

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**Appeal No. 151 of 2015
(M. A. No. 1348 of 2015, M. A. No. 1349 of 2015 & M. A. No. 458 of 2016)
And
Original Application No. 470 of 2015
(M. A. No. 1076 of 2015)**

IN THE MATTER OF:

**Sudiep Shrivastava Vs. Union of India & Ors.
And
Sudiep Shrivastava & Anr. Vs. Union of India & Ors.**

**CORAM : HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER**

**Present: Appellant: Mr. Rahul Choudhary, Adv.
Respondent No. 1 : Mr. Rahul Pratap, Adv.for MoEF
Respondent Nos. 2&3: Ms. Shashi Juneja, Adv.
Respondent No. 4: Mr. R.K. Singh, Adv.
Respondent No. 6: Mr. Soumyajit Pani**

**Present: Appellant: Mr. Rahul Choudhary, Adv.
Respondent Nos. 2&3: Ms. Shashi Juneja, Adv.
Respondent No. 4: Mr. R.K. Singh, Adv
Respondent No. 6: Mr. Soumyajit Pani
Respondent No.7 Ms. Priyanka Sinha, Advs.(State of Jharkhand)**

Date and Remarks	Orders of the Tribunal
Item Nos. 08& 09 July 26, 2016	<p style="text-align: center;"><u>M. A. No. 1348 of 2015</u></p> <p>Heard. Perused.</p> <p>The applicant is seeking condonation of delay in preferring the Appeal u/s 16(e) of the NGT Act, 2010 against the Final Approval dated 23-06-2015 at annexure A-1 to the Original Appeal.</p> <p>According to the appellant the final approval was never published or put in the public domain and it was made known during course of hearing of Original Application No. 470 of 2015 which was filed upon noticing felling of trees in the project area.</p> <p>The Respondent No. 2- State of Chhattisgarh has filed a reply bringing forth the fact that the permission/sanctioning approval of diversion of 76.099 ha of forest land issued by the Additional Principal Chief Conservator of Forest (APCCF) CG Forest Deptt. of State</p>

Government vide letter No. BhuPraband/Vivid/115-368/2125 dated 24-07-2015 and it was uploaded on 24-07-2015.

The Respondent No. 1-Ministry of Environment, Forest and Climate Change, Government of India and Respondent No. 5- Project Elephant and Respondent No. 8-National Board of Wild Life also gave their reply stating that they agreed in- principle/Stage-I and Final/Stage-II approval for diversion of 76.099 ha of forest land vide its letter nos. 8-105/2014-FC dated 26-02-2015 and 22-05-2015 respectively were uploaded on the official website on 03-03-2016 (according to ld. Counsel: 03-03-2015) and 26-05-2016(according to ld. Counsel: 25-05-2015).

Learned Counsel appearing on behalf of the Respondent No. 2-State of Chhattisgarh submits that period of limitation triggered with the letter dated 24-07-2015 of Additional Principal Chief Conservator of Forest (APCCF) being published on the website of the Government on the same date and as such the present application is time barred.

She further submits that the publication of the letter dated 24-07-2015 was issued in pursuance to the guidelines issued by the Ministry of Environment, Forest and Climate Change, Government of India, Govt. of India dated 20-08-2015 annexure -3 to the reply of Respondent No. 1 dated 09-05-2016 (page 166). In support of the affidavit and submissions she placed reliance on the order dated 13th March, 2015 passed by this Tribunal In Original Application No. 52 of 2015 : Milind Pariwakam & Anr. Vs. Union of India directing the OM issued by Ministry of Environment, Forest and Climate Change,

Government of India will be given effect to read with the affidavit but only and only subject to the directions contained in this Judgment.

She also invited our attention to the order passed by this Bench on 7-02-2014 in Appeal No. 3 of 2014: Pranav Kumar Vs. Union of India & Ors. Pertinently, the fact remains that the impugned order dated 23-06-2015 which is a final order directing use of forestland for non-forest purpose u/s 2 of Forest (Conservation) Act, 1980 assailed in the present Appeal was not published in the public domain.

This Tribunal while acknowledging the need to give effect to OM issued by Ministry of Environment, Forest and Climate Change, Government of India did observe in Milind Pariwakam's Case (supra) that it needs to be given effect to only and only subject to the directions contained in the said judgment. The relevant text of the order in the matter of Original Application No. 52 of 2015 : Milind Pariwakam & Anr. Vs. Union of India is reproduced herein under:

a. The OM issued by MoEF will be given effect to read with the Affidavit but only and only subject to the directions contained in this Judgment.

b. No non-forest activity in the Forest Area that is covered under Section 2 of the Forest Conservation Act, 1980 would be permitted and carried on in any manner whatsoever unless an order has been passed by the competent authority of that State Government and put it in the public domain by putting it on its website and complying with the other requirements in accordance with law .

c. As the law has already been stated by the Tribunal that it is only an Order passed under Section 2 of the Forest Conservation Act, 1980 that is appealable under Section 16 of the NGT Act, we direct that Appeals would lie against such Orders to avoid difficulty to any litigant/ aggrieved person from approaching the Tribunal in accordance with law.

What has been challenged in the present appeal i.e. the order dated 23-06-2015 passed by the State Government

under Section 2 of the Forest Conservation Act, 1980 as observed was not published in the public domain. The Tribunal in the order dated 07-02-2014 passed in Pranav Kumar case supra upon referring to the interpretation of the term 'communication' in "Save Mon Region Federation Vs. Union of India (ALL (1)NGTPB) did observe the significance of 'communication' of the impugned order by putting it in public domain. Period of limitation in the present case would have started ticking from the time that order was published in the Public Domain, and not otherwise.

In the present case the appellant could get inkling of the impugned order only when same was made known in course of the hearing of Original Application No. 470 of 2015 on 09-11-2015; and upon knowledge of the impugned order on 09-11-2015 he moved an application for getting certified copy of it and could get the certified copy of the order on 1-12-2015. The present appeal has been filed on 21-12-2015 i.e. well within the period which this Tribunal can consider for condonation of delay.

We find that these facts and circumstances do offer sufficient reason for condoning the delay. Delay is condoned. The M. A. No. 1348 of 2015 is allowed and the same is disposed of accordingly.

Original Application No.470 of 2015

Issue notice on the appeal. Service of notice is waived. Three weeks time is granted for filing the replies to the main appeal. Advance copies of the replies be furnished to the appellant who may file rejoinder thereto, if any, within a week thereafter.

		<p>List the matter on 26th August, 2016.</p> <p>.....,JM (U.D. Salvi)</p> <p>.....,EM (Ranjan Chatterjee)</p>
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