

Shri Ramdas Vasant Rao Aanerao vs State Of Maharashtra Through Its Chief ... on 24 December, 2022

Item No.6

(Pune Bench)

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

(By Video Conferencing)

Misc. Application No. 10/2022(WZ)
In
Original Application No. 71/2016 (WZ)

Shri Ramdas Vasant Rao Aanerao

.....Applicant

Versus

State of Maharashtra & Ors.

....Respondent(s)

Date of hearing: 06.12.2022

CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER

Applicant	:	Mr. Sandeep Vasant Bane, Advocate
Respondent(s)	:	Mr. Sangram Singh Bhonsle along-with Ms. Samridhi Jain, Advocates for R-2/PP Mr. Girish Utangale, Advocate for R-5/SRA Ms. Manasi Joshi, Advocate for R-6/MPCB Mr. Aniruddha Kulkarni, Advocate for R-7 & 8/Envtt. Deptt.

ORDER

1. This application has been filed by the Applicant praying to set aside the order dated 20.10.2020, where-by Original Application No. 71/2016 (WZ) was dismissed in default, which is annexed at page 12 of the paper book. It is submitted in this application that Applicant had filed M.A. No. 71/2017 (WZ) for restoration of the Original Application No. 71/2016 (WZ), which was allowed vide order dated 21.12.2017 by imposing cost of Rs. 5,000/-, which was deposited by him vide receipt dated 31.01.2018, copy of which has been annexed. After March, 2020, due to Covid-19 Pandemic, the Courts were closed and the Applicant/Advocate was not intimated about assembly of the Tribunal. On 20.10.2020, this Tribunal assembled through Video Conferencing and dismissed the Original Application due to non-compliance of order dated 21.12.2017, although he had already complied with the said order on 31.01.2018, though the receipt of depositing the fine could not be filed by him in the Tribunal.

2. It is further submitted that due to Covid-19 Pandemic, the Apex Court had directed all subordinate Courts, not to pass any adverse order in absence of either party or Advocates. He came to know about this order on 07.06.2021, when the Court assembled after Summer Vacation. Therefore, there is no delay in filing the present application. He has also referred to the Judgment of Hon'ble Supreme Court in Suo Moto Writ Petition (C) No. 03 of 2020, where-in period from 15.03.2020 to 28.02.2022 is directed to be excluded in computing the period of limitation. In this backdrop, he has prayed that the impugned order should be set aside and Original Application should be restored.

3. From the side of Respondent No. 2/Project Proponent, objection has been filed stating that the Applicant had full knowledge about the date on which dismissal order has been passed and for this, our attention is drawn by the learned Counsel to the Cause list of this Tribunal dated 31.01.2018, 08.01.2020, 10.01.2020, 15.03.2020, 16.05.2020, 30.06.2020 and 20.10.2020 and has indicated that the Original Application, which has been dismissed, was constantly being listing for hearing though it kept being adjourned. He has also drawn our attention to the Order of Registrar General of NGT dated 20.02.2020, where-by the matters of Pune Bench were directed to be taken up by the Principal Bench of NGT on daily basis and further Circulars of this Tribunal dated 13.02.2020 and 18.03.2020 have already been shown in order to establish that the Applicant was well informed that this Tribunal was to take up the matter on the appointed date, but he deliberately failed to appear. Therefore, he does not require any indulgence of this Tribunal and restoration application deserves to be rejected.

4. The learned Counsel for the Respondent No. 5 has also pointed out that in para 8 of the application, the Applicant has submitted that he came to know about the Order passed by the Hon'ble Apex Court on 07.03.2021, directing that no subordinate Courts would pass any adverse order in absence of party even then he moved the restoration application dated 31.05.2020 after a considerable delay. Therefore, his conduct is quite evident that he was never serious in contesting this matter.

5. We have heard learned Counsels for the parties and are of the view that it is on record that this Tribunal was not functioning regularly and that the matters were being taken up by the Principal Bench of NGT, therefore, it could be possible that the Applicant might not have noticed the date on which the same was to be taken up, hence it resulted in its dismissal. The fact that he has deposited an amount of Rs. 5,000/- by way of cost on 31.01.2018, the receipt of which is annexed at page no. 11 of the paper book, shows that he wanted to contest, but due to this Tribunal not working regularly, it could be possible that he missed out the date of hearing, because of which this application might have been dismissed by this Tribunal. Therefore, giving benefit of this doubt, we direct the Registry to restore the Original Application, giving the Applicant last opportunity to contest, subject to cost of Rs. 10,000/- (Rupees ten thousand only) to be deposited in the account of the Bar Association of NGT, Western Zone Bench, Pune.

6. Registry is directed to place this matter for hearing on 09.02.2023.

7. Dinesh Kumar Singh, JM Dr. Vijay Kulkarni, EM December 06, 2022 Misc. Application No. 10/2022(WZ) In Original Application No. 71/2016 (WZ) P.Kr