

BEFORE THE NATIONAL ENVIRONMENT APPELLATE AUTHORITY
NEW DELHI

DATED 16TH DAY OF AUGUST, 2007

PRESENT
HON'BLE MEMBER SHRI K.PRASAD
HON'BLE MEMBER SHRI J.C. KALA

APPEAL NO. 3/2007

BETWEEN:

Kelshi, Mandiwali, Vanzaloli Panchakroshi-
Bauxite Virodhi Sangharsha Committee,
Through its Executive President
Ulhas Ram Vastak,
At /Post -- Kelshi, Tal -- Dapoli
Dist -- Ratnagiri, Maharashtra

APPELLANT

AND

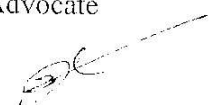
1. Ministry of Environment and Forests,
Through the Secretary, Government of India,
C.G.O Complex, Lodi Road,
New Delhi - 110 003
2. Maharashtra Pollution Control Board,
Kalpataru Point, 3rd and 4th Floor,
Sion Matunga Scheme Road No. 8,
Opp. Cine Planet Cinema,
Near Sion Circle, Sion (East),
Mumbai - 400 022.
3. Ashapura Minechem Ltd.,
Office at Jeevan Udyog Building,
5th Floor, 278, D.N. Road,
Fort, Mumbai - 400 001.

RESPONDENTS

Counsel for Appellant : Shri Ritwick Dutta, Advocate
Shri Rahul Choudhary, Advocate
Shri Priyabrata Satapathy, Advocate

Counsel for Respondents

1. Respondent No. 1 : Shri W.Bharat Singh,
Deputy Director, MoEF.
2. Respondent No. 2 : Shri Mukesh Verma, Advocate
3. Respondent No. 3 : Shri Arvind K Sharama, Advocate



OR ER

1. This is an appeal filed under section 1(1) of the National Environment Appellate Authority (NEAA) Act, 1997 against the orders No. J-11015/44/2006-IA.II (M) and No. J-11015/46/2006-IA.II (M) dated 29.12.2006 of the Ministry of Environment & Forests granting Environmental Clearances for the projects Rovale Bauxite Mine and Umbarshet Bauxite Mine of M/s. Ashapura Minechem Ltd., Jeevan Udyog Building, 3rd Floor, 278, D.N. Road, Fort, Mumbai – 400 001.

2. The said Appeal was preferred on 28th March 2007 i.e. on the 89th day from the date of Environmental Clearances granted to the Projects (29th December, 2006, the date of issue of the order being excluded). The delay in filing the appeal before the NEAA is 59 days. The said appeal was registered and listed for hearing on condonation of delay on 11.05.2007, 14.06.2007, 03.07.2007, 24.07.2007 and 16.08.2007. The parties were heard.

3. The Counsel for the Appellant stated that the Appellant Committee is an Association of the villagers who are affected by the Bauxite Mining Project. They are living and working in project affected villages and have raised the objection against the mining activities which was illegally started even before filing of the application for Environmental Clearances.

4. The Counsel for the Appellant stated the following causes in support of condonation of delay for not filing the appeal in time

- (i) The Appellant was unable to approach this Hon'ble Authority within the stipulated period of 30 days since he came to know, much after 29.12.2006, about the Environmental Clearances granted to the Projects.
- (ii) The Appellant went to villages in the month of February, 2007 and the villagers informed him (the Executive President of the Committee) that Maharashtra Pollution Control Board (MPCB) had granted the Clearances to the Projects. He approached the MPCB on 19.02.2007 and was informed that the Environmental Clearance letters can be downloaded from the MoEF Website. The Appellant tried to download the copies of the clearance letters but as the site could not be opened, he took out only the print



of the sheet showing the list of projects for which the clearances were granted. The Village Panchayats were not informed of the clearances granted to these Projects.

(iii) The Appellant consulted villagers and the villagers in turn advised him to file a case. The Appellant approached an advocate in Bombay to file a Writ Petition before the Hon'ble Bombay High Court. During the third week of March 2007, he came in contact with Shri R. Shreedhar of Academy for Mountain Environics and discussed about challenging the Environmental Clearances granted to the Projects. Shri R. Shreedhar informed him that the Environmental Clearance order could be challenged only before NEAA.

