

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

M.A. No. 11 of 2026(WZ)

IN

APPEAL No. 100/2026 (WZ)

(Earlier Diary No: 270413701838/2025)

IN THE MATTER OF:

OSWALD FERNANDES

...APPELLANT

V/s.

GOA COASTAL ZONE MANAGEMENT AUTHORITY & ORS.

...RESPONDENTS

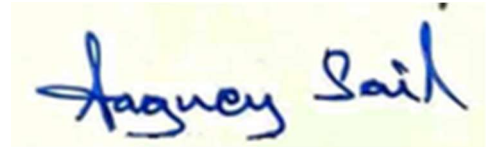
NEXT DATE: 03.06.2026

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Place: Goa

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

M.A. No. 11 of 2026(WZ)

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OSWALD FERNANDES

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V/s.

GOA COASTAL ZONE MANAGEMENT AUTHORITY & ORS.

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WRITTEN NOTE OF ARGUMENT ON BEHALF OF APPLICANT

1. That the Applicant is submitting the present written note of arguments pursuant to the liberty granted by this Hon'ble Tribunal on 27.04.2026.

2. That, firstly, this Hon'ble Tribunal may kindly note the settled law that a litigant should not suffer for lapses on the part of his advocate. Reliance is placed in this regard on Rafiq & Anr. Vs Munshilal & Anr. [1981] 3 SCR 509 (Para no. 3), Mithanlal Vs Labour Commissioner (1987) Supp. SCC 836 and Dwarika Prasad (D) Thr. LRs. v. Prithvi Raj Singh [2024] 12 S.C.R. 2075 : 2024 INSC 1030. True and correct copies of these three judgments are hereto marked and annexed as **ANNEXURE – 1**. It is submitted that the non-appearance of the counsel for the Applicant on 23.02.2026 is explained in paragraph no. 5 of the M.A. which is reiterated herein and this Hon'ble Tribunal may kindly condone the same.

3. That, Secondly, this Hon'ble Tribunal may kindly note that if the case filed before this Hon'ble Tribunal can be listed before this Tribunal in an unregistered form i.e. on a diary number for removal of defects and on such a case listed this Hon'ble Tribunal can pass an order exercising its jurisdiction and powers as provided in Section 19(4) of the National Green Tribunal Act, 2010 ('NGT Act, 2010' for short) read with Rule 10(4) of the National Green Tribunal (Practices and Procedure) Rules, 2011 ('NGT Rules, 2011' for short). Hence, it is submitted that this Hon'ble Tribunal can recall an ex-parte order passed exercising its jurisdiction and powers under Section 19(4)(h) of the NGT Act, 2010 read with Rule 20(2) of the NGT Rules, 2011 and restore the same to state when it was dismissed. In the present case, recalling of the order dated 23.02.2024 will result in restoring the Appeal to its Diary No. state which was as on 22.02.2024 before dismissal.

4. That, Thirdly, it is submitted that two benches of this Hon'ble Tribunal in exercise of their powers as mentioned above are listing unregistered and unnumbered cases (Appeal / Original Application) before itself for passing appropriate orders under Rule 10(4) of the NGT Rules, 2011. A list of such cases from the Western Zone bench and South Zone bench of this Hon'ble Tribunal that the Applicant could gather from the website (orders passed and causelists) are given below:

S.No.	Case Number	Date of listing
1.	Dy. No. 2704137001362024(WZ)	12.04.2024 & 23.04.2024
2.	Dy. No. 270413701438-2025(WZ) (Appeal)	01.12.2025
3.	Diary No. 270410501760/2025(WZ) (Appeal)	01.12.2025, 17.12.2025
4.	Diary No. 270413701576/2025(WZ) (Appeal)	03.12.2025
5.	Diary No. 270413701637/2025(WZ) (Appeal)	03.12.2025, 18.12.2025
6.	Dy. No. 270413701782/2025(WZ) (OA)	15.12.2025, 16.12.2025, 27.01.2026
7.	Diary No. 270410501757/2025 (Appeal)	17.12.2025
8.	Diary No. 270410501758/2025(WZ) (Appeal)	17.12.2025
9.	Dy. No. 270410501761/2025(WZ) (Appeal)	30.01.2026
10.	Dy. No. 271410501759/2025(WZ) (Appeal)	30.01.2026
11.	Dy no. 270413700478/2025 (Appeal)	23.07.2025
12.	Dy no. 270413700477/2025	23.07.2025

	(O.A)	
13.	Dy. No.270413800307/2024 (OA)(WZ)	14.05.2024
14.	Unnumbered Original Application No./2025(SZ) (Diary No : 3305118000312025)	30.06.2025
15.	Unnumbered Appeal No...../2025(SZ) (Diary No : 3305118006392024)	08.07.2025
16.	Unnumbered Original Application No./2025(SZ) (Diary No : 330518003692025)	30.10.2025
17.	Unnumbered Original Appeal No./2025(SZ) (Diary No : 3305118004772025)	10.11.2025

A true and correct copies of the causelists / orders of above seventeen (17) cases listed unregistered on diary numbers are hereto marked and annexed as **ANNEXURE – 2(colly)**.

5. That, lastly, it is submitted that this Hon'ble Tribunal has interpreted the term '*sufficient cause*' in Save Mon Region Federation Vs Union of India judgment dated 14.03.2013 in M.A. No. 104 of 2012 in Appeal No. 39/2012 and held that,

"21. Section 5 of the Limitation Act, 1963 (for short 'Limitation Act') also uses the term '*sufficient cause*'. This section deals

with power of the Court to condone the delay in filing of various appeals/applications and is founded on the theory of sufficient cause of delay. The Supreme Court, in the case of Perumon Bhagvathy Devaswom, Perinadu Village Vs. Bhargavi. Amma (Dead) by LRs. and Ors. (2008) 8 SCC 321 while dealing with this expression held as follows:

"...

25. The principles applicable in considering applications for setting aside abatement may thus be summarized as follows:

...

(iv) The extent or degree of leniency to be shown by a court depends on the nature of application and facts and circumstances of the case. For example, courts view delays in making applications in a pending appeal more leniently than delays in the institution of an appeal. The courts view applications relating to lawyer's lapses more leniently than applications relating to litigant's lapses. The classic example is the difference in approach of courts to applications for condonation of delay in filing an appeal and applications for condonation of delay in refiling the appeal after rectification of defects."

...

24. It may be noted that these principles, however, are, not an innovation of the Court in the above case, in the strict sense of the term, and draw their origin from earlier judgement of the Supreme Court in the case of *Collector, Land Acquisition, Anantnag and Another v. Mst. Katiji and Others* 1987 (2) SCC 12 where the Court laid down the following principles:

"

1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.
2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that

a cause would be decided on merits after hearing the parties.

3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every 10 hour's delay, every second's delay? The doctrine must be applied in a rational commonsense pragmatic manner.
4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.
5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account for mala fides. A litigant does not stand to benefit by resorting to delay. In fact, he runs a serious risk.
6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so."

...

27. The aforementioned judgments, clearly suggest that the term 'sufficient cause' has to be construed liberally and the Court should be inclined to determine the cause on merits rather than to throw out the petition on the ground of delay at the threshold. The conduct and attitude of the applicant is a relevant consideration. If there is no direct or culpable negligence on part of the applicant and such application does not suffer from the vice of malafides and is in fact bonafide, the Court would be more inclined to condone the delay if such condonation does not cause grave injustice to the other side. This liberal approach has developed over a period of time in limitation jurisprudentia."

A true and correct copy of the relevant extracts of the decision of this Hon'ble Tribunal given in Save Mon Region Federation Vs Union of India judgment dated 14.03.2013 in M.A. No. 104 of 2012 in

Appeal No. 39/2012 is hereto marked and annexed as **ANNEXURE**
- 3.

6. That the present written note is filed to assist this Hon'ble Tribunal in deciding the present M.A. for recall. Lastly, it is emphasized that this Hon'ble Tribunal has wide powers to issue orders / directions to secure the ends of justice as envisaged in Rule 24 of the NGT Rules, 2011 which have been interpreted by the Hon'ble Supreme Court of India in MUNICIPAL CORPORATION OF GREATER MUMBAI v. ANKITA SINHA & ORS. to recognize suo moto jurisdiction of this Hon'ble Tribunal. It held that,

"16.2 While on the statutory provisions, it is seen that the Central Government has framed the National Green Tribunal (Practice & Procedure) Rules, 2011 (for short "the NGT Rules"). For our purpose, Rule 24 is important which reads thus:

"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."

16.3 The said Rules make it clear that the NGT has been given wide discretionary powers to secure the ends of justice. This power is coupled with the duty to be exercised for achieving the objectives. The intention understandably being to preserve and protect the environment and the matters connected thereto.

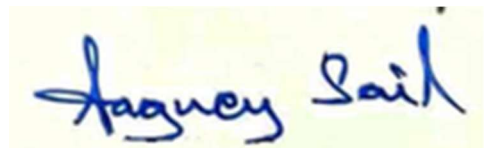
16.4 By choosing to employ a phrase of wide import, i.e. secure the ends of justice, the legislature has nudged towards a liberal interpretation. Securing justice is a term of wide amplitude and does not simply mean adjudicating disputes between two rival entities. It also encompasses inter alia, advancing causes of environmental rights, granting compensation to victims of calamities, creating schemes for

giving effect to the environmental principles and even hauling up authorities for inaction, when need be.

16.5 Moreover, unlike the civil courts which cannot travel beyond the relief sought by the parties, the NGT is conferred with power of moulding any relief. The provisions show that the NGT is vested with the widest power to appropriate relief as may be justified in the facts and circumstances of the case, even though such relief may not be specifically prayed for by the parties.

A true and correct copy of the relevant extracts of the judgment in MUNICIPAL CORPORATION OF GREATER MUMBAI v. ANKITA SINHA & ORS. Reported in [2021] 10 S.C.R. 1 is hereto marked and annexed as **ANNEXURE – 4**.

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RAFIQ & ANR. A

v.

MUNSHILAL & ANR.

April 16, 1981

[D.A. DESAI AND BAHARUL ISLAM, JJ.] B

Procedure—Litigant entrusted appeal to an advocate—Advocate failed to appear in Court at hearing—Appeal dismissed—Litigant, whether entitled to have the appeal restored for hearing.

Costs—Appeal dismissed on account of absence of advocate at hearing—Costs, if could be recovered from Advocate. C

On knowing that the High Court had dismissed his appeal on the ground that his Advocate was not present in the Court when the matter was taken up for hearing the appellant moved an application for the recall of the order dismissing the appeal and for permission to participate in the hearing of the appeal. The High Court rejected this application stating that no satisfactory explanation had been furnished by the Advocate for his slackness in filing the affidavit for nearly 15 days after it was drafted. D

On the question whether the litigant is entitled to have his case reheard by the High Court.

HELD : It is not proper that an innocent litigant, after doing everything in his power to effectively participate in his proceedings by entrusting his case to the Advocate, should be made to suffer for the inaction, deliberate omission or misdemeanour of his agent. For whatever reason the Advocate might have absented himself from the Court, the innocent litigant could not be allowed to suffer injustice for the fault of his Advocate. [511 B] E

The respondent's costs should be recovered from the Advocate who absented himself from Court. [511 D] F

[The Court directed the appeal to be restored to its original position in the High Court and heard.]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1415 of 1981. G

Appeal by special leave from the judgment and order dated the 7th January 1981 of the Allahabad High Court in Civil Misc. Application No. 113 of 1981 in Second Appeal No. 1484 of 1973.

O.P. Rana, M. Qamaruddin and Mrs. M. Qamaruddin for the Appellants. H

A *A.K. Sanghi* for Respondent No. 1.

The Judgment of the Court was delivered by

DESAI, J. Special leave granted.

B We have heard Mr. O. P. Rana, learned counsel for the appellant, and Mr. A.K. Sanghi, learned counsel for the respondent. The High Court disposed of the appeal preferred by the present appellant in the absence of the learned counsel for the appellant. When the appellant became aware of the fact that his appeal had been disposed of in the absence of his advocate, he moved an application in the High Court to recall the order dismissing his appeal and permit him to participate in the hearing of the appeal. This application was rejected by the High Court on the ground that though the application was prepared and drafted and an affidavit was sworn on 29th October, 1980, the same was not presented to the court till November 12, 1980 and that there is no satisfactory explanation for this slackness on the part of the learned advocate who was requested to file the application.

C

D

The disturbing feature of the case is that under our present adversary legal system where the parties generally appear through their advocates, the obligation of the parties is to select his advocate, brief him, pay the fees demanded by him and then trust the learned advocate to do the rest of the things. The party may be a villager or may belong to a rural area and may have no knowledge of the court's procedure. After engaging a lawyer, the party may remain supremely confident that the lawyer will look after his interest. At the time of the hearing of the appeal, the personal appearance of the party is not only not required but hardly useful. Therefore, the party having done everything in his power to effectively participate in the proceedings can rest assured that he has neither to go to the High Court to inquire as to what is happening in the High Court with regard to his appeal nor is he to act as a watchdog of the advocate that the latter appears in the matter when it is listed. It is no part of his job. Mr. A.K. Sanghi stated that a practice has grown up in the High Court of Allahabad amongst the lawyers that they remain absent when they do not like a particular Bench. Maybe he is better informed on this matter. Ignorance in this behalf is our bliss. Even if we do not put our seal of imprimatur on the alleged practice by dismissing this matter which may discourage such a tendency, would it not bring justice delivery system into disrepute. What is the fault of the party who having done everything in his

E

F

G

H

power and expected of him would suffer because of the default of his advocate. If we reject this appeal, as Mr. A.K. Sanghi invited us to do, the only one who would suffer would not be the lawyer who did not appear but the party whose interest he represented. The problem that agitates us is whether it is proper that the party should suffer for the inaction, deliberate omission, or misdemeanour of his agent. The answer obviously is in the negative. Maybe that the learned advocate absented himself deliberately or intentionally. We have no material for ascertaining that aspect of the matter. We say nothing more on that aspect of the matter. However, we cannot be a party to an innocent party suffering injustice merely because his chosen advocate defaulted. Therefore, we allow this appeal, set aside the order of the High Court both dismissing the appeal and refusing to recall that order. We direct that the appeal be restored to its original number in the High Court and be disposed of according to law. If there is a stay of dispossession it will continue till the disposal of the matter by the High Court. There remains the question as to who shall pay the costs of the respondent here. As we feel that the party is not responsible because he has done whatever was possible and was in his power to do, the costs amounting to Rs.200/- should be recovered from the advocate who absented himself. The right to execute that order is reserved with the party represented by Mr.A.K.Sanghi.

Appeal allowed to the extent indicated with costs in the manner indicated.

P.B.R.

Appeal allowed.

A

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636

SUPREME COURT CASES

1987 Supp SCC

sale by the appellant to the respondent of an adjoining property, in the body of which, reference is made about the property in question and also of the respondent's possession thereof. Taking into consideration, these various documents, the Tribunal set aside the orders of the Deputy Collector and the Mamlatdar and granted a declaration in favour of the respondent as originally prayed for.

4. The appellant challenged this order before the High Court. Apart from attacking the order on various grounds, it was contended that the Tribunal had no jurisdiction to set aside the question of fact entered by the Mamlatdar and the Deputy Collector. This contention was repelled by the High Court observing that the Mamlatdar and the Deputy Collector had ignored the presumptions which must be drawn in law from the various documents before them. After a detailed discussion of the materials available, the High Court confirmed the order of the Tribunal.

5. On a consideration of the various matters placed before us and the submissions made by the respondent's counsel, we are not satisfied that any interference with the judgment under appeal is called for. Hence the appeal is dismissed, but without any order as to costs.

1987 (Supp) Supreme Court Cases 636

(BEFORE A. P. SEN AND V. BALAKRISHNA ERADI, JJ.)

MITHANLAL .. Appellant ;

Versus

LABOUR COMMISSIONER AND OTHERS .. Respondents.

Civil Appeal No. 438 of 1987†,
decided on February 18, 1987

Practice and Procedure — Petitioner-appellant could not be heard by High Court due to absence of his advocate at the hearing — High Court directed to rehear the petitioner and dispose of the petition afresh — Constitution of India, Articles 226 and 136

Rafiq v. Munshilal, (1981) 2 SCC 788 : (1981) 3 SCR 509 . AIR 1981 SC 1402, relied on

SLP allowed

R/8481/S

ORDER

1. The sole point urged in this special leave petition is that the petitioner was not given a hearing and the High Court proceeded ex parte in the absence of his counsel and quashed the order of the Labour Court directing his reinstatement. We are afraid, the petitioner

†In Special Leave Petition 1963 of 1986

is not right in contending that the judgment of the High Court was *ex parte* since he had appeared through counsel and also filed his return. Unfortunately, it seems that the petitioner was not represented by his counsel at the hearing before the learned Single Judge (Talwar, J.). For whatever reason the advocate might have absented himself at the hearing, the fact remains that the petitioner was not heard by the learned Single Judge. In somewhat similar circumstances this Court in *Rafiq v. Munshilal*¹ directed the rehearing of a writ petition.

2. We accordingly grant leave, set aside the judgment of the High Court and remit the writ petition for disposal afresh after notice to the parties. The High Court will try to dispose of the case as early as possible. There will be stay of reinstatement in the meanwhile.

1987 (Supp) Supreme Court Cases 637

(BEFORE O. CHINNAPPA REDDY AND S. NATARAJAN, JJ.)

PRITAM SINGH .. Appellant ;

Versus

STATE OF PUNJAB AND OTHERS .. Respondents.

Civil Appeal No. 133 of 1981,
decided on February 19, 1987

Service Law — Termination of service — Appellant appointed on ad hoc basis in a temporary vacancy for 3 months with the condition that his services would be liable to be terminated earlier if regular hand became available — Accordingly, termination of services of the appellant when regular hand became available not open to challenge

R/8483/SL

ORDER

The appellant was appointed as Sectional Officer on an ad hoc basis in a temporary vacancy for a period of three months. The order for appointment also states that his services would be terminated earlier if a regular hand became available. When the regular hand became available, the services of the appellant were terminated. He questions the order of termination on the ground that he could only be replaced by another person belonging to the ex-servicemen's category and since that was not done his appointment should be continued. The basis for the argument is letter No. 273 dated June 2, 1973 and a line in the counter filed in the High Court where it appears to be mentioned that he was appointed against the vacancy of ex-servicemen.

1. (1981) 3 SCR 509 : (1981) 2 SCC 788 : AIR 1981 SC 1402

Dwarika Prasad (D) Thr. LRs.

v.

Prithvi Raj Singh

(Civil Appeal No. 14830 of 2024)

20 December 2024

[Vikram Nath* and Prasanna B. Varale, JJ.]

Issue for Consideration

Whether a separate application for condonation of delay is mandatory in cases where sufficient justification was provided while seeking restoration against ex-parte decree.

Headnotes[†]

Requirement of filing separate application for condonation of delay while seeking restoration of ex-parte decree – Not mandatory:

Held: Requiring a party to mandatorily file an application for condonation of delay u/s.5 of the Limitation Act, to seek restoration of ex-parte decree under Or.IX R.13 and Section 151 CPC, is a hyper technical view – Endorsing such a view would effectively mean ignoring the purpose of judicial procedure – The procedure cannot stand in the way of achieving just and fair outcome. [Para 12]

A Party cannot suffer due to negligent or fault committed by the Counsel:

Held: In the present case, the Appellant was not made aware of the ex-parte decree by his previous counsel – It is only after the appointment of the new counsel, the appellant got to know about the ex- parte decree – A party cannot suffer due to negligent or fault committed by their counsel. [Paras 9, 10]

Case Law Cited

Rafiq v. Manshilal [1981] 3 SCR 509 : [1981] 2 SCC 788; *Bhagmal and Ors. v. Kunwar Lal and Others* [2010] 8 SCR 1104 : [2010] 12 SCC 159 – relied on.

*Author

Supreme Court Reports**List of Acts**

Code of Civil Procedure, 1908; Limitation Act, 1963.

List of Keywords

Condonation of delay; Restoration of ex-parte decree.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 14830 of 2024
From the Judgment and Order dated 24.05.2022 of the High Court of Judicature at Allahabad in WC No. 18990 of 2004

Appearances for Parties

Nikhil Jain, Ms. Divya Jain, Gagan Kumar, Ms. Maheen Khan,
Advs. for the Appellant.

Krishna Ballabh Thakur, Adv. for the Respondents.

Judgment / Order of the Supreme Court**Judgment****Vikram Nath, J.**

1. Leave granted.
2. This appeal assails the final judgement and order passed by Allahabad High Court in Writ Petition No.18990/2024 on 24.05.2022 whereby the High Court dismissed the Writ Petition and upheld the order of the District Judge, Etah in Civil Revision No.53 of 2000. The District Court, Etah ("Revisional Court") had allowed the Civil Revision filed by Respondent Prithvi Raj Singh under section 115 of Civil Procedure Code ("CPC") against the order dated 29.04.2000 passed by Additional Civil Judge (Junior Division) Kasganj ("Trial Court") in Civil Miscellaneous Case No.33/1994. The Trial Court thereby had allowed the restoration application under Order IX Rule 13 and section 151 of CPC filed by the Appellant Dwarika Prasad. The High Court has effectively dismissed the restoration application, confirming the *ex parte* decree dated 11.04.1994 passed in favor of Respondent.

Dwarika Prasad (D) Thr. LRs. v. Prithvi Raj Singh

3. The facts leading to the present appeal are stated below:
 - 3.1. Respondent-Plaintiff Prithviraj Singh instituted a civil suit registered as O.S. No.81 of 1988 seeking declaration of a sale deed as null and void on the ground of fraud played by the Appellant-defendant. Plaintiff averred that his grandfather Shri Guljari Lal was a bhumidhar with transferable rights of agricultural plot No. 315 area 0.66 Hectare, situated at Itwarpur, Pargana-Sahawar, District Etah and also of agricultural plot No.141 area 0.34 Hectare situated at Village Bodha Nagria. In the name of providing treatment, Appellant-defendant Dwarika Prasad took the grandfather of plaintiff to Kasganj. On 16.01.1979 the appellant got a sale deed executed by his grandfather by way of fraud in his favour.
 - 3.2. The Court of First Additional Munsif, Kasganj, Etah decreed the suit *ex parte* by order dated 11.04.1994 on account of non-appearance of defendant and declared the sale deed in question to be void and unenforceable.
 - 3.3. The Appellant-defendant filed restoration application under Order IX Rule 13 and Section 151 of CPC on 31.10.1994. He stated that he was uneducated, naïve and old aged person unable to understand Court proceedings; he had put full faith in his previous counsel Shri Ramgopal Singh. However, on 26.10.1994 the Respondent and his brothers publicly said to the Appellant that they have got the sale deed cancelled and have also got the name of the Appellant removed. As suspicion arose in the Appellant's mind, he appointed Shri Ashok Kumar Verma as his counsel who inspected the file in the Revenue Court, Kasganj. The Appellant was informed about the *ex parte* decree, on 27.10.1994. The Counsel for the Appellant found copy of the *ex parte* decree the next day on 28.10.1994. Accordingly, on 31.10.1994 the Appellant filed the restoration application. The Appellant stated in the application that his previous counsel Shri Ramgopal Singh played fraud over him as he conspired with Respondent.
4. The Trial Court allowed the restoration application and set aside the *ex parte* decree by order dated 29.04.2000. It found that the Appellant is illiterate and he has put thumb impressions wherever his counsel asked him to put. He was kept unaware of the legal proceedings by the previous counsel. Only after the revenue court

Supreme Court Reports

rejected the proceedings initiated by the Appellant for mutation, the new counsel was appointed. As the new counsel came to know about the *ex parte* decree, the restoration application has been filed. The Trial Court thus held that the Appellant cannot suffer due to errors of his counsel and it found it justifiable to provide full opportunity of hearing to the Appellant.

5. Thereafter on 10.05.2000, the Respondent filed Revision (Civil Revision No.51 of 2000) under section 115 of CPC against the order of the Trial Court dated 29.04.2000. Respondent claimed that the restoration application is time barred and the Appellant had knowledge of *ex parte* decree since beginning. The Additional District Judge at Etah allowed the Revision, holding that the Appellant did not move the application under section 5 of the Limitation Act, which is a mandatory requirement when the application under Order IX Rule 13 of CPC is filed after a considerable delay and such delay requires explanation. Thus, the District Court, by order dated 17.02.2004, held that the order of the Trial Court was in violation of mandatory provisions of law.
6. Aggrieved, the Appellant filed Writ Petition being Civil Miscellaneous Writ Petition No.18990 of 2004 against the order of the District Judge dated 17.02.2004. The Appellant pleaded that the District Court has taken a hyper technical approach in dismissing the restoration. Further, he had clearly submitted in the restoration application that he came to know about the *ex parte* decree on 28.10.1994 and without further delay he filed restoration application on 31.10.1994. Thus, from the date of knowledge, the limitation for filing the application will start. There was no requirement of filing a separate application for condonation of delay as the restoration application itself was not time barred.
7. The High Court by the impugned order dated 24.05.2022, dismissed the Writ petition filed by the Appellant. The High Court has held that the limitation for filing application under Order IX Rule 13 CPC is 30 days and it starts running from the date of the decree. As the *ex parte* decree was passed on 11.04.1994, the limitation for filing the restoration application expired on 11.05.1994. However, the application was filed by the Appellant on 31.10.1994, which is about five months after expiry of the limitation. Since the application was filed beyond time, it must be accompanied with an application under section 5 of the Limitation Act praying for condonation of delay. As no such application was filed by the Appellant, there was no proper application

Dwarika Prasad (D) Thr. LRs. v. Prithvi Raj Singh

under Order IX Rule 13 of CPC in the eye of law. Thus, the High Court held that the Addl. District Judge was correct in allowing the Revision.

8. The Appellants preferred the Special Leave to Appeal before this Court against the order of the High Court. This Court has issued notice and granted six weeks' time to file the counter affidavit on 20.07.2022. The Respondent has not filed the counter affidavit till date. The counsel for Respondent had put in appearance, way back in October 2022. He was not present on multiple dates including the last date, when this matter was heard on 09.12.2024.
9. We have heard learned counsel for the appellant and perused the record. We are of the opinion that the High Court has erred in upholding the order of the Additional District Judge. The Trial Court had rightly allowed the restoration application filed by the Appellant under Order IX Rule 13 of CPC. It is well settled that Courts should not shut out cases on mere technicalities but rather afford opportunity to both sides and thrash out the matter on merits. Further, we cannot let the party suffer due to negligent or fault committed by their counsel. This principle has been enunciated by this court in the case of **Rafiq v. Munshilal**,¹ quoted as follows:

“3. The disturbing feature of the case is that under our present adversary legal system where the parties generally appear through their advocates, the obligation of the parties is to select his advocate, brief him, pay the fees demanded by him and then trust the learned Advocate to do the rest of the things. The party may be a villager or may belong to a rural area and may have no knowledge of the court's procedure. After engaging a lawyer, the party may remain supremely confident that the lawyer will look after his interest. At the time of the hearing of the appeal, the personal appearance of the party is not only not required but hardly useful. Therefore, the party having done everything in his power to effectively participate in the proceedings can rest assured that he has neither to go to the High Court to inquire as to what is happening in the High Court with regard to his appeal nor is he to act as a watchdog of the advocate that the latter appears in the matter when it is

1 (1981) 2 SCC 788

Supreme Court Reports

listed. It is no part of his job. Mr A.K. Sanghi stated that a practice has grown up in the High Court of Allahabad amongst the lawyers that they remain absent when they do not like a particular Bench. Maybe, we do not know, he is better informed in this matter. Ignorance in this behalf is our bliss. Even if we do not put our seal of imprimatur on the alleged practice by dismissing this matter which may discourage such a tendency, would it not bring justice delivery system into disrepute. What is the fault of the party who having done everything in his power expected of him would suffer because of the default of his advocate. If we reject this appeal, as Mr A.K. Sanghi invited us to do, the only one who would suffer would not be the lawyer who did not appear but the party whose interest he represented. The problem that agitates us is whether it is proper that the party should suffer for the inaction, deliberate omission, or misdemeanour of his agent. The answer obviously is in the negative. Maybe that the learned Advocate absented himself deliberately or intentionally. We have no material for ascertaining that aspect of the matter. We say nothing more on that aspect of the matter. However, we cannot be a party to an innocent party suffering injustice merely because his chosen advocate defaulted. Therefore, we allow this appeal, set aside the order of the High Court both dismissing the appeal and refusing to recall that order.....”

10. In the present case, the appellant has trusted his counsel to manage the suit proceedings. However, he was not made aware of the ex-parte decree by his previous counsel. It is only after the appointment of the new counsel, the appellant got to know about the ex-parte decree. Therefore, the Additional Sessions Judge ought not to have exercised the revisional jurisdiction in interfering with the order of the Trial Court where it had exercised its discretion in setting aside the ex-parte decree for justifiable reasons accepting the reasons given by the defendant-appellant.
11. The Appellant has relied upon the following judgments in support of his submissions. In ***Bhagmal and Ors Vs. Kunwar Lal and Others***² this Court held as follows:

Dwarika Prasad (D) Thr. LRs. v. Prithvi Raj Singh

- “12. It is to be seen here that the question of delay was completely interlinked with the merits of the matter. The appellant-defendants had clearly pleaded that they did not earlier come to the court on account of the fact that they did not know about the order passed by the court proceeding ex parte and also the ex parte decree which was passed. It was further clearly pleaded that they came to know about the decree when they were served with the execution notice. This was nothing, but a justification made by the appellant-defendants for making Order 9 Rule 13 application at the time when it was actually made. This was also a valid explanation of the delay. The question of filing Order 9 Rule 13 application was, in our opinion, rightly considered by the appellate court on merits and the appellate court was absolutely right in coming to the conclusion that the appellant-defendants were fully justified in filing the application under Order 9 Rule 13 CPC at the time when they actually filed it and the delay in filing the application was also fully explained on account of the fact that they never knew about the decree and the orders starting the ex parte proceedings against them. If this was so, the Court had actually considered the reasons for the delay also. Under such circumstances, the High Court should not have taken the hypertechnical view that no separate application was filed under Section 5.
13. The application under Order 9 Rule 13 CPC itself had all the ingredients of the application for condonation of delay in making that application. Procedure is after all handmaid of justice.”
12. From the above cases, it is clear that there was no need to file a separate application for condonation of delay in the present case as well. The High Court has erred in taking a hyper technical view and concluding that there was violation of mandatory provision of law. Endorsing such a view would effectively mean ignoring the purpose of judicial procedure. The procedure cannot stand in the way of achieving just and fair outcome. In the present case, the

Supreme Court Reports

Appellant acted *bona fide* and diligently. His conduct does not violate any rule of law.

13. In view of the above discussion, we allow this appeal, set aside the impugned order dated 24.05.2022 passed by High Court, and allow the writ petition and restore that of the Trial Court dated 29.04.2000. The Trial Court to proceed with O.S. No.81 of 1988 in accordance with law. As the suit is an old one, we further direct the Trial Court to expedite hearing of the suit and make an endeavour to decide the same within a year. It goes without saying that parties to the suit shall extend all cooperation in disposal of the suit.
14. There shall be no order(s) as to costs.

Result of the case: Appeal allowed.

Headnotes prepared by: Prastut Mahesh Dalvi, Hony. Associate Editor
(*Verified by:* Abhinav Mukerji, Sr. Adv.)

Item No.3

(Pune Bench)

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

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

Appeal No.30/2024(WZ)
Earlier Dy. No.2704137001362024

Ramesh Sazo Gauns

.....Appellant

Versus

Union of India

....Respondent

Date of hearing: 12.04.2024

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

Appellant : Mr. Biswaranjan Paramguru, Advocate

ORDER

1. From the side of appellant, learned counsel Mr. Biswaranjan Paramguru has appeared, who prays for ten days' time to be allowed to remove the defects, which were pointed out by the Registry to the applicant on 24.02.2024. These defects are recorded in the report of the learned Registrar dated 05.04.2024 in para no.4 (A to S).

