

BEFORE THE NATIONAL ENVIRONMENT APPELLATE AUTHORITY  
NEW DELHI

DATED 28<sup>TH</sup> DAY OF FEBRUARY, 2005

PRESENT

HON'BLE MEMBER SHRI KAUSHILENDRA PRASAD  
HON'BLE MEMBER DR. I.V. MANIVANNAN  
HON'BLE MEMBER SHRI J.C. KALA

APPEAL NO. 13/2007

**BETWEEN:**

1. Gomantak Shetakari Sanghatana  
Through it's President  
Venkatesh Keshav Prabhudesai,  
Dayanandanagar,  
Dharbandora, Goa -403406.
2. Keshava Atmaram Sawaikar  
Dayananda Nagar,  
Dharandora, Goa -403406

APPELLANT

**A N D**

1. Union of India  
Through the Secretary,  
Ministry of Environment and Forests,  
C.G.O Complex, Lodi Road,  
New Delhi - 110 003
2. Goa State Pollution Control Board,  
Through the Member Secretary,  
Panaji, Goa.
3. Shri Jaisinh Maganlal,  
Vill-Pirla, Taluka -Quepem,  
Dist- South Goa, Goa.

RESPONDENTS

**Counsel for Appellant** : Shri Ritwick Dutta, Advocate

**Counsel for Respondents**

1. Respondent No. 1(MoEF): Not Present
2. Respondent No. 2(Goa SPCB): Shri Bhavanishankar V Gadnis, Advocate
3. Respondent No. 3 : Shri Nitin Sardesai, Advocate  
(Jaisingh Maganlal)

**ORDER**

1. This is an appeal filed under section 11(1) of the National Environment Appellate Authority (NEAA) Act, 1997 against the order of the Ministry of Environment & Forests No. J-11015/157/2007-1A.II (M) dated 18.09.2007 granting Environmental Clearance on the proposal for renewal of Mining Lease No. 80/59 of Shri Jaisingh Maganlal (Respondent-3) covering an area of 98.76 hectare at Village Pirla, Quepem Taluka in South Goa District of Goa State.

2. The Appeal was preferred on 14<sup>th</sup> December 2007 on the 87<sup>th</sup> day from 18.09.2007, the date on which the Environment Clearance was granted to the Respondent-3. The defects noticed in the Appeal petition were rectified on 11.01.2008 and complete Appeal was registered on 16.01.2008. The delay in filing the appeal before the NEAA is 57 days after excluding the statutory period of 30 days. The application filed by the Appellant for condonation of delay was taken up for hearing on 12.02.2008 and the parties were heard.

3. The counsel for the Appellant submitted the following reasons for not filing his

appeal within the stipulated period of 30 days from the date of the Environment Clearance Order: -

- (i) The Appellants came to know of the Environment Clearance order only after it was published in the newspaper on 28.09.2007 - much after the clearance was granted;
- (ii) Till the date of filing of this Appeal, the Clearance letter could not be accessed from the website of the Ministry of Environment & Forests;
- (iii) Only seeing the information published in newspaper on 28.09.2007, the Appellant approached villagers who collectively decided to challenge the Clearance Order;
- (iv) Thereafter the Appellants consulted a few lawyers and NGOs to take up the case in the best possible manner. During the course of such consultation, the convener of NISARG informed them that Appeal had to be filed before NEAA challenging the Environment Clearance granted by MoEF;
- (v) It took some time for the Appellants to approach the counsel at Delhi and finalise the Appeal petition to be filed before the Authority;
- (vi) Citing the decisions of Hon'ble Supreme Court and various High Courts on the interpretation of the expression "sufficient cause", the counsel for Appellants pleaded that as statute of limitation is a benevolent legislation, it may be interpreted in that way to favour of the persons whose remedy is lost;
- (vii) The litigant does not stand to benefit by lodging the appeal late; and
- (viii) When the substantial justice and technical consideration are pitted against each other, cause of substantial justice deserves to be preferred.

Citing decisions of many courts which have bearing on "just and sufficient cause" for the delay in filing appeal, the counsel for the Appellants has prayed that the interest of justice and larger public interest, the delay in filing of application within the stipulated period of 30 days may be condoned and appeal may be taken up for consideration on merit.

4. The counsel for Respondent -3 has denied the contentions of the Appellants and put forward the following arguments:

- (i) The Appellants have not mentioned as to which of the Appellants could not access the website of MoEF and their contentions cannot be considered;
- (ii) The information about the grant of the Environmental Clearance of the project was published in newspapers on 28.09.2007 and there was, therefore, no delay on the part of the company in publishing the information in local dailies; and
- (iii) As the National Environment Appellate Authority was the only Appellate Forum before which the Environment Clearance Orders could be challenged, ignorance of law cannot be an excuse for the delayed filing of the Appeal.

The Respondent No. 3 has therefore prayed that the present application for condonation of delay is not maintainable in law and it may therefore be dismissed with the legal consequences.

5. The Authority has perused the statements filed by the Appellants and the Respondent No. 3 and heard the arguments put forward by their respective counsels. The Authority has noted that the information about the grant of Environment Clearance by Ministry of Environment & Forests on 18.09.2007 was published in newspapers by Respondent -3 on 28.09.2007. This publication clearly states the availability of Environment Clearance letter being available with the Goa State Pollution Control Board to which the Appellants did not approach for a copy. The Appellants could have filed a preliminary/skeleton appeal within the prescribed 30 days and later on, they could have added additional papers/records relevant to case. But they did not do so. The counsel for Appellants has not placed any material evidence to show that they were actually prevented by circumstances beyond their control to finalize the appeal and file it before this Authority in time. The alleged ignorance of the Appellants about the existence of this Authority having jurisdiction to entertain Appeals against the Environment Clearance orders issued by MoEF, cannot be accepted as an excuse amounting to sufficient cause for condoning the delay in this case. The Authority therefore finds no merit in the argument of the counsel of the Appellants in favour of delayed filing of Appeal beyond the allowed period of 30 days from the date of clearance order. The plea of the Appellants is therefore rejected and appeal is accordingly not admitted.

Sd/-  
(J.C. Kala)  
Member

Sd/-  
(Dr. V. Manivanan)  
28/9/2008  
Member

Sd/-  
(K. Prasad)  
Member

"Certified to be true copy"

Chd.m  
5/3/2008