

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

**REVIEW APPLICATION NO. 8/2012
IN
APPLICATION NO. 26/2012**

IN THE MATTER OF

Union of India

Through Its Secretary

Ministry of Environment and Forests

Prayavaran Bhawan, CGO Complex,

Lodhi Road, New Delhi-110003

Applicant

Versus

The Goa Foundation

Through

Dinesh George Dias

G-8, Britto's Apts, Feira Alta.

Mapusa, Bardez,

Goa- 4035

And Others

Respondents

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ORDER

PRESENT:

Justice A.S. Naidu (Acting Chairperson)

Dr. G.K. Pandey (Expert Member)

Dated 20th September, 2012

Invoking jurisdiction under Section 19 of the National Green Tribunal Act, 2010, this Petition has been filed by the MoEF with a prayer to review the order dated 25th July, 2012. Relevant portions of the order dated 25th July, 2012 are quoted herein below for proper appreciation:-

A Prayer is made by all the Respondents to grant them some time to file their replies. On the other hand, Mr. Panjwani, Learned Senior Counsel for the Applicant forcefully submits that unless some interim order is passed to protect environment and ecology relating to Western Ghats, the Application shall become infructuous by afflux of time. On instructions, Ms. Rathore submits that no Environment Clearance is at present granted by the Ministry so far as Goa is concerned. Considering the said submission and the contention of Mr. Panjwani, we direct that as and when the Ministry

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considers the Applications for granting EC in respect of other areas falling in ESZ-1, they shall take note of WGEEP Report and take decision only in consonance with the provisions made therein. The State Level EACs shall also adhere to the same restriction that was in respect of ESZ-1 Zone. (Emphasis Supplied)

2. According to Ms. Rathore, Learned Counsel for the Applicant, the directions to take decisions only in consonance with the WGEEP Report, causes prejudice to the MoEF as the said report has not attained finality and is still under consideration of the Ministry.

3. Mr. Raj Panjwani, Learned Senior Counsel appearing for the Respondent No.1 vehemently objected to the submissions made by Ms. Rathore. According to Mr. Panjwani, the review petition is not maintainable as the same does not satisfy any of the grounds mentioned in order 47 Rule 1 of Civil Procedure Code 1908. Mr. Panjwani further submitted that after prolonged hearing the order dated 25th July, 2012 sought to be reviewed

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was passed in Court, thus neither there is any ground nor any sufficient reason to review the order.

4. On perusal of the Review Petition, we find some force in the submissions made by Mr. Panjwani. The only ground upon which the order is sought to be reviewed is that there was lack of communication and Ms. Rathore was not conscious about the observations made in the order and she could know about the order only after downloading the same from the web-site. In course of hearing, Ms. Rathore expressed that the averments were made in the Review Petitions due to certain inadvertant reasons and lack of communication and such the same may be ignored.

After hearing Learned Counsel for parties we find that the Review Petition do not satisfy any of the mandatory requirements and that the reasons assigned for reviewing the order are unacceptable.

5. However, after going through the order we feel that it is fit case where the order should needs to be clarified/ Modified to certain

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extent. Therefore, we modify our order dated 25th July, 2012 and direct that while taking decisions, the Ministry shall adhere to the WGEEP Report, if the same has not been varied till date. With the aforesaid modifications/Clarification, the Review Application is disposed of.

Dr. G.K Pandey
Expert Member

Justice A.S. Naidu
Acting Chairperson



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BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI
Application No. 26/2012

Note of the Registry	Orders of the Tribunal
<p>Dated 25th July 2012</p>	<p>Heard Mr. Raj Panjwani, Learned Senior Counsel appearing for the Applicant, Mr. Vishnu Shankar, Learned Counsel appearing for Respondent No. 5, Mr. B.V. Gadnis, Learned Counsel appearing for Respondent No. 10 (Goa State Pollution Control Board) and Ms. Neelam Rathore, Learned Counsel appearing for MoEF (Respondent No.1).</p> <p>A prayer is made by all the respondents to grant them some time to file their replies. On the other hand, Mr. Panjwani, Learned Senior Counsel for the applicant forcefully submits that unless some interim order is passed to protect environment and ecology relating to Western Ghats, the application shall become infructuous by afflux of time. On instructions, Ms. Rathore submits that no Environmental Clearance is at present granted by the Ministry so far as Goa is concerned. Considering the said submission and the contention of Mr. Panjwani, we direct that as and when the Ministry considers the applications for granting EC in respect of other areas falling in ESZ-1, they shall take note of WGEEP Report and take decision only in consonance with the provisions made therein. The State level EACs shall also adhere to the same restriction in respect of ESZ-1 zone.</p> <p>We adjourn this case to 30th August, 2012 for the purpose of filing replies by the respondents.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div data-bbox="467 1411 768 1521" style="text-align: center;"> <p>(Dr. D. K. AGRAWAL)</p> <p>EXPERT MEMBER</p> </div> <div data-bbox="862 1397 1213 1504" style="text-align: center;"> <p>(JUSTICE A.S. NAIDU)</p> <p>ACTING CHAIRPERSON</p> </div> </div>