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W.P.No.1139 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2024

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.P.No.1139 of 2024

Ramesh M

..

Petitioner

v.

1. The National Green Tribunal
rep.by its Registrar
Kalas Mahal, Chepauk, Chennai

2. The Karnataka State Environment
Impact Assessment Authority
rep.by its Member Secretary
Room No.706, 7th Floor, 4th Gate
M.S.Building, Bangalore 560 001

3. The Bangalore Development Authority
rep.by its Commissioner
Dr.K.Shivarama Karantha Layout Division
Kumara Park West, T.Chowdiah Road
Bangalore 560 020

..

Respondents

Writ Petition filed under Article 226 of the Constitution of India,
praying for issuance of a Writ of Certiorarified Mandamus, calling for the
records of the 1st respondent Tribunal culminating in the impugned order



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dated 30.05.2023 in unnumbered Interlocutory Application in Appeal No.5 of 2023, quash the same, restore the appeal to the file of the 1st respondent Tribunal and direct the 1st respondent to issue notice and consider the matter on merits.

For Petitioner :: Mr.Yogeshwaran.A

For Respondents :: No appearance

ORDER

(Order of the Court was made by S.S.SUNDAR,J.)

This writ petition is filed as against the order in unnumbered interlocutory application filed before the National Green Tribunal, dismissing the application filed by the petitioner to declare that the appeal has been presented by the petitioner within limitation.

2. The brief facts that are necessary for the disposal of this writ petition are as follows:

(a) The writ petitioner is a resident of Ramagondanahalli Village, Bengaluru North Taluk. The petitioner claims ownership over an extent of 1 acre and 9 guntas of land in the village. The case of the petitioner is that the petitioner's family is dependent on the agricultural activities they do in their



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land, which is ancestral. The petitioner's land was sought to be acquired for public purpose. The grievance of the petitioner is that it is mandatory for certain projects to obtain prior environmental clearance from either the Ministry of Environment, Forest and Climate Change in the category of A projects or the State Environmental Impact Assessment Authority in respect of category B projects.

(b) It is the case of petitioner that the Bangalore Development Authority proposed a layout in respect of the land measuring about 1,43,51,379.62 square meters and obtained clearance from the State Environment Impact Assessment Authority, Karnataka by proceedings dated 08.04.2022. It is the specific case of the petitioner that the clearance given by the State Environment Impact Assessment Authority was not made public.

(c) It is also the case of petitioner that he filed an application under the Right to Information Act and obtained a copy of the order dated 08.04.2022, only along with the communication dated 11.10.2022. It was thereafter the petitioner filed an appeal challenging the order of State Environment Impact Assessment Authority, Karnataka before the National



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Green Tribunal on 10.11.2022. However, it appears that the petitioner filed an application for a declaration that the appeal has been filed within time, after referring to the fact that the limitation starts only from the date of knowledge of the order and also the fact that Section 16 of the National Green Tribunal Act enables the appellant to file an appeal as against every order or decision within a period of thirty days from the date on which the order or decision or determination is communicated to the appellant. However, the National Green Tribunal, by the impugned order, dismissed the application not only on merits, but also on the ground that the application filed beyond the period of limitation cannot be entertained. Aggrieved by the said order, the present writ petition is filed.

3. The learned counsel appearing for the petitioner relied upon sub-clause (j) of Section 16 of the National Green Tribunal Act, 2010, which reads as follows:-

“16.(j) any determination of benefit sharing or order made, on or after the commencement of the National Green Tribunal Act, 2010, by the National Biodiversity



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Authority or a State Biodiversity Board under the provisions of the Biological Diversity Act, 2002, may, within a period of thirty days from the date on which the order or decision or direction or determination is communicated to him, prefer an appeal to the Tribunal:

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days.”

4. From the language employed, this Court has no hesitation to hold that the period of thirty days limitation will run from the date on which the decision or direction or determination is communicated to the petitioner. But the National Green Tribunal dismissed the application holding that the appeal filed on 10.11.2022, which is beyond the period of sixty days from the date of environmental clearance granted on 08.04.2022, is barred by limitation.

5. The learned counsel appearing for the petitioner relied upon a



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judgment of the Hon'ble Supreme Court in the case of *Ranghunath Rai Bareja and others v. Punjab National Bank, (2007) 2 SCC 230*, wherein the Hon'ble Supreme Court, after examining Section 16 of the National Green Tribunal Act, held that the date on which the order of environmental clearance is communicated to the public at large, shall be the date from which the period of limitation shall reckon as contemplated under Section 16 of the Act. When we enquired about the peculiarity in the prayer in the interlocutory application, the counsel for the petitioner has given a valid reason. Since power is not vested with the Hon'ble National Green Tribunal to condone the period beyond sixty days, the counsel apprehends that a petition calculating the delay from the date of order may not be entertained by the Tribunal.

6. Despite service of notice, the respondents have neither appeared nor represented through their counsel.

7. Since there is no one to repudiate the specific contention of the petitioner that the environmental clearance was never put in the public



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domain as required under the provisions of the Act, we find that the impugned order is not in conformity with certain provisions of the Act.

However, this Court is of the view that the application should be heard afresh giving an opportunity to the respondents as well. Therefore, the impugned order is set aside and the application is restored back to the file of the National Green Tribunal, Southern Zone, Chennai. The National Green Tribunal, Southern Zone, Chennai shall take up the matter, after issuing notice to both the petitioner and the contesting respondents, and shall pass orders on merits after hearing the parties. It is also open to the petitioner to raise all his contentions once again before the Tribunal. The writ petition stands allowed. No costs.

Index : yes/no
Neutral citation : yes/no

(S.S.S.R.,J.) (N.S.,J.)
16.02.2024

SS

To

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National Green Tribunal
Kalas Mahal
Chepauk, Chennai



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