

Maria S.

IN THE HIGH COURT OF BOMBAY AT GOA

**PUBLIC INTEREST LITIGATION WRIT PETITION NO.21 OF
2018**

WITH

**PUBLIC INTEREST LITIGATION WRIT PETITION NO.18 OF
2019**

WITH

**PUBLIC INTEREST LITIGATION WRIT PETITION NO.19 OF
2019**

WITH

STAMP NUMBER (MAIN) NO.2322 OF 2019(FILING)

WITH

**PUBLIC INTEREST LITIGATION WRIT PETITION NO.21 OF
2019**

WITH

**PUBLIC INTEREST LITIGATION WRIT PETITION NO.22 OF
2018**

**PUBLIC INTEREST LITIGATION WRIT PETITION NO.21 OF
2018**

Kashinath Jairam Shetye And 8 Ors.

...Petitioners

Versus

Union of India, thr. Jt. Secretary, Ritesh
Kumar Singh And Anr.

... Respondents

Petitioner in person.

Mr Raviraj Chodankar, Standing Counsel *for Respondent No.1.*

Mr Devidas J. Pangam, Advocate General *with Ms Maria S. J. Correia, Additional Government Advocate for Respondent State.*

WITH
PUBLIC INTEREST LITIGATION WRIT PETITION NO.18
OF 2019

Kashinath Jairam Shetye And 7 Ors. ...Petitioners

Versus

Union of India, thr. Director MOEF, New ... Respondents
Delhi And 2 ors.

Petitioner in person.

Mr Raviraj Chodankar, Standing Counsel *for Respondent No.1.*

Mr Devidas J. Pangam, Advocate General *with Ms Maria S. J. Correia, Additional Government Advocate for Respondent State.*

WITH
PUBLIC INTEREST LITIGATION WRIT PETITION NO.19
OF 2019

Federation of Rainbow Warriors, thr. Its ...Petitioners
Secretary, David Rodrigues And 2 Ors.

Versus

Union of India, thr. The Secretary, Ministry of ... Respondents
Environment, New Delhi And Anr.

Ms Maria Caroline Collasso, Advocate *for the Petitioner No.1.*

Mr Raviraj Chodankar, Standing Counsel *for Respondent No.1.*

Mr. Devidas J. Pangam, Advocate General *with Mr Suhas Parab, Additional Government Advocate for Respondent State.*

WITH
STAMP NUMBER (MAIN) NO.2322 OF 2019 (FILING)

Old Cross Fishing Canoe Owners Co-op.
Society Ltd., thr. Its President, Custodio
D'Souza And 3 Ors. ... Petitioners

Versus

Ministry of Environment, Forests And ... Respondents
Climate Change, thr. its Secretary, New Delhi
And Anr.

Mr Raviraj Chodankar, Standing Counsel *for Respondent No.1.*

Mr. Devidas J. Pangam, Advocate General *with Ms Sulekha Kamat, Additional Government Advocate for Respondent State.*

WITH
**PUBLIC INTEREST LITIGATION WRIT PETITION NO.21
OF 2019**

The Goa Foundation, thr. Its Secretary Dr.
Claude Alvares And Anr. ... Petitioners

Versus

Ministry of Environment, Forests And ... Respondents
Climate Change, thr. its Secretary And Anr.

Ms Norma Alvares and Mr Om D'Costa, Advocates *for the Petitioner.*

Mr Raviraj Chodankar, Standing Counsel *for Respondent No.1.*

Mr. Devidas J. Pangam, Advocate General *with Mr Geetesh Shetye, Additional Government Advocate for Respondent State.*

WITH
PUBLIC INTEREST LITIGATION WRIT PETITION NO.22
OF 2018

Kashinath Jairam Shetye And 8 Ors. ... Petitioners

Versus

Union of India, thr. Jt. Secretary, Ritesh ... Respondents
Kumar Singh And Anr.

