

IN THE HIGH COURT OF BOMBAY AT GOA***WRIT PETITION NO.58 OF 2018***

1. Mr. Kashinath Jairam Shetye,
son of Mr. Jairam Shetye,
major of age, Indian National,
having permanent residence at
A-102, Raj Excellency,
Patto, Ribandar Goa.
Occupation: Service.
Tel. (Mobile) 2444444
Email: shetyebabu@yahoo.com.
2. Dr. Ketan Govekar,
major of age, Indian National,
having permanent residence at
Wadji Building 3rd Floor,
Near St. Inez Church,
St. Inez Panjim Goa.
Occupation : Service.
Tel. (Mobile) : 9822127474
Email: ketangovekar@yahoo.com
3. Mr. Desmond Alvares,
son of George Alvares,
major of age, Indian National,
having permanent residence at
House No.470, Doxxier
Assagao, Bardez Goa.
Occupation : Service,
Tel. (Mobile) 9623349704,

Email: desmondsoasis@yahoo.co.in

... Petitioner.

Versus

1. M/s Shilpi Constructions
Sapna Gardens,
Alto Porvorim,
Bardez Goa. Pin Code 403 521
2. The Member Secretary,
Goa Pollution Control Board,
Government of Goa,
Dempo Towers,
Patto Plaza,
Patto, Panaji Goa.
Pin Code 403 001.
3. The Member Secretary,
GCZMA,
Dempo Towers,
Patto Plaza,
Patto, Panaji Goa.
Pin Code 403 001.
4. The Collector (North Goa)
Collectorate Building,
Panjim Goa.
Pin Code 403 001.
5. The Deputy Collector (Tiswadi)
Panjim Goa.
Pin Code 403 001.

6. The Dy. Collector & DRO
D.O. for Flying Squad,
Team North Goa District
Collectorate,
Panjim Goa.
Pin Code 403 001.
7. The Police Inspector,
Panjim Police Station,
Panjim Goa.
Pin Code 403001.
8. The Superintendent of Police,
(North Goa),
major in age,
Priyanka Kasyhap,
Porvorim, Bardez Goa.
Pin Code 403 521
9. The Member Secretary
The North Goa Planning and
Development Authority
Archidiocese Bldg.,
Mala Link Road,
Panjim Goa.
Pin Code 403001.
10. The Commissioner,
Corporation of City of Panjim,
CCP Building,
Panjim Goa.
Pin Code 403001

11. The Managing Director,
The Goa State Infrastructure
Development Corporation
EDC Building,
Panjim Goa.
Pin Code 403001.
12. The Chief Town Planner,
EDC Complex,
Dempo Towers, Patto,
Panjim Goa.
Pin Code 403 001.
13. The Secretary,
Santa Cruz Panchayat
Santa Cruz, Tiswadi Goa.
Pin Code 403 005.
14. The Secretary,
Merces Panchayat,
Merces Tiswadi Goa.
Pin Code 403005.
15. The Chief Conservator of Forest,
Panjim Goa.
Pin Code 403001.
16. Hemant Goltkar,
H.No.73 Camri Bhat,
major in age,
Merces, Goa,
Pin Code 403005.

17. Police Inspector,
Old Goa Police Station,
Old Goa.
Pin Code 403402.

18. The National Green Tribunal
Western Zone,
Administrative Building,
Camp Pune Maharashtra.

... Respondents

Petitioner No.1 present in person.

Mr. D. Lawande, Advocate General with Mr. R. Shivolkar, Addl. Government Advocate for Respondent Nos.3, 4, 7, 8, 11, 15 and 17.

Mr. A. D. Bhobe and Ms. S. Bhobe, Advocates for Respondent Nos.10 & 14.

***Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.***

Date : 27 March 2018.

Oral Judgment (Per N.M. Jamdar, J)

Rule. Rule made returnable forthwith. The Respondents waive service. By order dated 20 February 2018, parties were put to notice that the petition will taken up for disposal.

2. Heard the Petitioner No.1 in person, the learned Advocate

General and the learned counsel for the Respondents.

3. The Petitioners are aggrieved by the order dated 16 November 2017 passed by the National Green Tribunal whereby the M.C.A. No.75/2016 in Review Application No.7/2016 in Appeal No.23/2015 was dismissed by the Tribunal. Though the record compilation of the petition is bulky, the issue involved in this petition is extremely narrow relating to condonation of delay.

4. The Petitioners had filed a Writ Petition No.1018 of 2015 in this Court. The Petition was disposed of by the Division Bench of this Court on 16 March 2016, by passing the following order:

“After hearing the matter for sometime, the petitioner no.1 who is present in person seeks leave to withdraw the above Writ Petition with liberty to file review application before the learned Green Tribunal in accordance with law.

2. Hence, petition stands disposed of as withdrawn with liberty as prayed for.

3. Needless to state that the delay, if any, in filing the application for review shall be examined by the learned National Green Tribunal on its own merits and considering the provisions of Section 14 of the Limitation

Act and after hearing the parties in accordance with law. All the contentions of the parties on merits are left open.”

5. While disposing of the petition as above, the Division Bench made a reference to the provisions of Section 14 of the Limitation Act at the time of permitting the Petitioners to withdraw the Writ Petition with liberty to file a Review Application. When the review application was so filed by the Petitioners along with application for condonation of delay, the Tribunal dismissed the same by referring to Rule 22(1) of the National Green Tribunal (Practices and Procedure) Rules, 2011. The Tribunal opined that in view of Rule 22, the Tribunal has no discretion to condone the delay.

6. In the order passed by the Tribunal, there is no discussion on the applicability or otherwise of Section 14 of the Limitation Act, even though in the first paragraph of the order, the Tribunal has reproduced the observations of the Division Bench making a reference to Section 14 of the Limitation Act. The Petitioner in Person is therefore right in making a grievance that the provisions of Section 14 of the Limitation Act have not been considered at all by the Tribunal. In these circumstances, we are of the opinion that the Tribunal should have considered the issue of applicability of Section 14 of the

Limitation Act and if the provision is applicable, whether the Petitioners are entitled for condonation of delay under the said provision. We say so because the Division Bench, while granting liberty to the Petitioners to file Review Application, had made a reference to Section 14 of the Limitation Act. Since the impugned order does not consider the provisions of Section 14 of the Limitation Act, we grant liberty to the Petitioners to make a fresh application in the Tribunal setting out the circumstances under which the Petitioners are invoking the provisions of Section 14 of the Limitation Act. The Tribunal will no doubt consider whether Section 14 of the Limitation Act is applicable to the proceedings before it and if it is so applicable, whether the Petitioners have made out a case for condonation of delay under Section 14 of the Limitation Act.

7. Granting this liberty to the Petitioners, the Writ Petition is disposed of. Rule is made absolute in the above terms. No order as to costs.

Prithviraj K. Chavan , J.

N.M. Jamdar, J.