

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16..03..2015

Coram:

The Honourable Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
The Honourable Mr. Justice M.M.SUNDRESH

W.P.No.7272 of 2015

MSN Laboratories Ltd.,
through General Manager
MSN House, Plot No. C-24,
Industrial Estate
Sanath Nagar,
Hyderabad 500 018.

... Petitioner

versus

1.The Registrar
National Green Tribunal
Southern Zone,
950/1 Poonamalle High road,
Arumbakkam, Chennai 600106.

2.Union of India
represented by its Secretary
Ministry of Environment and Forests
C.G.O.Complex, Lodhi Road,
New Delhi 110 003.

3.Andhra Pradesh Pollution Control Board
represented by its Member Secretary
4th Floor, Podupu Bhavan
Hyderabad Collectorate Complex,
N.S.Road, Hyderabad 500 001.

4.V.Rajendra Prasad

5. V.Raju

6. V.Pulya

7. K.Srinu

8. V.Krishnan

9. V.Badru

10. V.Ravi

11. V.Shiva Raju

12. R.Chander

13.V.Ravi

14.R.Hanmanthu

15.V.Umila

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16.V.Laxman
17.M.Jangaya
18.V.Peerya Naik
19.V.Janya Naik
20.V.Peerya
21.V.Srinivasulu
22.V.Rukman
23.V.Hanmanthu
24. K.Raju
25. K.Shankar
26. V.Heerya
27.R.Dashrath
28. N.Kishan
29. V.Chinya
30. V.Goari
31. V.Kishan
32. P.Venkatesh
33. K.Dasharath

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issue of a writ of Certiorari, to call for the records of the 1st respondent in respect of the order dated 10.02.2015 passed in M.A.No.148/2014 and quash the same.

For Petitioner ::: K.S.Viswanathan

For Respondents ::: R.1 - Tribunal

Mr.Su.Srinivasan
Assistant Solicitor General for R.2

O R D E R

(The Order of the Court was made by The Hon'ble The Chief Justice)

The sole issue which arises for consideration in the present case is as to whether in a case of environmental clearance where the period of limitation of 30 days for filing an appeal has expired and the window period of 60 days provided for condonation of delay expires during vacation, the appeal can be filed on the re-opening day. In the facts and circumstances of the present case, the environmental clearance (EC) was granted on 07.03.2014. It was subsequently put on the website and in the newspaper on 11.03.2014 and 25.03.2014. The appeal was filed on 1st July, 2014. Thus, from which-ever date the period of limitation begins - the date of hosting it on the website or on the publication in the newspaper, the 30 days period had expired, while in both eventualities, the 90 days

period inclusive of 60 days window period expired in the month of June, 2014 when there was vacation for the National Green Tribunal (NGT). The appeal was filed on the re-opening date of 01.07.2014.

2. It is in the aforesaid circumstances, that looking to the facts of the case where the villagers have opposed the EC granted to the petitioner, the Tribunal exercised its power to condone the delay. The plea that the appeal could have been filed in summer recess cannot be countenanced since the vacation is not intended for filing of the regular proceedings, a view we are in full agreement with, and find no perversity to interfere in the exercise of jurisdiction under Article 226 of the Constitution of India. Insofar as justification and sufficient cause for condonation of delay is concerned, the finding is that both in the process of hosting it on the website and publication in the News Paper, all the particulars and materials which were required to enable the applicant to prefer the appeal are not available.

3. The learned counsel by the petitioner fairly conceded that in the process of scrutiny under Article 226 of the Constitution of India, he would not take us through the merits of the controversy, but he has strenuously contended that the period of limitation is 30 days, within which the appeal ought to have been filed. The remaining 60 days period is only a window period. His contention thus is that if the 30 days period lapsed during vacation, there would be justification in filing the appeal on the re-opening day, but not if the window period expired during the vacation.

4. We are unable to accept the contention for the reason that the window period of 60 days creates a bar as observed by the decision of the Full Bench of the NGT in MA.No.573 of 2013 in Appeal.No.67 of 2013 in Sunil Kumar Samanta vs. West Bengal Pollution Control Board on 24.07.2014. For seeking condonation of this delay, sufficient cause is to be shown. The finding is that sufficient cause has been shown. Once sufficient cause is shown and the window period expires during vacation, the applicant is not disabled or at least within his rights to prefer an appeal immediately on the re-opening date. If the appeal would have been filed on 2nd July, 2014, the situation may have been different.

5. For all the aforesaid reasons, we are not inclined to exercise jurisdiction under Article 226 of the Constitution of India especially as the petitioner has every right to defend his case on merits.

6. The writ petition accordingly stands dismissed.
Consequently MP.No.1 of 2015 is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ksr

Copy To

1.The Registrar, National Green Tribunal
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1 cc to Mr.Su.Srinivasan ,Advocate, SR.No.14562
1 cc to Mr.V.Suthakar ,Advocate, SR.No.14635

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