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

APPLICATION NO. 65 / 2019 (WZ)

Ajay Bhosale & Ors. **Applicant**
VERSUS
Union of India & Ors. **Respondents**

**WRITTEN SUBMISSIONS
ADDITIONAL DOCUMENTS
BY RESPONDENT NO. 11
M/s. BramhaCorp Ltd.**

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2.	NGT OA 63/2019 (WZ) Ajay Bhosale v/s UoI ORDER dated 01/12/2022	R-1	6-15



Filed by:

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MOST RESPECTFULLY SUBMITTED:

1. Respondent No. 11 M/s BramhaCorp Ltd. (Project Proponent) most respectfully submits the recent ORDER dated 01/12/2022 of the Hon'ble National Green Tribunal, Western Zone Bench, Pune in the OA 63/2019 (WZ) Ajay Bhosale v/s Union of India. This ORDER was not available when the earlier submissions were made on 24/10/2021 and 09/08/2022. The true copy of the ORDER is enclosed and annexed as **ANNEXURE R-1** ■ .

2. Respondents state that the facts of the above matter are absolutely similar to that of the present case. In fact, in OA 63/2019, the excavation and construction had started in year 2012 and the case was filed in year 2019 (7 years later), mentioning the Show Cause Notice given by SEIAA on 15/06/2019 as the '***cause of action first arose***'.

3. Both these matters are initiated by the same applicant, pleaded by same Advocate. Both projects are that of construction under EIA Notification 14/09/2006 under Category 8(a). Applicant is fully aware of this matter and the ORDER in this matter. This ORDER so far has not been stayed by any superior Court.

4. The above ORDER dated 01/12/2022 has dealt with the submissions of the applicant, at Point No.14, on the basis of Judgement dated 07/05/2015 of ***the 'Forward Foundation v/s State of Karnatak OA 222/2014, reported in 2015 SCC online NGT 5'***. In this matter the very same applicant has already made the submissions in his paper book in reply affidavit dated 26/10/2021 at para no. 18.25 & 18.26, para 25 of the SC Judgement: **The entire true copy of the ORDER is enclosed and marked as ANNEXURE R-1** ■.

" 25. In contradistinction to 'cause of action first arose', there could be 'continuing cause of action', 'recurring cause of action' or 'successive cause of action'. These diverse connotations with reference to cause of action are not synonymous. They certainly have a distinct and different meaning in law, 'Cause of action first arose' would refer to a definite point of time when requisite ingredients constituting that 'cause of action' were complete, providing applicant right to invoke the jurisdiction of the Court or the Tribunal. "

5. Respondent states that in the present case, the plans (new) were approved on 21/09/2005. **The Buildings A, B, E and D were completed and Completion certificate was issued on 22/10/2007.** MPCB has submitted this in their Joint Report dated 07/01/2020, jointly signed by the 'Member SEIAA Maharashtra and Jt. Director (Water) MPCB Mumbai.

6. All the buildings are in open, 11 floors high and nothing was hidden from the public eye. The cause of action first arose in year 2005 and the buildings were completed (except C Bldg.) in year 2009. This is even prior to NGT Act 2010 coming in force.

7. The issue of limitation u/s. 14 and 15 of the NGT Act 2010 is very crucial and important as to first ascertain whether the Hon'ble Tribunal has the lawful jurisdiction under the Act. Irrespective of the merit of the case, whatever it may be, Hon'ble Tribunal shall not be indulging in to the matter devoid of jurisdiction. The wording in the statute the '**cause of action first arose**' has to be read in full and by giving effect to each letter of law.

8. Hon'ble Tribunal has already gone through the various orders and judgements and in particular the 'Forward Foundation' judgement, while deciding the earlier OA 63/2019. The applicant and the Bench also is the same.

9. Respondent states that the excavation and construction in the above matter had started in the decided OA 63/2019 in year 2012; whereas in this present matter OA 65/2019, the project was sanctioned on 14/09/2005 (even prior to even EIA Notification 14/09/2006 and also NGT coming in to the existence). **Plinth completion of buildings A, B, D, E were of dates 02/02/2006, 20/03/2006 and 17/10/2006. Building Completion Certificates were issued for Buildings A, B, E on 22/10/2007 and Building D on 05/10/2009 and 04/12/2009.**

10. Whereas the present application has been filed on 18/09/2019, almost 10 years later; instead of the limitation period of six months u/s.14 and five years u/s.15. The reason shown for challenging the constructions completed almost 10 years ago, is the revised building plans sanctioned on 21/06/2017. This reason has no relevance to the earlier part of the project completed OR giving rise to any 'substantial question related to environment' in respect of the earlier buildings completed.