2. This matter has been laid before us because the 30 days' time within which the said defects were required to be removed, as per Rule 10 (4) of the NGT (Practice and Procedure) Rules- 2011, has already expired.

3. We also find that the learned counsel Mr. Biswaranjan Paramguru, who has appeared before us to represent the applicant, has not put his signature on the Vakalatnama. In this regard, he submits that he has some medical issues/health issues because of which he may be allowed 10 days' time, within which he will remove all the defects as noted by the

Registry. By way of last opportunity, we allow the said time and direct the Registry to list this matter before us for admission on 24.04.2024 after allotting the number, in case all the defects are removed, failing which, we will not grant any further time to the applicant for removing the defects and the present appeal would be dismissed for non-compliance.

4. A copy of this order be communicated to the applicant forthwith for compliance.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

April 12, 2024
Appeal No.30/2024(WZ)
Earlier Dy. No.2704137001362024
P.Kr

(Pune Bench)

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

[Through Physical Hearing (With Hybrid Option)]

APPEAL NO. 30 OF 2024 (WZ)

Ramesh Sazo Gauns

.... Appellant

Versus

Union of India & Ors.

....Respondents

Date of hearing : 23.04.2024

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

**ORDER
(In Chamber)**

1. The learned Registrar has placed report in compliance with our order dated 12.04.2024 passed in this matter on Diary No.2704137001362024 (appeal), wherein learned counsel for the appellant had appeared and sought ten days' time to remove the defects which were pointed out by the Registry. The said time was allowed by way of last opportunity and it was also directed that in case the appellant failed to remove the defects, the present appeal would stand dismissed for non-compliance.

2. Today, the report of the learned Registrar in paragraph No.4 states that there are still four defects left which are found to be of minor nature, which may be got removed then and there during hearing. Therefore, this matter may now be registered for being placed before the Bench for hearing purposes.

3. The learned Registrar has orally informed that this matter was placed before this Tribunal on 12.04.2024 after taking print-out of the appeal as if it was then presented with defects. Thereafter, the same

appeal has been re-filed by the appellant with removal of several defects. Therefore, its copy will have to be again got printed to be led before the Tribunal at the time of hearing because there is no amendment carried out physically in the original appeal.

4. This, we find, will entail expenditure to be incurred by the Registry as the print-out of the re-filed appeal would cost around Rs.2125/-. Therefore, a separate order is required to be passed for the necessary amount to be recovered from the appellant. In view of that, we direct that this appeal will be treated to have been registered and an order with respect to the amount to be levied from and deposited by the appellant through Demand Draft in the name of "The Registrar, National Green Tribunal, New Delhi, towards cost of print-out of the appeal, will be passed at the time of hearing.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

April 23, 2024
APPEAL NO.30/2024 (WZ)
npj

**NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH)
NEW ADMINISTRATIVE BUILDING, 1ST FLOOR, B WING, CAMP, PUNE
FINAL CAUSE LIST OF PUNE ZONAL BENCH**

Date: 1st December, 2025
Time: 10:30 A.M

**HON'BLE MR. JUSTICE DINESH KUMAR SINGH
JUDICIAL MEMBER**

**HON'BLE DR. SUJIT KUMAR BAJPAYEE
EXPERT MEMBER**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

S.NO.	CASE NO.	PARTIES	COUNSEL FOR PARTIES
FOR FINAL HEARING			
1.	I.A.No.204/2025(WZ) I.A.No.220/2025(WZ) In Appeal No.148/2025 (WZ)	Shakti Plastic V/s MPCB & Ors	Adv. Ashok M Sarogi, Yashwant D. Thorat for Appellant Ms. Manasi Joshi, Adv. for R.1 Mr. Aniruddha S. Kulkarni, Advocate for R-2 & 3/CPCB Remarks: Reply affidavit filed by R.1
FOR ADMISSION			
2.	Diary No. 270413701438/2025(WZ) (Appeal)	Mrs. Chandrawati Koregaonkar V/s GCZMA	Mr. Amey Phadte, Austin D'souza, Shankar Swaminathan, Guruprasad Naik, Adv. for Appellant.
3.	Diary No. 270410501760/2025(WZ) (Appel)	M/s. JJ Stone Quarry Patel V/s SEIAA	Mr. Shivshankar Swaminathan, Shraddha Deshmukh, Utkarsh Kokcha, Sanchit Singh, Sarthak, Adv. for Appellant.
4.	Original Application No. 142/2025(WZ)	The Colva Civic & Consumer Forum V/s The GCZMA & Ors	Applicant in-person
FOR DELAY CONDONATION APPLICATION			
5.	I.A.No.839/2025(WZ) In Appeal No.310/2025(WZ)	Pareshbhai K. Thummar V/s SEIAA, Gujarat	Adv. Satyam Chhaya, Ms. Garima Malhotra, Adv. for Appellant. Mr. Maulik Nanavati, Ms. Manvi Damle, Adv. for SEIAA Remarks: Reply affidavit not filed by SEIAA.
FOR FURTHER CONSIDERATION Batch from sr. No.6.1 To 6.86 are connected matters) (Mines in Vadodara District)			
6.1	Appeal 33/2025	M/S Gurukrupa Stone Quarry Works Vs. State Environment Impact Assessment Authority Gujarat	Adv. Saurabh Kulkarni, for Appellant Mr. Maulik Nanavati, Adv. for SEIAA, Gujarat. Adv Pushkal Mishra for R 2 Remarks:
6.2	Appeal No.34/2025(WZ)	M/S Jai Sainath Quarry Works Vs.	Adv . Saurabh Kulkarni, for Appellant

10.	Appeal no. 10/2025 (Caveat No.2704137008422024 WZ) in defect	Bosco Cruz Fernandes V/s GCZMA &Anr.	Mr. Pradosh Dangui, Chirag Angle, Mr. Shivshankar Swaminathan & Ors Adv. for Appellant Adv V Gracias for GCZMA Adv Shubham Priolkar for R.1/GCZMA Mr. Rupesh Chondkar, Adv. for R.2 Joel Pinto, Adv. for R 4 Mr. Jayant Karn, Adv. for Caveator.
FOR FINAL HEARING			
11.	Appeal No.31/2025(WZ)	Sylvester D' Souza V/s GCZMA	Ms. Fawia M. Mesquita, Adv. for Appellant. Adv Shubham Priolkar for R.1 Mr. Dattaprasad Lawande, Shivshankar Swaminathan, Adv. for R.2 Remarks: Reply affidavit filed by R.2
CASE AT SR. NO.12 & 13 WILL BE TAKEN UP FOR HEARING ON 13.04.2026			
12.	Original Application No. 107/2023(WZ)	Pooja Hotchandani & Anr V/s Nadiad Municipality & Ors	Mr. Saurabh Kulkarni & Mr. Prashant Bhat, Adv. for Applicant Mr. Viral Shah, Adv. for R-1 Mr. Parth Bhatt, Adv. for R-2 Mr. Maulik Nanavati, Adv. for R-3 & 4 Mr. Parth Bhat Adv. & Mr. Bacchani, District Collector, Kheda/R-2 Remarks: Rejoinder not filed by R.1
13.	Original Application No. 219/2024 Earlier Original Application No. 1244/2024(PB)	News Item titled "Five workers die due to asphyxiation while cleaning tank at Agrotech firm in Gujarat" appearing in the Times of India dated 16.10.2024	Adv. Maulik Nanavati for R1 Adv Aniruddha Kulkarni for R2 Mr. Suresh Chaudhary, SDM & Mr. Sunil, Asst. Collector/SDM, Anjar for R.4 Mr. Amit Agashe, Adv. for R.5 Remarks: Additional affidavit not filed by R.5

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Note 1

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**NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH)
NEW ADMINISTRATIVE BUILDING, 1ST FLOOR, B WING, CAMP, PUNE
FINAL CAUSE LIST OF PUNE ZONAL BENCH**

Date: 3rd December, 2025

Time: 10: 30 A.M.

**HON'BLE MR. JUSTICE DINESH KUMAR SINGH
JUDICIAL MEMBER**

**HON'BLE DR. SUJIT KUMAR BAJPAYEE
EXPERT MEMBER**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

S.NO.	CASE NO.	PARTIES	COUNSEL FOR PARTIES
FOR ADMISSION			
1.	Original Application No. 143/2025(WZ) I.A.No.838/2025(WZ) BPL Matter No.01/2025(WZ)	Vaibhav Narayan Mote & Anr. V/s Kirloskar Ferrous Ltd. & Ors.	Applicant in-person
2.	Review Application No. 07/2025(WZ) In Ex. Application No. 03/2025(WZ) In O.A.No.65/2018(WZ)	Lalitkumar Namdeo Chaudhari V/s The Principal Secretary, Env't. Dept. & Ors.	Mr. Maitreya Ghorpade, Adv. for Applicant.
3.	Diary No. 270413701576/2025(WZ) (Appeal)	CFI Church through POA Mr. Dixon KS V/s State of Goa	Mr. Prasad Kholkar, Sweta Fadte, Shruti Bhomkar, Adv. doe Appellant.
4.	Diary No. 270413701637/2025(WZ) (Appeal)	Mrs. Emelia Matilda Marques V/s Goa State Pollution Control Board	Mr. Abhijit Gosavi, Shivshankar Swaminathan, Athnain Naik, Krupa Naik, Darshan Gosavi, Shweta Shetgaonkar, Gaurang Kerkar, Adv. for Appellant.
FOR FURTHER CONSIDERATION			
5.	I.A.No.842/2025(WZ) I.A.No.856/2025(WZ) In Original Application No. 145/2025(WZ) WITH	Gram Panchayat Nimgaon Bhogi, Tehsil Shirur, Dist. Pune V/s State of Maharashtra & Ors.	Mr. Arvind Soni, Mr. Shubham Soni, Adv. for Applicant. Remarks: Notice issued & handover to Applicant by Dasti.
6.	Original Application No. 14/2025(WZ)	Kailas Narke V/s Maharashtra Enviro Power Ltd & 10 Ors	Adv. Mukta Pranav Ranade, Shubham Soni, Arvind Soni, Adv for Applicant. Mr. Tanaji Gambhire, Adv. for Applicant (VP not filed) Mr. Saurabh Kulkarni, Adv. for R.1 Ms. Manasi Joshi, Ms. Pooja Natu, Adv. for R.2 Mr. Aniruddha Kulkarni, Adv. for R.5, R.7, R.8 & 11 M/s. Navdeep Vora & Associate for R.6

			Adv. Akshay Karlekar for R 2
			Remarks:

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**NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH)
NEW ADMINISTRATIVE BUILDING, 1ST FLOOR, B WING, CAMP, PUNE
FINAL CAUSE LIST OF PUNE ZONAL BENCH**

Date: 15th December, 2025

Time: 12:00 (Noon or after Chennai Bench
whichever is later)

HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA
JUDICIAL MEMBER

HON'BLE DR. SUJIT KUMAR BAJPAYEE
EXPERT MEMBER

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

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S.NO.	CASE NO.	PARTIES	COUNSEL FOR PARTIES
FOR ADMISSION			
CASES AT SR. NO.1 TO 3 WILL BE TAKEN UP FOR HEARING ON 16.12.2025			
1.	Original Application No. 150/2025(WZ)	Dr. Snehal Donde V/s State of Maharashtra & Ors.	Mr. Maitreya Ghorpade, Ms. Manasi Thakare, Adv. for Applicant.
2.	Appeal No.618/2025(WZ)	Green Space (NGO) V/s The State of Goa & Ors.	Appellant in-person
3.	Dy. No. 270413701782/2025(WZ) (OA)	Ashok Kandhari V/s GCZMA	Mr. Deepak Kapoor, Sahil Sardesai, Rifad Ballari, Nikhil Kerkar, Harsha Pai, Attar Nasreen, Advs. for Applicant. Remarks: Copy of order dt.26.11.2025, communicated to Counsel by email dt.29.11.2025.
FOR FURTHER CONSIDERATION			
CASES AT SR. NO 4 & 5 WILL BE TAKEN UP FOR HEARING ON 6.02.2026			
4.	E.A.No.08/2025(WZ) In Original Application No.55/2022(WZ)	Kashinath Jagannath Thakur V/s Environment Department of Maharashtra	Mr. Nitin Deshpande, Adv. for Applicant. Mr. Aniruddha Kulkarni, Adv. for R.9 Remarks: Report/reply not filed by R.9.
5.	Appeal No. 572/2025(WZ) I.A.No.706/2025(WZ)	Hanumant Uttam Govekar V/s GCZMA & Anr.	Mr. Deepak Gaonkar, Mr. Dattaraj Gawas, Akhil Govenkar, Samir Gaonkar, Prasad Bhatlekar, Adv. for Appellant. Ms. Supriya Dangare, Adv. for R.1 Remarks: Notice prepared for R.2 & sent to Counsel by email dt.13.10.2025. Service affidavit filed. Reply not filed by R.1 & 2
CASES AT SR. NO. 6 & 7 WILL BE TAKEN UP FOR HEARING ON 09.02.2026			

11.	Org. Application No. 91/2019(WZ)	Pohra Bachav Samiti V/s Amravati Municipal Corporation Through the Commissioner & 2 Anr.	Mr. Ritwick Dutta, Rahul Choudhary, Ms. Itisha Awasthi, Advocates for Applicant R.4- Ex parte (order dated 05-12-2022) Mr. D.M. kale, Adv. Gazala Sheikh for R.1 Mr. Mukesh Verma Adv for R 2 Mr. Aniruddha Kulkarni for R 3 Remarks: Affidavit in Compliance with order dt. 13.02.2024 filed by Applicant. <u>sketch map not submitted by R1</u>
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**NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH)
NEW ADMINISTRATIVE BUILDING, 1ST FLOOR, B WING, CAMP, PUNE
FINAL CAUSE LIST OF PUNE ZONAL BENCH**

Date: 16th December, 2025
Time: 12:00 (Noon or after
Chennai Bench whichever is later)

**HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA
JUDICIAL MEMBER**

**HON'BLE DR. SUJIT KUMAR BAJPAYEE
EXPERT MEMBER**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

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Meeting Password: 88278997#

S.NO.	CASE NO.	PARTIES	COUNSEL FOR PARTIES
FOR ADMISSION			
1.	Original Application No. 152/2025(WZ)	Kalpesh Chandrakant Yadav V/s Union of India & Ors.	Mr. Nitin Lonkar, Ms. Sonali Suryawanshi, Pradnya Bheke, Dikshant Mandhan, Adv. for Applicant.
2.	Appeal No. 625/2025(WZ)	Nitesh Gokuldas Pagi V/s GCZMA & Anr.	Ms. Aarti Bhonsle, Adv. for Appellant.
3.	Original Application No. 150/2025(WZ)	Dr. Snehal Donde V/s State of Maharashtra & Ors.	Mr. Maitreya Ghorpade, Ms. Manasi Thakare, Adv. for Applicant.
4.	Appeal No.618/2025(WZ)	Green Space (NGO) V/s The State of Goa & Ors.	Appellant in-person
5.	Dy. No. 270413701782/2025(WZ) (OA)	Ashok Kandhari V/s GCZMA	Mr. Deepak Kapoor, Sahil Sardesai, Rifad Ballari, Nikhil Kerkar, Harsha Pai, Attar Nasreen, Advs. for Applicant. Remarks: Copy of order dt.26.11.2025, communicated to Counsel by email dt.29.11.2025.
FOR FURTHER CONSIDERATION			
CASES AT SR. NO. 6 TO 11 WILL BE TAKEN UP FOR HEARING ON 06.01.2026			
6.	I.A. No. 36/2025 (WZ) In Original Application 18/2025 (WZ)	Adv. Vaibhav Baban Satam v/s Thane Municipal Corporation &Ors.	Applicant in person Mr. Saurabh Kulkarni, Adv. for R.1 N.R. Babuna, Adv. for R.2 Ms. Manasi Joshi for R.3 to 5 & 8 Adv Aniruddha Kulkarni for R.7 Remarks: Service affidavit not filed by Applicant. Reply filed by not filed by R.8.

			<p>Mr. Saurabh Kulkarni, Adv. for R-4 Mr. D. M. Gupte, Adv. for R.5 Mr. R.B. Mahabal, & Mr. Sachin Gore, Adv. for R-6 to 12 & R-14 Mr. Preshit Surshe, Adv. for R.15 Adv S. Swaminathan for R 16 R-13 Ex-parte vide order dt. 20-2- 23</p> <p>Remarks: Documentary evidence not submitted by R.2 &3</p>
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e.g.

Item 2 – Name – Petitioner

Item 4 –Name– Adv. for Resp. 2 & 4

Item 7 –Name– Adv for SPCB

Item 1 –Name – DM for State of xyz

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Note 1

A prayer for adjournment will be considered as per [Office Order No. NGT/PB/RG/2018/134 dated 20.02.2020](#).

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**NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH)
NEW ADMINISTRATIVE BUILDING, 1ST FLOOR, B WING, CAMP, PUNE
FINAL CAUSE LIST OF PUNE ZONAL BENCH**

Date: 17th December, 2025
Time: 12:00 (Noon or after
Chennai Bench whichever is later)

HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA
JUDICIAL MEMBER

HON'BLE DR. SUJIT KUMAR BAJPAYEE
EXPERT MEMBER

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

Join from the Meeting Link

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Meeting Number: 2516 716 8696

Meeting Password: 88278997#

S.NO.	CASE NO.	PARTIES	COUNSEL FOR PARTIES
FOR ADMISSION			
1.	Diary No. 270410501757/2025 (Appeal)	Gulambhai Ahmed Ashraf Malek V/s SEIAA	Mr. Shivshankar Swaminathan, Ms. Shraddha Deshmukh, Mr. Utkarsh Kokcha, Mr. Sanchit Singh, Mr. Sarthak Gupta, Advs. for Appellant.
2.	Diary No. 270410501758/2025(WZ) (Appeal)	Jaydeepsinh Bhupenderasinh Raolji V/s SEIAA	Mr. Shivshankar Swaminathan, Ms. Shraddha Deshmukh, Mr. Utkarsh Kokcha, Mr. Sanchit Singh, Mr. Sarthak Gupta, Advs. for Appellant.
3.	I.A.No.867/2025(WZ) In Appeal No. 629/2025(WZ)	Mrs. Chandrawati Koregaonkar V/s GCZMA	Mr. Amey Phadte, Austin D'souza, Shankar Swaminathan, Guruprasad Naik, Adv. for Appellant. Remarks: I.A.No.867/2025(WZ) for stay.
4.	Diary No. 270410501760/2025(WZ) (Appeal)	M/s. J.J Stone Quarry Patel V/s SEIAA	Mr. Shivshankar Swaminathan, Shraddha Deshmukh, Utkarsh Kokcha, Sanchit Singh, Sarthak, Adv. for Appellant.
5.	Original Application No. 155/2025(WZ)	Mayur Shetgaonkar & Anr V/s State of Goa & Ors.	Mr. Sherwyn Correia, Adv. for Applicant.
6.	Original Application No. 162/2025(WZ)	Mr. Akshay Pravin Nikale V/s MOEF & CC	Mr. Viraj Pawar, Adv. for Applicant.
FOR FURTHER CONSIDERATION			
CASES AT SR. NO. 07 & 08 WILL BE TAKEN UP FOR HEARING ON 09.01.2026			
7.	Original Application No. 43/2023(WZ)	Sagar Kantilal Devre V/s State Of Maharashtra & Ors	Applicant in-person Mr. Aniruddha Kulkarni, Adv. for R-1 Mr. Prakash Shejal, Mr. Sameer Khale & Mr. Rahul Garg, Adv. for R-2 Ms. Manasi Joshi, Adv. for R-4 Mr. Girish Utangale, Adv. for

			R-3 Ms. Swati Pandit, Law officer for R.6 Mr. Jaywant Patil, Mr. Shailesh Kantharia & Mr. Rahesh kumar Patel, Advs. for R-8 Mr. Sangram Gidh & Kaustubh Gidh & Kartik Bahadur, Adv. for R .12-21 Remarks: Affidavit not filed by R.6
8.	Original Application No. 98/2025(WZ)	Shambhavee Shashikant Kadam V/s State of Maharashtra & Ors.	Mr. Maitreya Ghorpade, Adv. for Applicant. Remarks: Notice sent by R.2, 7,8 by email. Reply not filed by R.2, 7 & 8 Amended memo of parties filed.
CASES AT SR. NO.09 & 10 WILL BE TAKEN UP FOR HEARING ON 16.01.2026			
9.	Org. Application No. 129/2025(WZ)	Colva Civic and Consumer Forum V/s The Goa Coastal Zone Management Authority & 3 Ors.	Ms. Sherwyn Filipe Francisco Correia, Adv. for Applicant
10.	Original Application No. 80/2025(WZ)	Vanashakti & Anr V/s CIDCO & Ors.	Mr. Zaman Ali, Adv. for Applicant. Remarks: Service affidavit not filed by Applicant.
FOR FINAL HEARING			
CASES AT SR. NO.11 & 12 WILL BE TAKEN UP FOR HEARING ON 02.04.2026			
11.	Appeal No. 33/2023(WZ) Caveat Appl. No. 15/2023 <p style="text-align: center;">WITH</p>	Mr. John Jude Adolfo Crecencio V/s GCZMA & Ors.	Mr. Ninad laud, Mr. Shivshankar Swaminathan, Mr. Abhijit Gosavi, Ivo D costa, Aathini, Darshan Guruprasad Naik, Krupa Naik Advs. for Appellant Mr. Dhruv Tank, Mr. Abhay Anturkar Adv. for R-1 Mr. Saurabh Kulkarni, Mr. Prashant Bhat, Advs. for Caveator (R3). Remarks:
12.	Appeal No. 35/2023(WZ)	Rama Rani Arora V/s GCZMA & 2 Ors	Mr. Saurabh Kulkarni & Prashant Bhat, Adv. for Applicant Mr. Abhay Anturkar for R 1 Mr. Abhijeet Gosavi, S.S Swaminathan, Advs for R 3 Remarks :

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e.g.

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Item 7 –Name– Adv for SPCB

Item 1 –Name – DM for State of xyz

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Note 1

A prayer for adjournment will be considered as per [Office Order No. NGT/PB/RG/2018/134 dated 20.02.2020](#).

Note 2

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Note 3

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**NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH)
NEW ADMINISTRATIVE BUILDING, 1ST FLOOR, B WING, CAMP, PUNE
FINAL CAUSE LIST OF PUNE ZONAL BENCH**

Date: 18th December, 2025
Time: 12:00 (Noon or after
Chennai Bench whichever is later)

HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA
JUDICIAL MEMBER

HON'BLE DR. SUJIT KUMAR BAJPAYEE
EXPERT MEMBER

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

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Meeting Number: 2516 716 8696

Meeting Password: 88278997#

S.NO.	CASE NO.	PARTIES	COUNSEL FOR PARTIES
FOR ADMISSION			
1.	I.A.No.843/2025(WZ) In Appeal No.619/2025(WZ)	Alchemist Asset Reconstruction Co. Ltd. V/s GCZMA & Anr.	Mr. Karan Batura, Adv. for Appellant. Remarks: I.A.No.843/2025(WZ)for delay condonation.
2.	Original Application No. 156/2025(WZ)	Krishna Gourya Nimbre V/s MOEF & CC & Ors.	Mr. Omkar Wangikar, Adv. for Applicant.
3.	Original Application No. 158/2025(WZ)	M/s. En-Cler Biomedical Waste Pvt. Ltd V/s SEIAA & Ors.	Mr. Saurabh Kulkarni, Mr. Prashant Bhat, Adv. for
4.	I.A. No. 874/2025(WZ) In Original Application No. 160/2025(WZ)	M/s. QUA Water Technologies Pvt. Ltd. V/s MPCB & Ors.	Mr. Siddharth D. Agrawal, Paras Pawar, Arshad Shaikh, Purva Borhade, Neha Pawar, Rishikesh Bhujbal, Adv. for Applicant. <u>Remarks: This Appeal is e-registered as an original application due to server issue.</u> I.A. No. 874/2025(WZ) for stay.
5.	Original Application No. 143/2025(WZ) I.A.No.838/2025(WZ) BPL Matter No.01/2025(WZ) Caveat No.32/2025(WZ)	Vaibhav Narayan Mote & Anr. V/s Kirloskar Ferrous Ltd. & Ors.	Applicant in-person Mr. Rohit Sawant, Adv. for Caveator. Remarks: Report submitted by Tahsildar Purandar Pune.
6.	Diary No. 270413701637/2025(WZ) (Appeal)	Mrs. Emelia Matilda Marques V/s Goa State Pollution Control Board	Mr. Abhijit Gosavi, Shivshankar Swaminathan, Athnain Naik, Krupa Naik, Darshan Gosavi, Shweta Shetgaonkar, Gaurang Kerkar, Adv. for Appellant.

**CASES AT SR. NO.7 To 9 WILL BE TAKEN UP FOR HEARING ON 07.01.2026
FOR HEARING ON I.A.NO. 856/2025(WZ)**

7.	I.A.No.842/2025(WZ) I.A.No.856/2025(WZ) In Original Application No. 145/2025(WZ)	Gram Panchayat Nimgaon Bhogi, Tehsil Shirur, Dist. Pune V/s State of Maharashtra & Ors.	Mr. Arvind Soni, Mr. Shubham Soni, Adv. for Applicant. Mr. Aniruddha S. Kulkarni, Advocate for R-3/Env. Deptt., R-4/WRD, R-6/GWSDA and R-9/CPCB Mr. Meet Vora, Navdeep Vora and Associates for R-7/MIDC Ms. Manasi Joshi, Ms. Pooja Natu, Advocate for R-10 &11/MPCB Mr. T.N. Subramanian, Senior Advocate, Mr. Saurabh Kulkarni, Ms. Anushree and Mr. Adwait Gokhale and Ms. Sunaina P., Advocates for R-12/PP Remarks:
FOR FURTHER CONSIDERATION			
8.	Original Application No. 201/2023(WZ) I.A. No. 74/2024 (WZ)	Charan Bhatt V/s Wetland Division. MOEF & CC & Ors.	Applicant in-person Mr. Pushkal Mishra, Adv. for R-1. Mr. Shivshankar Swaminathan, Adv. for R-3. Mr. Aniruddha Kulkarni, Adv. for R.6 Mr. Sheikh, Assistant Conservator of Forest, for R.9 & 13. Mr. Shivan Desai, Adv, Mr. Aprameya Shivade, Adv. & Associates for R.10. Mr. Shambhu Zha, Mr. Yash Jariwala, Adv. for R.10 Ms. Manasi Joshi, Adv. for R.7 ,8 & 15. Mr. Saurabh Kulkarni, Advocates for R-16 to 24. Remarks:
9.	Execution Application No. 07/2025 (WZ) in Original Application No. 03/2020 (WZ)	Devraj Bhatia & Anr. Vs. Pune Municipal Corporation & Ors.	Adv. Ronita Bhattacharya Bector for the Applicant. Mr. Rahul Garg, Adv. for R.1 Mr. Aniruddha Kulkarni, Adv. for R.3 Remarks:
CASE AT SR. NO.10 WILL BE TAKEN UP FOR HEARING ON 11.02.2026			
10.	Original Application No. 12/2025 (WZ)	Tejas Chandrakant Yadav V/s M/s K K Nag Pvt Ltd, Through its Chairman & managing Director &Ors.	Mr. Om Tapkir, Mr. Kushal Kulkarni, Mr. Viraj Pawar, Adv. for Applicant. Ms. Manasi Joshi for R 3 Mr. Aniruddha Kulkarni, Adv. for R.2 Remarks:
CASE AT SR. NO.11 WILL BE TAKEN UP FOR HEARING ON 13.02.2026			
11.	Appeal No. 426/2025(WZ)	MRS AUGUSTA DSOUZA VS GOA COASTAL ZONE MANAGEMENT AUTHORITY	Mr. Shivshankar Swaminathan, Adv. for Appellant. Mr. Gajesh Vinit V. Tari, Mr. Yash Tembe Adv. for GCZMA Remarks:
FOR FINAL HEARING			
CASE AT SR. NO. 12 WILL BE TAKEN UP FOR HEARING ON 07.04.2025			
12.	Org. Application No. 173/2024(WZ)	Govandi New Sangam Welfare Society	Mr. Zaman Ali, Adv. for Applicant. Adv Aniruddha Kulkarni for R 1

		V/s State of Maharashtra & Ors.	Adv Manasi Joshi for R 2/3 Adv Prakash Sejal for R 4 Adv Saurabh Kulkarni for R 5 Adv Rahul Garg for R 6 Remarks: Reply by R 2/3 w.r.t para 1 of order dt 12-11-24 not filed, Reply by R5 filed Pagination corrected in R 6 document
CASE AT SR. NO.13 WILL BE TAKEN UP FOR HEARING ON 08.04.2026			
13.	Appeal No. 27/2023(WZ)	Spacebound Web Labs Pvt. Ltd. Thr. Its Authorized Officer V/s Goa State Pollution Control Board, Through Member Secretary	Mr. Nikhil D. Pai & Mr. Narcinha Verenkar, Mr. Anant Nagi, Adv. for Applicant. Mr. Pavithran A. V. & Mr. Manish Salkar Adv. for GSPCB Remarks:

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**NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH)
NEW ADMINISTRATIVE BUILDING, 1ST FLOOR, B WING, CAMP, PUNE
SUPPLEMENTARY CAUSE LIST OF PUNE ZONAL BENCH**

Date: 27th January, 2026
Time: 12:00 Noon (or after
the Chennai Zonal Bench
whichever is later)

HON'BLE SMT. JUSTICE PUSHPA SATHYANARAYANA
JUDICIAL MEMBER

HON'BLE DR. SUJIT KUMAR BAJPAYEE
EXPERT MEMBER

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

Join from the Meeting Link

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Meeting Number: 2516 716 8696

Meeting Password: 88278997#

S.NO.	CASE NO.	PARTIES	COUNSEL FOR PARTIES
CASE AT SR. NO. 13 WILL BE TAKEN UP FOR HEARING ON 4.02.2026 FOR ADMISSION			
13.	Dy. No. 270413701782/2025(WZ) (OA)	Ashok Kandhari V/s GCZMA	Mr. Deepak Kapoor, Sahil Sardesai, Rifad Ballari, Nikhil Kerkar, Harsha Pai, Attar Nasreen, Advs. for Applicant. Remarks:

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e.g.

