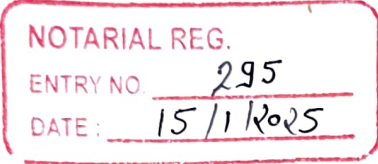


BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL, WESTERN ZONE BENCH, PUNE



IA No. 301/2024(WZ)

IN

Appeal No. 166/2024(WZ)

APPLICANTS: MRS PRACHI AMIT MAHURKAR & 3
OTHERS

VERSUS

RESPONDENTS: UNION OF INDIA & 8 OTHERS

REPLY ON BEHALF OF RESPONDENT NO. 4 TO THE
APPLICATION FOR CONDONATION OF DELAY

The Respondent No. 4 submits as under:-

1. The Application for condonation of delay filed by the Applicants is not tenable in the eyes of law, in as much as, the Applicants have not given a single cogent reason for seeking condonation of delay. The Applicants have not even fairly pointed out the real date of accrual of cause of action to file appeal, exact duration of delay and the nature of delay. The Applicants are guilty of *suggestio falsi and suppressio vari*. In such circumstances, the Applicants are not entitled to a discretionary relief of condonation of



delay. The Applicants have not explained each and every day's delay and without explaining the delay, as required by law, the Applicants cannot seek relief of condonation.

2. Applicants have stated that as the Respondent No. 1 is Union of India having address at New Delhi, therefore the filing Server of NIC has placed the matter before Delhi Bench for filing, while the matter is under the jurisdiction of Pune Bench. In this regard, it is submitted that absolutely without any justification, the Applicants have conveniently blamed the filing server of NIC. This practice of blaming the server deserves to be nipped in the bud, in as much as, during the filing itself, had the Applicants selected the Forum of filing as Hon'ble National Green Tribunal, Western Zone, Pune, there was no question of the server placing the matter before the Principal Bench of this Hon'ble Tribunal. The Applicants, by no stretch of imagination, can blame the server of National Informatic Centre (NIC), which is a reputed technology partner of the Government of India. In such circumstances, since the Applicants themselves are not diligent in filing/contesting the matter as required by law, there is no question of condoning delay for the unbelievable and perverse



reasons set-out by the Applicants. It is now well settled that delay cannot be condoned for the reasons which were within the control of the Applicants and such delay caused in filing the Appeal could have been easily avoided. It is very easy to blame the system/server, but, such reasons which are totally non-bonafide, cannot be accepted to be true and on such flimsy grounds, delay cannot be condoned.

3. Without prejudice, it is submitted that the Applicants have, without any substantial reason, filed the Appeal before the Principal Bench of this Hon'ble Tribunal and now have an audacity to blame the filing server of NIC. No documentary evidence is placed on record in support of contentions raised in the pleadings of the Applicants.

4. It is denied that the delay is caused due to the alleged system failure to register the case as the NIC server has erroneously registered the case in NGT Delhi and that the same could not be corrected by the Registry for technical reasons. The Applicants cannot, by any stretch of imagination, blame the Registry of this Hon'ble Tribunal to the effect that they have erroneously registered the case before the Principal Bench. It is again submitted that the Applicants themselves have filed and got registered the case before the Principal Bench.



5. The Applicants have not explained the delay in the manner prescribed by law. The answering Respondent submits that, on Applicants' own showing, they came to know about the erroneous filing on 23.10.2024 itself, i.e. within 2 days of the date of filing of Appeal before the Principal Bench. Despite that, the Applicants have re-filed the present Appeal as late as on 27.11.2024, without explaining the delay of 36 days in re-filing the Appeal before this Hon'ble Tribunal. The tone and tenor of the Application itself demonstrates that the Applicants are very casual in their approach and are not sincerely interested in pursuing the Appeal.

6. Even otherwise, the contention of the Applicants to the effect that cause of action to file the present Appeal arose on 24.09.2024 is totally incorrect and therefore the Appeal filed on 21.10.2024 (before the wrong Forum) was beyond limitation. In this regard it is submitted that the copy of order of Environmental Clearance dated 19.09.2024 was duly uploaded on the website of Respondent No. 1 on 19.09.2024 itself. In view of the law governing the field, the limitation to file Appeal would start from the date on which the order sought to be impugned is uploaded on the website of the Authority passing such



order. In the present case, the cause of action arose on 19.09.2024 itself when the order sought to be impugned in the present Appeal was duly uploaded on the web site of MOEF. In such circumstances, the Appeal filed on 21.10.2024, that too before the wrong Forum and without accompanying any application for condonation of delay was beyond limitation.