11. It is most respectfully submitted that for this very reasons mentioned hereinabove, Hon'ble Tribunal can't indulge and entertain this application in respect of buildings A, B, D and E. remedy for this may be somewhere else.

12. Respondents further submit that they have any way submitted their application to SEAC-3 and SEIAA under Office Memorandum by MoEFCC issuing Standard Operating Procedure (SoP) dated 07/07/2021, as per the directions of this Hon'ble Tribunal Principal Bench New Delhi in OA 24/05/2021. The MoEFCC/R-1 has enclosed their Affidavit from contiguous Page Nos. 883 to 1064 ■. The respondent shall be subject to the rigour of law, including the preparation of 'Environment Management Plan', 'Environment Damage

Assessment Report', 'Remediation Plan', all based on the actual field scientific assessment of damage to environment, and thereafter penalty etc. as applicable.

13. Respondents therefore submit that this application will have to be disposed of with the same order as in case of OA 63/2019(WZ). The facts of the case are similar. Exceedance of the period of limitation in this case is even more by 6 years. As such to have the consistency in the judicial decisions and upholding the rule of law, this OA deserves to be disposed of.

Place: Pune
Date: 03-March-2023



Advocate for Respondent No. 11

Email circulated to all respondents.

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

(By Video Conferencing)

Original Application No. 63/2019(WZ)
(I.A. No. 100/2019 & I.A. No. 86/2021)

Mr. Ajay Jayvantrao Bhosale

.....Applicant

Versus

Union of India through MoEF&CC & Ors.

....Respondent(s)

Date of hearing: 01.12.2022

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

Applicant : Mr. Nitin Lonkar, Advocate

Respondent(s) : Ms. Manasi Joshi, Advocate for R-1, 6 & 7
Mr. Aniruddha Kulkarni, Advocate for R-3 to 5
Mr. S. Swaminathan, Advocate for R-8 & 9/PCMC
Mr. Saket Mone along-with Mr. Abhishek Salian,
Advocates for R-11/PP

ORDER

1. Today this matter is listed on the issue of limitation against which objection has been filed by the learned Counsel for the Applicant.

2. Heard the arguments of learned Counsel for the Applicant Mr. Nitin Lonkar and learned Counsel for Respondent No. 11/Project Proponent-Mr. Saket Mone along-with learned Counsel Mr. Abhishek Salian.

I.A. No. 86/2021(WZ)

3. This I.A. has been filed by the Respondent No. 11/Project Proponent (PP), praying for dismissal of the Original Application No. 63/2019(WZ). The main ground which has been set up in this application is that Original Application is time barred, therefore, it requires to be dismissed at the threshold itself. The core issue raised by the Applicant is

that the Respondent No. 11 did not obtain prior Environmental Clearance (EC) with respect to the project in question.

4. As per the Project Proponent (PP), he commenced the construction and excavation in the year, 2012, therefore, the cause of action in respect of the alleged construction first arose in the year, 2012 which is well over 07 years from the date of the filing of the present Original Application.

5. The Sections 14 and 15 of the National Green Tribunal Act, 2010 provide for 06 months from the date when the cause of action first arose within which the Original Application ought to have filed. Therefore, if the 06 months period is calculated from the year 2012, it would expire in the year 2013 and as regards Section 15, it provides for 05 years period from the date of cause of action first arose, which too would expire in the year, 2017, while the Original Application has been filed on 14.08.2019.

6. The learned Counsel for the Respondent No. 11 has drawn our attention to para no. 40 of the main petition, where-in it is stated by the Applicant that the Project Proponent carried out illegal construction on 0 sq. mtrs. to 18500 sq. mtrs. vide sanction dated 24.11.2016.

7. As per the Applicant in O.A., the Project Proponent had intention to go on beyond 36,500 sq. mtrs. vide sanction dated 31.03.2018. The civil construction activity is recurring process. The Project Proponent/Respondent No. 11 has increased the project capacity from 0 sq. mtrs to 18500 sq. mtrs. from 2011 to 19.05.2018, therefore, it is nothing but a recurring cause of action for building construction activity.