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Item 4 –Name– Adv. for Resp. 2 & 4

Item 7 –Name– Adv for SPCB

Item 1 –Name – DM for State of xyz

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Note 1

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**NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH)
NEW ADMINISTRATIVE BUILDING, 1ST FLOOR, B WING, CAMP, PUNE
FINAL CAUSE LIST OF PUNE ZONAL BENCH**

Date: 30th January, 2026
Time: 10:30 A.M

HON'BLE MR. JUSTICE DINESH KUMAR SINGH
JUDICIAL MEMBER

HON'BLE DR. SUJIT KUMAR BAJPAYEE
EXPERT MEMBER

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

Join from the Meeting Link

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Meeting Number: 2516 716 8696

Meeting Password: 88278997#

S.NO.	CASE NO.	PARTIES	COUNSEL FOR PARTIES
FOR ADMISSION			
1.	Dy. No. 270410501761/2025(WZ) (Appeal)	Nilkanth Stone Industries V/s SEIAA	Mr. Shivshankar Swaminathan, Ms. Shradha Deshmukh, Utkarsh Kokcha, Sanchit Singh, Sarthak, Adv. for Appellant.
2.	Dy. No. 271410501759/2025(WZ) (Appeal)	M/s. Rameshwar Stone Supplier V/s SEIAA	Mr. Shivshankar Swaminathan, Ms. Shradha Deshmukh, Utkarsh Kokcha, Sanchit Singh, Sarthak, Adv. for Appellant.
3.	Appeal No.701/2025(WZ)	Sudipto Choudhury V/s The State of Goa & Ors.	Mr. Ajay Gadegaonkar & Akshata Patwari, Adv. for Appellant Remarks: Affidavit not filed by Appellant
FOR FURTHER CONSIDERATION			
4.	<u>Original Application No. 33/2015(WZ)</u> (Disposed on 22.01.2020) <u>Restored on 23-7-2024</u> <u>IA no.128/2025 (WZ)</u>	The Goa Foundation V/s GEIAA &Ors.	Mr. Aagney Sail, Adv. for Applicant. Mr. Shubam Priolkar , Mr. Devidas J. Pangam, Advocate General for R-1, R-4 & R-5 Mr. Abhay Anturkar, Mr. Dhruv Tank Advocate for R-3 Ms. Ruchira Gupta, Advocate for R-2 Mr. Milind M. Mahajan, Advocate for R-6 Remarks:
5.	Original Application No. 210/2024(WZ)	Sunil Ramchandra Shinde & Anr V/s State of Maharashtra &Ors.	Mr. Tushar Kumar, Rishub Kapoor, Aseem Nayyar, Varnika Bajaj, Junaid Qureshi, Adv. for Applicant. Mr. Rahul Garg, Adv. for R.2 Ms. Manasi Joshi, Adv. for R.4 Ms. Deepali Bagla, Adv. for R.5 to 7 Remarks:
6.	Original Application No. 25/2025(WZ)	Vanshakti & Anr. V/s	Adv. Zaman Ali for Applicant Mr. Manoj Wad Adv. for R 1 Mr. Vilas Jadhav, Adv. for R.4 & 5

		City and Industrial Development Corporation of Maharashtra &Ors.	Mr. Aniruddha Kulkarni, Adv. for R.2 Ms. Swati Pandit, Adv. for R.3 Mr. Nitin Deshpande, Adv. for R.6 to 9 Remarks: Rejoinder not filed by Applicant. Order dt.20.11.2025 communicated to Committee members by email dt.28.11.2025. Joint Committee report awaited.
7.	E.A. No. 09/2025 In Original Application No. 194/2024(WZ)	Mr. Satyaprakash Bastiram Sharma V/s Maharashtra Pollution Control Board & Ors	Shivshankar Swaminathan, Adv. for Applicant Mr. Amol Kharabi, Respondent No.7 for R-2 to R-7 Mr. Anuj Kathod, Ms. Surekha Dabi, Adv. for R.8 Mr. D.T. Devale, Advocate for R-9 Remarks: Reply affidavit filed by R.2 to 7. V.P & reply affidavit not filed by R.9
8.	Original Application No. 10/2026(WZ) (Restored on 29.01.2026) Earlier Application No. 23(THC)/2013(WZ) (sine die)	Aleixo Arnolfo Pareira V/s State of Goa & Ors.	Applicant in-person Ms. F. M. Mesquita, Adv. for R.1 to 5 Ms. Supriya Dangare, Adv. for R.15
9.	Original Application No.62/2025(WZ) Earlier Original Application No. 323/2024(PB)	News item titled "No permission provided for use of chemicals in cleaning water bodies: MPCB" appearing in The Hindustan Times dated 23.02.2024.	Remarks: Order communicated to CPCB by email dt.9.06.2025. Further 1st Reminder send to CPCB by email dt.22.12.2025. Report awaited from CPCB as per order dt.05.04.2024
FOR FINAL HEARING			
10.	Original Application No. 33/2020(WZ)	Tanaji Balasaheb Gambhire Vs. Union of India & Ors.	Applicant in- person Ms. Supriya Dangare, Adv. for Raheja Co-op. Society Mr. Aniruddha Kulkarni, Adv. for (SEIAA) R-3 to 5 Ms. Manasi Joshi, Adv. MPCB (R. 6 & 7 Mr. Rahul Garg, Mr. Raghuvendra Kulkarni, Advs. R-1 & 9 to 11 Mr. Saurabh Kulkarni, Mr. Ninad Laud Advs. for R.13 Ms. Supriya Dangare, Mr. Sachin Zalte, Adv. for R.14
11.	Appeal No. 19/2024(WZ)	Arambol Plaza Beach Resort V/s GCZMA &Ors.	Adv. Parag Rao, Mr. S. Swaminathan & ors, Advs for Applicant (72A) Ms. V. Gracias, Law Officer for R.1/GCZMA Mr. Shivprasad Naik, R.2/Dy. Collector & SDO, Pernem. Mr. Aditya Kamat, Awal Karkun for R.3 Remarks:
12.	Appeal No. 23/2025(WZ)	White Raj Resort Pvt Ltd Through Mr. Vladislav Bogmolov	Adv. S. Swaminathan, Adv for Appellant

		V/s GCZMA	Adv Shubham Priolkar for R.1 Mr. Edwinde Monte, Mr. Shaba Naik, Adv. for R.2 & 3 Remarks: Reply affidavit not filed by R.2 & 3.
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Note: For correction, updating in the present cause list please contact and send email in advance to the Registry on ngt-pune@gov.in

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e.g.

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Item 7 –Name– Adv for SPCB

Item 1 –Name – DM for State of xyz

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Note 3

As indicated in the notice no. NGT/WZB/Pune/288/2022 dated 21.05.2022, Parties and Advocates are hereby informed that in case they want their matter/s to be heard urgently they may make mention it before the Hon'ble Bench between 10:30 – 10:35 A.M.

**NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH)
NEW ADMINISTRATIVE BUILDING, 1ST FLOOR, B WING, CAMP, PUNE
ADVANCE CAUSE LIST OF PUNE ZONAL BENCH**

Date: 23rd July, 2025

Time: 10: 30 A.M.

**HON'BLE MR. JUSTICE DINESH KUMAR SINGH
JUDICIAL MEMBER**

**HON'BLE DR. VIJAY KULKARNI
EXPERT MEMBER**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

S.NO.	CASE NO.	PARTIES	COUNSEL FOR PARTIES
ADMISSION			
1.	Dy no. 270410500317/2025 (O.A)	Janaksinh Kushalsinh Parmar V/s MoEF & CC	Adv Himanshu Tyagi for Applicant Remarks: Defects not removed by Applicant.
2.	Dy no. 270413700478/2025 (Appeal)	Felix Fernandes V/s Dinar Tarcar Resources (India) Pvt. Ltd	Mr. Aagney Sail, Adv. for Appellant.
3.	Dy no. 270413700477/2025 (O.A)	Paris Sawlo Dessai V/s Dinar Tarcar Resources (India) Pvt. Ltd	Mr. Aagney Sail, Adv. for Appellant.
FOR FURTHER CONSIDERATION			
4.	Original Application No. 47/2025(WZ)	Vishal S Rajemahadik V/s Maharashtra Pollution Control Board	Adv Ashok Dubey for Applicant Remarks: Notice prepared & sent to R.2 by email & RPAD dt.2.07.2025(Service report to be enclosed) Impleadment application not filed. Reply affidavit not filed by R.2
5.	Execution Application 02/2025(WZ) In Appeal 58/2015(WZ)	Mr. Ajay Shivajirao Bhonsle VB/s MoEF & CC& Ors.	Adv, Raghvendra Sreyas, Samridhi Jain, Nrupal Dingankar for Applicants Remarks: Notice prepared & sent to Counsel of Applicant by email dt.5.05.2025. Service affidavit not filed. Reply affidavits not filed by Respondents.
6.	Original Application No. 19/2025(WZ) I.A 47/2025(WZ)	Abhijit Madhukar Garad V/s MPCB & ORs.	Adv. Rashmi D Dhongde, Shriram Pingle, Vardamankar, Vikas Agarwal M.H Chavan, Ms. Bhargavi Kulkarni for Applicant (139) Ms. Mansi Joshi, Adv. for R.1 Mr. Rupesh Gaikwad, Sarpanch, for R.2 Ms. Manisha Lalgude, Sarpanch for R.3

			Mr. Atul J. Pathak, Adv. for R.4 Mr. Milind Mahajan, Adv. for R.5 Mr. Pushkal Mishra, Adv. for R.8
7.	Original Application No. 31/2025(WZ)	Rishan Sarode & Ors. V/s The PMC, Through Municipal Commissioner &Ors.	Mr. Asim Sarode & Associates, Adv. for Applicant. Mr. Rahul Garg, Mr. Shubham Rathod, Adv. for R.1 Mr. Shivshankar Swaminathan, Adv. for R.2 Ms. Manasi Joshi, Ms. Pooja Natu Adv. for R.4 Mr. Aniruddha Kulkarni, Adv. for R.6, R.9 & R.10 Remarks: Rejoinder not filed by Applicant. Reply affidavit not filed by R.2.
8.	Original Application No. 199/2024 (WZ) Earlier Original Application 1165/2024 (PB)	News Item titled 'Forest Dept. struggling to regain 14,000 hectares of land in Pune' appearing in the Hindustan Times dated 28.08.2024.	Mr. D.M. Gupte, Adv. for R.1/PCCF Mr. Pushkal Mishra, Adv. for R.2 Mrs. Swati Pandit, Adv. for R.3 Remarks: Clear affidavit not filed by R.2.
FOR FINAL HEARING			
9.	Appeal No. 144/2024(WZ)	Alchemist Asset Reconstruction Company Ltd. V/s Goa Coastal Zone management Authority & Anr.	Adv. Karan Batura for Appellant Ms. V. Gracias, for R.1 Ms. Manasi Joshi Adv for R 1 Mr. Shivan Desai, Mr. S. Swaminathan Adv for R 2
10.	Org. Application No. 59/2019(WZ)	Mr. Sakharam Asaram Kale & Anr. V/s Regional Officer MPCB & Ors	Mr. Nitin Lonkar, Ms. Sonali Suryavanshi, Pradnya & Mr. Tanaji Gambhire, Advocate for Applicant Ms. Manasi Joshi, Adv. For R-1 Mr. Suyog Torpe, Adv. S.S. Ladda , Adv. Prashant Deshpandey Adv for NHAI, R-2 to 4, Mr. R. Mahabal, Adv for R-5 Mr. Aniruddha Kulkarni Adv for Envt. Dept. & SEIAA, R-6 Remarks: Notice prepared & sent to Counsel of applicant through email dt. 16.12.2024. Service affidavit filed. (served through mail only) Amendment Memo filed by Applicant. <u>Reply by R 1, R.2 to 4, 7 not filed</u> <u>Order communicated to newly impleaded parties on 18-3-24</u> Letter received from Collector office Chattrapati Sambhajinagar dt.7.03.2025.

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Note 3

As indicated in the notice no. NGT/WZB/Pune/288/2022 dated 21.05.2022, Parties and Advocates are hereby informed that in case they want their matter/s to be heard urgently they may make mention it before the Hon'ble Bench between 10:30 – 10:35 A.M.

Item No.1

(Pune Bench)

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

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

**Dy. No.270413800307/2024
(OA)**

Balvant Murlidhar Parchure

.....Applicant

Versus

Yashwant Soma Tandel

.....Respondent

Date of hearing: 14.05.2024

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

Applicant : Applicant in-person

ORDER

1. From the side of applicant, applicant has appeared in-person before us through Video Conferencing.

2. The Registry has submitted its report dated 03.05.2024 before us on the above-mentioned diary number reporting therein that this Original Application was filed on 28.03.2024 (Holi Holiday) and the defects therein were pointed out to the applicant on 02.04.2024, which have been enumerated in para no.4 of the said report. Since the 30 days' time period for removing the defects, prescribed under Rule- 10(4) of the National Green Tribunal (Practice and Procedure) Rules- 2011, has already expired, the Registry has placed this matter before us for appropriate order.

3. During the hearing, applicant has submitted before us that he has already removed all the defects as pointed out by the Registry and has re-filed the present Original Application on 11.05.2024, which was done

after closure of the Registry. Therefore, it appears that the Registry could not place the same before us today. We direct the Registry to submit a report in this regard as to whether any re-filed Original Application has been received from the end of applicant, if the same has been received, a copy of the same be placed before us after allotting it regular number, if it is found to be free from all defects.

4. A vague e-mail dated 12.05.2024 has also been received from the side of applicant, wherein it is reported that he has already re-filed the present Original Application but in that e-mail, he has not mentioned the date and time of the same.

5. Place this matter with the report of the registry tomorrow i.e. on 15.05.2024 and in case, it is found that there is still any defect left to be cured from the side of applicant, we would be left with no option but to dismiss the present Original Application for non-compliance of the directions of the Registry of this Tribunal.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

May 14, 2024
Dy. No.270413800307/2024
(OA)
P.Kr

**NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE
KALAS MAHAL, CHENNAI.**

CAUSE LIST

HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA
JUDICIAL MEMBER

Date: 30.06.2025

Time: 10.30 A.M.

HON'BLE Dr. SATYAGOPAL KORLAPATI
EXPERT MEMBER

SR.NO. 1 TO 18 WILL BE TAKEN UP FOR PHYSICAL HEARING (WITH HYBRID OPTION)

S.NO	CASE NO.	PARTIES	COUNSEL FOR PARTIES
FOR PRONOUNCEMENT OF JUDGMENT			
1	Original Application No. 01/2024(SZ)	Tribunal on its own motion - SUO MOTU based on the News item in Dinamalar Daily, Sivagangai edition dated 01.01.2024, "Sewage Mixed in Theppakulam is feared to be a health hazard". Vs. The District Collector, Sivagangai District and Ors.	Dr.D. Shanmuganathan for R1 M/s. Sai Sathya Jith for R2 M/s. P.Srinivas for R3
2	Original Application No. 41/2024(SZ) [Earlier OA No.788/2023(PB)]	Tribunal on its own motion SUO MOTU based on the News Item in The New Indian Express dt: 05.12.2023 titled, " Change location of sewage treatment plant from Coimbatore's Ukkadam, over 100 residents stage stir". Vs. Tamil Nadu Pollution Control Board and Ors.	M/s. Sai Sathya Jith for R1 M/s. Najeeb Usman Khan for R2
FOR MAINTAINABILITY			
3	Unnumbered Original Application No./2025(SZ) (Diary No : 3305118000312025)	M/s. Shri Ponguru Blue Metal Mines, Dharmapuri District. Vs. The SEIAA, Rep by its Chairman, Chennai and ors.	M/s. M.Sriram, A.Saravanan & S.Shiv Suriya Counsel for Applicant
FOR ADMISSION			
4	Original Application No. 109/2025(SZ)	Margani Bharat Ram Vs. Union of India and Ors.	M/s. Sravan Kumar, Kumar Abhishek Counsel for Applicant

	[FOR IMPEADING]	and Fishermen Welfare and Ors.	Samruthi.A.K /Counsel for I.A
18	Original Application No. 224/2024(SZ) & I.A NO. 146/2024(SZ) [FOR IMPEADING]	K.Saravanan Vs. The Commissioner of Fisheries and Fishermen Welfare and Anr.	M/s. A.Yogeshwaran Counsel for Applicant Dr.D.Shanmughanathan for R1 M/s. Sai Sathya Jith for R2 M/s. Ramaswamy Meyyappan & Samruthi.A.K /Counsel for I.A

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https://greentribunal.gov.in/sites/default/files/office_orders/NOTIFICATION%20FOR%20RESUMPTION%20OF%20PHYSICAL%20HEARING.pdf /

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2. For filing of reports/documents & other communications etc – email at judicial-ngtsz@gov.in

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Item 1 – bcd – DM for State of xyz

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REGISTRAR

95
NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE
KALAS MAHAL, CHENNAI.

CAUSE LIST

HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA
JUDICIAL MEMBER

Date: 08.07.2025
Time: 10.30 A.M.

HON'BLE Dr. SATYAGOPAL KORLAPATI
EXPERT MEMBER

SR.NO. 1 TO 22 WILL BE TAKEN UP FOR PHYSICAL HEARING (WITH HYBRID OPTION)

S.NO	CASE NO.	PARTIES	COUNSEL FOR PARTIES
FOR PRONOUNCEMENT OF JUDGMENT			
1(i)	Original Application No. 92/2020(SZ) WITH	Gareeb Guide (NGO) Vs. State of Andhra Pradesh, Through its Chief Secretary & Ors.	M/s. D.V.Rao Counsel for Applicant M/s. Madhuri Donti Reddy for R1 & R2
1(ii)	Execution Application No. 03/2023(SZ) in Original Application No. 92/2020(SZ)	Gareeb Guide (NGO) Vs. State of Andhra Pradesh, Through its Chief Secretary & Anr.	M/s. D.V.Rao Counsel for Applicant/E.A M/s. Madhuri Donti Reddy for R1 & R2
2	Original Application No. 25/2025(SZ)	Tribunal on its own motion SUO MOTU based on the News Item in The Eenadu, Chennai Edition dt: 31.01.2025 titled "illegal encroachment of forest land". Vs. MOEF & CC, Rep by its Regional Director, Bangalore and Ors.	M/s. Sai Srujan Tayi for R1 M/s. Madhuri Donti Reddy for R2 & R3
3	Appeal.No.59/2024 (SZ) & I.A No.128/2024(SZ) & I.A No.129/2024(SZ)	Ignatious K.J, Kochi. Vs. K.J.Joseph, Kochi and Anr.	M/s. P.B.Sahasranaman, S.Sai Sathya Jith, Arshad & Md Arshadullah Sheriff Counsel for Appellant/I.A M/s. S.Sujin, Sajen Thampan for R1 M/s. Remasmrithi for R2
FOR MAINTAINABILITY			
4	Unnumbered Appeal No...../2025(SZ) (Diary No : 3305118006392024)	K.Sundararaj, Coimbatore District. Vs. The SEIAA, Rep by its Member Secretary, Chennai and Anr.	M/s. Sasidaran.B, Venkatesh.S, Paul Hadlee, V.S.Senthil Kumar & A.Kripakaran Counsel for Appellant

REPORTS NOT FILED

16	Original Application No. 153/2023(SZ)	Sri Sunkara Swamy Naidu Welfare Organization, Yanam. Vs. Union of India, Rep by the Union Territory of Pondicherry, Through its Chief Secretary, Pondicherry and Ors.	M/s. Sharath Chandran & Gopika Nambiar Counsel for Applicant M/s. Ramaswamy Meyyappan for R1 to R7 M/s. C. Vijayindranath for R8
17	Original Application No. 62/2024(SZ) [Earlier OA No.66/2024(PB)] [PCB Report not filed]	Tribunal on its own motion SUO MOTU based on the News Item in Deccan Herald dt:27.12.2023 titled “ Bengaluru’s waste crisis threatens livelihoods: NGO”. Vs. CPCB and Ors.	M/s. R.Thirunavukarasu for R1 M/s. A.Mahesh Chowdhary for R2
18	Original Application No. 147/2024(SZ) [Earlier OA No. 71/2024(LP)(PB)] [Mining Dept Report not filed]	Sam.P.Issac Vs. Kerala State Pollution Control Board, Through its Member Secretary, Thiruvananthapuram and ors.	M/s.Sam.P.Issac Party In Person M/s. V.K.Remma Smrithi for R1 M/s. MOEF R2 M/s. E.K.Kumaresan for R3 M/s. Mankombu Granites R4 (Notice Served on 28.06.2025)
19	Original Application No. 65/2025(SZ) [TNSCZMA Counter/Objection not filed]	Ramaniyam Towers Residents Association, Chennai. Vs. TNCZMA, Rep by its Member Secretary, Chennai.	M/s. A.Yogeshwaran, Poongkhulali.B, Tanvi Srivatsan, Raghunandan Sriram, Jayasakthi Ravi & Jahnavi V Counsel for Applicant M/s. Sai Sathya Jith for R1
Original Papers are yet to be received from Principal Bench, New Delhi			
20	Original Application No. 118/2025(SZ) [Earlier OA No.207/2025(PB)]	K.Vijay Laxmi and Ors. Vs. CPCB and ors.	M/s. CPCB R1 M/s. APPCB R2 M/s. Dt.Collector, Srikakulam R3 M/s. Rainbow Industries, Through its Director, Srikakulam R4
21	Original Application No. 119/2025(SZ) [Earlier OA No.208/2025(PB)]	R.Latha and Ors. Vs. CPCB and ors.	M/s. CPCB R1 M/s. TNPCB R2 M/s. Dt.Collector, Chengalpattu R3
22	Original Application No. 120/2025(SZ) [Earlier OA No.209/2025(PB)]	Malta Chinni. Vs. CPCB and ors.	M/s. CPCB R1 M/s. APPCB R2 M/s. Dt.Collector, Kakainada R3 M/s. Registrar of Companies R4 M/s. State Ground Water Authority (A.P) R5 M/s. Avanti Frozen Fooda Pvt. Ltd., Kakainada R6

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CAUSE LIST

HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA
JUDICIAL MEMBER

Date: 30.10.2025
Time: 10.30 A.M.

HON'BLE DR. PRASHANT GARGAVA
EXPERT MEMBER

SR.NO. 1 TO 15 WILL BE TAKEN UP FOR PHYSICAL HEARING (WITH HYBRID OPTION)

S.NO	CASE NO.	PARTIES	COUNSEL FOR PARTIES
FOR MAINTAINABILITY			
1	Unnumbered Original Application No./2025(SZ) (Diary No : 330518003692025)	K.Saravanan, Chennai. Vs. The UOI, Rep by its Secretary to Govt, MOEF & CC, New Delhi.	M/s. A.Yogeshwaran, Poongkhulali.B, Jahnavi.V, Raghunandan Sriram & Sanjaikumar.L Counsel for Applicant
ADJOURNED ADMISSION			
2	Original Application No. 92/2025(SZ) & I.A. No. 87/2025(SZ) [FOR DIRECTION]	Sri Mantri Shyam Prasad, A.P. Vs. Govt of A.P, Rep by its Chief Secretary, Andhra Pradesh and Ors.	M/s. Sri Mantri Shyam Prasad Party in Person /I.A. M/s. Madhuri Donti Reddy for R1 to R4, R6 & R7 M/s. K.Ravindranath for R5
3	Original Application No. 147/2025(SZ)	B. Udaya Kumar Shetty, Karnataka. Vs. The Deputy Commissioner/Chairman, Udupi District Sand Monitoring Committee and Ors.	M/s. B.Thilak Narayanan & P. Prashanth Counsel for Applicant
AFTER NOTICE			
4	Original Application No. 97/2025(SZ) & I.A NO. 124/2025(SZ) [FOR AMENDMENT] [For filing Reports of R1 to R3 & R5 to R9]	Tribunal on its own motion SUO MOTU based on the News Item in The Hindu Newspaper Edition dt: 10.06.2025, " Container Vessel on fire off Kerala Coast ". Vs. Ministry of Ports, Shipping and Waterways and Ors.	M/s. Ministry of Ports, Shipping and Waterways R1(Notice sent on 26.06.2025) M/s. E.K.Kumaresan for R2, R5 & R7 M/s. G.Prabhu & Ramesh Kumar for R3 M/s. Rema Smrithi for R4 M/s. Lucia Priyadharsini for R6 (MOA not filed) M/s. Ashwini Vaidialingam, Anusha Peri & Prashanth Nadaraj for R8/ I.A M/s. Dte. Genl. of Shipping R9 (Notice served on 12.09.2025)

	<p style="text-align: center;">& I.A NO. 122/2025(SZ) [FOR DIRECTION]</p> <p>[R1, R7 & R8 Reports; Applicant's Rejoinder not filed]</p>	<p>MOEF & CC, Rep by its Secretary, New Delhi and Ors.</p>	<p>M/s. Revathi Manivannan for R2 M/s. Sai Sathya Jith for R3 to R6 Dr. D. Shanmuganathan for R7 M/s. The CMD, ITC Company R8 (Notice sent on 29.03.2025) M/s. Rahul M Shankhar, Chandini Pradeep Kumar, M.Aravindan & Avanti Balachander for R9</p>
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REGISTRAR

100
NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE
KALAS MAHAL, CHENNAI.

CAUSE LIST

HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA
JUDICIAL MEMBER

Date: 10.11.2025
Time: 10.30 A.M.

HON'BLE DR. PRASHANT GARGAVA
EXPERT MEMBER

SR.NO. 1 TO 19 WILL BE TAKEN UP FOR PHYSICAL HEARING (WITH HYBRID OPTION)

S.NO	CASE NO.	PARTIES	COUNSEL FOR PARTIES
FOR MAINTAINABILITY			
1	Unnumbered Original Appeal No./2025(SZ) (Diary No : 3305118004772025)	S.Venkadesan, Chennai. Vs. The District Collector, Tirunelveli and ors.	M/s. Suganya Amalnathan, B.Sasidaran, T.Pushkin Rajkumar, Rukmani Venugopalan & K.Immanuel Counsel for Applicant
FOR ADMISSION			
2	Original Application No. 223/2025(SZ)	Sharanappa, Karnataka & Anr. Vs. State of Karnataka, Rep by its Chief Secretary, Bengaluru and Ors.	M/s. G.Stanly Hebzon Singh, G.Vignesh & V.Anantha Krishnan Counsel for Applicant
ADJOURNED ADMISSION			
3	Original Application No. 214/2025(SZ)	T.Kalki, Thiruvallur. Vs. State of Tamilnadu, Rep by its Secretary, WRD, Chennai and Ors.	M/s. G.Vijay Anand Associates, N.D.Shathish Raaj, G.Vikash Anand & Vedhashri Narasa Counsel for Applicant
AFTER NOTICE			
4	Appeal No 45/2025(SZ) [For filing of Reports]	M.S.Rama Mohan Rao, Chennai. Vs. The Member Secretary, TNCZMA, Chennai and Ors.	M/s. S.S.Siva Kumar, G.Kalai Vanan, K.Sudha & V.Praveen Counsel for Appellant M/s. Sai Sathya Jith for R1 Dr. D.Shanmuganathan for R2 M/s. NCSCMA R3 (Notice sent on 10.10.2025) M/s. S.T.Raja for R4

13	Original Application No. 126/2024(SZ) [R1 to R3, R7 & R8 Reports not filed]	Chidipi Nakula Suresh Vs. The District Collector, East Godavari District, Andhra Pradesh and Ors.	M/s.Chidipi Nakula Suresh Party In Person M/s. K.Ravindranath for R1 to R7
14	Original Application No. 115/2024(SZ) [Earlier OA No. 777/2023(LP)(PB)] [PCB, R1, R2, R4 to R6 Reports not filed]	Rakesh Kumar Vs. State of Tamilnadu through its Chief Secretary, Chennai and ors.	M/s. Rakesh Kumar Party In Person Dr.D.Shanmuganathan for R1 & R4 M/s. P.Srinivas for R2 M/s. Sai Sathya Jith for R3 M/s. Palanimuthu for R5 & R6
15	Original Application No. 148/2024(SZ) [Earlier OA No. 73/2024(LP)(PB)] [PCB & R2 to R5 Reports not filed]	Rakesh Kumar.D Vs. The Chairman, TNPCB, Chennai and ors.	M/s. Rakesh Kumar.D Party In Person M/s. Sai Sathya Jith for R1 Dr.D. Shanmuganathan for R3 M/s. Palanimuthu for R4 & R5
16	Original Application No. 174/2023(SZ) [EARLIER OA NO. 541 of 2023(PB)] [R2, R3, R5 & R6 Reports not filed]	Tribunal on its own motion - SUO MOTU based on the News item in The Hindu dated 29.08.2023, titled “Fish kill at Lingambudhi lake in Mysuru”. Vs. CPCB, Rep by its Chairman, New Delhi and Ors.	M/s. Revathi Manivannan for R1 M/s. K.M.Darpan for R3 & R5 M/s. Mukesh Kumar for R4 M/s. Geethadevi.M.P for R6 M/s. Sachin.V.R, Sudharshan Rao, Rajesh.M & Prajwal.P.Kanchi for R7
17	Original Application No. 180/2024(SZ)	Tribunal on its own motion - SUO MOTU based on the News item Published in Dinamalar, Chennai Edition dt 20.05.2024 titled “A Fire at a Chemical waste dump engulfed villages with toxic fumes”. Vs. TNPCB, Through its Member Secretary, Chennai and Ors.	M/s. Sai Sathya Jith for R1 Dr.D. Shanmuganathan for R2 M/s. T. Hemalatha, R.Rajmohan & S. Deepika for R3
18	Appeal No. 01/2025(SZ) [Dates & Events by PCB not filed]	MIOT Hospitals Private Limited, Chennai. Vs. Tamil Nadu Pollution Control Board , Chennai	M/s. P.S.Suman, V.Amrutha, V.Anandavenu, S.Dhaksin Kumar, Huda.S, Vellayan.K Counsel for Appellant M/s. Sai Sathya Jith for Respondent
19	Appeal.No.13/2025(SZ) [Appellant Objection not filed]	K.Sasikumar, Salem. Vs. SEIAA, TN, Through the Member Secretary, Chennai.	M/s. G.Vignesh Counsel for Appellant M/s. Sai Sathya Jith for Respondent

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REGISTRAR

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

.....

M.A. NO. 104 OF 2012

(ARISING OUT OF APPEAL NO. 39 OF 2012)

In the matter of :

1. Save Mon Region Federation
Through its General Secretary, Lobsang Gyatso
Near High Secondary School Tawang, P.O. Tawang,
District Tawang, Pin Code-790 104.
 2. Lobsang Choedar
Khet Village, P.O. Mukto, P.S. Jang,
District Tawang, Pin Code 790 104
Arunachal Pradesh.
-Appellants

Versus

1. Union of India
Through its Secretary
Ministry of Environment and Forests
Paryavaran Bhawan, CGO Complex
Lodhi Road, New Delhi-110 003.
2. Arunachal Pradesh State Pollution Control Board,
Through its Member Secretary,
Arunachal Pradesh State Pollution Control Board,
Department of Forest, Environment and Wildlife
Management,
Itanagar-791111.

3. NJC Hydro Power Limited

Through its Vice President and CFO

With its registered office at

A-12, Bhilwara Towers, Sector-1, Noida-201301.

Uttar Pradesh.

.....Respondents

Counsel for Appellants :

Mr. Ritwick Dutta, Advocate,

Mr. Rahul Choudhary, Advocate and

Ms. Parul Gupta, Advocate.

Counsel for Respondents :

Mr. Vikramjeet, Advocate, for Respondent No.1

Mr. Raj Panjwani, Sr. Advocate, with Ms. Divya Sharma,

Advocate for Respondent No.3.

ORDER**CORAM :**

Hon'ble Mr. Justice Swatanter Kumar (Chairperson)

Hon'ble Mr. Justice P. Jyothimani (Judicial Member)

Hon'ble Dr. D.K. Agrawal (Expert Member)

Hon'ble Dr.G.K. Pandey (Expert Member)

Hon'ble Prof. A.R. Yousuf (Expert Member)

Dated : March 14, 2013

JUSTICE SWATANTER KUMAR (CHAIRPERSON)

1. The Ministry of Environment and Forests (for short 'MoEF') accorded clearance for construction of 780 Mega Watts Naymjang Chhu Hydroelectric Project in Tawang district of Arunachal Pradesh. The applicant is an organization based in Tawang, consisting of citizens of Monpa indigenous community who advocate environmentally and culturally sensitive development in the ecologically and geologically fragile, seismically active and culturally sensitive Mon-Tawang region of the State. The applicant being aggrieved from the order dated 19th April, 2012 has preferred an appeal questioning the legality and correctness of the said order.

2. The appeal apparently and admittedly has been filed beyond 30 days from the date of communication of the order to the appellant. The appeal being barred by time, is accompanied by an application (MA No. 104 of 2012) praying for condonation of delay in filing the appeal. In view of the objections raised with regard to the

maintainability of the appeal in as much as it is barred by time, we have to deal with the question of limitation at the first instance and before we dwell upon the merits of the case. Thus, in view of the limited controversy, we shall refer only to the necessary facts relating to the application for condonation of delay.

