

Item No.15

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

I.A.No.35 of 2019 in Appeal No.14 of 2019(SZ)

IN THE MATTER OF:

Kaiga Anuvidyut Sthawarad & ors

.. Applicant

Vs.

Nuclear Power Corpn. Of India Ltd., & ors.

... Respondent(s)

Date of hearing: 16.3.2020

CORAM: HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER

HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER

For applicant :

Mr. M. Mohana Krishnan

For Respondent(s) : .

Mr. Krishna Srinivasan

Mr. Sivathanu Mohan for R1

Mrs. Me. Sarashwathi for R2

ORDER

This application has been filed by the appellants to condone the delay of 60 days in filing the appeal. According to the applicants, Environment Clearance was granted on 5.8.2019. The information about the "consent" was sent to Mallapur Gram Panchayat by the NPCIL vide letter dated 3.9.2019. The order was not served on the appellants. They came to know about the issuance of Environment Clearance through Panchayat post on 15.9.2019. The appeal ought to have been filed within 30 days. According to the applicants, the extended period of 60 days expired on 3.11.2019 which happened to be a Sunday, the appeal was filed on the next working day i.e., on 4.11.2019 and so there was a delay of 60 days in filing the appeal. The applicants prays to condone the above delay.

2. First respondent, NPCIL filed counter contending that the Environment Clearance was uploaded by first respondent on 6.9.2019 and it was published in the local newspapers Vijaya Karnataka and Prajavani on 6.9.2019. The extended period of 60 days expired on 3.11.2019 and the appeal was filed on 4.11.2019 which is beyond 60 days and this Tribunal has no power to extend the time and Section 10 of the General Clauses Act, 1897 is not applicable for the extended period of limitation, as has been held in the decision reported in ASSAM URBAN WATER SUPPLY AND SEWERAGE BOARD VS. SUBASH PROJECTS AND MARKETING LTD. (2012) 2 SCC 624 and according to first respondent, the appeal is not maintainable and the same is liable to be dismissed in limini.

3. Second respondent, MoEF & CC also filed counter contending that there is no reason given for the delay in filing the appeal.

4. Heard the counsel appearing for applicant, respondents 1 and 2. There is no dispute regarding the proposition that the General Clauses Act, 1897 is not applicable to the extended period of limitation which falls on a holiday, is not applicable to the extended period but only to the prescribed period, as has been held by the Hon'ble Apex Court in ASSAM URBAN WATER SUPPLY AND SEWERAGE BOARD VS. SUBASH PROJECTS AND MARKETING LTD. (2012) 2 SCC 624. However, it may be mentioned here that the Environment Clearance was granted on 5.8.2019 and it was uploaded on 6.9.2019 and it was published in the local newspapers on the same day. So as per the Section, it can be from the date of communication that the limitation starts to run. If that be the case, the appeal ought to have been filed on or before 5.10.2019. In this case, the appeal was filed on 4.11.2019. So there will be a delay of only 30 days in filing the appeal and not 60 days, as contended by the appellants in the affidavit. Any misconception of computation of limitation due to ignorance of fact cannot go against the interest of the party. It is for the court to consider what is the proper period of limitation and will

have to be applied strictly. So the contention that it was beyond 60 days cannot be accepted, as it was only within the condonable period of 60 days only.

4. Then the question is whether there was any sufficient ground provided. It may be mentioned here that the appellants are an association of agriculturists. According to them, they came to know about the Environment Clearance only when it was published in the notice board of the Gram Panchayat i.e., on 15.9.2019. Further, since it is within the period of condonable delay and the very question of environment has been raised, we feel it appropriate to give an opportunity to the appellants to meet their case on merits.

5. So under such circumstances, we are satisfied with the reasons stated for the delay in filing the appeal and we are inclined to condone the delay. So the application is allowed and the delay in filing the appeal upto 4.11.2019, which is less than 60 days, is condoned.

.....J.M.
(Justice K. Ramakrishnan)

.....E.M.
(Shri. Saibal Dasgupta)

Apl.14/2019
16.3.2020
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