8. The Applicant in Original Application had obtained information through online search and under RTI Act from 2017 to 18.05.2018 and thereafter had sent legal notice through Counsel to the Respondents inviting their attention towards the violations committed by the Project

Proponent. Therefore, the cause of action first arose on 15.06.2019 when SEIAA issued a Show Cause Notice to the Project Proponent.

9. Therefore, 06 months period from 15.06.2019 should be counted, which would end on 14.12.2019, while the present application has been filed on 14.08.2019, therefore, it is within time.

10. As per Respondent No. 11/Project Proponent (PP), the above contention of the Applicant in Original Application is absolutely false because the Applicant is trying to establish the date 19.05.2019 as the date, when the first cause of action arose on the basis of his having obtained information under RTI. It is further argued by the learned Counsel for the Respondent No. 11 that any person may move an RTI application on a particular date of his choice in order to create cause of action so as to bring it within the period of limitation in order to initiate legal proceedings, which cannot be allowed to happen because that is not the intent of law.

11. The learned Counsel for the Respondent No. 11 has placed reliance of the Judgment *Jai Javan Jai Kisan and ors. v. Vidarbha Cricket Association and Ors.* [MANU/GT/0006/2017], where-in relevant para no. 11 is as follows:-

“11. Conjoint reading of Section 14 and 15 of the National Green Tribunal Act reveals that essentially any application moved for claiming reliefs there-under must necessarily present a Civil case wherein substantial question relating to environment or environmental damage arising under the enactments specified in the Schedule-I of the Act (including accident occurring while handling any hazardous substance) is involved. We are, therefore, of the considered opinion that it is the substantial question relating to the environment or environmental damage as aforesaid which gives rise to the cause for an action under the provisions of National Green Tribunal Act, 2010. In the present case, the question raised is about restoration of the environmental damage on account of injury to it as a result of raising VCA Stadium without EC or consent to operate under the provisions of Schedule-I Acts viz Environment (Protection) Act, 1986, the Air (Prevention and

Control of Pollution) Act 1981 and Water (Prevention and Control of Pollution) Act 1974. As stated herein above, the causes of injury are insufficiency of Effluent Treatment Plant (ETP), open spaces, parking spaces and tree cover. These facts were very much manifest when the VCA stadium became functional in the year 2008. In our opinion, therefore, the cause of action for the present Application arose first when the VCA stadium became functional. There is nothing in the Application to state that these injuries stood compounded further to actuate the Applicants to initiate the action in the present case as framed.”

12. Thereafter, the learned Counsel for the Respondent No. 11 has placed reliance on *Graminee Environment Development Foundation v. Balaji Infrastructure Ltd. & Ors.* [(2017) SCC Online NGT 1098], where-in relevant para nos. 11 to 13 are as follows:-

“11. Section 15 (3) of the NGT Act, 2010 in clear terms requires the Application for restitution of the property damaged to be made within the period of five (5) years from the date on which cause for such relief first arose, and provides for discretion to the Tribunal to condone delay for ‘sufficient cause’ if the application is filed within further period of sixty (60) days and no further. In the present case, the Applicant avers that the cause of action first arose on 24.2.2015, when the letter was addressed by the Member Secretary, Maharashtra Coastal Zone Management Authority (MCZMA) to the Collector, Raigad to take action in respect of the grievance made by the Applicant and yet no action was taken by the authorities. The Applicant has further revealed in her Application that she has been making several complaints to the Authorities about the said grievance, first such complaint being made on 15.9.2014 to the Divisional Commissioner, Konkan Division, Navi Mumbai. Reading of the letter dated 24.2.2015, Annexure ‘I to the Application (Pg.81) reveals the nature of grievance made by the Applicant. In short, the Applicant was aggrieved by the alleged illegal blasting work, storage of minerals and reclamation by Dighi Port Ltd. Similarly, the grievance made with complaint dated 15.9.2014 is regarding alleged illegal work of reclamation of seashore and filling rocks at village Nanavali and intertidal land encroachment without EC by Dighi Port Ltd, and Balaji Infrastructure Ltd.