3. The MoEF granted Environmental Clearance to the project vide its order dated 19th April, 2012. According to the applicant he received no information of passing of the order till 17th May, 2012, when the applicant visited Delhi and came to know that a news item had appeared, mentioning about the environmental clearance. On 15th May, 2012, one Himanshu Thakker informed the MoEF that its website had no information of the said Environmental Clearance. He also mentioned of the non-availability of the compliance reports on the website. Even the Central Information Commissioner had passed an order on 18th January, 2012 stating that the Environmental Clearance should be uploaded on the website at the earliest and should be available to the public. Immediate non-placing of the order dated 19th

April, 2012 on the website, thus, was in violation of the order of the Central Information Commissioner dated 18th January, 2012. The MoEF uploaded the order on its website on 22nd May, 2012. However, still as per the email of the Director of MoEF dated 5th June, 2012, (Annexure R1/2) the Environmental Clearance could not be made available as on that date. In this email to Himanshu Thakker the Director (MoEF) stated that she had tried her level best to upload the Environmental Clearance but there were glitches in the synchronization of their new website with the old one. The said order could only be downloaded by the applicant from the website of MoEF on 8th June, 2012, the date on which applicant claims the completion of communication of the order. The applicant could download the copy of the Scoping (ToR) Clearance granted to the Project Proponent only on 24th June, 2012. The applicant came to Delhi on 4th July, 2012 for obtaining Form-I, which was received by him on 12th July, 2012. He filed the appeal on 17th/18th July, 2012, i.e. on the 90th day from the date of clearance, i.e. 19th April, 2012. It is further the contention of the applicant that he got copy of

the Environmental Clearance only on 8th June, 2012 and could prepare the appeal on 17th July, 2012 which was received in the Registry of the NGT on 18th July, 2012. Therefore, according to the applicant, the appeal has been filed within the extended period of 60 days but beyond the prescribed limitation of 30 days and there being sufficient cause for non-filing of the appeal within 30 days, the delay in filing the appeal may be condoned and the appeal be heard on merits.

4. The MoEF, in its reply, has taken up the stand that the minutes of the Expert Appraisal Committee (EAC) for the River Valley and the Hydro Electric Power (HEP) Projects are displayed on the Ministry's website in a timely manner. It is admitted that the Environmental Clearance was granted to the applicant on 19th April, 2012 and was displayed on the website on 22nd May, 2012. In terms of EIA Notification 2006, the Project Proponent was required to submit the EIA and EMP reports along with the proceedings of public hearing as prayed.

5. The draft reports were submitted to the Ministry and the same were displayed on the website on 15th December,

2010. It was mentioned in the order of the Environmental Clearance that the Project Proponent should, within seven days, advertise the same in at least two local newspapers circulated in the region around the project and the same should be available on the website as well. According to the MoEF, even after getting the copy of the Environmental Clearance on 8th June, 2012, the appeal has not been filed within 30 days and as such, the applicant cannot shift the burden onto the Ministry on the ground of negligence, omission and carelessness.

6. The stand of the Project Proponent is that once the public hearing had been conducted on 8th February, 2011, and the proposal was considered by the EAC on 26th March, 2011 and 16th – 17th September, 2011 and eventually after the grant of the Environmental Clearance on 19th April, 2012, the same was uploaded on 30th April, 2012 on the website of the Respondent No. 3 Company and the relevant information had also been published in the newspaper on 1st May, 2012. Resultantly, the Project Proponent has complied with the conditions by following the due process of law. According to this respondent, the

MoEF, somewhere in May 2012, had put the Environmental Clearance order on the website.

7. A collective reading of the replies filed on behalf of the non-applicants and the submissions made, shows that their main contention is that the factum of publication of information in the newspaper on 1st May, 2012, the circulation of the order amongst the *panchayats* and putting it on the website is sufficient compliance of the relevant provisions of the National Green Tribunal Act, 2010 (for short 'the NGT Act') and there is no sufficient cause shown by the applicant for not filing the appeal within the prescribed period of limitation under Section 16 of the NGT Act.

8. It is also stated by these non-applicants that the copy of the Environmental Clearance order was circulated in the area affected by the project on 24th April, 2012 and was uploaded on the website of the Project Proponent on 30th April, 2012. The Environmental Clearance was uploaded on the MoEF website on 30th May, 2012.

9. In the rejoinder filed on behalf of the applicant, besides reiterating the facts already noted, it has also been averred that the Project Proponent, Respondent No.3, to whom the Environmental Clearance was granted, has no website in existence even till date. Also, the website of the MoEF does not reflect the complete information. It is contended that the expression 'date on which the order is communicated to him' appearing in the relevant provisions of the NGT Act signifies not merely constructive communication but the actual communication, satisfying all mandatory requirements. The Environmental Clearance was not available on the website of the MoEF till 8th June, 2012. The email sent by the Director, MoEF to Mr. Himanshu Thakker on 5th June, 2012 clearly establishes the fact that the Environmental Clearance was not available on the website of the MoEF. The requisite information, it is contended, had not even been published by the Respondent No. 3 Company in the newspapers, in accordance with law.

10. Undisputedly and admittedly, this is not a case where the appeal has been filed beyond the period of 90

days (i.e. within 30 days from the date of which the order or decision is communicated to him plus further period of 60 days, as permissible under the NGT Act). Thus, we are called upon to decide if there exists sufficient cause for filing the appeal beyond 30 days but within 90 days from the date of communication of the order. Before we advert to examine the sufficiency of cause relatable to the facts and circumstances of the present case, it is necessary for us to examine the legal framework of applicability of the law of limitation to the cases arising under the NGT Act. Section 16 of the NGT Act confers appellate jurisdiction upon the Tribunal and gives the right to appeal to ‘any person’ aggrieved by any of the orders as stated under sub-sections (a) to (j) of Section 16 of the NGT Act. It will be useful to reproduce the relevant extract of this provision:

“16. Tribunal to have appellate jurisdiction. – Any person aggrieved by, -

XXXX XXXX XXXX XXXX XXX

(h) an order made, on or after the commencement of the National Green Tribunal Act, 2010, granting environmental clearance in the area in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986 (29 of 1986);

XXXXX XXXXX XXXXX XXXXX

May, within a period of thirty days from the date of which the order or decision or direction or determination is communicated to him prefer an appeal to the Tribunal:

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days.”

11. The framers of law have worded the limitation provision somewhat differently. It has been worded in the negative language by stating that the Tribunal could condone the delay where the appeal is filed beyond 30 days but not exceeding the further period of 60 days. The legislative intent of applying the period of limitation with its rigors to the appeals under the NGT Act, is clear and unambiguous from the language of the Section itself. The bare reading of the above provision shows

that legislature has used the following significant expressions which require clear interpretation by the Tribunal:

- a. Within a period of 30 days from the date on which the order or decision or direction or determination is *communicated to him*.
- b. If the Tribunal is satisfied that the appellant was prevented *by sufficient cause* from filing the appeal within the said period.
- c. Allow it to file an appeal within a further period *not exceeding 60 days*.

(emphasis supplied)

12. Thus, we are required to examine the interpretation and application of these expressions to enable us to appropriately address and answer the controversy in issue in the present case.

13. The legislature, in its wisdom, has used the expression 'communicated to him' under Section 16 of the NGT Act in contradistinction to 'serving', 'receiving', 'delivery' or 'passing' of the order. Normally, these are the expressions which are used in the provisions relating to limitation.

Generally, limitation is to be reckoned from the date which is relatable to these expressions. For instance, the period of limitation may commence from the date the order is received by or served upon an individual, as presented in the relevant provisions. The expression 'communication' is neither synonymous nor even equivalent in law to the above mentioned expressions. The above-mentioned expressions require merely a unilateral act, that is, dispatch of the order, receipt of the order or service of the order upon an individual. But the act of communication cannot be completed unilaterally. It does require the element of participation by two persons, one who initiates communication and the other to whom the communication is addressed and who receives the same, i.e. the intended receiver.

At this stage, we may examine what is the legal meaning and connotation of the expression 'communication'. "Communication" is initiated by transforming a thought into words, act and expression. It is then converted into a message which is transmitted to the receiver. The receiver understands the message. It may or

may not evoke a response. There may be cases where only the sender and the receiver alone are not of significance but even the channel of communication may have some importance. The Black's Law Dictionary, 9th Edition, explains 'communication' as:

“1. The expression or exchange of information by speech, writing, gestures, or conduct; the process of bringing an idea to another's perception.

2. The information so expressed or exchanged.”

The Law Lexicon, 3rd Edition, defines 'communication' as:

“A statement made in writing or by word of mouth by one person to another; the transfer of information by speech and by acts, signs, and appearances.”

14. Wharton's Law Lexicon, 15th Edition, explains the terms 'communicate', 'communicated', 'communication' as well as 'communication to the public' as under:

“**Communicate**, means that sufficient knowledge of the basic facts constituting the “grounds” should be imparted effectively and fully to the detenu in writing in a language which he understands, *Lallubhai Jogibhai Patel v. Union of India*, (1981) 2 SCC 427 (733) : AIR 1981 SC 728 : (1981) 2 SCR 352.

It is a strong word. It requires that sufficient knowledge of the basic facts constituting the grounds should be imparted effectively and fully to the detenu in writing in a language which he understands, so as to enable him to make a purposeful and effective representation. *Kubic Darusz v. Union of India*, AIR 1990 SC 605 (609)

XXXX XXXX XXXX XXXX

Communicated, a posted acceptance takes effect when it is communicated to the offeror; communicated is defined as delivered at his address, Halsbury's Laws of England, Vol 9, para 281, p.160.

XXXX XXXX XXXX XXXX

Communication, means that the electrical impulse or signal transmitted by a telephone call was in itself a communication and any intentional interception of that signal in the course of its transmission through a public telecommunication system was subject to the provisions, *Morgans v. D.P.P. [HL(E)]*, (2000) 2 WLR 386. [Interception of Communication Act, 1985, s.1(1)(UK)]

A communication did not take place until the subscriber's telephone was answered at the destination and the calling parties communicated with each other. In other words, the digits dialled were a means to an end in the making of a communication, *Morgans v. DPP (DC)*, (1999) 1 WLR 981.

Means information imparted by one person to another, A Dictionary of Law, William C. Anderson, 1889, p.213. In Indian Parliament Communications are exchanged between the President and either House of Parliament and

between both the Houses of Parliament. The President may send a message to either House of Parliament with respect to a Bill pending before it or otherwise and a House which receives such message shall consider any matter required by the message with all convenient dispatch, Constitution of India, Art.86(2).

Communication, in respect of order of dismissal would mean that the same is served upon the delinquent officer, *State of Punjab v. Amar Nath Harika*, AIR 1966 SC 1313.

XXXX XXXX XXXX XXXX

Communication to the public, for the purposes of this clause, communication through satellite or cable or any other means of simultaneous communication to more than one household or place of residence including residential rooms of any hotel or hostel shall be deemed to be communication to the public. [Copyright Act, 197 (14 of 1957), S.2(ff)]

Means making any work available for being seen or heard or otherwise enjoyed by the public directly or by any mean display or diffusion other than by issuing copies of such work regardless of whether any member of the public actually sees, hears or otherwise enjoys the work so made available [Copyright Act, 1957, s.2(ff)]”

15. The Oxfords Dictionary of English, 3rd Edition, also defines the words ‘communication’ as under:

“**communication – 1.** The imparting or exchange of information by speaking, writing or using some other medium : *television is an effective means of communication [at the moment I am in communication with London. ; a letter or message containing information or news;; the successful conveying or sharing of ideas and feelings: there was a lack of **communication between** Pamela and her parents. social contact: she gave him some hope of some return, or at least of their future communication.*

2 (communications) means of sending or receiving information, such as telephone lines or computers: *satellite communications [as modifier] a communications network. [treated as sing.] the field of study concerned with the transmission of information.*

3 (communications) means of travelling or of transporting goods, such as roads or railways: *a city providing excellent road and rail communications.”*

16. Upon analysis of the above, it is clear that ‘communication’ is made by one and received by another. It requires sufficient knowledge of the basic facts constituting the communication. The action of communicating is precisely sharing of knowledge by one with another of the thing communicated. Communication, particularly to the public, has to be by methods of mass communication, like satellite, website, newspapers etc. ‘Communicated’ is a

strong word. It requires that sufficient knowledge of basic facts constituting the grounds of the order should be imparted fully and effectively to the person.

17. The expression 'is communicated to him', thus, would invite strict construction. It is expected that the order which a person intends to challenge is communicated to him, if not *in personam* than *in rem* by placing it in the public domain. 'Communication' would, thus, contemplate complete knowledge of the ingredients and grounds required under law for enabling that person to challenge the order. 'Intimation' must not be understood to be communication. 'Communication' is an expression of definite connotation and meaning and it requires the authority passing the order to put the same in the public domain by using proper means of communication. Such Communication will be complete when the order is received by him in one form or the other to enable him to appropriately challenge the correctness of the order passed.

18. Law gives a right to 'any person' who is 'aggrieved' by an order to prefer an appeal. The term 'any person' has to

be widely construed. It is to include all legal entities so as to enable them to prefer an appeal, even if such an entity does not have any direct or indirect interest in a given project. The expression 'aggrieved', again, has to be construed liberally. The framers of law intended to give the right to any person aggrieved, to prefer an appeal without any limitation as regards his locus or interest. The grievance of a person against the Environmental Clearance may be general and not necessarily person specific. This provision of Section 16 requires communication of the order to such person(s). The expression 'him' takes within its ambit 'any person' who is aggrieved by an order. Therefore, the expression 'communication' accordingly has to receive a more generic and at the same time, definite meaning. The nature of the communication has to be such that it reaches the public at large, as that appears to be the legislative intent. A person is expected to, and can, only act when the order is put in public domain. He is expected to download the same from the website of the concerned Ministry/Department, and if he so requires thereafter, make an application for receiving specific

information. However, the content of the order is required to be communicated by the MoEF as well as by the Project Proponent.

19. The limitation as prescribed under Section 16 of the NGT Act, shall commence from the date the order is communicated. As already noticed, communication of the order has to be by putting it in the public domain for the benefit of the public at large. The day the MoEF shall put the complete order of Environmental Clearance on its website and when the same can be downloaded without any hindrance or impediments and also put the order on its public notice board, the limitation be reckoned from that date. The limitation may also trigger from the date when the Project Proponent uploads the Environmental Clearance order with its environmental conditions and safeguards upon its website as well as publishes the same in the newspapers as prescribed under Regulation 10 of the Environmental Clearance Regulations, 2006. It is made clear that such obligation of uploading the order on the website by the Project Proponent shall be complete only when it can simultaneously be downloaded without

delay and impediments. The limitation could also commence when the Environmental Clearance order is displayed by the local bodies, *Panchayats* and Municipal Bodies along with the concerned departments of the State Government displaying the same in the manner afore-mentioned. Out of the three points, from which the limitation could commence and be computed, the earliest in point of time shall be the relevant date and it will have to be determined with reference to the facts of each case. The applicant must be able to download or know from the public notice the factum of the order as well as its content in regard to environmental conditions and safeguards imposed in the order of Environmental Clearance. Mere knowledge or deemed knowledge of order cannot form the basis for reckoning the period of limitation.

20. This brings us to the discussion on sufficiency of cause” which prevented the aggrieved person from filing an appeal within the prescribed period of 30 days, in terms of Section 16 of the NGT Act. It is difficult to state any hard and fast rule or principle that would uniformly apply to all cases, while examining the case for sufficiency or

otherwise of the cause of delay, in a given case. Though undoubtedly, it will necessarily depend upon the facts and circumstances of a given case, the Courts have, more often than not, stated the factors that would provide the precepts in adjudicating such matters.

21. Section 5 of the Limitation Act, 1963 (for short 'Limitation Act') also uses the term 'sufficient cause'. This section deals with power of the Court to condone the delay in filing of various appeals/applications and is founded on the theory of sufficient cause of delay. The Supreme Court, in the case of *Perumon Bhagvathy Devaswom, Perinadu Village Vs. Bhargavi. Amma (Dead) by LRs. and Ors.* (2008) 8 SCC 321 while dealing with this expression held as follows:

“What should be the approach of Courts while considering applications under Section 5 of Limitation Act, 1963, has been indicated in several decisions. It may be sufficient to refer to two of them. In *Shakuntala Devi Jain v. Kuntal Kumari* [1969] 1 SCR 1006, this Court reiterated the following classic statement from *Krishna v. Chathappan* 1890 ILR 13 Mad 269 :

“... Section 5 gives the Courts a discretion which in respect of jurisdiction is to be exercised in the way in which judicial power and

discretion ought to be exercised upon principles which are well understood; the words 'sufficient cause' receiving a liberal construction so as to advance substantial justice when no negligence nor inaction nor want of bona fides is imputable to the appellant."

In *N. Balakrishna v. M. Krishnamurthy* 2008 (228) ELT 162 (SC), this Court held:

It is axiomatic that condonation of delay is a matter of discretion of the Court. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. *Length of delay is no matter, acceptability of the explanation is the only criterion.* Sometimes delay of the shortest range may be uncondonable due to a want of acceptable explanation whereas in certain other cases, delay of a very long range can be condoned as the explanation thereof is satisfactory. Once the Court accepts the explanation as sufficient, it is the result of positive exercise of discretion and normally the superior Court should not disturb such finding, much less in revisional jurisdiction, unless the exercise of discretion was on wholly untenable grounds or arbitrary or perverse. But it is a different matter when the first Court refuses to condone the delay. In such cases, the superior Court would be free to consider the cause shown for the delay afresh and it is open to such superior Court to come to its own finding even untrammelled by the conclusion of the lower Court.

The primary function of a Court is to adjudicate the dispute between the parties and to advance substantial justice.... *Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly.*

A Court knows that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the Court is always deliberate. This Court has held that the words "*sufficient cause*" under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice.

It must be remembered that in every case of delay, there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of mala fides or it is not put forth as part of a dilatory strategy, the Court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time, and then the Court should lean against acceptance of the explanation.

(emphasis supplied)"

25. The principles applicable in considering applications for setting aside abatement may thus be summarized as follows:

(i) The words "sufficient cause for not making the application within the period of limitation" should be understood and applied in a reasonable, pragmatic, practical and liberal manner, depending upon the facts and

circumstances of the case, and the type of case. The words 'sufficient cause' in Section 5 of Limitation Act should receive a liberal construction so as to advance substantial justice, when the delay is not on account of any dilatory tactics, want of bona fides, deliberate inaction or negligence on the part of the Appellant.

(ii) In considering the reasons for condonation of delay, the courts are more liberal with reference to applications for setting aside abatement, than other cases. While the court will have to keep in view that a valuable right accrues to the legal representatives of the deceased Respondent when the appeal abates, it will not punish an Appellant with foreclosure of the appeal, for unintended lapses. The courts tend to set aside abatement and decide the matter on merits, rather than terminate the appeal on the ground of abatement.

(iii) The decisive factor in condonation of delay, is not the length of delay, but sufficiency of a satisfactory explanation.

(iv) The extent or degree of leniency to be shown by a court depends on the nature of application and facts and circumstances of the case. For example, courts view delays in making applications in a pending appeal more leniently than delays in the institution of an appeal. The courts view applications relating to lawyer's lapses more leniently than applications relating to litigant's lapses. The classic example is the difference in approach of courts to applications for condonation of delay in filing an appeal and applications for condonation of delay in refiling the appeal after rectification of defects.

(v) Want of 'diligence' or 'inaction' can be

attributed to an Appellant only when something required to be done by him, is not done. When nothing is required to be done, courts do not expect the Appellant to be diligent. Where an appeal is admitted by the High Court and is not expected to be listed for final hearing for a few years, an Appellant is not expected to visit the court or his lawyer every few weeks to ascertain the position nor keep checking whether the contesting Respondent is alive. He merely awaits the call or information from his counsel about the listing of the appeal.

22. In **Ram Nath Sao v. Gobardhan Sao** (2002) 3 SCC 195,

the Supreme Court observed thus:

“12. Thus it becomes plain that the expression "sufficient cause" within the meaning of Section 5 of the Act or Order 22 Rule 9 of the Code or any other similar provision should receive a liberal construction so as to advance substantial justice when no negligence or inaction or want of bona fides is imputable to a party. In a particular case whether explanation furnished would constitute "sufficient cause" or not will be dependent upon facts of each case. There cannot be a straitjacket formula for accepting or rejecting explanation furnished for the delay caused in taking steps. But one thing is clear that the Courts should not proceed with the tendency of finding fault with the cause shown and reject the petition by a slipshod order in over-jubilation of disposal drive. *Acceptance of explanation furnished should be the rule and refusal, an exception, more so when no negligence or inaction or want of bona fides can be imputed to the defaulting party.* On the other hand, while considering the matter the Courts should not lose sight of the

fact that by not taking steps within the time prescribed a valuable right has accrued to the other party which should not be lightly defeated by condoning delay in a routine-like manner. However, by taking a pedantic and hypertechnical view of the matter the explanation furnished should not be rejected when stakes are high and/or arguable points of facts and law are involved in the case, causing enormous loss and irreparable injury to the party against whom the *lis* terminates, either by default or inaction and defeating valuable right of such a party to have the decision on merit. While considering the matter, Courts have to strike a balance between resultant effect of the order it is going to pass upon the parties either way.”

23. The Court went further and recorded certain principles:-

“13. The principles applicable in considering applications for setting aside abatement may thus be summarized as follows :

(i) The words "sufficient cause for not making the application within the period of limitation" should be understood and applied in a reasonable, pragmatic, practical and liberal manner, depending upon the facts and circumstances of the case, and the type of case. The words 'sufficient cause' in section 5 of Limitation Act should receive a liberal construction so as to advance substantial justice, when the delay is not account of any dilatory tactics, want of bonafides, deliberate inaction or negligence on the part of the appellant.

(ii) In considering the reasons for condonation of delay, the Courts are more liberal with reference to applications for setting aside abatement, than other cases. While the Court will have to keep in view that

a valuable right accrues to the legal representatives of the deceased respondent when the appeal abates, it will not punish an appellant with foreclosure of the appeal, for unintended lapses. The Courts tend to set aside abatement and decide the matter on merits, rather than terminate the appeal on the ground of abatement.

(iii) The decisive factor in condonation of delay, is not the length of delay, but sufficiency of a satisfactory explanation.

(iv) The extent or degree of leniency to be shown by a Court depends on the nature of application and facts and circumstances of the case. For example, Courts view delays in making applications in a pending appeal more leniently than delays in the institution of an appeal. The Courts view applications relating to lawyer's lapses more leniently than applications relating to litigant's lapses. The classic example is the difference in approach of Courts to applications for condonation of delay in filing an appeal and applications for condonation of delay in refiling the appeal after rectification of defects.

(v) Want of 'diligence' or 'inaction' can be attributed to an appellant only when *something* required to be done by him, is not done. When nothing is required to be done, Courts do not expect the appellant to be diligent. Where an appeal is admitted by the High Court and is not expected to be listed for final hearing for a few years, an appellant is not expected to visit the Court or his lawyer every few weeks to ascertain the position nor keep checking whether the contesting respondent is alive. He merely awaits the call or information from his counsel about the listing of the appeal."

24. It may be noted that these principles, however, are, not an innovation of the Court in the above case, in the strict sense of the term, and draw their origin from earlier judgement of the Supreme Court in the case of *Collector, Land Acquisition, Anantnag and Another v. Mst. Katiji and Others* 1987 (2) SCC 12 where the Court laid down the following principles:

“1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.

2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

3. “Every day’s delay must be explained” does not mean that a pedantic approach should be made. Why not every 10 hour’s delay, every second’s delay? The doctrine must be applied in a rational commonsense pragmatic manner.

4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.

5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account for mala fides. A litigant does not stand to benefit by resorting to delay. In fact, he runs a serious risk.

6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.”

25. Still in 1996, a three judge Bench of the Supreme Court in the case of *State of Haryana Vs Chandra Mani and others 1996 (3) SCC 132* while dealing with the power of Court to condone the delay with reference to ‘sufficient cause’, held:

6. In *State of Kerala v. E.K. Kuriyipe 1981 Supp SCC 72*, it was held that whether or not there is sufficient cause for condonation of delay is a question of fact dependent upon the facts and circumstances of the particular case. In *Milavi Devi v. Dina Nath 1982 (3) SCC 366*, it was held that the appellant had sufficient cause for not filing the appeal within the period of limitation. This Court under Article 136 can reassess the ground and in appropriate case set aside the order made by the High Court or the tribunal and remit the matter for hearing on merits. It was accordingly allowed, delay was condoned and the case was remitted for decision on merits.

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11. ...The expression “sufficient cause” should, therefore, be considered with pragmatism in justice-oriented approach rather than the technical detection of sufficient cause for explaining every day’s delay. The factors which are peculiar to and characteristic of the

functioning of the Governmental conditions would be cognizant to and requires adoption of pragmatic in justice-oriented process. The Court should decide the matters on merits unless the case is hopelessly without merit. No separate standards to determine the cause laid down by the state viz-a-viz private litigant could be laid to prove strict standards of sufficient cause...”

26. The above view was also taken with approval, by the Supreme Court in *Improvement Trust Ludhiana vs Ujagar Singh and Others* 2010 (6) SCC 786 where the Court opined that while considering the application for condonation of delay no straitjacket formula can be prescribed to come to the conclusion if sufficient and good grounds have been made out or not. Each case has to be weighed from its facts and the circumstances in which the party acts and behaves. From the conduct, behaviour and attitude of the applicant it cannot be said that it had been absolutely callous and negligent in prosecuting the matter. The Court further stated, “justice can be done only when the matter is fought on merit and in accordance with law rather than to dispose of it on such technicalities and that too at the threshold”.

27. The aforementioned judgments, clearly suggest that the term 'sufficient cause' has to be construed liberally and the Court should be inclined to determine the cause on merits rather than to throw out the petition on the ground of delay at the threshold. The conduct and attitude of the applicant is a relevant consideration. If there is no direct or culpable negligence on part of the applicant and such application does not suffer from the vice of malafides and is in fact bonafide, the Court would be more inclined to condone the delay if such condonation does not cause grave injustice to the other side. This liberal approach has developed over a period of time in limitation jurisprudentia.

28. The other approach to examine the application of law of limitation is that of somewhat strict interpretation. According to this approach, the law of limitation has to be normally construed strictly as it has the effect of vesting in one and taking away right from the other. To condone the delays in a mechanical or a routine manner may amount to jeopardizing the legislative intent behind the provisions relating to limitation.

29. It cannot be disputed that the law of limitation is founded on public policy and is enshrined in the maxim "*interest reipublicae ut sit finis litium*" which means that it is for the general welfare that a period be put to litigation. The very scheme of proper administration of justice presupposes expediency in the disposal of cases and avoidance of frivolous litigation. In construing enactments which provide period of limitation for institution of proceedings, the purpose is to intimate people that after lapse of a certain time from a certain event, a proceeding will not be entertained where a strict grammatical construction is normally the safe guide. Law is not an exercise in linguistic discipline but the substance of legislative intention can also not be frustrated merely by uncalled for equity or sympathy. (Reference : U.N. Mitra's Law of Limitation and Prescription, 12th Edition 2006).

30. In the case of **Banarasi Devi v. ITO : AIR 1964 SC 1742**, the Supreme Court clearly stated the principle that the provisions introduced to open up liability which had become barred by lapse of time will be subject to the rule of strict construction. Over a period of time this principle

has prevailed, may be with some variation, relatable to the sufficiency of cause shown by the parties.

31. To law of limitation, the argument of hardship or alleged injustice has to be applied with greater care. The argument "ab inconvenienti" said Lord Moulton, "is one which requires to be used with great caution". (Reference: Principles of Statutory Interpretation by Justice G. P. Singh, 11th Edition, 2008).

32. The essence of the above enunciated principle, thus, reflects a simple but effective mandate that a provision must be construed on its plain and simple language. The provision of limitation should be construed strictly, but at best, its application could be liberalised where actual sufficient cause in its true sense is shown by an applicant who has acted bonafide and with due care and caution.

33. It may be noticed that even after sufficient cause has been shown, a party is not entitled to the condonation of delay in question as a matter of right. The proof of sufficient cause is a condition precedent for the exercise of the discretionary jurisdiction vested in the

Courts/Tribunals. This aspect of the matter naturally introduces the consideration of all relevant facts and it is at this stage that diligence of the party or its bonafides may fall for consideration.

34. Further, the Supreme Court in *P.K. Ramachandran v. State of Kerala, JT 1997 (8) S.C. 189* held that law of limitation may hardly effect a particular party but it has to be applied with all its rigour when the statute so prescribe and the Courts have no power to extend the period of limitation on equitable grounds. In other words, the provisions relating to limitation cannot be so liberally construed as to frustrate the very purpose of the said provisions.

35. When a petition becomes barred by time, a right accrues to the other party and such a right cannot be taken away by the Court merely on an application which lacks bonafides and does not disclose any sufficient cause for condonation of delay.

36. As noticed above, the law of limitation is founded on public policy, its aim being to secure the quiet of the

community and to prevent oppression. The framers of law fixed the time for determination of the controversies at different levels and they should be raised and controverted limited to that fixed period of time. Rule of limitation is intended to serve the ends of justice by preventing continued litigation and requires the aggrieved to act with expeditiousness and in any case, within the prescribed period of limitation and to ensure that a successful party can enjoy the fruits of the result of the litigation. In that sense, the object of rule of limitation is preventive and curative. It imposes a statutory bar after a certain period and gives a quietus to the legal proceedings to enforce an existing right. Limitation, as such does not destroy the rights of the parties but bars a remedy, which otherwise was available to the party within the period so prescribed, the object being that an unlimited and perpetual threat of litigation is avoided as it leads to disorder and confusion and creates insecurity and uncertainty. In other words, it also helps in advancing the cause of the doctrine of finality.

37. Another principle which can be applied while construing and examining such provision is the presumption that the Legislature was aware of all the relevant laws in force when it enacted the law in question. If the Legislature opts to use some expressions or words in the provisions, that too, in a particular manner and with some emphasis, then such words and expressions must be given their plain meaning and import. Such provisions should be applied with all their rigour.

38. As already noticed, the law of limitation is relatable to the principle of public policy. Legislative intent behind prescribing limitation is to further the cause of public policy, on the one hand and to aid the doctrine of finality, on the other. This would impliedly help in expeditious disposal of cases. In our considered view, it is always better to adopt a balanced approach with reference to the facts and circumstances of a given case. A strict interpretational approach may subserve the cause of justice while too liberal an approach may defeat the ends of justice. The law of limitation, therefore, must receive a reasonable construction with the aid of the principle of

plain reading. Wherever the Court/Tribunal finds sufficient cause being shown and conduct of the applicant being bonafide, that is to say his approach and attitude is not that of negligence and inaction, he has approached the Court with clean hands and true facts and that there would be no grave and irretrievable injustice done to the other parties, the judicial discretion of the Court may be tilted more towards condoning the delay rather than shutting the doors to justice right at the threshold.

39. In the case of *Ranghunath Rai Bareja and Others vs Punjab National Bank* (2007) 2 SCC 230 the Supreme Court held as under:

30. Thus in *Madamanchi Ramappa v. Muthaluru Bojjappa* (vide AIR p. 1637, para 12) this Court observed:

“[W]hat is administered in Courts is justice according to law and considerations of fair play and equity however important they may be, must yield to clear and express provisions of the law.”

31. In *Council for Indian School Certificate Examination v. Isha Mittal* (vide SCC p. 522, para 4) this Court observed:

“Considerations of equity cannot prevail and do not permit a High Court to pass an order contrary to the law”

32. Similarly in P.M. Latha v. State of Kerala (vide SCC p. 546, para 13) this Court observed:

“13. Equity and law are twin brothers and law should be applied and interpreted equitably but equity cannot override written or settled law.”