(iv) The Appellant approached the Counsel in Delhi and this Appeal was filed.

5. The learned counsel for Respondent No. 3 argued that in the application the Appellant has not shown sufficient reason for condoning the delay. As per section 11(1) of the NEAA Act, 1997, the Appeal has to be filed within 30 days from the date of issue of Environmental Clearances and this Hon'ble Authority may entertain the Appeal filed after 30 days, but not after 90 days from the date of order, if it is satisfied that the Appellant was prevented by sufficient causes from filing the appeal in time. In the present case, the Appellant has not shown any sufficient reasons and ground in the application for seeking to invoke discretion of this Hon'ble Authority to condone the delay by approaching on the 89th day. Further, the Appellant has not produced any document except the bald statements that he had enquired from the villagers and contacted advocate for filing Writ Petition before the Hon'ble Bombay High Court and came in contact with Shri R. Shreedhar of Academy for Mountain Environics, then only he decided to file the Appeal before this Authority. The Appellant has not mentioned any event or circumstance for not filing the Appeal before this Authority within time and there is no explanation for the delay from 31st day to 89th day. The statute has prescribed a strict period of limitation for filing appeal. Therefore the Application for condonation of delay is liable to be dismissed.

6. The representative of the Ministry of Environment and Forests (Respondent No. 1) stated that the details of clearances accorded are available in the list of approved project on the Ministry's Website. However, due to some technical reason some of the links to clearance letters, including the letters with regard to these two projects, were not functioning properly and it could not be opened.



7. The Counsel for the Respondent No. 2 stated in reply to the condonation of delay application that as per the rules and regulation, clearance certificates dated 29.12.2006 were pasted and exhibited on every required place.

8. Taking into consideration the points raised in the appeal, the arguments made by the learned counsels for the Appellant and Respondents and the records produced before this Authority, the Authority went beyond the content narrated in the appeal and directed the Respondents to file evidences on compliance of General Condition Nos. (xiii), (xiv) and (xv) of Environmental Clearances dated 29th December 2006. Respondent No. 3 produced the following evidence in compliance of the above General Conditions: -

- (i) Letter dt. 22.01.2007 sent to Sarpanch, Gram Panchayat Umbershet by M/s. Ashapura Minechem Limited
- (ii) Letter dt. 22.01.2007 sent to the Sarpanch, Gram Panchayat Rovale by M/s. Ashapura Minechem Limited
- (iii) Copy of the News Paper publication in Bhairav Times, Ratnagiri, dated 4th January, 2007

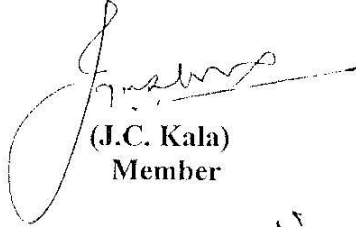
The counsel for the Appellant requested some time to verify the authenticity of the documents produced by the Respondent No. 3 which was allowed and the case was adjourned to 16th August 2007 for final hearing. The Appellant failed to produce any document on 16th August 2007 and requested for one more week's time to verify the authenticity the documents.

9. Although the Counsel for the Appellant rebutted the knowledge of copy marked to the Panchayats / NGO but he could not verify the authenticity of the documents produced by the Respondent No.3 even after sufficient time having been granted to the Appellant. In the absence of any expressed reason in the condonation of delay application, the Authority felt that the request of the Appellant for grant of additional time was unreasonable for verifying the documents and therefore decided not to grant any additional time especially in view of the information published in locally understood language viz. Marathi in the popular and widely circulated news paper.

10. On the basis of the arguments made by the learned counsels for the Appellant (an association of the villagers), the Respondents and the examination of documents produced,

the Authority did not find the reasons given by the Appellant sufficient enough for allowing the application for condonation of delay. The Appellant has not been able to satisfy the Authority that he was prevented by sufficient cause from filing the appeal as required under Section 11(1) of the National Environment Appellate Authority Act, 1997.

11. This Authority, therefore, concludes that as there is no sufficient cause put forth by the Appellant for condonation of delay of 59 days after the expiry of statutory period of 30 days. **Therefore the delay is not condoned. The Appeal is dismissed.**


(J.C. Kala)
Member


(K. Prasad)
Member

"Certified to be true copy"

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20/8/2007