



2024 INSC 561

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 4384-4385/2023

THE GOA FOUNDATION

APPELLANT(S)

VERSUS

THE GOA STATE ENVIRONMENT IMPACT  
ASSESSMENT AUTHORITY & ORS.

RESPONDENT(S)

J U D G M E N T

ABHAY S. OKA, J.

1. We have heard the learned senior counsel appearing for the appellant, the learned counsel appearing for the first and the second respondents, the learned counsel appearing for the third respondent, and the learned ASG appearing for the sixth respondent.

2. An original application was filed by the appellant before the National Green Tribunal (for short, "the Tribunal") under Sections 14 and 15 of the National Green Tribunal Act, 2010 (for short, "the 2010 Act"), taking objection to the construction of Tiracol Bridge which was proposed to be erected on the Querim Beach in Goa. The objection was raised on various grounds, including the ground that there is a violation of CRZ Notification which requires prior approval of the Ministry of Environment, Forest and Climate Change (MoEFCC)/SEIAA. Another objection was that the construction was proposed to be carried out in a No Development Zone (NDZ) and no mitigation measures were taken. The Tribunal passed an interim order of *status quo* and, thereafter, sought a report from the

National Institute of Ocean Technology, Chennai (for short, "NIOT"). By the first impugned order dated 22<sup>nd</sup> January, 2020, the Tribunal referred to the observations made in the report of the NIOT and disposed of the Original Application by directing that the work of construction of the Bridge may proceed after taking all due precautions in accordance with law and, particularly, as suggested in the report of the NIOT.

3. We may note here that after the report was submitted by NIOT, objections to the report in the form of an affidavit were filed by the appellant on 30<sup>th</sup> March, 2016. The report of the NIOT was filed on 8<sup>th</sup> February, 2016. The first impugned order dated 22<sup>nd</sup> January, 2020 does not even refer to the objections raised to the report by the appellant. The learned counsel appearing for the third respondent pointed out that an affidavit was filed by the third respondent dealing with the objections raised by the appellant. We find that there is no reference to the said affidavit in the first impugned order. Not giving an opportunity to the parties to make submissions on the report amounts to the breach of the principles of natural justice.

4. The second impugned order dated 17<sup>th</sup> January, 2022 has been passed on a misc. application filed by the appellant for recall of the order dated 22<sup>nd</sup> January, 2020. The Misc. Application for recall was filed pursuant to the liberty granted by the High Court *vide* order dated 11<sup>th</sup> March, 2021 in a writ petition filed by the appellant.

5. With the assistance of the learned senior counsel appearing for the appellant and the learned counsel appearing for the third respondent, we have perused the second impugned order. According to us, the only course open for the Tribunal was to recall its earlier order as the appellant was not given an opportunity to argue in support of the objections raised by it to the report of NIOT. As the appellant was not heard on its objections, even the third respondent was not heard on the subject. Therefore, we are of the view that the Tribunal ought to have recalled its first order dated 22<sup>nd</sup> January, 2020 and kept the Original Application for hearing. However, that was not done.

6. One of the main objects of the 2010 Act is to uphold and protect the right of the citizens to healthy environment which is a part of the right to life guaranteed under Article 21 of the Constitution of India. The objects and reasons of the 2010 Act indicate that the object of setting up the Tribunal was to protect the said fundamental right. In this case, it was the duty of the Tribunal to address the issues raised by the appellant on merits. The duty of the Tribunal was to decide the issues especially when the contention of the appellant was that the construction of the proposed bridge will cause harm to the environment.

7. Our attention is invited to a judgment dated 21<sup>st</sup> September, 2022 in PIL Writ Petition No. 4 of 2022 passed by the Full Bench of the High Court of Judicature at Bombay, Goa Seat, which holds that only the Western Zonal Bench of the Tribunal can hear the matters

arising from Goa and Maharashtra. In view of this decision of the Full Bench of the Bombay High Court, now after the order of remand, the Original Application will have to be heard by the Western Zonal Bench of the Tribunal.

8. Accordingly, the impugned orders are hereby quashed and set aside. Original Application No.33/2015 (WZ) is restored to its original number to the file of the National Green Tribunal, Principal Bench at New Delhi. The Principal Bench shall transfer the restored Original Application to its Western Zonal Bench at Pune for hearing.

9. The Registry is directed to forward a copy of this order to the Registrar of the National Green Tribunal, Principal Bench, New Delhi, who will ensure that the restored Original Application is transferred to the Western Zonal Bench of the Tribunal within three weeks from the date of receipt of the copy of this order.

10. We direct the parties to appear before the Western Zonal Bench of the National Green Tribunal at Pune on 9<sup>th</sup> September, 2024 at 10:30 a.m. The parties which are represented today shall not be issued any further notice and they will be under an obligation to appear before the Tribunal. Considering the lapse of time, the Tribunal will permit the parties to file additional pleadings if they so desire.

11. Till the disposal of the Original Application by the Tribunal, the interim relief granted by this Court on 10<sup>th</sup> July, 2023 will

continue to operate.

12. As a result of the interim order, the construction of Tiracol Bridge has not commenced. It will be always open for the third respondent and the State of Goa to request the Tribunal to give an out of turn priority to the hearing of the restored Original Application.

13. The Appeals are partly allowed on the above terms.

14. All questions are left open to be decided by the Western Zonal Bench of the National Green Tribunal at Pune.

.....J.  
(ABHAY S. OKA)

.....J.  
(AUGUSTINE GEORGE MASIH)

NEW DELHI;  
JULY 23, 2024.