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(emphasis supplied)

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39. In Hiralal Ratanlal v. STO this Court observed AIR p. 1035)

“In construing a statutory provision, the first and the foremost rule of construction is the literary construction. All that the Court has to see at the very outset is what does that provision say. If *the provision is unambiguous and if from that provision the legislative intent is clear, the Court need not call into aid the other rules of construction of statues. The other rules of construction of statues are called into aid only when the legislative intention is not clear*”(SCCp. 224, para 22)

(emphasis supplied)

40. Once we examine the provision of Section 16 of the NGT Act in light of the above principle, it is clear that the provision is neither ambiguous nor indefinite. The expressions used by

legislature are clear and convey the legislative intent. The communication of an order granting the Environmental Clearance has to be made by the MoEF as well as the Project Proponent in adherence to law. The communication would be complete when it is undisputedly put in the public domain by the recognised modes, in accordance with the said provision. The limitation of 30 days would commence from that date. If the appeal is presented beyond the period of 30 days, in that event, it becomes obligatory upon the applicant to show sufficient cause explaining the delay. The delay must be bonafide and not a result of negligence or intentional inaction or malafide and must not result in the abuse of process of law. Once these ingredients are satisfied the Tribunal shall adopt a balanced approach in light of the facts and circumstances of a given case.

Requirement, Mode and obligation of communication

41. The requirement to make communication of Environmental Clearance order is not an administrative one but a legal requirement. Once it is a legal right, it has to be stated as to whose legal obligation it is to communicate the order and the manner in which such communication should

be effected. This legal obligation emerges from two different aspects. Firstly, imposition of certain safeguards and conditions in exercise of the powers vested in MoEF under the Environment (Protection) Act, 1986. Secondly, the limitations and modus that may be directed in regard to the Environmental Clearance, in terms of the rules and regulations framed under Environmental Regulations read in conjunction with the Environmental (Protection) Rules, 1986. In terms of these rules and regulations, projects falling under Category 'A' of the Schedule are mandated to obtain prior environmental clearance from the MoEF while the projects falling under Category 'B' are to obtain such Environmental Clearance from the concerned State Environment Impact Assessment Authority. The notification of Environmental Clearance Regulation, 2006 was issued on 14th September 2006 and deals with grant of prior Environmental Clearance as well as with the 'Post Environmental Clearance Monitoring'. For the purpose of the present dispute it would be sufficient for us to notice Regulation 10, which reads as under:-

- “10. Post Environmental Clearance Monitoring-** [(i)
(a) In respect of Category 'A' projects, it shall be mandatory for the Project Proponent to make public

the environmental clearance granted for their project along with the environmental conditions and safeguards at their cost by prominently advertising it at least in two local newspapers of the district or State where the project is located and in addition, this shall also be displayed in the Project Proponent's website permanently.

(b) In respect of Category 'B' projects, irrespective of its clearance by MoEF/SEIAA, the Project Proponent shall prominently advertise in the newspapers indication that the project has been accorded Environment Clearance and the details of MoEF website where it is displayed.

(c) The Ministry of Environment and Forest and the State/Union Territory level Environmental Impact Assessment Authorities (SEIAAs), as the case may be shall also place the environmental clearance in the public domain on Government portal.

(d) The copies of the environmental clearance shall be submitted by the Project Proponents to the Heads of local bodies, Panchayats, and Municipal Bodies in addition to the relevant offices of the Government who in turn has to display the same for 30 days from the date of receipt.]

[(ii)] it shall be mandatory for the project management to submit half-yearly compliance reports in respect of the stipulated prior environmental clearance terms and conditions in hard and soft copies to the regulatory authority concerned, on 1st June and 1st December of each calendar year.

[(iii)] All such compliance reports submitted by the project management shall be public documents. Copies of the same shall be given to any person on application to the concerned regulatory authority. The latest such compliance

report shall also be displayed on the website of the concerned regulatory authority.”

42. Since the present case relates to a Category ‘A’ project, we are primarily concerned with Regulation 10 (i)(a) of the Environment Clearance Regulations, 2006. The most noticeable expression used in this regulation is that it ‘shall be mandatory’ for the Project Proponent to make public the Environmental Clearance granted for their project along with the environmental conditions and safeguards at their cost by prominently advertising it in at least two local newspapers of the district or State where the project is located, and in addition, this shall also be displayed on the Project Proponent’s website permanently. The use of the words ‘shall’ and ‘mandatory’ in Regulation 10 of 2006 Regulations clearly exhibits the intent of the Legislature not to make the compliance to these provisions “directory’. There is no legislative indication or reason for construing the word ‘shall’ as ‘may’. Settled canon of statutory interpretation contemplates that it is necessary to lay emphasis on the language used by the framers of the regulations. Once a provision has no element of ambiguity and the provision its

being mandatory is clearly discernible from the plain language thereof, it would be impermissible to hold, even impliedly, that the provision is directory in its content and application. It would be required of the concerned stakeholders to comply with such provisions *stricto sensu*. The principle of substantial compliance would have no application to this provision and on its plain reading the provision is mandatory and must be complied with as provided. The Project Proponent is legally obliged under this provision to make public the Environmental Clearance granted for the project with the environmental conditions and safeguards at their cost by promptly advertising it in at least two newspapers of the district or in the state where the project is located. In addition, the order shall also be displayed on its website permanently.

43. Still in addition thereto, the Project Proponent also has an obligation to submit the copies of the Environmental Clearance to the Heads of local bodies, *Panchayats* and Municipal bodies in addition to the relevant offices who in turn have to display the same for 30 days from the date of receipt thereof.

44. An obligation is also cast upon the MoEF or the State/Union Territory Level Environmental Impact Assessment Authority, as the case maybe, to place the Environmental Clearance in the public domain on Government portal. On the analysis of Regulation 10 and its sub-regulations, it is clear that the obligation to communicate the Environmental Clearance in the prescribed manner lies both upon the MoEF/State Government/State Environmental Impact Assessment Authority, on the one hand and the Project Proponent, on the other. This mandatory legal obligation is intended to safeguard the public interest, on the one hand and protection of the environment, on the other. That is why the legislature has given the right to 'any person' to prefer an appeal against such order irrespective of his *locus standi* or his interest in the *lis*.

45. This brings us to an ancillary question as to what is required to be published/advertised in the two newspapers of the district or the State where the project is located. The answer is provided in the Regulation itself which states that it is mandatory to make public the Environmental Clearance granted for the project along with the environmental

conditions and safeguards. In other words, mere publication of information about the order granting Environmental Clearance would not be construed as compliance with this provision *stricto sensu*. The conditions for granting of Environmental Clearance with definite safeguards have to be published in the newspaper. The purpose behind publishing a notice with the contents of the order is only that 'any person' would be able to make up his mind whether he needs to question the correctness or legality of such order.

46. The Project Proponent is not vested with any option but to put the Environmental Clearance order on its website and advertise it completely in the form as required. It has no discretion to perform them partially or in extracts. It is expected to necessarily comply with the conditions prescribed under Regulation 10, Environment Clearance Regulations, 2006. These are:

- a) The Project Proponent shall publish or advertise the order of Environmental Clearance, its conditions and said safeguards in at least two newspapers of district or State where the project is located. The Project Proponent has to do it on its cost;

- b) The Project Proponent has to put the same on its website permanently;
- c) Lastly, the Project Proponent has to submit the copies to the Heads of local bodies, *Panchayat* and Municipal Bodies in addition to the relevant offices of the Government.

Further, either the MoEF or the State Authority, as the case may be, is obliged under Regulation 10(i)(c), to place the Environmental Clearance in public domain on Government portal.

47. The expression 'public domain' will mean anything which is accessible to the public at large and anyone can access that information without any restriction. Public domain is the state of being available to the public as a whole. It is synonymous to public notice, i.e. a notice given in such a manner as could bring it to the knowledge of the concerned and also to the public in general. To put it precisely, it is *publici juris* which means that it is of public right or is available to the public at large.

48. The MoEF is also to ensure that its order of Environmental Clearance is brought to the notice of the concerned persons as well as to the general public. The regulation clearly provides that the MoEF must upload the order on its website. Once it is so provided then it must be complied with in a manner which is flawless and free from ambiguity and uncertainty. The MoEF and the Project Proponent must discharge their statutory obligation in terms of the provisions. The Project Proponent must advertise the factum of order, conditions and safeguards brought in the Environmental Clearance order within the specified time, besides putting it on the company's website. The website of MoEF should always be functional and accessible to the public at large, who should be in a position to download the Environmental Clearance order without restrictions, inconvenience and any patent or latent defect. The MoEF must make every effort to put the Environmental Clearance orders on the website immediately upon passing of such order but in any case not later than one week from the date of passing of such order. Needless to mention that the website should be regularly updated.

49. The relevant offices of the Government referred to in Regulation 10(i)(d) upon receiving the copy of the Environmental Clearance through its concerned department shall display the same for 30 days from the date of receipt of such copy. The expression 'display' may either be construed as putting the order on the website of the Government or as displaying it on the notice board of the concerned Department of the Government.

50. In other words, in addition to Project Proponent, the MoEF and concerned officers of the stated authorities are also required to display such order in a manner that it comes to the notice of the public at large. All the three stake holders, i.e., the Project Proponent, the MoEF and the concerned Government/Authority are statutorily obliged to comply with the conditions stated in this Regulation. None of them can alter the mode or methodology of bringing the order in the public domain. The basic feature of this provision is that it not only recognizes or contemplates the factum of passing of an order of Environmental Clearance but also brings its contents in the public domain.

51. Lastly, the requirement of placing the Environmental Clearance in public domain through a specified mode is contemplated as a condition of the order of Environmental Clearance. The Condition 13 of the Environmental Clearance dated 19th April, 2012 reads as under:

“The Project Proponent should advertise within 7 days at least in two local newspapers widely circulated in the region around the project, one of which shall be in the vernacular language of the locality concerned informing that the project has been accorded Environmental Clearance and copies of clearance letters are available with the State Pollution Control Board/Committee and may also be seen at Website of the Ministry of Environment and Forests at <http://www.envfor.nic.in>.”

52. The language of ‘Condition 13’ of the Environmental Clearance order is clearly in addition and not in derogation to the requirements stated in Regulation 10 of the EC Regulations, 2006. The Project Proponent as per this condition is required to advertise within seven days, the grant of Environmental Clearance. This condition is at some variance to the requirement of Regulation 10. As per the above condition the order has to be published in two newspapers and one has to be in vernacular language. On a plain reading of ‘Condition 13’, it is clear that the intention behind it is to

only give an intimation of the grant of Environmental Clearance, as it requires the Project Proponent to state that the clearance letter is available with the concerned authorities. Thus, the requirement of 'Condition 13' is somewhat different than what is commanded by Regulation 10.

53. These are the conditions precedent for a Project Proponent and the MoEF or State Authority to validly give effect to an order of Environmental Clearance. These provisions being mandatory do not admit of lapses, which in every likelihood would adversely affect the implementation of such Environmental Clearance. The maxim *Conditio praecedens adimpleri debet prius quam sequatur effectus* (a condition precedent must be fulfilled before the effect can follow) will have application to such situations.

54. The purpose appears to be to ensure that the factum of Environmental Clearance as well as the environmental conditions and safeguards imposed in the order are brought to the notice of the public at large. The intention is not to make it available *in personam* but *in rem*.

55. Besides the fact that there is a statutory obligation upon the authorities and the Project Proponent to bring the order in

the public domain by the specified modes aforementioned, the approach that we have afore-stated can also be supported by the reasoning that to make the remedy of an appeal effective, efficacious and meaningful, the availability of reasons, conditions and safeguards stated in the order would be necessary. A person must know the content of the order which he has a right to challenge in an appeal. It is only when the content of the order is available and known to a prospective appellant that such appellant would be able to effectively exercise the right of appeal. Thus, 'communication of the order' would mean and must be construed as meaning the date on which the factum and content both, of the Environmental Clearance order are made available in the public domain and are easily accessible by a common person. These provisions have to be interpreted by giving them the meaning that will advance the purpose of the provision and make the remedy practical and purposeful. This is the requirement of law and is tilted in favour of the larger public interest. Mere inconvenience or the expenses incurred by the parties or by the authorities would not be a ground to adopt a

different approach. *Necessitas publica major est quam private*
(The public necessity is greater than the private interest).

Discussion of merits of the case :

56. Undisputedly, the environment clearance order was passed on 19th April 2012. It is stated that it was put on the website of the MoEF on 8th June, 2012 and an appeal was filed on 17th July, 2012. If these facts stated by the applicant are taken to be correct then there is a delay of ten days in filing the appeal as the date of the order would have to be excluded. According to the applicant, despite the fact that it was put by the MoEF on the website in June 2012, still it could not be downloaded as the website of the MoEF was not accessible. To support this fact, the applicant relies upon the order passed by the Central Information Commissioner dated 18th May 2012 directing the Ministry to correct its website and provide the complete details as it was not being done as per the applications moved by Sh. Himanshu Thakkar. Furthermore, the Director of the MoEF, vide her email dated 5th June, 2012, had informed Sh. Himanshu Thakkar that due to some glitches in synchronisation of the new website/portal with the old one, they were experiencing certain difficulties in

uploading the Environmental Clearance. In this mail, it was admitted that the MoEF itself could not see the minutes and agenda uploaded by them and had assured that she would send the scanned copy of the Environmental Clearance to Sh. Himanshu Thakkar by the evening. This polite letter written by the Director, MoEF, clearly establishes that the Environmental Clearance was not freely accessible and therefore could not be downloaded by any person.

57. This stand of the applicant has to be examined in light of other circumstances of the present case. The Project Proponent had miserably failed to comply with the statutory obligation placed upon him in terms of Regulation 10 (i) (a). He only published an intimation stating that the Environmental Clearance has been granted. The company never published the environmental conditions and safeguards in the two newspapers, as required under the said Regulation. In fact, there is no compliance of Regulation 10(i)(a) as well as proper compliance of Condition 13 of the Environmental Clearance order dated 19th April, 2012 by the Project Proponent. It was further expected of the Project Proponent to provide copies of the Environmental Clearance to the Heads of

the local bodies, *Panchayats*, Municipal bodies, in addition to providing the same to the relevant offices of the Government, who in turn were expected to publicly display the same for a period of 30 days. From the record available before us, it cannot be stated that this Regulation was complied with. It is stated on behalf of the Project Proponent that it was given to the *panchayats* but no details have been furnished as to when and to which local authority and government body the Environmental Clearance was given and when was the same displayed on the Board of such Authority/Government, as is required under Regulation 10(i)(d).

58. In regard to the availability of the said order on the website of the MoEF, a serious controversy was raised. In fact, such grievance has been raised before the Tribunal even in other cases. As far as the present case is concerned, in view of the order of the CIC as well as the letter of the Director of the MoEF itself, it can safely be concluded that all is not well with the website/portal of the MoEF. It is not only the administrative duty but a statutory obligation of the MoEF to place such orders in the public domain to ensure their accessibility to the public at large.

59. The applicant has also claimed that he could obtain Form 1 and Scoping Clearance (TOR) only on 12th July, 2012 despite his best efforts. In other words, he filed the appeal within five days from the date on which the complete record and information of the entire case was available to him. We are unable to accept this contention as the requirement of law is only to place on the website and bring in the public domain, the order of Environmental Clearance with environmental conditions and safeguards stated therein. It is this order which is appealable before the Tribunal in terms of Section 16(h). The minute details in regard to the above, such as the Form 1 and the Scoping Clearance (TOR) which an applicant may like to obtain are not part of the essentials of communication of Environmental Clearance Order for the purposes of preferring an appeal. Thus, that cannot be the foundation for commencement of limitation on the premise that it is a 'communication of the order' that was completed on 12th July, 2012.

60. The MoEF claims to have put the order of Environmental Clearance on the website on 22nd May, 2012, thus 30 days would expire on 21st June, 2012. If we accept this contention,

then the appeal would be barred by 26 days. We have already recorded that the website of the MoEF was not accessible as late as 5th June, 2012 and, therefore, we would believe the version given by the applicant that he could download the order from the Ministry's website only on 8th June, 2012 and therefore, the appeal is barred only by 8 days, which is well within the jurisdiction of the Tribunal to condone, being within 60 days, in excess of the prescribed period of 30 days. Even if for the sake or arguments we accept the case of the MoEF, then also the appeal would be barred by 26 days which again falls well under the prescribed period of 60 days, and such delay is condonable by the Tribunal.

61. From the above discussion, it is clear that the applicant has been able to show sufficient cause for condonation of 8 days delay or even 26 days delay in filing the appeal. Not even a single instance of negligence, carelessness has been pointed out by the non-applicant before us. In any case, it would hardly lie in the mouth of the Project Proponent and the MoEF to raise an objection of limitation as it has been established on record that both of them have failed to comply with their statutory obligations. They cannot be permitted to take

advantage of their own wrong, particularly, the Project Proponent, who has committed defaults under Regulation 10(i)(a) as well as Regulation 10(i)(d) of the Environment Clearance Regulations, 2006.

62. Ergo for the reasons afore-recorded, we have no hesitation in condoning the delay of 8/26 days in filing the present appeal which we do hereby condone and direct the appeal to be heard on merits.

63. It is expected of the judicial forum to eliminate the cause of litigation, particularly when it is a cause for repeated litigation *boni judicis est causas litium dirimere*. As such pleas are taken more often than not in cases of condonation of delay relating to the compliance of these provisions, thus, it needs clarity and certainty in its application.

64. Before we part with this file, we are of the considered view that it is required of us to pass certain directions so as to provide clear meaning to the expression 'communication' and also to ensure that none of the stakeholders, including MoEF, Project Proponent and the other concerned persons are placed in a disadvantageous position for inaction or lapse of the other in fulfilment of their respective statutory obligations. To serve

the ends of justice better and in the larger public interest, we hereby issue the following directions:

1. The MoEF shall, within seven days from the date of passing of the order of Environment Clearance, upload it on its website. It shall be the duty of the MoEF to ensure that immediately upon its uploading the same should be made accessible and can be downloaded without any delay or impediment. It would remain so uploaded on the website for a period of at least 90 days.
2. The Ministry shall also maintain a public notice board in its premises including its regional offices, where the public is permitted without hindrance and display the order of environmental clearance on that notice board for a period of 30 days.
3. Orders communicated and displayed shall be complete, particularly in relation to the environmental conditions and safeguards, and proper records of the order being uploaded on the website and its placement on the public notice board of the MoEF shall be maintained by MoEF in normal course of its business.

4. The Project Proponent in terms of Regulation 10(i)(a) shall publish the factum of environmental clearance granted to the project along with environmental conditions and safeguards, at its own costs. Such publication shall be effected in two local newspapers of the district or State where the project is located.
5. In addition thereto, the Project Proponent shall display on its website permanently, the factum, environmental conditions and safeguards of environmental clearance. This shall be done in the name of the company, unit or industry which is the Project Proponent and not in the name of its parent or subsidiary company or sister concern.
6. The Project Proponent shall also submit the copies of the Environmental Clearance to the Heads of the local bodies, *panchayats* and municipal bodies of that district.
7. The Project Proponent shall also submit to the concerned department of the Government of that State, copy of the Environmental Clearance which in turn shall be displayed by the concerned department of that

government for a period of 30 days on its website as well as on its public notice board.

8. Besides the above, a Project Proponent, under the conditions of the consent order, if so provided therein, shall publish the factum of grant of Environmental Clearance in two newspapers, one being in vernacular language, having circulation in the area where the industry is located. It shall give such necessary information, which may not contain the conditions and safeguards for grant of Environmental Clearance.
9. In view of the order of the Central Information Commissioner and the record before us, we hereby direct the MoEF to ensure that its website is always in working order and shall be positively accessible to the public at large to enable any person to download the requisite information instantaneously. Such steps should be taken forthwith.
10. The date on which the order of Environmental Clearance is communicated to the public at large, shall be the date from which the period of limitation shall reckon as contemplated under Section 16 of the Act.

Communicating the order, in other words, shall mean putting the order in the public domain in its complete form and as per the mode required under the provision of the NGT Act of the Regulation 2006. The limitation shall start running and shall be computed as referred to in Para 19 of the judgment. Where different acts by different stakeholders are complied with at different dates, the earliest date on which complete communication is carried out, shall be the date for reckoning of limitation.

Justice Swatanter Kumar
Chairperson

Justice P. Jyothimani
Judicial Member

Dr. D.K. Agrawal
Expert Member

Dr. G.K. Pandey
Expert Member

Prof. A.R. Yousuf
Expert Member

New Delhi;
March 14, 2013

[2021] 10 S.C.R. 1

MUNICIPAL CORPORATION OF GREATER MUMBAI

v.

ANKITA SINHA & ORS.

(Civil Appeal Nos. 12122-12123 of 2018)

OCTOBER 07, 2021

**[A. M. KHANWILKAR, HRISHIKESH ROY AND
C. T. RAVIKUMAR, JJ.]**

National Green Tribunal Act, 2010: History of legislation – Preamble and Statement of Objects and Reasons of the Act – Contours of the jurisdiction of the NGT – Discussed.

National Green Tribunal Act, 2010: Interpretation of – Purposive interpretation – The provision must be read with the intention to accentuate them, especially as they concern protections of rights under Art.21 and also deal with vital environmental policy and its regulatory aspects.

National Green Tribunal Act, 2010: Salient features – Discussed.

National Green Tribunal Act, 2010: Role of National Green Tribunal – The Schedule I of the NGT Act is concerned with implementation of few environmental related enactments such as the Water Act, the Air Act, the Environment Act, the Forest Conservation Act etc – As one looks at these enactments, an expanded role for the NGT is clearly discernible – The activities of the NGT are not only geared towards the protection of the environment but also to ensure that the developments do not cause serious and irreparable damage to the ecology and the environment – NGT is primarily concerned with protection of the environment and also preservation of the natural resources – As the specialized forum, the NGT would be expected to take preventive action, besides settling and adjudicating disputes and pass orders on all environment related questions – NGT is not just an adjudicatory body but has to perform wider functions in the nature of prevention, remedy and amelioration.

National Green Tribunal Act, 2010: Power of National Green Tribunal – In case of environmental events causing damage – The

- A *NGT is empowered to carry out restitutive exercise for compensating persons adversely affected by environmental events – The larger discourse which informs such functions is related to distributive and corrective justice – Even in the absence of harm inflicted by human agency, in a situation of a natural calamity, the NGT will be required to devise a plan for alleviating damage – An inquisitorial function is also available for the NGT, within and without adversarial significance – Many of these functions do not require an active “dispute”, but the formulation of decisions.*

- B *National Green Tribunal: Suo motu power, exercise of – The specialized tribunal’s exercise of suo motu powers is somewhat distinct from those exercised by the constitutional Courts – The Supreme Court and High Courts can foray into any issues under their constitutional mandate but the NGT cannot naturally travel beyond its environmental domain in reference to the scheduled enactments – However, as long as the sphere of action is not breached, the NGT’s powers must be understood to be of the widest amplitude.*

- C *National Green Tribunal: Uniqueness of NGT vis-a-vis other Tribunals – The statutory Tribunals are categorized to fall under four subheads; Administrative Tribunals under Art.323A; Tribunals under Art.323B; Specialized sector Tribunals and most prominently; Tribunals to safeguard rights under Art.21 – The duties of NGT brings it within the ambit of the fourth category, creating a compelling proposition for wielding much broader powers as delineated by the statute.*

- D *National Green Tribunal: Sui Generis role of NGT – NGT is a specialised forum – The NGT is a Tribunal with sui generis characteristic, with the special and all-encompassing jurisdiction to protect the environment – Besides its adjudicatory role as an appellate authority, it is also conferred with the responsibility to discharge role of supervisory body and to decide substantial questions relating to the environment – The necessity of having a specialized body, with the expertise to handle multi-dimensional environmental issues allows for an all-encompassing framework for environmental justice – The technical expertise that may be required to address evolving environmental concerns would definitely require a flexible institutional mechanism for its effective exercise.*

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National Green Tribunal: An Authority to take suo motu cognizance of matter – NGT is not required to be triggered into action by an aggrieved or interested party alone – The exercise of power by the NGT is not circumscribed by receipt of application – When substantial questions relating to the environment arise and the issue is civil in nature and those relate to the enactments in Schedule I of the Act, the NGT even in the absence of an application, can self-ignite action either towards amelioration or towards prevention of harm. A B

Environmental law: Precautionary Principle – Application of – Held: The principle must apply in the widest amplitude to ensure that it is not only resorted to for adjudicatory purposes but also for other ‘decisions’ or ‘orders’ to governmental authorities or polluters, when they fail to “to anticipate, prevent and attack the causes of environmental degradation – Two aspects must therefore be emphasized i.e. that the NGT is itself required to carry out preventive and protective measures, as well as hold governmental and private authorities accountable for failing to uphold environmental interests – Thus, a narrow interpretation for NGT’s powers should be eschewed to adopt one which allows for full flow of the forum’s power within the environmental domain – Doctrines/Principles. C D

Environmental law: Environmental justice and equity – When substantive justice is elusive for a large segment, disengaging with substantive rights at the very altar, for a perceived procedural lacuna, would surely bring in a process, which furthers inequality, both economic and social – An “equal footing” conception may not, therefore, be feasible to adequately address the asymmetrical relationship between the polluters and those affected by their actions – Instead, a recognition of the historical experience of marginalized classes of persons while accessing and effectively using the legal system, will allow for necessary appreciation of social realities and balancing the arm of justice. E F

Directing to post the matters on 25.10.2021 for further directions and answering the common legal issue regarding suo motu jurisdiction of NGT, the Court G

HELD: 1.1 The 186th Report of the Law Commission of India dated 23.9.2003, the Law Commission had made the pertinent observation espousing the case for the creation of a H

A specialized Court to deal with environmental issues. The observations in the Report suggest that the Law Commission was of the opinion that it was not convenient for the High Courts and the Supreme Court to make local inquiries or receive evidence. Moreover, the superior courts would not have access to expert environmental scientists on permanent basis to assist them. Therefore, NGT was conceived as a complimentary specialized forum to deal with all environmental multi-disciplinary issues both as original and also as an appellate authority, which complex issues were hitherto dealt with by the High Courts and the Supreme Court. The NGT, therefore, was intended to be the competent forum for dealing with environmental issues instead of those being canvassed under the writ jurisdiction of the Courts. It was explicitly noted that the creation of the NGT would allow for the Supreme Court and High Court to avoid intervening under their inherent jurisdiction when an alternative efficacious remedy would become available before the specialized forum. [Paras 13.2, 13.3, 13.4][28-D; 29-D-E, F]

1.2 The power of judicial review was omitted to ensure avoidance of High Courts' interference with the Tribunal's orders by way of a mid-way scrutiny by the High Court, before the matter travels to the Supreme Court where NGT's orders can be challenged. The streamlining of the mechanism was to arrest the growing tide of litigation before High Courts and the Supreme Court and shift such issues to the domain of the NGT. This is how the proposed forum was made free from the rules of evidence and the NGT was permitted to lay down its own procedure to entertain oral and documentary evidence, consult experts etc. The observance of the principles of natural justice was however mandated. [Paras 13.4 and 13.5][30-B-C; 30-D]

2.1 A reading of the Statement of Objects and Reasons of NGT Act shows that paragraph 4 thereof refers to the *National Environmental Tribunal Act, 1995 (NET)* which provided for strict liability and damages arising out of accidents occurring while handling hazardous substances. In the same context it was observed that the NET had a very limited and narrow mandate and jurisdiction. Thereafter, in Para 5 it has been recorded that a

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large number of environmental cases are pending in higher Courts which involve multi-disciplinary issues and, in such cases, the Supreme Court had requested the Law Commission of India to consider the need for constitution of specialized environmental Courts. Significantly, the Statement of Objects and Reasons also refers to right to a healthy environment being a part of the right to life under Article 21 of the Constitution of India. This was consistent with the earlier mentioned 186th Law Commission Report highlighting that the body so created, would aim to “*achieve the objectives of Article 21, 47, 48A, 51A (g) of the Constitution of India by means of a fair, fast and satisfactory judicial procedure*”. [Paras 14.2, 14.3][31-G-H; 32-A-C]

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2.2 The paragraph 2 of the Statement of Objects and Reasons refers to the United Nations Conference on the Human Environment held at Stockholm in June 1972 which called upon governments and peoples to exert common efforts for the preservation and improvement of the human environment when it involved people and for their posterity. Therefore, the municipal law enacted with such a laudatory objective of not only preventing damage to the environment but also to protect it, must be provided with the wherewithal to discharge its protective, preventive and remedial function towards protection of the environment. The mandate and jurisdiction of the NGT is therefore conceived to be of the widest amplitude and it is in the nature of a *sui generis* forum. [Para 14.4][32-C-E]

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2.3 The United Nations Conference on Environment and Development held at Rio De Janeiro in June, 1992 where India participated, impressed upon the States to provide effective access to judicial and administrative proceedings, lay out redress and remedy and to develop national laws regarding liability and compensation for the victims of pollution and other environmental damage. The Preamble of the Act significantly emphasized on construing the right to healthy environment as a part of the Right to Life under Article 21 of the Constitution which was accepted by various judicial pronouncements in India. The National Green Tribunal was born in our country with such lofty dreams to deal with multi-disciplinary issues, relating to the environment. The

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A limited mandate conferred on the earlier forum i.e. the NET and the narrow scope of jurisdiction of the National Environment Appellate Authority along with the involvement of multi-disciplinary issues arising in environmental cases, were intended to be addressed through the constitution of the NGT. [Paras 14.5, 14.6][32-E-H; 33-A]

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 3.1 The NGT is intended to address wide ranging societal concerns. The Statute has to be read in its entirety and each provision of the Act must be given its due meaning by comprehending the mischief it intends to remedy. The application of the *Heydon's Rule* could adequately aid here as the Rule directs adoption of that construction which “*shall suppress the mischief and advance the remedy*”. [Paras 15.1, 15.3] [33-B-C, G]

Bengal Immunity Co. v. State of Bihar [1955] 2 SCR 603; AIR 1955 SC 661 – followed.

D Francis Bennion *Statutory Interpretation* described; *Panama Refining Co. v. Ryan* 47 *Columbia Law Review* 527 – referred to.

