

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 69 OF 2019

ADANI MORMUGAO PORT TERMINAL PVT.
LTD., THR. ITS AUT. REP., MANGUESH
SANGODKAR.,

... Petitioner

Versus

SAVIO JOAQUIM, FILIPE CORREIA AND
ANR.,

... Respondents

Mr. Hanumant D. Naik, Advocate for the Petitioner.
Mr. J. Godinho, Advocate for the Respondent no.2.
Respondent no.1 present in person.

Coram:- C. V. BHADANG, J.

Date:- 3rd June 2019

P.C.

Heard Mr. Naik, the learned Counsel for the petitioner and the
contesting respondent no.1, who appears in person.

2. On 23.01.2018, the petitioner was granted consent, by the
second respondent, Goa State Pollution Control Board (Board,
for short), for operating a mechanized coal handling terminal at
Berth no.7 at Mormugao Port Trust.

3. The first respondent feeling aggrieved by the same,
challenged the consent before the Administrative Tribunal in
Pollution Appeal No.1/2018 under The Air (Prevention and
Control of Pollution) Act, 1981. The said appeal was filed

somewhere on 16.05.2018. It appears that subsequently the said consent was modified by addendum dated 28.06.2018. Learned Counsel for the petitioner pointed out that the first respondent has not challenged the said addendum.

4. Be that as it may, it appears that the second respondent in supersession of the earlier consent dated 23.01.2018 and the addendum dated 28.06.2018 had granted a fresh renewal of the consent on 06.07.2018. The first respondent filed an application before the Tribunal purportedly for amendment of the appeal memo, seeking to incorporate a challenge to the order dated 06.07.2018. That application was opposed on behalf of the petitioner as well as by the second respondent. According to the petitioner, the appeal initially filed on 16.05.2018 itself was barred by limitation as it was filed beyond the period of 30 days from 23.01.2018. It was submitted that even the amendment sought to incorporate the challenge to the order dated 06.07.2018, is beyond the period of 30 days. It was also contended that the first respondent has no locus standi to challenge the said consent.

5. The Tribunal found that the fresh renewal of the consent dated 06.07.2018 having been granted during the pendency of the appeal, "the cause for filing the appeal filed and the proposed amendment are not totally based on different grounds." In short,

the Tribunal by the impugned order dated 17.12.2018 has granted the amendment permitting the first respondent to incorporate the challenge to the fresh renewal of consent dated 06.07.2018 on the ground that it is by way of a subsequent event which has occurred during the pendency of the appeal and thus the same has to be allowed in order to avoid multiplicity of proceedings. Feeling aggrieved, the present petition is filed.

6. On hearing the parties and on perusal of record, I find that no exception can be taken to the findings recorded by the Tribunal that fresh consent of renewal dated 06.07.2018 having been granted during the pendency of the appeal and by way of subsequent events, the first respondent could have sought to incorporate the challenge to the same, in the appeal. A perusal of the impugned order does not show that the Tribunal has addressed itself to the issue of limitation or the question of locus standi. In my considered view, both these aspects as to limitation and of the locus standi of the first respondent can be left open to be gone into at the hearing of the appeal. The rival contentions of the parties in this regard are left open.

7. Subject to this, no case for interference in the impugned order is made out. The petition is accordingly dismissed with no order as to costs.

8. The parties to appear before the Administrative Tribunal on 19.06.2019 at 10.00 a.m.

C. V. BHADANG, J.

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