12. In our considered opinion, making of grievance of the kind in the present case by writing a letter cannot be constituted as ‘cause of action’ but the actual act or its consequence constitutes ‘cause of action’ in any case. In the present case, cause of action has arisen as a result of blasting work as well as dumping of rocks etc. by Dighi Port Ltd and its holding Company Balaji Infrastructure Ltd in the said land.

13. *A perusal of the Application gives some clue as to when such acts of blasting of hills and dumping of material excavated started. The Applicant has pleaded in her Application that Respondent No.1 encroached upon 3km of seashore of village Nanavali and without permission of any Govt. Authority dumped soil and rocks there. It is further pleaded that Respondent No.1 has been doing illegal activities of levelling, blasting, excavation of land, filling of land space with soil, dumping huge rocks and artificial land spaces without any permission; and in spite of such illegalities going on, Respondent Nos. 2 to 7- Govt. Authorities did nothing. The Applicant in her pleadings referred to EC granted in the name of Dighi Port Ltd on 30th September, 2005 for construction of Port at village Dighi, Taluka Shrivardhan, District Raigad and states that she does not challenge or dispute anything about such EC or any work at Dighi Port and her only grievance is that Respondent No.1 has encroached upon the property and extended various kinds of constructions beyond consented area. These facts as pleaded if read in conjunction with the plaint in Regular Civil Suit No.4 of 2009 filed by the Applicant in the Court of Civil Judge, Junior Division, Shrivardhan, do make sense as to when alleged activity had started. At para-7 of the said plaint, the Applicant has categorically stated that on 26.12.2008 the defendant (therein) i.e. Dighi Port Ltd came at the land adjacent to the house of the Applicant in order to make encroachment and reclaimed the land, and this highhanded activity of Dighi Port Ltd was resisted by the Applicant with objection that they cannot reclaim land by blasting the hills and dumping rocks at the said land. A clear fact emerges that the act of blasting the hill sides, dumping materials illegally and reclamation of land, first started in or about December, 2008. Thus, cause of action for the present Application clearly arose in or about December, 2008.”*

13. Based on the above provisions of law, it is vehemently argued by the learned Counsel for the Respondent No. 11/Project Proponent that the present application is time barred and needs to be dismissed on that ground alone.

14. During argument, the learned Counsel for the Applicant in Original Application has pointed out that he is relying on para no. 18.25 & 18.26 of the reply affidavit dated 26.10.2021, mentioned at page nos. 981 to 986 of the paper book, which are as follows:-

“18.25. *I state that, this Hon-ble Tribunal in the matter of "Forward Foundation, A Charitable Trust and Ors. Vs. State of Karnataka and Ors. (OA No. 222/2014) Judgment dated*

7th May, 2015”, reported in 2015 SCC Online NGT 5 in dealing with the issue of limitation and cause of action has specifically held as follows-

“24. The expression 'cause of action' as normally understood in civil jurisprudence has to be examined with some distinction, while construing it in relation to the provisions of the NGT Act. Such 'cause of action' should essentially have nexus with the matters relating to environment. It should raise a substantial question of environment relating to the implementation of the statutes specified in Schedule I of the NGT Act. A 'cause of action' might arise during the chain of events, in establishment of a project but would not be construed as a 'cause of action' under the provisions of the Section 14 of the NGT Act, 2010 unless it has a direct nexus to environment or it gives rise to a substantial environmental dispute. For example, acquisition of land simplicitor or issuance of notification under the provisions of the land acquisition laws, would not be an event that would trigger the period of limitation under the provisions of the NGT Act, 'being cause of action first arose'. A dispute giving rise to a 'cause of action' must essentially be an environmental dispute and should relate to either one or more of the Acts stated in Schedule I to the NGT Act, 2010. If such dispute leading to 'cause of action' is alien to the question of environment or does not raise substantial question relating of environment, it would be incapable of triggering prescribed period of limitation under the NGT Act, 2010. [Ref Liverpool and London S.P. and I Asson. Ltd: v. M.V. Sea Success I and Anr., (2004) 9 SCC 512, J. Mehta v. Union of India, 2013 ALL (I) NGT REPORTER (2) Delhi, 106, Kehar Singh v. State of Haryana, 2013 ALL (I) NGT REPORTER (DELHI) 556, Goa Foundation v. Union of India, 2013 ALL (I) NGT REPORTER DELHI 234].