7. The answering Respondent further wishes to point out that the impugned order of Environmental Clearance was uploaded on the website of the answering Respondent on 20.09.2024. To demonstrate the said fact, the answering Respondent is placing on record a copy of email dated 20.09.2024 sent by Chief General Manager-Environment and Safety, MAHAGENCO to webposting team of the answering Respondent, copy whereof is annexed herewith and marked as Annexure-R4-A. Perusal of the said email would demonstrate that the webposting team of answering Respondent was asked to upload the impugned order of Environmental Clearance on the website of the answering Respondent. In response to the said mail, the webposting team of answering Respondent had sent an email on 20.09.2024 at 13.30 hours intimating that the impugned order of



Environmental Clearance was published on MAHAGENCO's website. True copy of said email dated 20.09.2024 sent by the webposting team of the answering Respondent is annexed herewith and marked as **Annexure-R4-B**. Perusal of the said email clearly demonstrates that even on the web site of the answering Respondent, the Environmental Clearance was uploaded on 20.09.2024 itself and as such, the Appeal filed on 21.10.2024 was beyond limitation. The Appeal itself was filed (before the wrong Forum) on 21.10.2024 to challenge the order of Environmental Clearance dated 19.09.2024, i.e. beyond the prescribed period of 30 days. Perusal of Annexure-AA to the Application for condonation of delay would also show that the Appeal filed on 21.10.2024 was not within limitation.

8. The Applicants have not sought condonation of 3 days delay in filing the Appeal before the wrong Forum. Moreover, the application seeking condonation of said 3 days delay should have been filed along with the Appeal itself on 21.10.2024 by explaining the reasons for belated filing of Appeal. However, no such application was filed and therefore the ground raised in the application regarding system failure is not maintainable, as the Appeal itself was not maintainable before



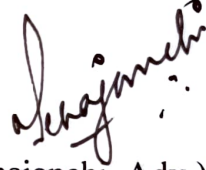
any Forum when it was filed on 21.10.2024, without accompanying application for condonation of delay. All in all, the contemporaneous conduct of the Applicants clearly demonstrates negligence and carelessness in filing the appeal, which is *prima facie* visible from the face of record itself. It is well settled that when the conduct of the Applicants shows the negligence and carelessness in prosecuting the appeal, delay cannot be condoned. In such circumstances, the present application for condonation of delay is not maintainable.

9. In any event, for all legal purposes, the present Appeal has been filed on 27.11.2024, i.e. after a delay of 41 days, without explaining the said delay as required by law. When the Appeal filed on 21.10.2024 itself was beyond limitation, there is no question of entertaining this Appeal filed belatedly on 27.11.2024. The Appeal as framed and filed before this Hon'ble Tribunal is hopelessly barred by limitation. The delay cannot be condoned as the Applicants have slept over their so-called rights. It is settled law that the persons, who are not vigilant about their rights, cannot be allowed to agitate their grievances at belated stage. The Appellant have not given satisfactory explanation for condoning the delay. There is no sufficient cause to



- 258 -

condone the delay. Hence, the Application for condonation of delay is liable to be dismissed with costs.



(M.P. Khajanchi, Adv.)

Pune

Date : 16/01/2025

Counsel for Respondent No. 4



- 259 -

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

IA No. 301/2024(WZ)

IN

Appeal No. 166/2024(WZ)

APPLICANTS: MRS PRACHI AMIT MAHURKAR & 3
OTHERS

VERSUS

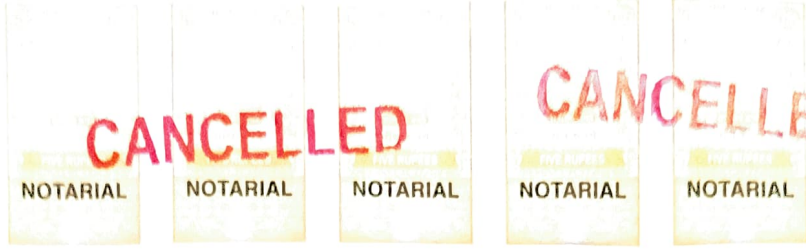
RESPONDENTS: UNION OF INDIA & 8 OTHERS

AFFIDAVIT

I, Narayan A. Rathod, aged about 49 years, Dy. Chief Engineer, Koradi Project Office, Maharashtra State Power Generation Co. Ltd., duly authorised by the Respondent No. 4 herein, do hereby take oath and state on solemn affirmation that the above reply has been drafted by the counsel as per the instructions issued on behalf of the office of the Respondent No. 4 and the contents made therein are true and correct to the information received from office records and believed by me to be true. The facts stated in the reply, which runs into paragraph Nos.1 to 9 are true to the office records and believed by me



- 260 -



to be true, whereas legal submissions have been made as per the legal advice received and believed by me to be true.

Hence, solemnly affirmed and signed at Nagpur on this

15th day of January 2025.

DEPONENT

Deputy Chief Engineer
3x660MW, Koradi Expr. Project,
MSPGCL, KORADI.

VERIFICATION

I, the above named deponent do hereby declare that the contents of the above affidavit are true to my personal knowledge.

