

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 1086 OF 2018

MARTINHO XAVIER FERNANDES.

... Petitioner

Versus

THE STATE OF GOA, THR. CHIEF
SECRETARY AND 5 ORS.

... Respondents

Shri S.S. Kantak, Senior Advocate with Shri Preetam Talaulikar,
Advocate for the petitioner.

Shri A. Jamadar, Additional Government Advocate for the
respondents No.1 to 4.

Shri Nikhil Pai, Advocate for the respondent No.6.

Coram:- NUTAN D. SARDESSAI, J.**Date:- 29th March 2019****P.C.:**

Shri S.S. Kantak, learned Senior Counsel placed reliance on the order of the Hon'ble Apex Court in Sheila Dhody v/s. Goa Coastal Zone Management Authority and others [Special Leave Petition (c) No.(s).4999-5000/2019] wherein it was observed at paragraphs 4 to 7 as below:

"(4) Mr. Dhruv Mehta, learned senior counsel appearing for the petitioner, has submitted that the time stipulated under Section 16(j) of the said Act is ninety days (30 days + 60 days). It was submitted that since the High Court had entertained the writ petitions and subsequently disposed of the same with direction to approach the Tribunal, the petitioner cannot be rendered remediless on the point of limitation. It was submitted that the High Court ought to have extended the time to approach the National Green

Tribunal challenging the orders of the authorities in this regard. In support of his contention Mr. Dhruv Mehta has drawn our attention to an order passed by this Court on 15th January, 2018 in Civil Appeal NO.389 of 2018, Aman Sethi v. State of Rajasthan and Ors.

(5) We find substance in the submission of Mr. Dhruv Mehta, learned senior counsel appearing for the petitioner. Inasmuch as the High Court has not gone into the merits of the matter, in our view the petitioner ought to be given an opportunity to approach the Tribunal challenging the orders.

(6) Having regard to the submission made at the Bar, we deem it appropriate to grant four weeks time from today to the petitioner for filing appeal(s) before the National Green Tribunal. Ordered accordingly.

(7) The High Court while dismissing the writ petitions on the ground of an alternate remedy, has extended the interim order operating in favour of the petitioner, as such we order to continue such orders for a further period of four weeks or till the appeal(s) is taken up by the National Green Tribunal, whichever is earlier."

2. It was his contention that this order would squarely apply in the facts of the present case where the petitioner had filed the petition within 7 days of the order passed by the GCZMA. In view thereof, this petition is not being entertained in view of an availability of the alternate remedy to the petitioner before the

learned NGT. As a sequel thereto six weeks time is granted to the petitioner from today for filing the appeal before the learned NGT.

3. Interim relief, if any, to continue till then or the appeal is taken up by the NGT whichever is earlier.

4. In these terms the petition stands disposed off.

NUTAN D. SARDESSAI, J.

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