Name]*

Who is known to me personally
Mapusa-Goa

Req. No. 1147/24 Date: 07/03/2024

[Signature]
JANARDHAN S. PARSHEKAR
NOTARY AT MAPUSA, BARDEZ-GOA
STATE OF GOA (INDIA)



VILLAGE PANCHAYAT DHARGALIM PERNEM – GOA

Phone No. Mb. 9359580520 e-mail: vpdhargalim@rediffmail.com

Ref.No.VP/DHA/PER/RTI/2023-24/2301

Date: 15/12/2023

To,
Pravinsingh Shedgaonkar,
H. No. 1615/2, "Satyabhamakrishna",
Adjacent to High Court,
Malim, Betim, Bardez – Goa- 403101.

Sub: Request for information under RTI 2005.

Ref: Your application dated 17/11/2023 address to The Public Information Officer, V. P. Dhargalim, Pernem – Goa.

Sir,

With reference to your application dtd. 17/11/2023 on the above cited subject, The Public Information Officer, furnishing the required information as under:

1. **With reference to point No. a)** : It is to inform you that this office has not received any EC granted to M/s Delta Corp Ltd.
2. **With reference to point No. b)** : Not applicable.
3. **With reference to point No. c)** : Not applicable.
4. **With reference to point No. d)** : No any communication received from M/s Delta Corp Ltd in past 2 years.
5. **With reference to point No. e)** : No any communication send to M/s Delta Corp Ltd in past 2 years.

This is for your kind information.

Yours faithfully,



(Mr. Lourenco Rebeiro)
P.I.O-Cum-Secretary.
V. P. Dhargalim, Pernem, Goa.
SECRETARY
VILLAGE PANCHAYAT DHARGALIM
PERNEM - GOA

Date: 17 / 11 / 2023

To,
The Public Information Officer,
O/o The Secretary,
Village Panchayat of Dhargalim,
Dhargalim, Pernem, Goa

From,
Pravinsingh Shedgaonkar,
H. No. – 1615/2, "Satyabhamakrishna",
Adjacent to High Court,
Malim, Betim, Bardez, Goa – 403 101
Mobile: +91 9881799973

Sub: Application under RTI Act 2005

Sir,

1. With respect to the Environmental Clearance granted to M/s Delta Corp Ltd for integrated Resort Complex project in plot bearing survey nos 243/1A, 263/1, 264/1, 265/1, 265/2, 265/25, 265/26, 266/1, 267/1, 267/1-A, 268/1, 268/2, 268/3, 268/4, 269/1, 280/1, 280/1-A & 280/1-B of village Dhargalim, Taluka Pernem, District North Goa (copy of the first two pages of the said EC is enclosed as Annexure 1), Request you to kindly furnish following information;
 - a) Date(s) on which the said EC was received by your office.
 - b) Certified copy of the relevant page(s) of the inward register to demonstrate the receipt of the said EC document by the VP Dhargalim.
 - c) Date on which the said EC was put up on the Village Panchayat Dhargalim's notice board.
 - d) Certified copies of all the communications received by VP Dhargalim from M/s Delta Corp Ltd in past 2 years.
 - e) Certified copies of all the communications sent to M/s Delat Corp Ltd by VP Dhargalim in past 2 years.

The Applicant is citizen of India by birth. Any difficulty in understanding the terminologies or my information need, feel free to call me at +91 9881799973.

Regards,



Pravinsingh Shedgaonkar

Received
V. P. Dhargalim-Pernem-Goa
Date:- 17/11/23