

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

I.A. NO. 321/2024

IN
APPEAL NO. 28/2024

IN THE MATTER OF

NTPC LIMITED

...APPLICANT

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

...RESPONDENT(S)

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THROUGH COUNSEL



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STANDING COUNSEL FOR THE STATE OF U.P. (NGT)

EMAIL- bhanwar09jadon@gmail.com

DATE: 03.01.2025

PLACE: NOIDA

BEFORE THE NATIONAL GREEN TRIBUNAL
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REPLY TO APPLICATION FOR CONDONATION, I.A. NO. 321/2024
FILED BY THE APPELLANT IN APPEAL NO. 28/2024

MOST RESPECTFULLY SHOWETH:

1. That in the present matter, the Appellant has filed the Appeal challenging the demand notice dated 26.03.2024 issued by the Department of Forests, U.P., directing the Appellant to deposit 2% of the project cost to the specified account based on the decision of the Respondent No. 3 i.e. Standing Committee of the NBWL.
2. That the present Application has been filed by the Appellant seeking Condonation for Delay of 49 days in filing the Appeal. The Application is devoid of any merits and is liable to be dismissed.
3. The conjectures made by the Applicant in the present I.A. are without any sufficient cause and evidences. The grounds advanced by the

Applicant for the delay, including the alleged time taken for representations, collection of documents, and internal approvals, do not constitute *sufficient cause* under law. The reason for delay is attributable to the Appellant's internal inefficiencies, which cannot be treated as valid reasons for condonation.

PARA-WISE REPLY:

4. The contents of paragraph 1 are a matter of fact and record, and same does not mandate any reply.
5. The contents of paragraph 2 are admitted to the extent that the Appeal was not filed within the statutory period of 30 days as prescribed under Section 16 of the National Green Tribunal Act, 2010. However, it is denied that the delay of 49 days was unavoidable or caused by bona fide circumstances. The Applicant's negligence in pursuing administrative remedies cannot be considered a sufficient cause for condonation.
6. That the assertions made in paragraph 3 by the Applicant are denied. It is specifically denied that the time spent by the Appellant in making representations to Respondent No. 2 on 04.05.2024 and Respondent No. 4 on 04.06.2024 constitutes a valid reason for the delay. The representations made by the Applicant was done voluntarily and do not extend the statutory limitation period. It is submitted that even the representations made by the Applicant were made well past the limitation period for filing of the Appeal. The Applicant should have filed the appeal within the prescribed timeline while pursuing these representations simultaneously.

7. That the assertions made in paragraph 4 by the Applicant are unavailing at best. It is submitted that the collection of necessary documents and obtaining internal approvals are routine administrative activities that should have been completed promptly within the statutory limitation period, by the Applicant. These do not amount to circumstances beyond the Appellant's control or justify the delay in filing the Appeal.
8. That the assertions made in paragraph 5 by the Applicant stating that the delay in filing the Appeal was due to obtaining internal approvals, preparing the petition, and arranging for necessary signatures. The aforementioned reasons reflects inefficiency and lack of due diligence by the Applicant. Administrative delays, as mentioned in the IA, do not constitute sufficient cause for condonation under law.
9. The contents of paragraph 6 are a matter of record. However, it is submitted that the Hon'ble Tribunal's authority to condone delays is contingent upon the Applicant establishing sufficient cause, which the Applicant has failed to do in the present case.
10. That the assertions made in paragraph 7 by the Applicant are denied. It is submitted that condoning the delay would prejudice the Respondents and undermine the statutory scheme of strict adherence to limitation periods. The claim that no prejudice will be caused to the Respondents is unfounded. It is humbly submitted that granting condonation for administrative inefficiencies or voluntary actions by the Applicant gives them an undue advantage, setting a precedent for bypassing statutory timelines. This places the Respondent at a disadvantage, as they must abide by the same strict timelines without similar concessions.

11. The assertions made by the Applicant in paragraph 8 are denied. It is submitted that condoning the delay would prejudice the Respondent and undermine the statutory scheme of strict adherence to limitation periods. The claim that no prejudice will be caused to the Respondents is unfounded.

12. That the assertion made in paragraph 9 by the Applicant are denied. It is submitted that the present Application is an attempt to justify the Appellant's lack of diligence in pursuing legal remedies and does not serve the interest of justice.

PRAYER

1. Dismiss the Application for Condonation of Delay, as it lacks sufficient cause and fails to meet the statutory timeline established under law;
2. Pass such other or further order(s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

THROUGH COUNSEL

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STANDING COUNSEL FOR THE STATE OF U.P. (NGT)
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DATE:

PLACE:

891



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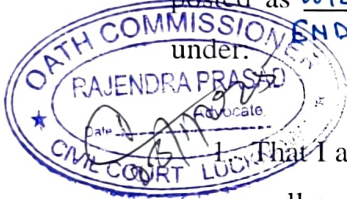
VERSUS

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...RESPONDENT(s)

AFFIDAVIT

I, ABU ARSHAD KHAN aged about 59 years S/o Late ABU BAKER KHAN posted as WILDLIFE WARDEN under ENDANGERED PROJECT U.P.



That I am the Authorized Representative in the present matter and being well conversant with the facts of the case. I am competent to swear this affidavit.

- That I have gone through the contents of the accompanying compliance reply and the contents of the same are true and correct as per my knowledge based on record and legal knowledge obtained.
- That the Annexures annexed to the present accompanying reply are correct and true copy to my knowledge and belief on the basis of the records.

Solemnly affirmed before me in office today
at _____ by Abu Arshad Khan
This deponent identified by Shri. Nutan Kishore Saranya
Clerk to Shri. Danu
I have satisfied myself by examining
the deponent that he understands the contents
of the affidavit which has been read out and
explained by me. Free charge rs. 1-50

RAJENDRA PRASAD
Oath Commission
Civil Court Lucknow

Aes

DEPONENT
वन्य जीव प्रतिपालक
सुसमाय परियोजना, उ०३०
लखनऊ

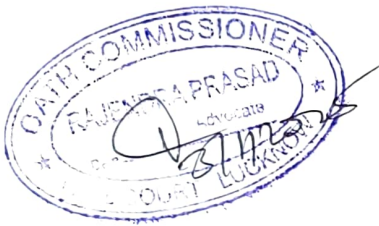
I identify the deponent/ox client/hereby
Who has signed/put Li. Before me
02/01/2025

VERIFICATION

Verified at LUCKNOW on this 3 day of JANUARY, 2025,
that the contents of the above affidavit are believed to be true and correct to
the best of my knowledge and belief. No part of it is false and nothing material
has been concealed therefrom.

As
DEPONENT

**वन्य जीव प्रतिपालक
सुसंवाय परियोजना, उ०प्र०
लखनऊ**



As solemnly affirmed before me in Lucknow
by Abu Bishal Khan
The who is identified by Shri. N.K. Das
Clerk to Shri. As
I have asked myself and the
deponent that he understands the contents
of the affidavit which has been read out and
explained by me. Fee charge rs. 100

RAJENDRA PRASAD
Offn Com/Advocate
Civil Court 03/01/2025

I identify the deponent/exhibitor to be
Who has signed/put Li. Before me
N.K. Das
03/01/2025 Adv