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 3.2 The laudatory objectives for creation of the NGT would implore to adopt such an interpretive process which will achieve the legislative purpose and will eschew procedural impediment or so to say incapacity. The precedents of this Court, suggest a construction which fulfills the object of the Act. The choice for this Court would be to lean towards the interpretation that would allow fructification of the legislative intention and is forward looking. The provisions must be read with the intention to accentuate them, especially as they concern protections of rights under Article 21 and also deal with vital environmental policy and its regulatory aspects. [Para 15.6][34-G; 35-A-B]

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 4.1 Section 14 gives original jurisdiction to the NGT to decide a substantial question relating to environment; Section G
 15 deals with relief, compensation and restitution whereby besides providing relief to the victims of pollution, the NGT can direct restitution of property damage and restitution of environment for such area(s) “*as the Tribunal may think fit*”. Section 16 gives appellate jurisdiction to the Tribunal against the orders passed

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under various enactments. Section 17 provides for liability to pay relief or compensation in certain cases, Section 18 specifies who can move application/appeal before the Tribunal. It includes, among others, 18(2)(d) “*any person aggrieved including any representative body / organization*” and the *locus standi* is not limited only to the aggrieved party. Section 19 provides for procedure and powers of the Tribunal. Section 19(1) significantly says that the Tribunal shall not be bound by procedures laid down in the CPC and shall be bound by the Principles of Natural Justice. Section 19(2) provides that subject to the provisions of the Act, the Tribunal shall have powers to regulate its own procedure. Section 19(3) mentions that the Tribunal shall not be bound by the rules of evidence contained in the Evidence Act, 1872. While discharging functions under Section 19(4), besides summoning, enforcing attendance, examining persons on oath, requiring discovery and production of documents, receiving evidence on oath, the NGT also has powers to review its decision, to pass interim orders as well as pass cease and desist orders. Section 20 says that while adjudicating issues, the Tribunal shall apply the environmental principles, namely, sustainable development principles, precautionary principles and polluter pays principle. Under Section 25, the Tribunal can execute its order/decision as a decree of the Civil Court and for that purpose shall have all the powers of a Civil Court. Section 29 bars the jurisdiction of the Civil Court to entertain all environmental matters covered by the Tribunal. Under Section 33, the NGT Act has an overriding effect over other laws. [Para 16.1][35-B-H; 36-A-B]

4.2 While on the statutory provisions, it is seen that the Central Government has framed the *National Green Tribunal (Practice & Procedure) Rules, 2011*. The said Rules make it clear that the NGT has been given wide discretionary powers to *secure the ends of justice*. This power is coupled with the duty to be exercised for achieving the objectives. The intention understandably being to preserve and protect the environment and the matters connected thereto. By choosing to employ a phrase of wide import, i.e. *secure the ends of justice*, the legislature has nudged towards a liberal interpretation. Securing justice is a

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A term of wide amplitude and does not simply mean adjudicating disputes between two rival entities. It also encompasses *inter alia*, advancing causes of environmental rights, granting compensation to victims of calamities, creating schemes for giving effect to the environmental principles and even hauling up authorities for inaction, when need be. Moreover, unlike the civil courts which cannot travel beyond the relief sought by the parties, the NGT is conferred with power of moulding any relief. The provisions show that the NGT is vested with the widest power to appropriate relief as may be justified in the facts and circumstances of the case, even though such relief may not be specifically prayed for by the parties. [Paras 16.2, 16.3, 16.4, 16.5][36-B-C, D-G]

4.3 Another distinguishing feature of the environmental forum is on the aspect of *locus standi* which was made as wide as is available to the High Courts and the Supreme Court. Thus, any person or organization who may be interested in the subject matter is permitted to approach the NGT. The provisions of the NGT Act and the NGT Rules demonstrate that myriad roles are to be discharged by the NGT, as was encapsulated in the Law Commission Report, the Preamble and the Statement of Objects and Reasons. This is also forthcoming from the international obligation and commitment by India to implement the decision taken at the Stockholm and the Rio De Janeiro Conventions towards protection of the environmental rights under Article 21 of the Constitution. [Paras 16.6, 16.7][36-G-H, 37-A-B]

5. NON-ADJUDICATORY ROLES OF NGT

5.1 As can be seen, the Parliament intended to confer wide jurisdiction on the NGT so that it can deal with the multitude of issues relating to the environment which were being dealt with by the High Courts under Article 226 of the Constitution or by the Supreme Court under Article 32 of the Constitution. The Tribunal is also expected to proceed with such matters with the understanding that environment and environmental principles are part of Article 21 of the Constitution.[Para 17.1][37-B-D]

Vellore Citizens' Welfare Forum v. UOI (1996) 5 SCC 647 : [1996] 5 Suppl. SCR 241 – relied on.

5.2 The Schedule I of the NGT Act is concerned with implementation of few environmental related enactments such as the Water Act, the Air Act, the Environment Act, the Forest Conservation Act etc. As one looks at these enactments, an expanded role for the NGT is clearly discernible. The activities of the NGT are not only geared towards the protection of the environment but also to ensure that the developments do not cause serious and irreparable damage to the ecology and the environment. These would suggest a broad canvas for the NGT Act as also its creation. [Para 17.2][37-D-F]

5.3 For the environmental forum, tasked with implementation of the statutes mentioned in Schedule I of the NGT Act, the concept of *lis*, would obviously be beyond the usual understanding in civil cases where there is a party (whether private or government) disturbing the environment and the other one (could be an individual, a body or the government itself), who has concern for the protection of environment. Therefore, the NGT is primarily concerned with protection of the environment and also preservation of the natural resources. As the specialized forum, the NGT would be expected to take preventive action, besides settling and adjudicating disputes and pass orders on all environment related questions. The NGT is not just an adjudicatory body but has to perform wider functions in the nature of prevention, remedy and amelioration. [Paras 17.3, 17.4][37-F-G; 38-A]

5.4 The NGT is empowered to carry out restitutive exercise for compensating persons adversely affected by environmental events. The larger discourse which informs such functions is related to distributive and corrective justice. Even in the absence of harm inflicted by human agency, in a situation of a natural calamity, the Tribunal will be required to devise a plan for alleviating damage. An inquisitorial function is also available for the Tribunal, within and without adversarial significance. Importantly, many of these functions do not require an active “dispute”, but the formulation of *decisions*. [Para 18][38-D-F]

Bhopal Gas Peedith Mahila Udyog Sangathan vs. Union of India (2012) 8 SCC 326 : [2012] 12 SCR 947
– relied on.

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SUPREME COURT REPORTS

[2021] 10 S.C.R.

A **6. EXERCISE OF *SUO MOTU* POWER BY NGT**

The specialized tribunal's exercise of *suo motu* powers is somewhat distinct from those exercised by the constitutional Courts. The Supreme Court and High Courts can foray into any issues under their constitutional mandate but the NGT cannot naturally travel beyond its environmental domain in reference to the scheduled enactments. However, as long as the sphere of action is not breached, the NGT's powers must be understood to be of the widest amplitude. From the very inception, the role of the NGT was not simply adjudicatory in the nature of a *lis* but to perform equally vital roles which are preventative, ameliorative or remedial in nature. The functional capacity of the NGT was intended to leverage wide powers to do full justice in its environmental mandate. [Paras 20, 21.6][39-F-H; 41-F-G]

Mantri Techzone (P) Ltd. v. Forward Foundation (2019) 18 SCC 494; *Rajeev Hitendra Pathak v. Achyut Kashinath* (2011) 9 SCC 541 : [2011] 10 SCR 513; *Rajeev Suri v. DDA* 2021 SCC Online SC 7; *Andhra Pradesh Pollution Control Board v. Prof. M. V. Nayudu (Retd.) and Ors.* (1999) 2 SCC 718 : [1999] 1 SCR 235 – relied on.

E **7. UNIQUENESS OF NGT *VIS-A-VIS* OTHER TRIBUNALS**

While there are many tribunals functioning within their specified domains, variances do exist in the manner in which they are designed to function. The statutory Tribunals were categorized to fall under four subheads; Administrative Tribunals under Article 323A; Tribunals under Article 323B; Specialized sector Tribunals and most prominently; Tribunals to safeguard rights under Article 21. The duties of NGT brings it within the ambit of the fourth category, creating a compelling proposition for wielding much broader powers as delineated by the statute. The ideal was to create a fairly proactive and responsive Institution which could step into varying roles, as the situation demanded. During the course of its functioning, the NGT has been recognized as one of the most progressive Tribunals in the world. This jurisprudential leap has allowed our country to enter a rather exclusive group of

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nations which have set up such institutions with broad powers. A
[Para 22.1, 22.2, 22.3][41-G-H; 42-A-C; 43-B-C]

State of Meghalaya v. All Dimasa Students Union (2019)
8 SCC 177 : [2019] 8 SCR 297 – relied on.

8. THE SUI GENERIS ROLE OF NGT

8.1 The NGT was conceived as a specialized forum not only B
as a like substitute for a civil court but more importantly to take
over all the environment related cases from the High Courts and
the Supreme Court. Many of those cases transferred to the NGT,
emanated in the superior courts and it would be appropriate thus C
to assume that similar power to initiate *suo motu* proceedings
should also be available with the NGT. [Para 24.4][44-G-H;
45-A]

Paramjit Kaur v. State of Punjab (1999) 2 SCC 131 :
[1998] 1 Suppl. SCR 538; *DG NHAI v. Aam Aadmi*
Lokmanch 2020 SCC Online SC 572 – relied on. D

8.2 The NGT is a Tribunal with *sui generis* characteristic,
with the special and all-encompassing jurisdiction to protect the
environment. Besides its adjudicatory role as an appellate
authority, it is also conferred with the responsibility to discharge E
role of supervisory body and to decide substantial questions
relating to the environment. The necessity of having a specialized
body, with the expertise to handle multi-dimensional
environmental issues allows for an all-encompassing framework
for environmental justice. The technical expertise that may be
required to address evolving environmental concerns would F
definitely require a flexible institutional mechanism for its effective
exercise. [Para 24.5][45-B-C]

9. AUTHORITY WITH SELF-ACTIVATING CAPABILITY

9.1 Given the multifarious role envisaged for the NGT and
the purposive interpretation which ought to be given to the G
statutory provisions, it would be fitting to regard the NGT as
having the mechanism to set in motion all necessary functions
within its domain and this, should necessarily clothe it with the
authority to take *suo motu* cognizance of matters, for effective
discharge of its mandate. Section 14(1) of the NGT Act deals H

A with jurisdiction, and the jurisdictional provision conspicuously omits to specify that an application is necessary to trigger the NGT into action. In situations where the three prerequisites of Section 14(1) i.e., Civil cases; involvement of substantial question of environment; and implementation of the enactments in Schedule I are satisfied, the jurisdiction and power of the NGT gets activated. On these material aspects, the NGT is not required to be triggered into action by an aggrieved or interested party alone. It would therefore be logical to conclude that the exercise of power by the NGT is not circumscribed by receipt of application. When substantial questions relating to the environment arise and the issue is civil in nature and those relate to the enactments in Schedule I of the Act, the NGT even in the absence of an application, can self-ignite action either towards amelioration or towards prevention of harm. [Paras 25.1, 25.3][45-D-E; 46-B-D]

D 9.2 Section 14(1) exists as a standalone feature, not constricted by the operational mechanism of the subsequent subsections. The sub Section (2) of Section 14 functions as a corollary and comes into play when a dispute arises from the questions referred to in Section 14(1). Likewise sub Section (3) thereafter, refers to the period of limitation concerning applications, when they are addressed to the NGT. Where adjudication is involved, the adjudicatory function under Section 14(2) comes into play. When it is a case warranting NGT's intervention, or may be a situation calling for decisions to meet certain exigencies, the functions under Section 14(1) can be undertaken and those may not involve any formal application or an adjudicatory process. However, the later provisions may not work in similar fashion. Therefore, care must be taken to ensure unrestricted discharge of the responsibilities under Section 14(1) and that wide arena of NGT's functioning. [Para 25.4][46-D-G]

G 9.3 The other pertinent provisions relating to, *inter-alia*, jurisdiction, interim orders, payment of compensation and review, do not require any application or appeal, for the NGT to pass necessary orders. These crucial powers are expected to be exercised by the NGT, would logically suggest that the action/orders of the NGT need not always involve any application or

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appeal. To hold otherwise would not only reduce its effectiveness but would also defeat the legal mandate given to the forum. It may also be relevant to bear in mind that while dealing with contested cases, the NGT is required to pass “award” and “order” and the statute repeatedly uses the word “decision”. Therefore, it is appropriate to correlate the word “decision” to the NGT, in its non-adversarial or inquisitorial role, as was suggested by the Law Commission and recognized in *DG, NHAI*. [Paras 25.5, 25.6][46-G-H; 47-B]

9.4 The duty to safeguard Article 21 rights cannot stand on a narrow compass of interpretation. Procedural provisions must be allowed to fall in step with the substantive rights that are invoked in the environmental domain, in larger public interest. The specialized forum is bestowed with the responsibility to ensure protection of the environment. To be effective in its domain, we need to ascribe to the NGT a public responsibility to initiate action when required, to protect the substantive right of a clean environment and the procedural law should not be obstructive in its application. [Para 25.7][47-C-D]

State of Punjab & Anr. v. Shamlal Murari & Anr. (1976)
1 SCC 719 : [1976] 2 SCR 82 – relied on.

9.5 While discussing the NGT’s power and responsibility, it is essential to keep in mind the *Principle 10 of the Rio Declaration* which speaks of three fundamental rights i.e., access to information, access to public participation and access to justice, as key pillars of environmental governance. Access to justice, may however be curtailed by illiteracy, lack of mobility, poverty or even the lack of technical knowledge on the part of citizens. Another deterrence is the likelihood of polluters/violators being powerful entities with adequate wherewithal to skirt regulations. Thus, it may not always be feasible for individuals to knock on the doors of the Tribunal, and NGT in such exigencies must not be made dysfunctional. [Para 25.8][47-F-H]

10. THE PRECAUTIONARY PRINCIPLE

10.1 The origin of the *Precautionary Principle* itself is rooted as an institutional obligation, by holding them primarily

A responsible for the environmental concerns and remedies. Section 20 of the NGT Act which includes the term “*decision*”, in addition to “*order*” and “*award*”, also require the Tribunal to apply the ‘*Precautionary Principle*’ . [Paras 26.2 and 26.3][48-D-E]

B 10.2 The principle must apply in the widest amplitude to ensure that it is not only resorted to for adjudicatory purposes but also for other ‘*decisions*’ or ‘*orders*’ to governmental authorities or polluters, when they fail to “*to anticipate, prevent and attack the causes of environmental degradation.*” Two aspects must therefore be emphasized i.e. that the Tribunal is itself required to carry out preventive and protective measures, as well as hold governmental and private authorities accountable for failing to uphold environmental interests. Thus, a narrow interpretation for NGT’s powers should be eschewed to adopt one which allows for full flow of the forum’s power within the environmental domain. [Para 26.4][48-F-G; 49-A-B]

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D 10.3 It is an important legal onus on the Tribunal to act with promptitude to deal with environmental exigencies. The responsibility is not just to resolve legal ambiguities but to arrive at a reasoned and fair result for environmental problems which are adversarial as well as non-adversarial. [Para 26.5][49-B-C]

E 11. ENVIRONMENTAL JUSTICE AND ENVIROMENTAL EQUITY

F 11.1 The conceptual frameworks of environmental justice and equity should merit consideration vis-à-vis the NGT’s domain and how its functioning and decisions can have wide implications in socio-economic dimensions of people at large. The concept of environmental justice is a trifecta of distributive justice, procedural justice and justice as recognition. Environmental equity as a developing concept has focused on the disproportionate implications of environmental harms on the economically or socially marginalized groups. The concerns of human rights and environmental degradation overlap under this umbrella term, to highlight the human element, apart from economic and environmental ramifications. Environmental equity thus stands to ensure a balanced distribution of environmental

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risks as well as protections, including application of sustainable development principles. [Para 27.1][49-E-G] A

11.2 When substantive justice is elusive for a large segment, disengaging with substantive rights at the very altar, for a perceived procedural lacuna, would surely bring in a process, which furthers inequality, both economic and social. An “*equal footing*” conception may not therefore be feasible to adequately address the asymmetrical relationship between the polluters and those affected by their actions. Instead, a recognition of the historical experience of marginalized classes of persons while accessing and effectively using the legal system, will allow for necessary appreciation of social realities and balancing the arm of justice. [Para 27.3][50-F-G] B C

12. ENVIRONMENTAL JURISPRUDENCE IN INDIA

12.1 By expanding the scope of Articles 21, 32, 48A, 51A(g), this Court has guaranteed the right to a pollution free environment for a holistic existence. Most crucially, the expansion of Right to Life under Article 21 by this Court has become a touchstone to determine many environmental concerns. Adopting international principles and moulding them to Indian realities also became a focal concern, given the lacunae in regimes which may be exploited by those who may not have much concern for environmental degradation. Creation of the ‘*Absolute Liability Principle*’ by this Court is a well recognized testament for this. It would thus be appropriate to state that much of the principles, institutions and mechanisms in this sphere have been created, on account of this Court’s initiative. [Paras 28.2, 28.3][52-A-B, C-D] D E F

12.2 The Supreme Court adopted the role of an “amicus environment” by threading together human rights and environmental concerns, resultingly developing a *sui generis* environmental discourse. There were both procedural and substantive innovations made, by entertaining PIL petitions, seeking remedies, including guidelines and directions in the absence of legislation. Many of the landmark cases which hold the fort to this day, were in recognition of the ‘*at risk*’ nature of some populations. The creation of the NGT itself was due in large G H

A part to the need expressed by this Court for such a forum.[Para 28.4][52-F; 53-A-B]

12.3 Environmental jurisprudence in India has been intrinsic to advancing a democratic, welfare oriented legal regime. Issues affecting the ecology and the environment must have a broad perspective and should have a society centric approach. Furthermore, the very nature of ecological and environmental issues has the propensity for rapid deterioration. Many such sensitive matters, stood transferred to the NGT, with the aim that those would be dealt with expediently with the required technical expertise and legal sophistication. The proactiveness of the superior Court was surely expected to be seen in the Tribunal's approach. [Para 28.6][53-E-F]

H.P. Bus Stand Management & Development Authority v. Central Empowered Committee (2021) 4 SCC 309
– relied on.

D **12.4 The NGT is the institutionalization of the developments made by this Court in the field of environment law. The progressive steps have allowed it to inherit a very broad conception of environmental concerns. Its functions therefore, must not be viewed in a cribbed manner, which detracts from the progress already made in the Indian environmental jurisprudence. [Para 28.8][55-A-B]**

E **13.1 The NGT Act, when read as a whole, gives much leeway to the NGT to go beyond a mere adjudicatory role. The Parliament's intention is clearly discernible to create a multifunctional body, with the capacity to provide redressal for environmental exigencies. Accordingly, the principles of environmental justice and environmental equity must be explicitly acknowledged as pivotal threads of the NGT's fabric. The NGT must be seen as a *sui generis* institution and not *unus multorum*, and its special and exclusive role to foster public interest in the area of environmental domain delineated in the enactment of 2010 must necessarily receive legal recognition of this Court. [Para 30][55-C-E]**

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13.2 The environmental impacts on climate change are gaining increasing visibility in the shape of uncertain rains, species extinction, loss of natural habitat and so on. These also have the propensity to diminish fresh water resources, reduce agricultural yields and impact public health, particularly in the cities. The flooding and erosion in riverine and coastal areas are matters of serious concern. Governmental assessment of India's increased vulnerability to such changes in the near future also exists with many countries declaring climate emergencies and many others being urged to follow suit. Therefore, the nature of ecological imbalance which is visible even in our own times may cascade, and the unforeseen injustice of the future may not be capable of being handled within the frontiers set forth today. The long term and very often irreparable environmental damage which are expected to be arrested by the NGT, urge this Court to advert to what is termed as *the 'Seventh Generation' sustainability principle*, or the *'Great Law of the Iroquois'* (as it originates from the Iroquois Tribe) which requires all decision making to withstand for the benefit of seven generations down the line. [Paras 31, 32][55-E-G; 56-A-B]

13.3 It is vital for the well being of the nation and its people, to have a flexible mechanism to address all issues pertaining to environmental damage and resultant climate change so that a better environmental legacy is left behind, for our children, and the generations thereafter. In circumstances, where adverse environmental impact may be egregious, but the community affected is unable to effectively get the machinery into action, a forum created specifically to address such concerns should surely be expected to move with expediency, and of its own accord. The potentiality of disproportionate harm imposes a higher obligation on authorities to preserve rights which may be waylaid due to such restrictive access. The *"global impacts of climate change will fall disproportionately on minority and low-income communities"*. Thus, an affirmative role, beyond mere adjudication at the instance of applicant, is certainly required for *servicing the ends of environmental justice*, as the statute itself requires of the NGT. [Paras 33, 34][56-B-E]

A **13.4 The NGT, with the distinct role envisaged for it, can hardly afford to remain a mute spectator when no-one knocks on its door. The forum itself has correctly identified the need for collective stratagem for addressing environmental concerns. Such a society centric approach must be allowed to work within the established safety valves of the principles of natural justice and appeal to the Supreme Court. The hands-off mode for the NGT, when faced with exigencies requiring immediate and effective response, would debilitate the forum from discharging its responsibility and this must be ruled out in the interest of justice. It would be procedural hairsplitting to argue (as it has been) that the NGT could act upon a letter being written to it, but learning about an environmental exigency through any other means cannot trigger the NGT into action. To endorse such an approach would surely be rendering the forum procedurally shackled or incapacitated. [Paras 35, 36][56-F-H; 57-A-B]**

D **13.5 When the Registry of the NGT does indeed receive a communication or letter, including matters published in media, it may cause to initiate *suo motu* action by inviting attention of NGT to such matters in the form of office report. Such circumstances would however require a notice to be given to the sender of the communication or author of the news item, as the case may be, to assist the NGT in the course of hearing and to substantiate the factual matters. It must also be said that the exercise of *suo motu* jurisdiction does not mean eschewing with the principles of natural justice and fair play. In other words, the party likely to be affected should be afforded due opportunity to present their side, before suffering adverse orders. Institutions which are often addressing urgent concerns gain little from procedural nitpicking, which are unwarranted in the face of both the statutory spirit and the evolving nature of environmental degradation. Not merely should a procedure exist but it must be meaningfully effective to address such concerns. The role of such an institution cannot be mechanical or ornamental. An interpretation must be adopted which sustains the spirit of public good and not render the environmental watchdog of our country toothless and ineffective. [Paras 37, 39][57-B-D, E-G]**

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Standard Chartered v. Dharminder Bhoji (2013) 15 SCC 341 : [2013] 9 SCR 410; *Transcore v. Union of India* (2008) 1 SCC 125 : [2006] 9 Suppl. SCR 785; *Techi Tagi Tara v. Rajendra Singh Bhandari & Ors.* (2018) 11 SCC 734 : [2017] 12 SCR 956; *Tamil Nadu Pollution Control Board v. Sterlite Industries (I) Ltd.* (2019) 19 SCC 479; *Sarah Mathew v. Institute of Cardio Vascular Diseases* (2014) 2 SCC 62 : [2013] 12 SCR 674; *New India Assurance Co. Ltd. v. Nusli Neville Wadia* (2008) 3 SCC 279 : [2007] 13 SCR 598; *M.C. Mehta v. UOI* (1997) 2 SCC 353 : [1996] 10 Suppl. SCR 973; *S. Jagannathan v. Union of India* (1997) 2 SCC 87 : [1996] 9 Suppl. SCR 848; *Karnataka Industrial Areas Development Board v. C Kenchappa and Ors.* (2006) 6 SCC 371 : [2006] 2 Suppl. SCR 362; *Rural Litigation And Entitlement Kendra & Ors v. State Of U. P. & Ors* AIR 1985 SC 652 : [1985] 3 SCR 169; *Charan Lal Sahu v. Union of India* (1990) 1 SCC 613 : [1989] 2 Suppl. SCR 597; *Virender Gaur v. State of Haryana* (1995) 2 SCC 577 : [1994] 6 Suppl. SCR 78; *Subhash Kumar v. State of Bihar* (1991) 1 SCC 74; *M.C. Mehta v. Union of India* (1987) 1 SCC 395 : [1987] 1 SCR 819; *M.C. Mehta v. Union of India* (1986) 2 SCC 176 : [1986] 1 SCR 312; *Indian Council for Environmental-Legal Action v. Union of India* (1996) 3 SCC 212 : [1996] 2 SCR 503; *A.P. Pollution Control Board v. M.V. Nayudu* (1999) 2 SCC 718 : [1999] 1 SCR 235; *A.P. Pollution Control Board II v. M.V. Nayudu* (2001) 2 SCC 62 : [2000] 5 Suppl. SCR 249 – referred to.

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Case Law Reference

[2013] 9 SCR 410	referred to	para 10.1
[2006] 9 Suppl. SCR 785	referred to	para 10.2
[2011] 10 SCR 513	relied on	para 10.3
[2017] 12 SCR 956	referred to	para 11.1
(2019) 19 SCC 479	referred to	para 12.1
[1955] 2 SCR 603	referred to	para 8

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A	[2013] 12 SCR 674	referred to	para 15.6
	[2007] 13 SCR 598	referred to	para 15.6
	[1996] 5 Suppl. SCR 241	relied on	para 17.1
	[1996] 10 Suppl. SCR 973	referred to	para 17.1
B	[2012] 12 SCR 947	relied on	para 19.1
	(2019) 18 SCC 494	relied on	para 21.1
	[1999] 1 SCR 235	relied on	para 21.6
C	[2019] 8 SCR 297	relied on	para 22.2
	[1998] 1 Suppl. SCR 538	relied on	para 24.1
	[1976] 2 SCR 82	relied on	para 25.7
	[1996] 9 Suppl. SCR 848	referred to	para 26.4
D	[2006] 2 Suppl. SCR 362	referred to	para 26.4
	[1985] 3 SCR 169	referred to	para 28.1
	[1989] 2 Suppl. SCR 597	referred to	para 28.1
E	[1994] 6 Suppl. SCR 78	referred to	para 28.1
	(1991) 1 SCC 74	referred to	para 28.2
	[1987] 1 SCR 819	referred to	para 28.3
	[1986] 1 SCR 312	referred to	para 28.4
F	[1996] 2 SCR 503	referred to	para 28.4
	[1999] 1 SCR 235	referred to	para 28.4
	[2000] 5 Suppl. SCR 249	referred to	para 28.4
	(2021) 4 SCC 309	relied on	para 28.7

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos.12122-12123 of 2018.

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From the Judgment and Order dated 30.10.2018 and 05.12.2018 of the National Green Tribunal, Principal Bench, New Delhi in O.A. No.510 of 2018 and Review Application No.49 of 2018 in O.A. No.510 of 2018.

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With A

Civil Appeal Nos. 86 and 5902 of 2019 and Civil Appeal Nos. 6273, 6274, 6275, 6276, 6277-6278, 6279, 6280-6281, 2897, 6282, 6283, 6262, 6284, 6285 and 6286 of 2021.

Amit Anand Tiwari, AAG, Anand Grover, Nidhesh Gupta, Sanjay Parikh, Gopal Shankarnarayanan, V. Giri, Mukul Rohatgi, Krishnan Venugopal, Sajan Poovvya, Jaideep Gupta, Atmaram N. S. Nadkarni, Dhruv Mehta, Siddhartha Dave, Sr. Advs., Ms. Astha Sharma, Ms. Mantika Haryani, Simranjeet Singh Rekhi, Vanshdeep Dalmia, Harish Vasudevan, Ms. Nishtha Kumar, Ms. Japneet Kaur, Ms. Vriti Gujral, Ms. Pallavi Singh, Abhimanue Shrestha, Satwik Parikh, Divyansh Khurana, James P. Thomas, K. K. Vinosh, Apzal Ansari, Abhilash M. R., Sayooj Mohandas M., Amith Krishnan, M. Thangathurai, Sandeep Singh, Mahesh Agarwal, Rohan Talwar, Shivendra Singh, E. C. Agrawala, Anand Kumar Shrivastava, Ms. Priyansha Indra Sharma, Sharan Balakrishnan, Pratibhanu Singh, Arpit Shukla, Ms. Aishwarya Bhati, Gurmeet Singh Makker, Ms. Ruchi Kohli, Shiv Mangal Sharma, Bhuvan Mishra, C. K. Sasi, Abdullah Naseeh, Ms. Meena K. P., Ms. Anindita Mitra, Ashish Wad, Ms. Tamali Wad, Ms. Aruna Savla, Pimple Sharad, Ms. Sukriti Jaggi, Ajeyo Sharma, Sidharth Mahajan, Santosh Rebello Salvador, Ms. Arzu Paul, Adiraj Bali, Ms. Deepti Arya for M/s J S Wad and Co., Jobi Jose Kondody, Alex M Scaria, Ms. Usha Nandini V., Biju P. Raman, Ms. Saritha Thomas, S. Thananjayan, Ms. Promila, K. Sakthivel, Ms. Aaiyna Verma, Ms. Jaswanti, Darpan K. M., Ms. Amrita Sharma, Prakash S. Rao, Rajat Jonathan Shaw, Ms. Rashi Bansal, Bijo Mathew Joy, Manu Krishnan G., Seshatalpa Sai Bandaru, E. M. S. Anam, M. S. Vishnu Sankar, A. Karthik, Enoch David Simon Joel, Ms. Smrithi Suresh, Saaketh Kasibhatla, Arsh Khan, Parsant Kumar, Md. Shahid Anwar, Amit Singh, Intakhab Alam, Mohammed Naseem Mughal, Satish Solanki, Mukesh Verma, Yash Pal Dhingra, Amith S. J., Purushottam Sharma Tripathi, Mukesh Kumar Singh, Tahir Ashraf Siddiqui, Jogy Scaria, Ms. Beena Victor, Ms. M. Prirya, Ravi Lomod, K. Parameshwar, Ms. A. Sregurupriya, Prasad Hegde, Zulfiker Ali P. S., Augustine Peter, Ms. Lakshmi Sree P., Ms. Sadiya Shakeel, Dr. Joseph Aristotle S., Ms. Preeti Singh, Ms. Ripul Swati Kumari, Suvidutt M. A., Mrs. Anu B., Ms. Vijayalakshmi Raju, Mrs. Dhanya C., Advs. for the Appearing Parties.

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A The Judgment of the Court was delivered by
HRISHIKESH ROY, J.

“Estragon: Let’s go.

Vladimir: We can’t.

B *Estragon: Why not?*

*Vladimir: We’re waiting for Godot.”*¹

1. Leave granted in the Special Leave Petitions.

C 2. The consideration to be made in these matters is whether the National Green Tribunal (for short “the NGT”) has the power to exercise *Suo Motu* jurisdiction in discharge of its functions under the National Green Tribunal Act, 2010 (for short, “the NGT Act 2010”).

D 3. In the lead case in this group, i.e. the Civil Appeal No. 86 of 2019, the NGT noticed an article titled “*Garbage Gangs of Deonar: The Kingpins and Their Multi-Crore Trade*” in the online news portal, *The Quint*. The article spoke of how mismanagement of solid waste had an adverse impact on the environment, public health and lives of individuals living in the vicinity of the dumping ground in Mumbai city.

E 4. The NGT took *suo motu* cognizance of the above article vide order dated 07.08.2018 and directed that the article writer Ankita Sinha be the applicant in the case OA No. 510 of 2018, registered at the NGT’s instance. Thereafter, steps were taken for inspection of the Deonar Dumping site by the representative of the Central Pollution Control Board, Maharashtra Pollution Control Board, the District Collector of the area and also the representative of the Municipal Corporation of Greater Mumbai (for short “the MCGM”). Pursuant to the Report of the
F inspecting team which highlighted that the landfill site failed to comply with the provisions of the Solid Waste Management Rules, 2016, the NGT vide order dated 30.10.2018 noted that ‘*damage to the environment and public health is self-evident*’ and ordered MCGM to pay compensation to the tune of Rs. 5 crores.

G 5. This Court while entertaining the Civil Appeal No. 86/2019 of MCGM, ordered stay on the operation of the order passed by the NGT and thereafter arranged for analogous consideration of the related cases where the common threshold jurisdictional issue arises on whether the NGT has the power to exercise *suo motu* jurisdiction.

H ¹ Beckett, S. (1954). *Waiting for Godot: Tragicomedy in 2 Acts.*

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6. Mr. Mukul Rohatgi, Mr. Dushyant Dave, Mr. Jaideep Gupta, Mr. Dhruv Mehta, Mr. Atmaram Nadkarni, Mr. Krishnan Venugopal, Mr. V. Giri, Mr. Sajan Poovayya and Mr. Sidhartha Dave, learned Senior Counsel together with Mr. E.M.S Anam, Ms. Amrita Sharma, Mr. S. Thananjayan have taken a common stand. They have argued that the NGT is a Tribunal and a creature of statute and as such, it cannot act on its own motion or exercise the power of judicial review or act *suo motu*, in discharge of its function. Being a creature of the statute, the forum cannot assume inherent powers as under Article 32 and Article 226 and its domain is circumscribed by the limitations so imposed. The learned counsel also argue that the NGT has an adjudicatory role to decide disputes which necessarily mean involvement of two or more contesting parties. Therefore, the NGT by acting *suo motu* cannot transpose itself to the shoes of one such party. The absence of general power of judicial review with the NGT (which is available with superior courts) is highlighted to keep away *suo motu* power from the NGT. Various judgments relating to the Tribunal's power and role are cited by the counsel and those would be discussed in later part of this order.

7. Projecting the contrary view, Mr. Nidhesh Gupta, the learned Senior Counsel appearing for the aggrieved party in SLP(C) No. 6732/2021, Mr. Sanjay Parikh, learned Senior Counsel for the Intervener in C.A. No.86/2019 and Mr. Gopal Sankaranarayanan, learned Senior Counsel appearing for the Impleader I.A. No.71482/2021 in the SLP(C) No. 6732/2021, by referring to the special role envisaged for the NGT and the history of its incorporation, make equally powerful submission in support of exercise of *suo motu* jurisdiction, by the NGT.