Hence, verified and signed at Nagpur on this

15th day of January 2025.

I know & identify the deponent.

(M.P. Khajanchi, Adv.)

DEPONENT

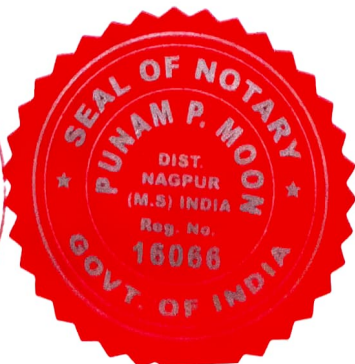
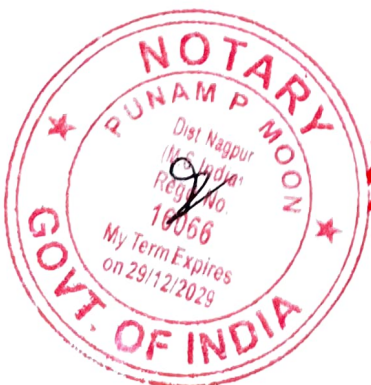
Deputy Chief Engineer
3x660MW, Koradi Expr. Project,
MSPGCL, KORADI.

SWORN/SOLEMNLy AFFIRMED
BY Narayan A.
Rathod

WHO IS PERSONALLY/KNOWN
TO ME /IDENTIFIED BY M. P.
Khajanchi

BEFORE ME THIS THE 15th
DAY OF Jan 2025 AT NAGPUR

PUNAM P. MOON
NOTARY
NAGPUR DIST. (M.S) INDIA



ANNEXURE - R4.4

- 261 -

From: Chief General Manager - Environment & Safety <cgmenvsafe@mahagenco.in>
Sent: Friday, September 20, 2024 11:10 AM
To: webposting <webposting@mahagenco.in>
Subject: Uploading EC of proposed 2x660 MW Koradi Project on Mahagenco website

Please upload the Environment Clearance copy as attached in mail on Mahagenco website under Environment & Safety Management head at Environment Clearance Tab with heading as below,
"MoEF & CC has granted the Environment Clearance to Proposed 2x660 MW Coal based Supercritical Thermal Power Plant within the existing premises of 2190 MW Koradi Power Plant located at Koradi, Tehsil: Kamptee, District Nagpur, Maharashtra by MAHAGENCO"

Also requested to upload the same on MAHAGENCO home page under Latest Update tab for at least 30 days with heading *" Environment Clearance granted to Proposed 2x660 MW Coal based Supercritical Thermal Power Plant at Koradi, Nagpur"*

--

**O/o The Chief Engineer
Environment and Safety
HDIL Tower, 4th Floor, A-wing
MSPGCL. HO Mumbai**

"Disclaimer: This e-mail contains privileged information or information belonging to Maharashtra State Power Generation Co. Ltd. and is intended solely for the addressee/s. Access to this email by anyone else is unauthorized. Any copying (whole or partial) or further distribution beyond the original recipient is not intended, and may be unlawful. The recipient acknowledges that Maharashtra State Power Generation Co. Ltd. is unable to exercise control or ensure or guarantee the integrity of the contents of the information contained in e-mail transmissions and further acknowledges that any views expressed in this message are those of the individual sender and are not binding on Maharashtra State Power Generation Co. Ltd. E-mails are susceptible to alteration and their integrity cannot be guaranteed. Maharashtra State Power Generation Co. Ltd. does not accept any liability for any damages caused on account of this e-mail. If you have received this email in error, please contact the sender and delete the material from your computer."



ANNEXURE - R4 · B

- 263 -

From: webposting <webposting@mahagenco.in>
Sent: 20 September 2024 13:13
To: Chief General Manager - Environment & Safety
<cgmenvsafe@mahagenco.in>
Cc: Shriram Ramdasi, DGM-IT
<dgmit@mahagenco.in>; Dhammadeep Raut,
System Analyst <sa4mumbai@mahagenco.in>;
Uday Kokande, System Analyst
<sa2mumbai@mahagenco.in>; Ashraf Shaikh
<ashraf.shaikh@mahagenco.in>; Vaishali
Bhavathankar <vaishali.bhavthankar@
mahagenco.in>; IT Infrastructure Team - Dharavi
<itinfradriv@mahagenco.in>; Suhas Gote,
Assistant Programmer (IT)
<suhas.gote@mahagenco.in>
Subject: Re: Uploading EC of proposed 2x660 MW
Koradi Project on Mahagenco website

Respected Sir/Madam

As per trail email, Said "**Attached Files**" has
been Published on MAHAGENCO's website
under " **Environment & Safety Management
and Latest Update** .

Regards,
Web posting Team,
Information Technology Section,
Corporate Office, Mumbai.
