

THE NATIONAL ENVIRONMENT APPELLATE AUTHORITY (APPEAL) RULES, 1997

¹**S.O.775(E)**---In exercise of the powers conferred by section 22 of the National Environment Appellate Authority Act(22 of 1997), the Central Government hereby makes the following rules, namely:-

1. SHORT TITLE AND COMMENCEMENT.—

(1) These rules may be called the National Environment Appellate Authority(Appeal)Rules,1997.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. DEFINITIONS.—

In these Rules unless the context otherwise requires--

- (a) “Act” means the National Environment Appellate Authority Act, 1997;
- (b) “appeal” means a memorandum of appeal to the Appellate Authority filed under sub-section (1) of section 11 of the Act;
- (c) “appellant” means a person who, prefers an appeal to the Authority under sub-section(1) of section 11 of the Act and also includes the authorised representative of the appellant;
- (d) “authorised representative” means any person authorised in writing by the appellant or the respondent, as the case may be, to represent him before the Authority;
- (e) “Authority” means the National Environment Appellate Authority, constituted under the Act;
- (f) “member” means a member of the authority and includes the Chairperson and Vice-Chairperson thereof;
- (g) “party” in relation to an appeal, means an appellant or the respondent and the expression “parties” shall be construed to mean the appellant and the respondent;
- (h) “Registrar” means the principal administrative officer of the Authority;

¹ As published in the Gazette of India, Extraordinary Part –II Sub-Sec. 3(ii), dt.11.11.1997.

- (i) “section” means section of the Act;
- (j) Words and phrases not defined in these rules but defined in the National Environment Appellate Authority Act, 1997 shall have the same meaning respectively assigned to them in the Act.

3. LANGUAGE OF THE AUTHORITY. –

(1) The pleadings before the Authority may, at the option of the respective parties, be in English or in Hindi.

(2) All Orders and other proceedings of the Authority may, at the option of the Authority, be in English or in Hindi.

4. HEAD QUARTERS OF THE AUTHORITY.-

(1) The head quarters of the Authority shall be at Delhi.

(2) Appeals may be heard at the head quarters or at the discretion of the Chairperson, at any other place.

(3) The office of the Authority shall observe such public and other holidays as are observed by the offices of the Central Government.

5. FORM OF MEMORANDUM OF APPEAL AND ITS PRESENTATION BEFORE THE AUTHORITY.-

(1) Memorandum of appeal to be presented to the Authority shall be in Form-A specified in these rules and shall contain the particulars required thereunder. The Memorandum of Appeal shall be in English or in Hindi and shall set forth concisely and under distinct heads, the grounds of appeal without any argument or narrative and such grounds shall be numbered consecutively.

(2) Every Memorandum of appeal shall be presented by the appellant in person, or when there are more appellants than one, by any of them, or by his authorised representative before the Registrar or any other officer authorised in this behalf by the Chairman or may be sent by registered post with acknowledgment due addressed to the Registrar.

(3) Where Memorandum of Appeal is sent by registered post, the date of receipt of the said Memorandum at the Head Office, as endorsed by either of them, shall be taken as the date of filing of the appeal by the appellant.

(4) Where there is a delay in the presentation of the memorandum of appeal before the Authority, such memorandum of appeal shall be accompanied by a separate application for condonation of delay and the supporting affidavit of such application.

(5) Every memorandum of appeal and the attested copy of the order appealed against and the application for condonation of delay and the supporting affidavit to be filed before the Authority shall be accompanied by five sets of their copies for the Authority and one set of copies for each of the Respondents.

(6) In every appeal, the competent authority which passed the order appealed against, shall be impleaded as one of the respondents.

6. REGISTRATION OF APPEAL.-

(1) Every Memorandum of Appeal duly filed under these rules shall be registered as an appeal filed before the Authority and numbered by the Registrar. If the appeal is registered and numbered or if not so registered or numbered, the appellant or his representative shall be informed accordingly by an intimation sent in this regard by the Registrar or other authorised officer within fifteen days of the receipt of the appeal. If the intimation so sent is of non-registering and non-numbering, it shall be in Form-B specified to these rules and time not exceeding thirty days shall be given for removing of such causes. On removal of such causes the appeal shall be registered and numbered and intimation given.

(2) After registration and numbering of the appeal, notices of appeal alongwith the set of copies of memorandum of appeal and other annexures thereto, shall be sent to every respondent, under registered post, acknowledgment(s) due, intimating the date and place of hearing of the appeal by the Authority. Intimation of the date and place of hearing of the appeal shall also be given to appellant or his representative by registered post with acknowledgment due. In addition to above, such intimations shall also be given to parties, under certificate of posting duly addressed, as found in the Memorandum of Appeal. Due service of such notices shall be presumed by the Authority if sent to addressees, found in the Memorandum of appeal, before fifteen days from the date fixed for hearing.

(3) Notices of intimation to be sent to the parties by the Authority shall be in Form 'C' specified to these rules.

7. ADJOURNMENT.-

The Authority may adjourn the hearing of the appeal and intimate the parties to appear on the next date and place of hearing of the appeal.

8. CLUBBING OF APPEALS.-

Appeals against a common order, can be clubbed and heard together by the Authority.

