

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

(By Video Conferencing)

I.A. No. 81/2022(WZ)
In
Appeal No. 27/2022(WZ)

Thakorbhai Vallabhbhai Khalasi

.....Appellant

Versus

MoEF&CC & Ors.

....Respondent(s)

Date of hearing: 14.12.2022

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

Appellant : Ms. Shilpa Chohan, Advocate
Respondent(s) : Mr. Rahul Garg, Advocate for R-1/MoEF&CC
Mr. Maulik Nanavati, Advocate for R-2 & 3
Mr. Dhruv Mehta, Senior Advocate along-with
Mr. Nawneet Vibhaw, Advocate for R-5

ORDER

1. From the side of Applicant/Appellant, learned Counsel Ms. Shilpa Chohan has appeared.

2. From the side of Respondent No. 1/MoEF&CC, learned Counsel Mr. Rahul Garg has appeared; from the side of Respondent No. 2/State of Gujarat and Respondent No. 3/GPCB, learned Counsel Mr. Maulik Nanavati has appeared; and from the side of Respondent No. 5/Project Proponent, learned Senior Counsel Mr. Dhruv Mehta along-with learned Counsel Mr. Nawneet Vibhaw has appeared.

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3. This is an application for condonation of delay of 58 days in filing the present Appeal against the order dated 02.03.2022 issued by the

Respondent No.1/MoEF&CC in faour of Respondent No. 5/Arcelor Mittal Nippon Steel India Ltd./Project Proponent, granting Environmental Clearance for “proposed Modification in Existing Plant by installing Auxiliary Facilities without increasing Plant Capacity” at the integrated Iron and Steel Plant located at Hazira Notified Industrial area at Village Hazira, Taluka- Choryasi, District-Surat, Gujarat.

4. It is submitted from the side of Applicant/Appellant that 58 days delay is being counted as the EC was issued on 02.03.2022, therefore, the period of 30 days would expire on 01.04.2022 and the discretionary period of further 60 days would expire on 01.06.2022, while this Appeal has been filed on 30.05.2022. It is further stated that the order granting EC dated 02.03.2022 was required to be published in the newspapers within 7 days of issuance but to the best knowledge of the Applicant/Appellant, the same was not published. Further, as per the mandatory conditions, a copy of the EC was required to be uploaded permanently on the website of the Respondent No. 5/Project Proponent, which was not done. The Applicant came to know about the issuance of the said EC on 08.04.2022 while browsing the PARVESH Portal and thereafter, started the process of compiling the relevant documents and evidences to challenge the EC. The Applicant/Appellant also had to make efforts to collect funds from the community for preferring an appeal as he comes from marginalized community. The documents which were required to be obtained pertaining to EC were bulky, voluminous and technical in nature. The Counsel which the Appellant engaged had got infected with Corona Virus and therefore, all these combination of factors resulted in delay in filing the present appeal.

5. Further, it is stated that the Appellant had participated in public hearing conducted for the grant of EC and had made representation

dated 28.10.2021 to EAC (Respondent No.1) and representations dated 17.11.2021 and 15.12.2021 to the Respondent No. 1 to Respondent No. 4 and had consistently raised the issue regarding the air, water and soil pollution arising out of the operation of the plant in question, which was having deleterious effect on the health of the local residents, therefore, it is prayed that the delay was not intentional and the same deserves to be condoned.

6. On the other hand, from the side of Respondent No. 5/Project Proponent, the condonation of delay is vehemently opposed on the ground that the averment with respect to the EC not having been uploaded, is absolutely false and our attention is drawn to Page No. 1284 of the paper book, which is an e-mail from Respondent No. 1/MoEF&CC dated 02.03.2022 addressed to the Respondent No. 5/Project Proponent, informing that the proposal for EC has now been granted and a letter regarding that was uploaded on the portal of the Ministry. Thereafter, our attention is drawn to Page Nos. 1285 to 1288 of the paper book, which are letters regarding the intimation of grant of EC, sent to the 1) Regional Officer (RO), Gujarat Pollution Control Board (GPCB) Surat, Gujarat, 2) Head Office of the Gujarat Pollution Control Board, Gandhinagar, 3) Grampanchayat Hazira and 4) Chief Officer, Notified Area Office- Hazira. therefore, it is apparent from these documents that all the relevant compliances were made regarding EC and the averment of the Applicant that these documents were not uploaded, is false.

7. It is further argued by the learned Counsel for Respondent No. 5 that the same Counsel who has filed the present appeal, had earlier filed Original Application No. 27/2020 where-in Order dated 21.03.2022 was passed, dismissing the said application on merits, against which a *Civil Appeal No. 4898/2022* was also preferred before Hon'ble Apex Court,

which too was dismissed on merits by order dated 05.08.2022, which are annexed. Therefore, it is argued that the present Appeal has been filed in order to harass the Respondent No. 5 unnecessarily for similar issues.

8. In rebuttal, the learned Counsel for the Applicant/Appellant says that the said argument with respect to the Counsel, is absolutely unwarranted because earlier the Counsel had contested for different party namely Roshni Patel and in that Original Application No. 27/2020(WZ), the issue involved was unscientific dumping of slag and fly ash on forest land by the Project Proponent while in the present case, the EC has been challenged, which was granted for modification in existing plant by installing Auxiliary Facilities without increasing plant capacity of the Project Proponent.

9. After having heard the arguments of learned Counsel for the parties, we are of the view that looking to the fact that the Applicant/Appellant has been contesting about the setting of the plant in question from the very beginning as it has been stated very clearly in the affidavit that during public hearing also, objections were raised by the Applicant and several representations were also made, the Appellant appears to be quite vigilant and is hotly contesting.

10. Further, we find that the delay falls within discretionary period of this Tribunal and looking to the fact that the voluminous documents were required to be obtained by the Applicant, it could be possible that the period of delay, which is being sought to be condoned, could have been spent in obtaining these documents, hence, we find this case appropriate for condoning the delay. Accordingly, the delay is condoned and this application is allowed.

Accordingly, I.A. No. 81/2022(WZ) stands disposed of.

11. Registry is directed to put up this appeal for admission on 17.01.2023.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

December 14, 2022
I.A. No. 81/2022(WZ) In
Appeal No. 27/2022(WZ)
P.Kr