8. Mr. Anand Grover, the learned Senior Counsel was appointed as the *Amicus Curiae* to assist the Court and he was heard at length. The counsel acknowledges the NGT's role and position under the Act and its wide jurisdiction over environmental matters but Mr. Grover is of the view that the NGT is incapable of triggering action on its own. In other words, the NGT cannot act *suo motu* without someone moving the Forum as otherwise the forum then would be perceived to be judging its own cause. Since *suo motu* power is not conferred under the NGT Act, the specialized tribunal has to be moved by an outside party. But the format of the application is not important and even a letter addressed by an interested party, will clothe the NGT with power to take action is the concessional submission of Mr. Grover.

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A 9. Representing the Central Government, Ms. Aishwarya Bhati, the learned Additional Solicitor General of India submitted that *Suo Motu* power is not exercisable by the NGT since the same has not been conferred on the forum under the NGT Act, unlike the situation in the now repealed *National Environment Tribunal Act, 1995* (hereinafter referred to as the “NET Act”). The counsel refers to the provisions of the NGT Act and submits that the concept of *locus standi* was expanded for NGT’s intervention under Section 18(2)(e) but the tribunal is not vested with *suo motu* power to take action on its own unlike the High Courts and the Supreme Court. The learned ASG, however, submits that even on receipt of a letter, the NGT can commence action on environmental matters. Thus, on exercise of epistolary jurisdiction by the NGT, the ASG is on the same page as the *amicus curiae* but as earlier noted both counsel argue for keeping away the *suo motu* power from the NGT.

D 10.1 Having summarized the positions taken by the respective Counsel, we may now refer to the specific grounds of challenge to keep away *suo motu* power from the NGT. The concerned counsel project that NGT is a creature of the statute and just like other such statutory tribunals, the NGT is also bound within statutory confines. They have relied upon *Standard Chartered Vs. Dharminder Bhohi*² wherein, provisions of the *Recovery of the Debts Due to Banks and Financial Institutions Act, 1993* were analysed to note the limitations of the Debt Recovery Tribunal and Appellate Tribunal. From the analysis of Justice Dipak Misra (as his Lordship then was) for the Division Bench, it can be inferred that the Tribunal was given power under the statute to pass such other orders and give such directions to give effect to its orders or to prevent abuse of its process or to secure the ends of justice but in discharge of its functions the Tribunal was required to confine itself to within the statutory parameters. Thus, Section 19(25) conferred limited powers and the submission thus is that the Tribunal does not have any inherent powers.

G 10.2 Similarly, Justice S.H. Kapadia (as his Lordship then was) in *Transcore Vs. Union of India*³, opined on behalf of a Division Bench that,

“ 67. ...The DRT is a tribunal, it is the creature of the statute, it has no inherent power which exists in the civil courts.”

² (2013) 15 SCC 341

H ³ (2008) 1 SCC 125

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10.3 The counsel also projects that in the context of Consumer Forums, Justice Dalveer Bhandari (as his Lordship then was) speaking for a three judge bench in *Rajeev Hitendra Pathak Vs. Achyut Kashinath*⁴, observed as under : - A

“34. On a careful analysis of the provisions of the Act, it is abundantly clear that the Tribunals are creatures of the statute and derive their power from the express provisions of the statute. The District Forums and the State Commissions have not been given any power to set aside ex parte orders and the power of review and the powers which have not been expressly given by the statute cannot be exercised.” B

11.1 The second limb of contention is that the Act is applicable to ‘disputes’ as, necessarily referring to a *lis* between two parties. The counsel has relied upon *Techi Tagi Tara Vs. Rajendra Singh Bhandari & Ors.*⁵ wherein the term ‘substantial question relating to environment’ was interpreted in an attenuated fashion to mean a question arising as part of a dispute. The submission therefore is that a dispute must necessitate a claimant or an applicant. Further, this dispute must also be capable of settlement by the NGT. In the cited case the proposition is articulated in the following fashion, C

“19. On a combined reading of all these provisions, it is clear to us that there must be a substantial question relating to the environment and that question must arise in a dispute — it should not be an academic question. There must also be a claimant raising that dispute which dispute is capable of settlement by the NGT by the grant of some relief which could be in the nature of compensation or restitution of property damaged or restitution of the environment and any other incidental or ancillary relief connected therewith. E

20. ...In *Prabhakar v. Deptt. of Sericulture* [*Prabhakar v. Deptt. of Sericulture*, (2015) 15 SCC 1 : (2016) 2 SCC (L&S) 149] the following definition of “dispute” was noted in paras 34 and 35 of the Report: (SCC p. 21) F

“34. To understand the meaning of the word “dispute”, it would be appropriate to start with the grammatical or dictionary meaning of the term: G

⁴(2011) 9 SCC 541

⁵(2018) 11 SCC 734

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A ‘ “Dispute”.—to argue about, to contend for, to oppose by argument, to call in question — to argue or debate (with, about or over) — a contest with words; an argument; a debate; a quarrel;’
35. *Black’s Law Dictionary*, 5th Edn., p. 424 defines “dispute” as under:

B ‘Dispute.—A conflict or controversy; a conflict of claims or rights; an assertion of a right, claim, or demand on one side, met by contrary claims or allegations on the other. The subject of litigation; the matter for which a suit is brought and upon which issue is joined, and in relation to which jurors are called and witnesses examined.’

C 11.2 The *amicus curiae* has also addressed this issue, by defining a dispute as necessitating an assertion and a denial. By this reasoning, it is submitted that function of Section 14 of the NGT Act is available only to adjudicate upon disputes, as in an adversarial system but not for any other ameliorative, restorative or preventative functions.

D 12.1 Thirdly, the lack of general power of Judicial Review has been argued to show legislative intent to curb *suo motu* powers. Counsel have stated that the NGT, as a Tribunal with prescribed authority under a statute, does not have any general power of judicial review. Thus, it is not within the category of Writ Courts as under Article 226 and Article
E 32 of the Constitution of India. In the relied upon judgment *Tamil Nadu Pollution Control Board v. Sterlite Industries (I) Ltd.*,⁶ Justice R.F. Nariman speaking about the NGT for a Division Bench of this Court has observed the following,

F “41. ...Suffice it to say that the NGT is not a tribunal set up either under Article 323-A or Article 323-B of the Constitution, but is a statutory tribunal set up under the NGT Act. That such a tribunal does not exercise the jurisdiction of all courts except the Supreme Court is clear from a reading of Section 29 of the NGT Act.....

G 43. ...In the present case, it is clear that Section 16 of the NGT Act is cast in terms that are similar to Section 14(b) of the Telecom Regulatory Authority of India Act, 1997, in that appeals are against the orders, decisions, directions, or determinations made under the various Acts mentioned in Section 16. It is clear, therefore, that under the NGT Act, the Tribunal exercising appellate

H ⁶(2019) 19 SCC 479

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jurisdiction cannot strike down rules or regulations made under this Act. Therefore, it would be fallacious to state that the Tribunal has powers of judicial review akin to that of a High Court exercising constitutional powers under Article 226 of the Constitution of India. We must never forget the distinction between a superior court of record and courts of limited jurisdiction that was, in the felicitous language of Gajendragadkar, C.J., in *Powers, Privileges and Immunities of State Legislatures, In re* [*Powers, Privileges and Immunities of State Legislatures, In re*, (1965) 1 SCR 413 : AIR 1965 SC 745] , made in the following words: (SCR p. 499: AIR p. 789, para 138)

“138. We ought to make it clear that we are dealing with the question of jurisdiction and are not concerned with the propriety or reasonableness of the exercise of such jurisdiction. Besides, in the case of a superior court of record, it is for the court to consider whether any matter falls within its jurisdiction or not. Unlike a court of limited jurisdiction, the superior court is entitled to determine for itself questions about its own jurisdiction.

‘Prima facie’, says Halsbury, ‘no matter is deemed to be beyond the jurisdiction of a superior court unless it is expressly shown to be so, while nothing is within the jurisdiction of an inferior court unless it is expressly shown on the face of the proceedings that the particular matter is within the cognizance of the particular court [*Halsbury’s Laws of England*, Vol. 9, p. 349] ’.

For this reason also, we are of the view that the State Government order made under Section 18 of the Water Act, not being the subject-matter of any appeal under Section 16 of the NGT Act, cannot be “judicially reviewed” by the NGT. Following the judgment in *BSNL* [*BSNL v. TRAI*, (2014) 3 SCC 222] , we are of the view that the NGT has no general power of judicial review akin to that vested under Article 226 of the Constitution of India possessed by the High Courts of this country. Shri Sundaram’s strong reliance on the NGT judgment dated 17-7-2014 in *Wilfred J. v. Ministry of Environment & Forests* [*Wilfred J. v. Ministry of Environment & Forests*, 2014 SCC OnLine NGT 6860] must also be rejected as this NGT judgment does not state the law on this aspect correctly. This contention is also without merit, and therefore, rejected.”

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A 12.2 The argument has been that the superior Courts exercising discretionary powers under Article 32 and Article 226, to safeguard fundamental rights, can venture into judicial review. But such a power not being expressly conferred on the NGT would suggest the limited nature of the Forum's powers, which would exclude any *suo motu* exercise.

B

I. THE BACKDROP OF THE NATIONAL GREEN TRIBUNAL

C 13.1 In order to understand the contours of jurisdiction of the NGT, we have thought it necessary to refer to the history of the legislation and also the Preamble and the Statement of Objects and Reasons of the NGT Act. The parliamentary intent which shaped the creation of the NGT and the broad issues that they sought to address through the specialized institution should now be brought to the fore.

D 13.2 The precursor to the NGT Act was the 186th Report of the Law Commission of India dated 23.9.2003 where the Law Commission had made the following pertinent observation espousing the case for the creation of a specialized Court to deal with environmental issues:-

E "It is true that the High Court and Supreme Court have been taking up these and other complex environmental issues and deciding them. But, though they are judicial bodies, they do not have an independent statutory panel of environmental scientists to help and advise them on a permanent basis. They are prone to apply principles like the Wednesbury Principle and refuse to go into the merits. They do not also make spot inspections or receive oral evidence to see for themselves the facts as they exist on ground. On the other hand, if Environmental Courts are established in each State, these Courts can make spot inspections and receive oral evidence. They can receive independent advice on scientific matters by a panel of scientists.

F These Environmental Courts need not be Courts of exclusive jurisdiction. However, the High Courts, even if they are approached under Art. 226 either in individual cases or in PIL cases, where orders of environmental authorities could be questioned, may refuse to intervene on the ground that there is an effective alternative remedy before the specialist Environmental Court. As of now, when we have consumer Courts at the District

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and State level, the High Courts have consistently refused to entertain writ petitions under Art. 226 because parties have a remedy before the fora established under the Consumer Protection Act, 1986. We have also the example of special environmental courts in Australia, New Zealand and in some other countries and these are manned by Judges and expert commissioners. The Royal Commission in UK is also of the view that if environmental courts are established, the High Courts may refuse to entertain applications for judicial review on the ground that there is an effective alternative remedy before these Courts.

It is for the above reasons we are proposing the establishment of separate environmental courts in each State. In Chapter IX, we propose to give the details of the constitution, power and jurisdiction of these Courts.”

13.3 The above would suggest that the Law Commission was of the opinion that it is not convenient for the High Courts and the Supreme Court to make local inquiries or receive evidence. Moreover, the superior courts will not have access to expert environmental scientists on permanent basis to assist them. Therefore, NGT was conceived as a complimentary specialized forum to deal with all environmental multi-disciplinary issues both as original and also as an appellate authority, which complex issues were hitherto dealt with by the High Courts and the Supreme Court.

13.4 The NGT, therefore, was intended to be the competent forum for dealing with environmental issues instead of those being canvassed under the writ jurisdiction of the Courts. It was explicitly noted that the creation of the NGT would allow for the Supreme Court and High Court to avoid intervening under their inherent jurisdiction when an alternative efficacious remedy would become available before the specialized forum. The 186th Law Commission Report provided the following reasoning,

“Likewise, we have not thought it fit to enable the Environmental Courts, to have judicial review powers exercised by the High Court under Art. 226 of the Constitution of India. We have felt that it is sufficient to vest original civil jurisdiction as exercisable by a Civil Court, in the Environmental Courts. If we vest powers of Judicial review as under Art. 226, then there may be need to subject the orders to the writ jurisdiction of High Courts as held in *L. Chandra Kumar vs. Union of India*, 1997 (3) SCC 261.

A No doubt, the Environment Court exercising powers of a Civil Court or as an appellate Court in civil jurisdiction, may be technically amenable to writ jurisdiction of the High Court but inasmuch as we are providing an appeal to the Supreme Court, the High Courts may decline to interfere on the ground that there is an effective alternative remedy of appeal on law and fact to the Supreme Court, as explained later in this Chapter.”⁷

B Thus, the power of judicial review was omitted to ensure avoidance of High Courts’ interference with the Tribunal’s orders by way of a mid-way scrutiny by the High Court, before the matter travels to the Supreme Court where NGT’s orders can be challenged. The streamlining of the mechanism was to arrest the growing tide of litigation before High Courts and the Supreme Court and shift such issues to the domain of the NGT.

C 13.5 This is how the proposed forum was made free from the rules of evidence and the NGT was permitted to lay down its own procedure to entertain oral and documentary evidence, consult experts etc. The observance of the principles of natural justice was however mandated.

D **II. PREAMBLE & STATEMENT OF OBJECTS AND REASONS**

E 14.1 The Statement of Objects and Reasons of the NGT Act will now require attention. Paras 2,3,4,5 and 6 of the Statement of Objects and Reasons being relevant are extracted hereinbelow: -

F “2. India is a party to the decisions taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated, calling upon the States to take appropriate steps for the protection and improvement of the human environment. The United Nations Conference on Environment and Development held at *Rio de Janeiro* in June, 1992, in which India participated, has also called upon the States to provide effective access to judicial and administrative proceedings, including redress and remedy, and to develop National laws regarding liability and compensation for the victims of pollution and other environmental damage.

G 3. The right to healthy environment has been construed as a part of the right to life under article 21 of the Constitution in the judicial pronouncement in India.

H ⁷ Chapter II, 186th Law Commission Report.

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4. The National Environment Tribunal Act, 1995 was enacted to provide for strict liability for damages arising out of any accident occurring while handling any hazardous substance and for the establishment of a National Environmental Tribunal for effective and expeditious disposal of cases arising from such accident, with a view to giving relief and compensation for damages to persons, property and the environment. However, the National Environment Tribunal, which had a very limited mandate, was not established. The National Environment Appellate Authority Act, 1997 was enacted to establish the National Environment Appellate Authority to hear appeals with respect to restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986. The National Environment Appellate Authority has a limited workload because of the narrow scope of its jurisdiction.

5. Taking into account the large number of environmental cases pending in higher courts and the involvement of multidisciplinary issues in such cases, the Supreme Court requested the Law Commission of India to consider the need for constitution of specialized environmental courts. Pursuant to the same, the Law Commission has recommended the setting up of environmental courts having both original and appellate jurisdiction relating to environmental laws.

6. In view of the foregoing paragraphs, a need has been felt to establish a specialized tribunal to handle the multidisciplinary issues involved in environmental cases. Accordingly, it has been decided to enact a law to provide for the establishment of the National Green Tribunal for effective and expeditious disposal of civil cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment.”

14.2 A reading of the Statement of Objects and Reasons shows that paragraph 4 thereof refers to the *National Environmental Tribunal Act, 1995 (NET)* which provided for strict liability and damages arising out of accidents occurring while handling hazardous substances. In the same context it was observed that the NET had a very limited and narrow mandate and jurisdiction. Thereafter, in Para 5 it has been recorded that a large number of environmental cases are pending in higher Courts

A which involve multi-disciplinary issues and, in such cases, the Supreme Court had requested the Law Commission of India to consider the need for constitution of specialized environmental Courts.

B 14.3 Significantly, the Statement of Objects and Reasons also refers to right to a healthy environment being a part of the right to life under Article 21 of the Constitution of India. This was consistent with the earlier mentioned 186th Law Commission Report highlighting that the body so created, would aim to “*achieve the objectives of Article 21, 47, 48A, 51A (g) of the Constitution of India by means of a fair, fast and satisfactory judicial procedure*”. An institution concerned with a significant aspect of right to life necessarily should be given the most liberal construction.

C 14.4 The paragraph 2 of the Statement of Objects and Reasons refers to the United Nations Conference on the Human Environment held at Stockholm in June 1972 which called upon governments and peoples to exert common efforts for the preservation and improvement of the human environment when it involved people and for their posterity. Therefore, the municipal law enacted with such a laudatory objective of not only preventing damage to the environment but also to protect it, must be provided with the wherewithal to discharge its protective, preventive and remedial function towards protection of the environment.

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E The mandate and jurisdiction of the NGT is therefore conceived to be of the widest amplitude and it is in the nature of a *sui generis* forum.

F 14.5 The United Nations Conference on Environment and Development held at Rio De Janeiro in June, 1992 where India participated, impressed upon the States to provide effective access to judicial and administrative proceedings, lay out redress and remedy and to develop national laws regarding liability and compensation for the victims of pollution and other environmental damage. The Preamble of the Act significantly emphasized on construing the right to healthy environment as a part of the Right to Life under Article 21 of the Constitution which was accepted by various judicial pronouncements in

G India. The National Green Tribunal was born in our country with such lofty dreams to deal with multi-disciplinary issues, relating to the environment.

H 14.6 The limited mandate conferred on the earlier forum i.e. the NET and the narrow scope of jurisdiction of the National Environment Appellate Authority along with the involvement of multi-disciplinary issues

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arising in environmental cases, were intended to be addressed through the constitution of the NGT. A

III. THE NEED FOR PURPOSIVE INTERPRETATION

15.1 While adequate clarity is discernible in the phraseology that is employed under Section 14 and other provisions of the NGT Act, as shall be discussed in later parts of the judgement, the intention behind the statute should receive our careful attention. Tracing the legislative history for creation of the NGT it is seen that the NGT is intended to address wide ranging societal concerns and these have prompted us to opt for purposive interpretation. The Statute will have to be read in its entirety and each provision of the Act must be given its due meaning by comprehending the mischief it intends to remedy. The chosen interpretive exercise is best understood from the treatise *Interpretation of Statutes*, authored by Justice G.P. Singh who explained thus, B C

“When the question arises as to the meaning of certain provision in statute, it is not only legitimate but proper to read that provision in its context. The context here means, the statute as a whole, the previous state of the law, other statutes in pari materia, the general scope of the statute, and the mischief that it was intended to remedy. This statement of the rule was later fully adopted by the Supreme Court. D

It is a rule now firmly established that the intention of the Legislature must be found by reading the statute as a whole. The rule is referred to as an ‘elementary rule’ by Viscount Simonds: a compelling rule by Lord Somervell of Harrow; and a “settled rule” by B.K. Mukherjee J. “I agree” said Lord Halsbury, “that you must look at the whole in order to give effect, if it be possible to do so, to the intention of the framer of it.” E F

15.2 The mischief that the NGT Act attempted to remedy were underscored in the legislative history, and the pronouncements of the constitutional Courts flagging their environmental concerns.

15.3 The application of the *Heydon’s Rule* could adequately aid us here as the Rule directs adoption of that construction which “*shall suppress the mischief and advance the remedy*” as was pertinently observed by Justice S.R. Das, for a seven judge bench in *Bengal Immunity Co. vs. State of Bihar*⁸, G

⁸ 1955 (2) SCR 603; AIR 1955 SC 661

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A “...the office of all judges is to make such construction as shall suppresses the mischief and advance the remedy, and to suppress subtle inventions and evasions for continuance of the mischief; and *pro privato commodo*, and to add force and life to the cure and remedy, according to the true intent of the makers of the Act, *pro bono publico*.”

B 15.4 Francis Bennion in his book *Statutory Interpretation* described ‘purposive interpretation’ as under:

‘A purposive construction of an enactment is one which gives effect to the legislative purpose by—

C (a) following the literal meaning of the enactment where that meaning is in accordance with the legislative purpose, or

(b) applying a strained meaning where the literal meaning is not in accordance with the legislative purpose.’

D 15.5 Justice Frankfurter of US Supreme Court in ‘*Some Reflections on the Reading of Statutes*’, has elucidated on the principles to ascertain the contextual meaning of statutes in the following manner,

‘The purpose of construction being the ascertainment of meaning, every consideration brought to bear for the solution of that problem must be devoted to that end alone.

E ...

Judge Learned Hand speaks of the art of interpretation as ‘the proliferation of purpose’.⁹

F Eventually, Justice Frankfurter relied upon Justice Benjamin Cardozo’s phraseology in *Panama Refining Co. Vs. Ryan*, and the same is taken as a lodestar in our quest,

“the meaning of a statute is to be looked for, not in any single section, but in all the parts together and in their relation to the end in view”¹⁰.

G 15.6 The laudatory objectives for creation of the NGT would implore us to adopt such an interpretive process which will achieve the legislative purpose and will eschew procedural impediment or so to say

⁹ 47 Columbia Law Review 527

H ¹⁰ 293 U.S. 388 (1935) (dissenting)

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incapacity. The precedents of this Court, suggest a construction which fulfills the object of the Act.¹¹ The choice for this Court would be to lean towards the interpretation that would allow fructification of the legislative intention and is forward looking. The provisions must be read with the intention to accentuate them, especially as they concern protections of rights under Article 21 and also deal with vital environmental policy and its regulatory aspects. A
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IV. SALIENT STATUTORY FEATURES OF NGT ACT -

16.1 Applying the chosen tool of interpretation to the statutory layout of the NGT Act, following provisions will require the Court's attention. Section 2(1)(c) of the NGT Act defines the term "environment"; Section 2(1)(m) defines "substantial question relating to environment". Chapter III relates to jurisdiction, power and proceedings of the Tribunal. The Section 14 gives original jurisdiction to the NGT to decide a substantial question relating to environment; Section 15 deals with relief, compensation and restitution whereby besides providing relief to the victims of pollution, the NGT can direct restitution of property damage and restitution of environment for such area(s) "*as the Tribunal may think fit*". Section 16 gives appellate jurisdiction to the Tribunal against the orders passed under various enactments. Section 17 provides for liability to pay relief or compensation in certain cases, Section 18 specifies who can move application/appeal before the Tribunal. It includes, among others, 18(2)(d) "*any person aggrieved including any representative body / organization*" and the *locus standi* is not limited only to the aggrieved party. Section 19 provides for procedure and powers of the Tribunal. Section 19(1) significantly says that the Tribunal shall not be bound by procedures laid down in the CPC and shall be bound by the Principles of Natural Justice. Section 19(2) provides that subject to the provisions of the Act, the Tribunal shall have powers to regulate its own procedure. Section 19(3) mentions that the Tribunal shall not be bound by the rules of evidence contained in the Evidence Act, 1872. While discharging functions under Section 19(4), besides summoning, enforcing attendance, examining persons on oath, requiring discovery and production of documents, receiving evidence on oath, the NGT also has powers to review its decision, to pass interim orders as well as pass cease and desist orders. Section 20 says that while adjudicating issues, the Tribunal shall apply the environmental principles, namely, sustainable development C
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¹¹ Sarah Mathew v. Institute of Cardio Vascular Diseases (2014) 2 SCC 62, New India Assurance Co. Ltd. Vs. Nusli Neville Wadia (2008) 3 SCC 279. H

A principles, precautionary principles and polluter pays principle. Under Section 25, the Tribunal can execute its order/decision as a decree of the Civil Court and for that purpose shall have all the powers of a Civil Court. Section 29 bars the jurisdiction of the Civil Court to entertain all environmental matters covered by the Tribunal. Under Section 33, the NGT Act has an overriding effect over other laws.

B 16.2 While on the statutory provisions, it is seen that the Central Government has framed the *National Green Tribunal (Practice & Procedure) Rules, 2011* (for short “the NGT Rules”). For our purpose, Rule 24 is important which reads thus:

C “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.”

D 16.3 The said Rules make it clear that the NGT has been given wide discretionary powers to *secure the ends of justice*. This power is coupled with the duty to be exercised for achieving the objectives. The intention understandably being to preserve and protect the environment and the matters connected thereto.

E 16.4 By choosing to employ a phrase of wide import, i.e. *secure the ends of justice*, the legislature has nudged towards a liberal interpretation. Securing justice is a term of wide amplitude and does not simply mean adjudicating disputes between two rival entities. It also encompasses *inter alia*, advancing causes of environmental rights, granting compensation to victims of calamities, creating schemes for giving effect to the environmental principles and even hauling up authorities for inaction, when need be.

F 16.5 Moreover, unlike the civil courts which cannot travel beyond the relief sought by the parties, the NGT is conferred with power of moulding any relief. The provisions show that the NGT is vested with the widest power to appropriate relief as may be justified in the facts and circumstances of the case, even though such relief may not be specifically prayed for by the parties.

G 16.6 Another distinguishing feature of the environmental forum is on the aspect of *locus standi* which was made as wide as is available to the High Courts and the Supreme Court. Thus, any person or organization who may be interested in the subject matter is permitted to approach the
H NGT.

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16.7 The provisions of the NGT Act and the NGT Rules demonstrate that myriad roles are to be discharged by the NGT, as was encapsulated in the Law Commission Report, the Preamble and the Statement of Objects and Reasons. This is also forthcoming from the international obligation and commitment by India to implement the decision taken at the Stockholm and the Rio De Janeiro Conventions towards protection of the environmental rights under Article 21 of the Constitution. A
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V. NON-ADJUDICATORY ROLES OF NGT

17.1 As can be seen, the Parliament intended to confer wide jurisdiction on the NGT so that it can deal with the multitude of issues relating to the environment which were being dealt with by the High Courts under Article 226 of the Constitution or by the Supreme Court under Article 32 of the Constitution. The Tribunal is also expected to proceed with such matters with the understanding that environment and environmental principles are part of Article 21 of the Constitution. [See *Vellore Citizens' Welfare Forum vs. UOI*¹²; *M.C. Mehta vs. UOI*¹³ etc.] C
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17.2 The Schedule I of the NGT Act is concerned with implementation of few environmental related enactments such as the Water Act, the Air Act, the Environment Act, the Forest Conservation Act etc. As one looks at these enactments, an expanded role for the NGT is clearly discernible. The activities of the NGT are not only geared towards the protection of the environment but also to ensure that the developments do not cause serious and irreparable damage to the ecology and the environment. These would suggest a broad canvas for the NGT Act as also its creation. E

17.3 For the environmental forum, tasked with implementation of the statutes mentioned in Schedule I of the NGT Act, the concept of *lis*, would obviously be beyond the usual understanding in civil cases where there is a party (whether private or government) disturbing the environment and the other one (could be an individual, a body or the government itself), who has concern for the protection of environment. Therefore, the NGT is primarily concerned with protection of the environment and also preservation of the natural resources. As the specialized forum, the NGT would be expected to take preventive action, besides settling and adjudicating disputes and pass orders on all environment related questions. F
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¹² (1996) 5 SCC 647

¹³ (1997) 2 SCC 353

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A 17.4 The NGT is not just an adjudicatory body but has to perform wider functions in the nature of prevention, remedy and amelioration. This aspect was specifically flagged in the 186th Law Commission Report,

B “The Environment Court, in our view, must have power to frame schemes and monitor them and also have power to modify the schemes from time to time. If one looks at the problems raised in several cases and the directions issued by the Supreme Court, it will be observed that such a power is necessary to be vested in these Courts. The Environment Court must be able to provide an “environmental solution” to grave problems like the one

C mentioned above and unless it has power to frame comprehensive schemes which will involve issuing directions to various departments, the solution cannot be implemented. Such a comprehensive jurisdiction is now being exercised both by the Supreme Court and High Courts. In our view, the proposed Courts must have similar powers. They will also have to monitor the

D schemes till they are successfully implemented on ground and, if necessary, modify the schemes from time to time.”

18. We have earlier discussed that the NGT is empowered to carry out restitutive exercise for compensating persons adversely affected by environmental events. The larger discourse which informs such functions is related to distributive and corrective justice, as will be

E elaborated in later paragraphs. Even in the absence of harm inflicted by human agency, in a situation of a natural calamity, the Tribunal will be required to devise a plan for alleviating damage. An inquisitorial function is also available for the Tribunal, within and without adversarial significance. Importantly, many of these functions do not require an active

F “*dispute*”, but the formulation of *decisions*.

19.1 With the constitution of the NGT, many cases pending before the High Courts were transferred to the NGT. Apprehending the possibility of conflict between the High Courts and the NGT (in matters concerning environment and the statutes mentioned in Schedule I of the NGT Act),

G Justice Swatanter Kumar speaking for the three Judge Bench in *Bhopal Gas Peedith Mahila Udyog Sangathan vs. Union of India*¹⁴, highlighted the NGT’s role in the context, in the following words: -

“40. Keeping in view the provisions and scheme of the National Green Tribunal Act, 2010 (for short “the NGT Act”) particularly

H ¹⁴(2012) 8 SCC 326

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Sections 14, 29, 30 and 38(5), it can safely be concluded that the environmental issues and matters covered under the NGT Act, Schedule I should be instituted and litigated before the National Green Tribunal (for short “NGT”). Such approach may be necessary to avoid likelihood of conflict of orders between the High Courts and NGT. Thus, in unambiguous terms, we direct that all the matters instituted after coming into force of the NGT Act and which are covered under the provisions of the NGT Act and/or in Schedule I to the NGT Act shall stand transferred and can be instituted only before NGT. This will help in rendering expeditious and specialised justice in the field of environment to all concerned.

41. We find it imperative to place on record a caution for consideration of the courts of competent jurisdiction that the cases filed and pending prior to coming into force of the NGT Act, involving questions of environmental laws and/or relating to any of the seven statutes specified in Schedule I of the NGT Act, should also be dealt with by the specialised tribunal, that is, NGT, created under the provisions of the NGT Act. The courts may be well advised to direct transfer of such cases to NGT in its discretion, as it will be in the fitness of administration of justice.”

19.2 In the above case, this Court mandated transfer of all cases concerning the statutes mentioned in Schedule I of the NGT Act to the specialized forum as otherwise there can be conflicts with the High Courts. Notably, some of those cases were originally registered *suo motu* by the Courts.

VI EXERCISE OF *SUO MOTU* POWER BY NGT

20. Let us now explore whether the NGT in discharge of its functions, should also have *suo motu* power. The specialized tribunal’s exercise of *suo motu* powers is somewhat distinct from those exercised by the constitutional Courts. The Supreme Court and High Courts can foray into any issues under their constitutional mandate but the NGT cannot naturally travel beyond its environmental domain in reference to the scheduled enactments. However, As long as the sphere of action is not breached, the NGT’s powers must be understood to be of the widest amplitude.

A 21.1 Explaining the purpose for constituting the special court to deal with environmental issues, in *Mantri Techzone (P) Ltd. vs. Forward Foundation*¹⁵, Justice S. Abdul Nazeer writing for the three Judge Bench, made the following pertinent observations on the status of the NGT:-

B “40. The Tribunal has been established under a constitutional mandate provided in Schedule VII List I Entry 13 of the Constitution of India, to implement the decision taken at the United Nations Conference on Environment and Development. The Tribunal is a specialised judicial body for effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to the environment. The right to healthy environment has been construed as a part of the right to life under Article 21 by way of judicial pronouncements. Therefore, the Tribunal has special jurisdiction for enforcement of environmental rights.”

D 21.2 As can be seen from the quoted passage, this Court recognized that the NGT is set up under the constitutional mandate in Entry 13 of List I in Schedule VII to enforce Article 21 with respect to the environment and in the context observed that the Tribunal has special jurisdiction for enforcement of environmental rights.

E 21.3 Elaborating further, in paragraphs 44-46, the Supreme Court expressed that the interpretation that is in favour of conferring jurisdiction should be preferred rather than one taking away jurisdiction. It was specifically noted that,

F “46. ... As stated supra the typical nature of the Tribunal, its breadth of powers as provided under the statutory provisions of the Act as well as the Scheduled enactments, cumulatively, leaves no manner of doubt that the only tenable interpretation to these provisions would be to read the provisions broadly in favour of cloaking the Tribunal with effective authority. An interpretation that is in favour of conferring jurisdiction should be preferred rather than one taking away jurisdiction.”