9. DEFAULT OF APPEARANCE OF PARTIES AT THE HEARING.-

When the appellant or his representative fails to be present at the hearing of the appeal before the Authority, the appeal may be dismissed for such default of appearance or may be decided ex-parte. Similarly, when the respondent or his representative does not appear at the hearing of the appeal, the appeal may be heard ex-parte and decided finally. Where the appeal is dismissed for default of appearance or the appeal is allowed ex-parte, the order so made may be set aside, if the defaulting party shows sufficient cause for non-appearance by filing an application supported by affidavit, with the required number of copies given for the Authority and served on opposing parties and appeal heard afresh with notice to all parties and decided on merits.

10. PROCEEDINGS OPEN TO PUBLIC.-

Hearing of the appeals by the Authority shall be open to public unless otherwise ordered by the Chairperson for security or other reasons.

11. ORDERS OF THE AUTHORITY.-

After hearing of the appeals, the orders of the Authority may be pronounced on the same day or may postponed to a future date. Where the order is postponed, the same shall be delivered on the date to be fixed for the purpose by the Authority and copies thereof shall be sent to parties to the appeal by the Registrar or any other authorised officer.

12. ORDERS OF THE AUTHORITY AND TIME-FRAME FOR DISPOSAL OF APPEAL.-

(1) The Authority shall dispose of the appeal within ninety days from the date of filing of the appeal; "Provided that the authority may for reasons to be recorded in writing, extend it by a further period of thirty days. Every order of the Authority disposing of an appeal finally shall be in writing, signed and dated by the Chairperson, or Vice Chairperson and Member or Members, who have heard the appeal.

(2) Where the order of the Authority finally disposing of the appeal is unanimous, an order shall be pronounced by the Authority.

(3) If the members of the authority differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which, they differ and make a reference to the Chairperson of the Authority and his opinion on the point shall be the opinion of the majority.

(4) No order of the Authority shall be questioned on the ground merely of the existence of any vacancy or defect in the constitution of the Authority or any defect in the appointment of a person acting as the member of the Authority.

13. ADDITIONAL EVIDENCE.-

If at any stage of hearing of the appeal, the Authority considers that additional evidence needs to be taken by if for a proper disposal of the appeal, it can either take on record such evidence directly or obtain the same from the authority against the order of which the appeal is filed.

14. PRINCIPLES OF NATURAL JUSTICE.-

When there are no specific rules governing the hearing of the appeal, Principles of Natural Justice shall be observed.

FORM-A

[See rule 6(1)]

Before
The National Environment Appellate Authority, New Delhi

MEMORANDUM OF APPEAL

(Under Section 13(1) of National Environment Appellate Authority Act,1997)

Appeal No.....of.....

Between :

- 1.
- 2.

.....Appellant/s
And

- 1.
- 2.

.....Respondent/s

1) The address/es of the Appellant/s is/are as given above for the service of notices of this appeal and that of their representative.....

2) The address/es of the Respondent/s is/or as given above for service of notices of the appeal.....

3) The Appellant/s above-named begs to present the Memorandum of Appeal against the order dated.....of.....Respondent/s granting environmental clearance in favour of Respondents for on the grounds set-out hereunder :

- | | |
|---|----------------|
| <ol style="list-style-type: none"> 1 2. 3. | Facts in brief |
|---|----------------|

- | | |
|--|---------|
| <ol style="list-style-type: none"> 1. 2. 3. | Grounds |
|--|---------|

- | | |
|--|----------------------|
| <ol style="list-style-type: none"> 1. 2. 3. | Limitation
Prayer |
|--|----------------------|

.....
Signature of Appellant/s

.....
Signature of Authorised
Representative of Appellant/s

Verification

I,.....the appellant, do hereby declare that
what is stated above is true to the best of my information and belief.

Verified today the.....day of.....

.....
Signature of Appellant/s

.....
Signature of Authorised
Representative of Appellant/s

FORM-B

[See rule 6(1)]

Before
The National Environment Appellate Authority

New Delhi

Appeal No.....of.....

Between :

1.

2.

.....Appellant/s
And

1.

2.

.....Respondent/s
Notice

You have filed the above appeal against the order dated.....of Respondent granting environmental clearance in favour of Respondent/s

On scrutinizing of appeal the following defects are noticed :

1.

2.

3.

4.

Please note that above defects are to be removed on or before.....if the appeal has to be registered for hearing and disposal. You may also note that if the defects are not so removed the appeal will be placed for orders of rejection before the Appellate Authority.

Seal

Signature of Registrar
Or Authorised Officer

FORM-C

[See rule 6(3)]

Before
The National Environment Appellate Authority
New Delhi
Appeal No.....of.....

Between :

1.

2.

.....Appellant/s
And

1.

2.

.....Respondent/s
Notice

Please take notice that the above appeal filed by the Appellant/against order dated.....of Respondent.....granting environmental clearance in favour of Respondents. National Environment Appellate Authority at premises No.....

The copies of the appeal memorandum and other annexures filed along with it are sent to you for your reference.

Please note that if you fail to appear on the said date or other subsequent date of hearing of the appeal by the Authority, the appeal would be disposed of finally by placing you ex-parte.

Seal

Signature of Registrar Or
Authorised Officer