25. In contradistinction to 'cause of action first arose', there could be 'continuing cause of action', 'recurring cause of action' or 'successive cause of action'. These diverse connotations with reference to cause of action are not synonymous. They certainly have a distinct and different meaning in law, 'Cause of action first arose' would refer to a definite point of time when requisite ingredients constituting that 'cause of action' were complete, providing applicant right to invoke the jurisdiction of the Court or the Tribunal. The Right to Sue' or 'right to take action' would be subsequent to an accrual of such right. The concept of continuing wrong which would be the foundation of continuous cause of action has been accepted by the Hon'ble Supreme Court in the case of Bal Krishna Savalram Pujari & Ors. v. Sh. Dayaneshwar Maharaj Sansthan & Ors., AIR 1959 SC 798.

18.26 Further I state that, the **Forward Foundation** Judgment was challenged before the Hon'ble Supreme Court in the matter of **Mantri Technoze Pvt. Ltd. Vs. Forward Foundation, Civil Appeal No. 5016/2016 reported in (2019) 18 SCC 494** has specifically held vide judgment dated 5th March, 2019 and has confirmed the said judgment

of Forward Foundation and even the Review petition of the same has been dismissed vide order dated 06/08/2019 and has thus become final and binding.

"In fact, in the original application before the Tribunal there was no mention of the provision under which it was being filed. It is well settled principal of law that non-mention of or erroneous mention of the provision of law would not be of any relevance, if the Court had the requisite jurisdiction to pass an order. It would be mere irregularity and would not vitiate the application or the judicial order of the Tribunal"

The NGT Act being a beneficial legislation, the power bestowed upon the Tribunal would not be read narrowly. An interpretation which furthers the interests of environment must be given a broader reading. (See Kishsore Lal v. Chairman, Employees' State Insurance Corpn. (2007) 4 SCC 579, para 17). The existence of the Tribunal without its broad restorative powers under Section 15(1)(c) read with Section 20 of the Act, would render it ineffective and toothless, and shall betray the legislative intent in setting up a specialized Tribunal specifically to address environmental concerns. The Tribunal, specially constituted with Judicial Members as well as with Experts in the field of environment, has a legal obligation to provide for preventive and restorative measures in the interest of the environment"

"The Tribunal has also jurisdiction under Section 15(1)(a) of the Act to provide relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in Schedule I. Further, under Section 15(1)(b) and 15(1)(c) the Tribunal can provide for restitution of property damaged and for restitution of the environment for such area or areas as the Tribunal may think fit. It is noteworthy that Section 15(1)(b) & (c) have not been made relatable to Schedule I enactments of the Act. Rightly so, this grants a glimpse into the wide range of powers that the Tribunal has been cloaked with respect to restoration of the environment."

"Section 15(1)(c) of the Act is an entire island of power and jurisdiction read with Section 20 of the Act. The principles of sustainable development, precautionary principle and polluter pays, propounded by this Court by way of multiple judicial pronouncements, have now been embedded as a bedrock of environmental jurisprudence under the NGT Act. Therefore, wherever the environment and ecology are being compromised and jeopardized, the Tribunal can apply Section 20 for taking restorative measures in the interest of the environment."

15. The Applicant in Original Application has also placed reliance upon the important dates and events, which have been quoted by him in para

14 of the reply affidavit, mentioned at page nos. 926 to 928 of the paper book, which are as follows:-

“14. IMPORTANT DATES AND EVENTS:

I state that, the following events and dates are very important to understand the collusion between the Government Authorities and Respondent No. 11-PP and tactics, favouring practices adopted by the Joint Committee Members and Respondent No. 11-PP;

