

Item No.7

(Pune Bench)

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

[Through Physical Hearing (With Hybrid Option)]

**INTERLOCUTORY APPLICATION (I.A.) NO.83 OF 2023 (WZ)
IN
APPEAL NO.12 OF 2023 (WZ)**

Chandan Suryakant Khorjuvekar

.... Applicant

Versus

GCZMA & Anr.

....Respondents

Date of hearing: 06.02.2024

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

Applicant : Mr. Agney Sail, Advocate

Respondents : Mr. Dhruv Tank, Advocate for R-1
Mr. Gauravardhan Nadkarni, Advocate for R-2

ORDER

1. By this application, the applicant has sought condonation of delay of 37 days in filing the present appeal which has been preferred against the minutes of the meeting of respondent No.1 – GCZMA dated 27.10.2022 pertaining to a complaint made by the applicant/appellant – Chandan Suryakant Khorjuvekar against respondent No.2 – M/s Lucky Realtech Pvt. Ltd. through Lalit Arora regarding illegal construction in the property bearing Survey No. 211/2-A of village Ashwem, Mandrem, Pernem Taluka, Goa, wherein a decision was taken to drop the proceeding against the said respondent as per order passed by N.G.T. These minutes were corrected through a corrigendum/addendum dated 18.11.2022 stating therein that the words “NGT stands deleted” by

substituting the words “the Authority after hearing the both parties and after perusing the joint site inspection decided to drop the proceedings in respect of M/s Lucky Real Tech Pvt Ltd.”

2. The question during argument arose as to when the order/corrigendum dated 18.11.2022, which clarifies the decision taken in the meeting dated 27.10.2022, was uploaded on the website of GCZMA because we have to decide as to whether this appeal has been filed within 90 days and in that case only, this Tribunal would have power to condone the delay. During argument, we made a pointed query to the learned counsel Mr. Dhruv Tank, appearing for respondent No.1 – GCZMA as to on which date the corrigendum/addendum dated 18.11.2022 was uploaded on the website of GCZMA, he failed to answer despite having been given time of one hour and he has prayed for time to clarify the same.

3. In the additional affidavit dated 31.03.2023, filed by the applicant/appellant, it is mentioned that there was no information regarding date of creation/modification of the Portable Document File (PDF) which contains the scanned signed copy of the impugned corrigendum dated 18.11.2022 which is available on the GCZMA website. As the website of GCZMA is being maintained and developed by National Informatics Centre, Goa, they (NIC-Goa) should be directed to submit an affidavit stating the date of upload and the date of publication on the GCZMA website, of the PDF file containing the impugned corrigendum dated 18.11.2022 and that the said file was available uninterruptedly for downloading from the date of the publication. NIC-Goa should also be directed to submit the system logs of the GCZMA website showing uploading and publication of the said pdf file, soft copy (in a compact disc) of the said pdf file with meta data intact, complete email trail (with headers) of receipt of this file from GCZMA with email content/attachments. Simultaneously, GCZMA

should also be directed to file the soft copy (in a compact disc) of the said pdf file with meta data intact, complete email trail (with headers) of sending of this file to NIC-Goa with email content/attachments for uploading as this will facilitate fair and just disposal of this case.

4. We find that in respondent No.1 – GCZMA's reply dated 24.04.2023 in paragraph no.10, it has been stated that the impugned corrigendum/addendum was uploaded on the website of the answering respondent and was accessible to the public along with the impugned order dated 27.10.2022, but the date of its uploading on the website has not been mentioned. This information was very crucial for deciding the present application, which appears to have been deliberately not disclosed by the GCZMA. They have not given any reply to the above mentioned paragraph of the applicant. We direct that specific reply to this paragraph should also be filed by the GCZMA – respondent No.1, giving details, including date of uploading of the corrigendum/addendum dated 18.11.2022 on its website along with its proof.

5. From the side of respondent No. 2 – M/s Lucky Realtech Pvt. Ltd./ Project Proponent, learned counsel Mr. Gauravardhan Nadkarni has appeared and pointed out that the corrigendum/addendum dated 18.11.2022 was uploaded on the website of GCZMA on the same date and in proof thereof, he has drawn our attention to page 276 of the paper-book, which is being controverted by the learned counsel for the applicant saying that this is not the proof of uploading of the corrigendum as it is only a proof of creation of file on that date i.e. 18.11.2022. In view of the request made by the learned counsel for respondent No.1 – GCZMA, we grant a week's time to him to file the response/affidavit to our queries, though he has prayed for two days' time therefor.

6. Put up this matter for next consideration on 22.02.2024.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

February 6, 2024
I.A. No.83/2023 (WZ)
npj