

Item No. 1

(Pune Bench)

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

(WITH HYBRID OPTION)

Original Application No. 45/2023(WZ)

Bharat Bhushan Gupta

.....Applicant

Versus

State of Maharashtra & Ors.

....Respondent(s)

Date of hearing: 19.04.2023

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

Applicant : Mr. Maitreya Ghorpade, Advocate

ORDER

1. The present application has been filed by the Applicant under Section 14 read with Section 20 of the National Green Tribunal Act, 2010 praying for quashing the CRZ Clearance dated 11.01.2018 issued to Respondent No. 4-M/s. Mistry Construction Pvt. Ltd. by the Respondent No. 2/Maharashtra Coastal Zone Management Authority (MCZMA) for further construction of proposed Golf Course at Sector 60, Nerul, Navi Mumbai. The said clearance is annexed at page nos. 44 to 46 of the paper book, where-in the learned Counsel for the Applicant has drawn our attention to General Condition no. (v) of the said clearance dated 11.01.2018, in which it is recorded that "this recommendation will be valid for 5 years from the date of issue of recommendation for commencement of construction & operation". Thereafter, he has drawn our attention to Annexure A-9, which is Minutes of the Meeting of the Maharashtra Coastal Zone Management Authority (MCZMA) dated 07.12.2022, where-in at Item No. 10, decision is taken to the effect that

as per the amendment introduced by the MoEF&CC vide Notification dated 06.03.2018, which is annexed at page nos. 157-158 of the paper book, the clearance is valid for 7 years. Therefore, the authority after deliberation decided to clarify that the CRZ recommendation dated 11.01.2018 read with letter dated 12.03.2018 (issued by the MCZMA to the Project Proponent, which is annexed at page no. 55 of the paper book) is valid for 7 years i.e. 10.01.2025, subject to strict compliances of the Condition Nos. (1 to 10), which are mentioned in the decision of the above-mentioned Meeting dated 07.12.2022. When it was enquired from the learned Counsel as to why an appeal has not been preferred under Section 16 Sub-Clause (h) of the National Green Tribunal Act, 2010, it is responded by him that he is not assailing the CRZ Clearance dated 11.01.2018, rather he is assailing the clarification given by the MCZMA through their decision taken on 07.12.2022. Further, he has argued that in General Condition of CRZ clearance dated 11.01.2018, the Project Proponent was supposed to commence the construction within 5 years and that Notification of MoEF&CC dated 06.03.2018 also laid down that the clearance accorded to the projects under this Notification, shall be valid for 7 years from the date of issuance of such clearance, provided that the construction activities shall commence within a period of 5 years. Quoting this, he has argued that in this case, since the construction was not started within 5 years, hence such kind of extension of validity was not permissible.

2. On this basis of argument made by the learned Counsel for the Applicant, we find that it is quite evident that he is assailing the CRZ Clearance dated 11.01.2018, which is very clear from the prayer clause giving the grounds, which have been mentioned above, but instead of filing of appeal, as stated by us above, he has wrongly filed this

application under Section 14 of the National Green Tribunal Act, 2010, which is not permissible according to us. Therefore, this application is not maintainable, as in our estimation, an appeal would be required to be filed under Section 16(h) of the National Green Tribunal Act, 2010 for seeking quashing of CRZ Clearance dated 11.01.2018, provided the same falls within the period of limitation.

3. We dispose of this application accordingly.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

April 19, 2023
Original Application No. 45/2023(WZ)
P.Kr