“

Sr. No.	Events	Date
1.	<u>1st Application for EC</u>	<u>07.09.2013</u>
2.	<u>1st Show Cause Notice by SEIAA & PS- DoE</u>	<u>30.08.2014</u>
3.	<u>1st Withdrawal Communication for SCN</u>	<u>10.03.2015</u>
4.	<u>1st Consent to Establish</u>	<u>10.03.2015</u>
5.	<u>2nd Application for EC</u>	<u>30.06.2016</u>
6.	<u>2nd Consent to Establish</u>	<u>12.10.2017</u>
7.	<u>3rd Application for EC</u>	<u>06.10.2018</u>
8.	<u>Notice/ Complaint of Original Applicant</u>	<u>19.05.2019</u>
9.	<u>MPCB 1st Site Visit by Field Officer</u>	<u>10.06.2019</u>
10.	<u>2nd Show Cause Notice by SEIAA & PS- DoE</u>	<u>15.06.2019</u>
11.	<u>MPCB 2nd Site Visit by SRO-2</u>	<u>27.06.2019</u>
12.	<u>Filing of OA</u>	<u>14.08.2019</u>
13.	<u>First Order of NGT</u>	<u>22.10.2019</u>
14.	<u>Service to Joint Committee of SEIAA & MPCB</u>	<u>02.11.2019</u>
15.	<u>Personal hearing given to PP by PS-DoE</u>	<u>11.11.2019</u>
16.	<u>2nd Withdrawal Communication for SCN</u>	<u>16.11.2019</u>
17.	<u>Second Order of NGT</u>	<u>10.12.2019</u>
18.	<u>Joint Committee Visit to project site</u>	<u>15.12.2019</u>
19.	<u>Architect Certificates prepared on</u>	<u>20.12.2019</u>
20.	<u>Joint Committee Report filed to NGT</u>	<u>07.01.2020</u>
21.	<u>Third Order of NGT issuing Notice 86 Show cause to PP</u>	<u>05.02.2020</u>
22.	<u>Service to the Respondent No. 11-PP</u>	<u>15.02.2020</u>
23.	<u>Grant of ex-post facto EC</u>	<u>18.02.2020</u>
24.	<u>Appeal No. 26/2020 filed on</u>	<u>19.03.2020</u>
25.	<u>Fourth Order of NGT</u>	<u>13.07.2020</u>
26.	<u>Respondent No. 11-PP Reply Affidavit Sworn on</u>	<u>24.09.2020</u>
27.	<u>Respondent No. 11-PP filed</u>	<u>24.09.2020</u>
28.	<u>Fifth Order of NGT</u>	<u>03.09.2021</u>
29.	<u>Respondent No. 11-PP filed 86/2020 filed on</u>	<u>06.10.2021</u>
30.	<u>Respondent No. 11-PP Corrected Reply Affidavit served on Original</u>	<u>09.10.2021</u>

16. He has argued that in this case, there is recurring cause of action and therefore, the date which has stated in his application i.e. 15.06.2019, when the SEIAA issued a Show Cause Notice to the Project Proponent, should be treated to be the date of cause of action.

17. We have heard the arguments of the parties and perused the record and also have gone through the Judgments, which have been relied upon by both the parties, we find that as far as legal position is concerned, Sections 14 & 15 of the National Green Tribunal Act, 2010 provide as follows:-

“Section 14:- Tribunal to settle disputes.-

(1)

(2)

(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 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.”

Section 15:- Relief, compensation and restitution –

(1)

(2)

(3) No application for grant of any compensation or relief or restitution of property or environment under this section shall be entertained by the Tribunal unless it is made within a period of five years from the date on which the cause for such compensation or relief first arose:

Provided that the Tribunal, may, if it is 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.”

18. According to the Applicant in Original Application, as per his own pleadings which are stated in para no. 40, it is clear that construction of the project by the Project Proponent was started in the year 2011 and continued till 19.05.2018. He states that he had obtained information

through online search and under RTI from 2017 to 18.05.2018. Thereafter, he had sent legal notice through Counsel on 19.05.2019. According to him, the SEIAA had issued first Show Cause Notice on 15.06.2019. Therefore, that date should be taken to be the date of cause of action, which first arose.

19. We are not inclined to accept this argument because according to his pleading, he had full knowledge in the year 2011 itself when the construction had started. The pretext of having come to know about this project being constructed through RTI on a later date as stated above appears to be only in order to bring the present Original Application within limitation period. We agree with the learned Counsel for the Project Proponent (PP) that it is very easy for any person to use RTI to seek information for any project on any date chosen by him. We are of the considered opinion that such kind of practice cannot be allowed. We are not inclined to accept the argument made by the learned Counsel for the Applicant in Original Application and are convinced with the argument raised by the learned Counsel for the Respondent No. 11/Project Proponent. We find that this Original Application is time barred, hence this Original Application stands dismissed as time barred.

20. All connected I.A.s also stand disposed of.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

December 01, 2022
Original Application No. 63/2019(WZ)
(I.A. No. 100/2019 & I.A. No. 86/2021)
P.Kr