G 21.4 Such being the wide contour of the NGT’s powers, the exposition in *Rajeev Suri vs. DDA*¹⁶ was not to constrict the *suo motu*

¹⁵ (2019) 18 SCC 494

H ¹⁶ 2021 SCC Online SC 7.

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powers of the NGT. To appreciate the implication of the ratio in *Rajeev Suri*, it must be noticed that it was in the specific context of ‘*Merits Review*’ and the NGT transgressing beyond its environmental mandate. This is why, one of us, Justice A.M. Khanwilkar observed that,

“503. NGT is not a plenary body with inherent powers to address concerns of a residuary character. It is a statutory body with limited mandate over environmental matters as and when they arise for its consideration. In a cause before it, NGT cannot directly go on to adjudicate on concerns of violation of fundamental rights and once the contours of a subject matter traverse the scope of appeal from a grant of EC, the merits review by tribunal cannot traverse beyond the scope of jurisdiction vested in it by the statute.”

21.5 Thus, the ratio in *Rajeev Suri* to the quoted extent will not clash with the view propounded here as the exposition is not to allow any inherent power of residuary character for the NGT. In its own domain, as crystallized by the statute, the role of the NGT is clearly discernible.

21.6 The need for an expert body with extensive functions and the sources of inspiration behind it was articulated in *Andhra Pradesh Pollution Control Board v. Prof. M. V. Nayudu (Retd.) and Ors.*¹⁷ where Justice M. Jagannadha Rao speaking for a Division Bench referred to a comparable court in Australia and noted the following,

“The Land and Environment Court of New South Wales in Australia, established in 1980, could be the ideal. It is a superior court of record and is composed of four Judges and nine technical and conciliation assessors. Its jurisdiction combines appeal, judicial review and enforcement functions. Such a composition in our opinion is necessary and ideal in environmental matters.”

The above would show that from the very inception, the role of the NGT was not simply adjudicatory in the nature of a *lis* but to perform equally vital roles which are preventative, ameliorative or remedial in nature. The functional capacity of the NGT was intended to leverage wide powers to do full justice in its environmental mandate.

VII. UNIQUENESS OF NGT *VIS-A-VIS* OTHER TRIBUNALS

22.1 While we see many tribunals functioning within their specified domains, variances do exist in the manner in which they are designed to

¹⁷(1999) 2 SCC 718

A function. The statutory Tribunals were categorized to fall under four subheads; Administrative Tribunals under Article 323A; Tribunals under Article 323B; Specialized sector Tribunals and most prominently; Tribunals to safeguard rights under Article 21. As already noted, the duties of NGT brings it within the ambit of the fourth category, creating a compelling proposition for wielding much broader powers as delineated by the statute.

B 22.2 The ideal was to create a fairly proactive and responsive Institution which could step into varying roles, as the situation demanded. Commenting on the specialized and unique role of the NGT, Justice Ashok Bhushan in *State of Meghalaya vs. All Dimasa Students Union*¹⁸, fittingly observed thus:-

C “163. The object for which the said power is given is not far to seek. To fulfil the objective of the NGT Act, 2010, NGT has to exercise a wide range of jurisdiction and has to possess wide range of powers to do justice in a given case. The power is given to exercise for the benefit of those who have right for clean environment which right they have to establish before the Tribunal. The power given to the Tribunal is coupled with duty to exercise such powers for achieving the objects. In this regard reference is made to the judgment of this Court in *L. Hirday Narain v. CIT* [*L. Hirday Narain v. CIT*, (1970) 2 SCC 355], wherein this Court was examining provision empowering authority to do something. This Court laid down in para 14: (SCC p. 359)

D “14. The High Court observed that under Section 35 of the Indian Income Tax Act, 1922, the jurisdiction of the Income Tax Officer is discretionary. If thereby it is intended that the Income Tax Officer has discretion to exercise or not to exercise the power to rectify, that view is in our judgment erroneous. Section 35 enacts that the Commissioner or Appellate Assistant Commissioner or the Income Tax Officer may rectify any mistake apparent from the record. If a statute invests a public officer with authority to do an act in a specified set of circumstances, it is imperative upon him to exercise his authority in a manner appropriate to the case when a party interested and having a right to apply moves in that behalf and circumstances for exercise of authority are shown to exist. Even if the words used in the statute are prima facie enabling, the courts

H ¹⁸ (2019) 8 SCC 177

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will readily infer a duty to exercise power which is invested in aid of enforcement of a right—public or private—of a citizen.” A

22.3 Reflecting on the expanded role of NGT unlike other Tribunals, this Court so appositely observed that the forum has a duty to do justice while exercising “*wide range of jurisdiction*” and the “*wide range of powers*”, given to it by the statute. B

23. During the course of its functioning, the NGT has been recognized as one of the most progressive Tribunals in the world. This jurisprudential leap has allowed our country to enter a rather exclusive group of nations which have set up such institutions with broad powers. To understand how the NGT is perceived globally, we may usefully refer to the views of Chief Justice Brian Preston of the Land and Environment Court of NSW Australia, C

“The NGT is an example of a specialized court to better achieve the goals of ensuring access to justice, upholding the rule of law and promoting good governance.”¹⁹ D

VIII. THE SUI GENERIS ROLE OF NGT

24.1 The NGT being one of its own kind of forum, commends us to consider the concept of a *sui generis* role, for the institution. The structure of *Sui generis* institutions was explained in *Paramjit Kaur Vs. State of Punjab*²⁰, wherein Justice S. Saghir Ahmad spoke thus for a Division Bench, E

“14. The concept of *sui generis* is applied quite often with reference to resolution of disputes in the context of international law. When the conventions formulated by compacting nations do not cover any area territorially or any subject topically, then the body to which such power to arbiter is entrusted acts *sui generis*, that is, on its own and not under any law.” F

24.2 In *DG NHAI vs. Aam Aadmi Lokmanch*²¹, Justice S. Ravindra Bhat commenting on the *sui generis* role of the NGT, so appropriately stated as follows:- G

¹⁹ GILL, G. (2020). Mapping the Power Struggles of the National Green Tribunal of India: The Rise and Fall? *Asian Journal of Law and Society*,7(1), 85-126.

²⁰ (1999) 2 SCC 131

²¹ 2020 SCC Online SC 572 H

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cases transferred to the NGT, emanated in the superior courts and it would be appropriate thus to assume that similar power to initiate *suo motu* proceedings should also be available with the NGT. A

24.5 The NGT is a Tribunal with *sui generis* characteristic, with the special and all-encompassing jurisdiction to protect the environment. Besides its adjudicatory role as an appellate authority, it is also conferred with the responsibility to discharge role of supervisory body and to decide substantial questions relating to the environment. The necessity of having a specialized body, with the expertise to handle multi-dimensional environmental issues allows for an all-encompassing framework for environmental justice. The technical expertise that may be required to address evolving environmental concerns would definitely require a flexible institutional mechanism for its effective exercise. B C

IX. AUTHORITY WITH SELF-ACTIVATING CAPABILITY

25.1 Given the multifarious role envisaged for the NGT and the purposive interpretation which ought to be given to the statutory provisions, it would be fitting to regard the NGT as having the mechanism to set in motion all necessary functions within its domain and this, as would follow from the discussion below, should necessarily clothe it with the authority to take *suo motu* cognizance of matters, for effective discharge of its mandate. D E

25.2 The analysis for this segment should commence with Section 14 of the NGT Act and the same being of great relevance is being extracted hereunder,

“ 14. Tribunal to settle disputes. - (1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I. F

(2) The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settle such disputes and pass order thereon. G

(3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose: Provided that the Tribunal may, if it is H

A satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.”

25.3 The Section 14(1) of the NGT Act deals with jurisdiction, and the jurisdictional provision conspicuously omits to specify that an application is necessary to trigger the NGT into action. In situations where the three prerequisites of Section 14(1) i.e., Civil cases; involvement of substantial question of environment; and implementation of the enactments in Schedule I are satisfied, the jurisdiction and power of the NGT gets activated. On these material aspects, the NGT is not required to be triggered into action by an aggrieved or interested party alone. It would therefore be logical to conclude that the exercise of power by the NGT is not circumscribed by receipt of application. When substantial questions relating to the environment arise and the issue is civil in nature and those relate to the enactments in Schedule I of the Act, the NGT in our opinion even in the absence of an application, can self-ignite action either towards amelioration or towards prevention of harm.

25.4 In the same spirit, we find merit in the arguments that Section 14(1) exists as a standalone feature, not constricted by the operational mechanism of the subsequent subsections. The sub Section (2) of Section 14 functions as a corollary and comes into play when a dispute arises from the questions referred to in Section 14(1). Likewise sub Section (3) thereafter, refers to the period of limitation concerning applications, when they are addressed to the NGT. Where adjudication is involved, the adjudicatory function under Section 14(2) comes into play. When it is a case warranting NGT’s intervention, or may be a situation calling for decisions to meet certain exigencies, the functions under Section 14(1) can be undertaken and those may not involve any formal application or an adjudicatory process. However, the later provisions may not work in similar fashion. Therefore, care must be taken to ensure unrestricted discharge of the responsibilities under Section 14(1) and that wide arena of NGT’s functioning.

25.5 The other pertinent provisions relating to, *inter-alia*, jurisdiction, interim orders, payment of compensation and review, do not require any application or appeal, for the NGT to pass necessary orders. These crucial powers are expected to be exercised by the NGT, would logically suggest that the action/orders of the NGT need not always

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involve any application or appeal. To hold otherwise would not only reduce its effectiveness but would also defeat the legal mandate given to the forum. A

25.6 It may also be relevant to bear in mind that while dealing with contested cases, the NGT is required to pass “award” and “order” and the statute repeatedly uses the word “decision”. Therefore, it is appropriate to correlate the word “decision” to the NGT, in its non-adversarial or inquisitorial role, as was suggested by the Law Commission and recognized in *DG, NHAI* (supra). B

25.7 The duty to safeguard Article 21 rights cannot stand on a narrow compass of interpretation. Procedural provisions must be allowed to fall in step with the substantive rights that are invoked in the environmental domain, in larger public interest. The specialized forum is bestowed with the responsibility to ensure protection of the environment. To be effective in its domain, we need to ascribe to the NGT a public responsibility to initiate action when required, to protect the substantive right of a clean environment and the procedural law should not be obstructive in its application. In the context, Justice V.R. Krishna Iyer speaking for a Division Bench in *State of Punjab & Anr. Vs. Shamlal Murari & Anr.*²² has so correctly prioritized the substantive rights and observed succinctly, C D

“8. ...We must always remember that processual law is not to be a tyrant but a servant, not an obstruction but an aid to justice. It has been wisely observed that procedural prescriptions are the handmaid and not the mistress, a lubricant, not a resistant in the administration of justice.” E

25.8 While discussing the NGT’s power and responsibility, it is essential to keep in mind the *Principle 10 of the Rio Declaration* which speaks of three fundamental rights i.e., access to information, access to public participation and access to justice, as key pillars of environmental governance. Access to justice, may however be curtailed by illiteracy, lack of mobility, poverty or even the lack of technical knowledge on the part of citizens. Another deterrence is the likelihood of polluters/violators being powerful entities with adequate wherewithal to skirt regulations. Thus, it may not always be feasible for individuals to knock on the doors of the Tribunal, and NGT in such exigencies must not be made dysfunctional. F G

²² (1976) 1 SCC 719

A **X. THE PRECAUTIONARY PRINCIPLE**

26.1 Tracing the origin of the *Precautionary Principle*, Scott Lafranchi in his treatise²³ has expounded on the proactive role of the authorities in the following passage: -

B “Many consider the German development of *Vorsorgeprinzip* to signify the true creation of the precautionary principle, in light of the attention it focuses on “long term planning to avoid damage to the environment, early detection of dangers to health and environment through comprehensive research, and acting in advance of conclusive scientific evidence of harm.”¹⁶ The
 C precautionary foundation of *Vorsorgeprinzip* has been described as an “action principle” that holds public authorities responsible for protecting the natural foundations of life and preserving the physical world for the present and future generations, and ““can therefore be used to counter the short-termism endemic in all democratic, consumption oriented societies.””

D 26.2 The origin of the *Precautionary Principle* itself is rooted as an institutional obligation, by holding them primarily responsible for the environmental concerns and remedies.

E 26.3 As earlier seen, S.20 of the NGT Act which includes the term “*decision*”, in addition to “*order*” and “*award*”, also require the Tribunal to apply the ‘*Precautionary Principle*’ and the statutory mandate being relevant is extracted: -

F “20. Tribunal to apply certain principles. - The Tribunal shall, while passing any order or decisions or award, apply the principles of sustainable development, the precautionary principle and the polluter pays principle.”

G 26.4 The principle set out above must apply in the widest amplitude to ensure that it is not only resorted to for adjudicatory purposes but also for other ‘*decisions*’ or ‘*orders*’ to governmental authorities or polluters, when they fail to “*to anticipate, prevent and attack the causes of environmental degradation*”²⁴. Two aspects must therefore be

²³ Scott LaFranchi, *Surveying the Precautionary Principle’s Ongoing Global Development: The Evolution of an Emergent Environmental Management Tool*, 32 B.C. Envtl. Aff. L. Rev. 679 (2005) —

H ²⁴ *Vellore Citizens (supra)*, *S. Jagannathan v. Union of India* (1997) 2 SCC 87, *Karnataka Industrial Areas Development Board v. C Kenchappa and Ors* (2006) 6 SCC 371.

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emphasized i.e. that the Tribunal is itself required to carry out preventive and protective measures, as well as hold governmental and private authorities accountable for failing to uphold environmental interests. Thus, a narrow interpretation for NGT's powers should be eschewed to adopt one which allows for full flow of the forum's power within the environmental domain. A

26.5 It is not only a matter of rhetoric that the Tribunal is to remain ever vigilant, but an important legal onus is cast upon it to act with promptitude to deal with environmental exigencies. The responsibility is not just to resolve legal ambiguities but to arrive at a reasoned and fair result for environmental problems which are adversarial as well as non-adversarial. It would be apposite here to refer to Justice Benjamin Cardozo, of the United States Supreme Court, who in his seminal treatise, *'The Nature of the Judicial Process'*, stated thus, B

“It is true that codes and statutes do not render the judge superfluous, nor his work perfunctory and mechanical. There are gaps to be filled. There are doubts and ambiguities to be cleared. There are hardships and wrongs to be mitigated if not avoided.” C

The above could be a pointer towards the preemptive functions of the NGT as a *sui generis* body. D

XI. ENVIRONMENTAL JUSTICE AND ENVIROMENTAL EQUITY E

27.1 The conceptual frameworks of environmental justice and equity should merit consideration vis-à-vis the NGT's domain and how its functioning and decisions can have wide implications in socio-economic dimensions of people at large. The concept of environmental justice is a trifecta of distributive justice, procedural justice and justice as recognition.²⁵ Environmental equity as a developing concept has focused on the disproportionate implications of environmental harms on the economically or socially marginalized groups. The concerns of human rights and environmental degradation overlap under this umbrella term, to highlight the human element, apart from economic and environmental ramifications. Environmental equity thus stands to ensure a balanced distribution of environmental risks as well as protections, including application of sustainable development principles. F

²⁵ Schlosberg D, *Defining Environmental Justice: Theories, Movements, and Nature* (Oxford University Press 2009) G

A 27.2 Voicing concerns about the disproportionate harm for the poor segments, Lois J. Schiffer (then Assistant Attorney General, Environment & Natural Resources Division (ENRD), U.S. Department of Justice) and Timothy J. Dowling (then Attorney at ENRD) in their *Reflections on the Role of the Courts in Environmental Law*, wrote the following evocative passage on the concept of environmental justice,

B “Environmental Justice, which focuses on whether minorities and low-income people bear a disproportionate burden of exposure to environmental harms and any resulting health effects. In the past ten to fifteen years, this issue has crystallized a grass-roots movement that combines civil rights issues with environmental issues, with a goal of achieving “environmental justice” or
C “environmental equity,” which is understood to mean the fair distribution of environmental risks and protection from environmental harms.”²⁶

D 27.3 There is also a need to focus on the interconnection between principles of procedural justice and distributive justice. The concern is to create a system which is affirmative enough to balance the disproportionate wielding of power between polluters and affected people.

E “Environmental justice starts with distributive justice, or more accurately, distributive injustice. The rich and powerful derive the most benefit while suffering the least harm from environmentally harmful activities; conversely, the poor and minorities derive the least benefit but suffer the most harm. Further, those who benefit cause harm to the places where people “live, work, play, and go to school,” whereas the people who reside there do little or nothing to harm their community.”²⁷

F When substantive justice is elusive for a large segment, disengaging with substantive rights at the very altar, for a perceived procedural lacuna, would surely bring in a process, which furthers inequality, both economic and social. An “*equal footing*” conception may not therefore be feasible to adequately address the asymmetrical relationship between the polluters and those affected by their actions. Instead, a recognition of the historical experience of marginalized classes of persons while accessing and effectively using the legal system, will allow for necessary appreciation of social realities and balancing the arm of justice.

²⁶ Schiffer, L. J., & Dowling, T. J. (1997). Reflections On The Role Of The Courts In Environmental Law. *Environmental Law*, 27(2), 327–342.

H ²⁷ Jeff Todd, A “Sense of Equity” in Environmental Justice Litigation, 44 HARV. ENVTL. L. REV. 169, 193 (2020).

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27.4 The law must be interpreted in such a manner as to foster further development of existing legal concepts by incorporating this sense of equity. The issues which this Court has had the occasion to examine have highlighted the limitations of the mechanisms to reach to the heart of environmental concerns. This Court has previously moulded the jurisdictional jurisprudence in favour of larger societal interest, whether that be in the form of ‘Public Interest Litigation’ or widening the scope of *locus standi*. A B

“The identification of potential environmental justice issues is very important in determining how our enforcement efforts are working in minority and low-income communities, and whether they are comparable to the enforcement efforts in other communities.”²⁸ C

27.5 In the backdrop of the above weighty concerns, this Court should advert to what Schiffer and Dowling have stated on the ‘*Blindfold of Lady Justice*’, which symbolizes “*the ideal of administering equal justice to everyone who comes to our Courts, regardless of race, creed, or economic class.*”²⁹ The relevance of this concept is particularly apposite when we consider the inability of most marginalized communities, to access the legal machinery. D

IX. ENVIRONMENTAL JURISPRUDENCE IN INDIA

28.1 Proceeding with the above understating, we can comfortably place the NGT within the rubric of the larger environmental jurisprudence which has been informing this unique institution. The role of this Court in establishing the legal connect between matters of environmental concern and fundamental rights of citizens, has produced much academic literature. Amongst others, Armin Rosencranz and Shyam Divan in their writing-*Environmental Law And Policy In India*, have noted that the field of laws pertaining to environmental concerns has been a fairly fertile ground for judicial innovations by this Court; moving the concept of Environmental law from the realm of torts to interlink it with fundamental rights³⁰, liberalizing the concept of *locus standi* in environmental matters, exercising *suo motu* powers to reign in polluters, using expert committees to monitor implementation of Court orders, etc.³¹ E F

²⁸ Supra Note 26. G

²⁹ Ibid

³⁰ Rural Litigation And Entitlement Kendra & Ors V. State Of U. P. & Ors AIR 1985 SC 652, Charan Lal Sahu Vs. Union of India (1990) 1 SCC 613, Virender Gaur Vs. State of Haryana (1995) 2 SCC 577

³¹ See M.A.A. Baig, *Environmental Law And Justice*(1996). Domenico Amirante, *Environmental Courts In Comparative Perspective: Preliminary Reflections On The National Green Tribunal Of India* (2012). M.K. Ramesh, *Environmental Justice: Courts And Beyond*, Indian Jo. Of Env'tl. L. 20(2002). H

A 28.2 By expanding the scope of Articles 21, 32, 48A, 51A(g), this Court has guaranteed the right to a pollution free environment for a holistic existence.³² Most crucially, the expansion of Right to Life under Article 21 by this Court has become a touchstone to determine many environmental concerns. In *Subhash Kumar Vs. State of Bihar*, this Court explicitly held the following,

B “Right to life is a fundamental right under Article 21 of the Constitution and it includes the right of enjoyment of pollution free water and air for full enjoyment of life.”³³

C 28.3 Adopting international principles and moulding them to Indian realities also became a focal concern, given the lacunae in regimes which may be exploited by those who may not have much concern for environmental degradation. Creation of the ‘*Absolute Liability Principle*’³⁴ by this Court is a well recognized testament for this. It would thus be appropriate to state that much of the principles, institutions and mechanisms in this sphere have been created, on account of this Court’s initiative.

D “The constitutionally-protected fundamental right to life and liberty has been extended through judicial creativity to cover unarticulated but implicit rights such as the right to a wholesome environment. . . . The right was recognized as part of the right to life in 1991. . . . The court has since fleshed out the right to a wholesome environment by integrating into Indian environmental jurisprudence not just established but even nascent principles of international environmental law.”³⁵

E 28.4 It has been noted that the Supreme Court adopted the role of an “amicus environment” by threading together human rights and environmental concerns, resultingly developing a *sui generis* environmental discourse.³⁶ There were both procedural and substantive innovations made, by entertaining PIL petitions, seeking remedies,

G ³² Maheshwara Swamy, N. Law Relating to Environmental Pollution and Protection. India, Thompson Reuters, Vol.I, Ed.5.

³³ (1991) 1 SCC 74.

³⁴ M.C. Mehta vs. Union of India, 1987 SCC (1) 395.

³⁵ Rajamani, Lavanya. 2007. Public Interest Environmental Litigation in India: Exploring Issues of Access, Participation, Equity, Effectiveness and Sustainability. Journal of Environmental Law

H ³⁶ *Supra*, Note 19.

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including guidelines and directions in the absence of legislation. Many of the landmark cases which hold the fort to this day, were in recognition of the ‘*at risk*’ nature of some populations. The creation of the NGT itself was due in large part to the need expressed by this Court for such a forum.³⁷ A

28.5 Justice T.S. Doabia in *Environmental & Pollution Laws in India*, has highlighted the larger societal concerns which have informed this Court’s deliberation when dealing with environmental matters, B

“The Supreme Court of India, in its interpretation of Article 21 of the Constitution of India, has facilitated the emergence of an environmental jurisprudence in India, while also strengthening human rights jurisprudence. C

...The Courts have successfully isolated specific environmental law principles upon the interpretation of Indian statutes and the Constitution, combined with a liberal view towards ensuring social justice and the protection of human rights. The principles have often found reflection in the Constitution in some form, and are usually justified even when not explicitly mentioned in the statute concerned.”³⁸ D

28.6 Environmental jurisprudence in India has therefore been intrinsic to advancing a democratic, welfare oriented legal regime. Issues affecting the ecology and the environment must have a broad perspective and should have a society centric approach. Furthermore, the very nature of ecological and environmental issues has the propensity for rapid deterioration. Many such sensitive matters, as has been noted, stood transferred to the NGT, with the aim that those would be dealt with expediently with the required technical expertise and legal sophistication. The proactiveness of the superior Court was surely expected to be seen in the Tribunal’s approach. E F

28.7 Analyzing the concept of the functioning of the NGT and its role within the broader concept of the environmental rule of law, Justice D.Y. Chandrachud speaking for a three judges Bench in *H.P. Bus Stand* G

³⁷ M.C. Mehta vs. Union of India (1986) 2 SCC 176, Indian Council for Environmental-Legal Action v. Union of India (1996) 3 SCC 212, A.P. Pollution Control Board vs. M.V. Nayudu (1999) 2 SCC 718, A.P. Pollution Control Board II vs. M.V. Nayudu (2001) 2 SCC 62.

³⁸ Justice T.S. Doabia, *Environmental & Pollution Laws in India*, 3rd Ed., Vol 2 (2017). H

A *Management & Development Authority vs. Central Empowered Committee*³⁹ so succinctly said that,

“40. The environmental rule of law, at a certain level, is a facet of the concept of the rule of law. But it includes specific features that are unique to environmental governance, features which are sui generis. The environmental rule of law seeks to create essential tools – conceptual, procedural and institutional to bring structure to the discourse on environmental protection. It does so to enhance our understanding of environmental challenges – of how they have been shaped by humanity’s interface with nature in the past, how they continue to be affected by its engagement with nature in the present and the prospects for the future, if we were not to radically alter the course of destruction which humanity’s actions have charted. The environmental rule of law seeks to facilitate a multi-disciplinary analysis of the nature and consequences of carbon footprints and in doing so it brings a shared understanding between science, regulatory decisions and policy perspectives in the field of environmental protection. It recognizes that the ‘law’ element in the environmental rule of law does not make the concept peculiarly the preserve of lawyers and judges. On the contrary, it seeks to draw within the fold all stakeholders in formulating strategies to deal with current challenges posed by environmental degradation, climate change and the destruction of habitats. The environmental rule of law seeks a unified understanding of these concepts.”

28.8 It is this environmental rule of law that has been encapsulated with the NGT’s creation at this Court’s behest. Professor Domenico Amirante in a comparative analysis of similar bodies across the world, notes that,

“With reference to the judicial enforcement of environmental law – which as we have seen should be considered an important condition not only for sustainable development but also for the sustainability of the legal environmental order – the National Green Tribunal of India seems to be the most comprehensive and promising among the specialized environmental Courts created in Asia over the last decade.”⁴⁰

³⁹ (2021) 4 SCC 309

⁴⁰ Domenico Amirante, *Environmental Courts in Comparative Perspective: Preliminary Reflections on the National Green Tribunal of India*, 29 *Pace Envtl. L. Rev.* 441 (2012)

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The NGT therefore, is the institutionalization of the developments made by this Court in the field of environment law. These progressive steps have allowed it to inherit a very broad conception of environmental concerns. Its functions therefore, must not be viewed in a cribbed manner, which detracts from the progress already made in the Indian environmental jurisprudence. A

X. CONCLUSION: B

29. Before we set out our conclusion, we acknowledge the able contribution of Mr. Anand Grover as *amicus curiae*, assisted by Ms. Astha Sharma, AOR who were requested to assist the Court on the central issue of *suo motu* jurisdiction of NGT. C

30. The NGT Act, when read as a whole, gives much leeway to the NGT to go beyond a mere adjudicatory role. The Parliament's intention is clearly discernible to create a multifunctional body, with the capacity to provide redressal for environmental exigencies. Accordingly, the principles of environmental justice and environmental equity must be explicitly acknowledged as pivotal threads of the NGT's fabric. The NGT must be seen as a *sui generis* institution and not *unus multorum*, and its special and exclusive role to foster public interest in the area of environmental domain delineated in the enactment of 2010 must necessarily receive legal recognition of this Court. D E

31. The environmental impacts on climate change are gaining increasing visibility in the shape of uncertain rains, species extinction, loss of natural habitat and so on. These also have the propensity to diminish fresh water resources, reduce agricultural yields and impact public health, particularly in the cities. The flooding and erosion in riverine and coastal areas are matters of serious concern. Governmental assessment of India's increased vulnerability to such changes in the near future also exists⁴¹ with many countries declaring climate emergencies and many others being urged to follow suit⁴². F

32. Therefore, the nature of ecological imbalance which is visible even in our own times may cascade, and the unforeseen injustice of the G

⁴¹ Indian Network for Climate Change Assessment, Climate Change and India: A 4X4 Assessment - A sectoral and regional analysis for 2030s, Ministry of Environment and Forests, Government of India, 16 November 2010

⁴² Secretary-General's Remarks at the Climate Ambition Summit. United Nations. United Nations, December 12, 2020. H

A future may not be capable of being handled within the frontiers set forth today. The long term and very often irreparable environmental damage which are expected to be arrested by the NGT, urge this Court to advert to what is termed as *the ‘Seventh Generation’ sustainability principle*, or the *‘Great Law of the Iroquois’* (as it originates from the Iroquois Tribe) which requires all decision making to withstand for the benefit of seven generations down the line.

33. It is vital for the wellbeing of the nation and its people, to have a flexible mechanism to address all issues pertaining to environmental damage and resultant climate change so that we can leave behind a better environmental legacy, for our children, and the generations thereafter.

34. In circumstances where adverse environmental impact may be egregious, but the community affected is unable to effectively get the machinery into action, a forum created specifically to address such concerns should surely be expected to move with expediency, and of its own accord. The potentiality of disproportionate harm imposes a higher obligation on authorities to preserve rights which may be waylaid due to such restrictive access. It is also noteworthy that the *“global impacts of climate change will fall disproportionately on minority and low-income communities”*.⁴³ Thus, an affirmative role, beyond mere adjudication at the instance of applicant, is certainly required for *servicing the ends of environmental justice*, as the statute itself requires of the NGT. We cannot validate an argument which furthers uncertainty to justify the role of a spectator, if not inaction, and would most assuredly result in injustice.

35. The NGT, with the distinct role envisaged for it, can hardly afford to remain a mute spectator when no-one knocks on its door. The forum itself has correctly identified the need for collective stratagem for addressing environmental concerns. Such a society centric approach must be allowed to work within the established safety valves of the principles of natural justice and appeal to the Supreme Court. The hands-off mode for the NGT, when faced with exigencies requiring immediate and effective response, would debilitate the forum from discharging its responsibility and this must be ruled out in the interest of justice.

⁴³ Supra Note 23.

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36. It would be procedural hairsplitting to argue (as it has been) that the NGT could act upon a letter being written to it, but learning about an environmental exigency through any other means cannot trigger the NGT into action. To endorse such an approach would surely be rendering the forum procedurally shackled or incapacitated. A

37. When the Registry of the NGT does indeed receive a communication or letter, including matters published in media, it may cause to initiate *suo motu* action by inviting attention of NGT to such matters in the form of office report. Such circumstances would however require a notice to be given to the sender of the communication or author of the news item, as the case may be, to assist the NGT in the course of hearing and to substantiate the factual matters. It must also be said that the exercise of *suo motu* jurisdiction does not mean eschewing with the principles of natural justice and fair play. In other words, the party likely to be affected should be afforded due opportunity to present their side, before suffering adverse orders. B C

38. One could admit to the argument of danger of *suo motu* jurisdiction, if the NGT was acting outside its domain. But when it is legitimately working within the contours of its statutory mandate and with procedural safeguards clarified above in play, the nature of the trigger itself viz. a letter or a '*suo motu*' initiation, cannot be the basis to curtail the role and responsibility of the specialized forum. D E

39. Institutions which are often addressing urgent concerns gain little from procedural nitpicking, which are unwarranted in the face of both the statutory spirit and the evolving nature of environmental degradation. Not merely should a procedure exist but it must be meaningfully effective to address such concerns. The role of such an institution cannot be mechanical or ornamental. We must therefore adopt an interpretation which sustains the spirit of public good and not render the environmental watchdog of our country toothless and ineffective. F

40. Let us now hark back to the dialogues of the two protagonists, in *Waiting for Godot*, the play written by Samuel Beckett with which, we started this judgment. At the end of the deliberations, we find ourselves saying that the National Green Tribunal must act, if the exigencies so demand, without indefinitely waiting for the metaphorical *Godot* to knock on its portal. The preceding discussion advises us to answer the pointed question in the affirmative. It is accordingly declared that the NGT is G H

A vested with *suo motu* power in discharge of its functions under the NGT Act.

41. Having answered the common legal issue involved in all these cases regarding the *suo motu* jurisdiction of NGT, we direct delinking of these cases for now being heard separately on merits. Indeed, if the cases(s) emanate from same/common order of NGT, such case(s) be heard together. Registry may do the needful and post the matters on 25.10.2021 for direction and fixing date of hearing, before the Bench presided over by one of us (Justice A.M. Khanwilkar). For the purpose of further hearing, the respective cases shall not be treated as part-heard before this Bench.

Devika Gujral

Legal issue answered.