

Niti

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.658 OF 2023

LAWRENCE FERNANDES

... PETITIONER

Versus

THE STATE OF GOA THR. ITS CHIEF
SECRETARY AND 4 ORS

... RESPONDENTS

Mr D. Lawande with Mr P. Dangui, Advocates for the Petitioner.
Mr D. Pangam, Advocate General with Mr Deep Shirodkar,
Additional Government Advocate for Respondent Nos.1,2 and 4.

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

DATED :- 17th October, 2023

P.C.:

Heard Mr Lawande, who appears along with Mr P. Dangui for the petitioner. Learned Advocate General appears for respondent nos.1,2, and 4.

2. The challenge in this petition is to the order dated 11.10.2022 made under Section 5 of the Environment (Protection) Act, 1986 by the GCZMA.

3. Against the impugned order, the petitioner has an alternate and efficacious remedy of appeal under Section 16 of the National Green Tribunal Act, 2010, as pointed out by the learned Advocate General.

4. Accordingly, Mr Lawande, based on instructions from the petitioner, who is present in Court, seeks leave to withdraw this petition with liberty to file an appeal before the National Green Tribunal. Mr Lawande, however, submits that this petition to challenge the impugned order dated 11.10.2022 was filed on 14.11.2022. He, therefore, submits that some protection may be granted in the context of limitation.

5. The records indeed show that this petition was instituted on 14.11.2022. The petition was pending in this Court. Mr Lawande explained that since the impugned order dated 11.10.2022 was made pursuant to Suo Motu Writ Petition No.2/2006, the petitioner bonafide believed that a petition should be filed before this Court and not the National Green Tribunal.

6. Since the petition was pending before this Court and the petitioner was bonafide pursuing the petition, we are sure that this aspect will be duly considered by the National Green Tribunal. Mr Lawande states that appeal will be instituted within a maximum of four weeks from today. The learned Advocate General states that if appeal is instituted within four weeks, objection based on limitation will not be raised. In the peculiar facts of the present case, we think that if the appeal is instituted within four weeks from today, the same should be decided on merits without adverting to the issue of limitation.

7. Since, we were not entertaining this petition, we have not issued any notice to respondent no.5. However, in the appeal to be instituted by the petitioner respondent no.5 must be impleaded as a party before the National Green Tribunal.

8. With liberty and directions as aforesaid, we dispose of this petition.

BHARAT P. DESHPANDE, J.

M. S. SONAK, J.

NITI K

HALDANKAR

Digitally signed by
NITI K HALDANKAR
Date: 2023.10.18
10:07:36 +05'30'