Petitioner in person.

Mr Raviraj Chodankar, Standing Counsel *for Respondent No.1.*

Mr Devidas J. Pangam, Advocate General *with Mr Shubham Priolkar, Additional Government Advocate for Respondent State.*

**CORAM: M. S. SONAK &
BHARAT P. DESHPANDE, JJ.**

DATED : 3rd January, 2023

ORAL ORDER:

Heard learned counsel for the parties, learned Advocate General for the State and Mr Chodankar, learned Standing Counsel for the Central Government.

2. In all these petitions, the challenge is to certain provisions of the CRZ Notification, 2019. In the petitions instituted by Mr Kashinath Shetye, he has challenged further notifications issued under the Environment Protection Act, 1986.

3. A coordinate Bench of this Court in the case of ***Vanashakti & Anr. v/s. Union of India & Ors.***¹ has held that such petitions need not be entertained by the High Court because the petitioners have an alternate and efficacious remedy before the National Green Tribunal.

4. The decision in ***Vanashakti*** (supra) was challenged before the Hon'ble Supreme Court by instituting the petition for Special Leave to Appeal (C) No.20495 of 2021. On 03.08.2022, we had made it clear that we would await the decision of the Hon'ble Supreme Court in the said SLP and only after that, decide whether these petitions should be entertained or whether the petitioners should be relegated to avail of the alternate remedy before the National Green Tribunal.

5. The Hon'ble Supreme Court disposed of the above SLP on 30.09.2022 by making the following Order:

'In the facts and circumstances of the case, the High Court has rightly relegated the petitioners to approach the National Green Tribunal (NGT) as number of technical issues arise which can very well be dealt with by the NGT are involved. Therefore, it is appropriate that the petitioners approach the NGT,

¹ 2021 0 Supreme (Bom) 368

as observed by the High Court. The Special Leave Petition stands dismissed.

However, it is observed that if the petitioners approach the NGT within a period of four weeks from today, the proceedings be considering in accordance with law and on its own merits without raising the issue with respect to limitation.

All the contentions and defences which may be available to the respective parties are kept open to be considered by the NGT in accordance with law and on its own merits.

Pending application(s), if any, stand disposed of.'

6. Therefore, consistent with the above order, we dispose of these petitions by relegating the petitioners to avail of the alternate remedy before the National Green Tribunal.

7. Some of the petitioners, including, in particular, Mr Kashinath Shetye, expressed apprehension on the issue of limitation. Mr Chodankar, learned Standing Counsel for the Central Government made it clear that if the petitioners indeed approach the NGT within 4 weeks from today, the issue of limitation will not be raised. This statement is entirely consistent with the directions of the Hon'ble Supreme Court in its order dated 30.09.2022 disposing of the above SLP.

8. Even otherwise, all these petitioners, were bonafidely pursuing their petitions before this Court. The issue of alternate remedy was also pending before the Hon'ble Supreme Court in the challenge against the decision in **Vanashakti** (supra). Therefore, consistent with the order made by the Hon'ble Supreme Court, we also observe that in case the petitioners approach the NGT within 4 weeks from today, the proceedings they institute will be considered in accordance with law and on their own merits without raising the issue with respect to limitation. Further, all contentions of all parties are expressly left open because we have not examined the merits and these petitions are being disposed of only by relegating the petitioners to avail of the alternate remedy available before the NGT.

9. All these petitions are, therefore, disposed of by granting the petitioners liberty to approach the NGT. If the petitioners indeed approach the NGT within 4 weeks from today, the proceedings they institute be considered in accordance with law and on their own merits without raising the issue with respect to limitation. The statement of Mr Chodankar, learned Standing Counsel for Central Government in this regard is also noted and accepted.

10. The petitions are disposed of in the above terms without any order for costs.

BHARAT P. DESHPANDE, J.

M. S. SONAK, J.

MARIA SUZANA
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