

NGT BAR ASSOCIATION (WESTERN ZONE)

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v.

UNION OF INDIA & ORS.

(Writ Petition (Civil) No. 1235 of 2017)

MARCH 27, 2018

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**[DIPAK MISRA CJI, A. M. KHANWILKAR AND
DR. D.Y. CHANDRACHUD, JJ.]**

National Green Tribunal Act 2010 – s. 11 – To act as Chairperson of tribunal – Held: Section 11 contemplates that the Central Government shall upon the term of the Chairperson of the National Green Tribunal having ended in such an eventuality notify a judicial member of the tribunal to act as Chairperson until a regular appointment is made – Making of an interim arrangement is necessitated in order to enable the acting Chairperson to participate in the selection process for filling up vacancies of members of the NGT – Central Government would abide by the same – By an office order, the then Chairperson of the National Green Tribunal had formulated the seniority inter se among the judicial members and expert members of the Tribunal – Ends of justice would be met, if the notification of the acting Chairperson u/s. 11 is made in terms of the seniority indicated in the office order – Justice Jawad Rahim to discharge the duties of Chairperson for all purposes, until a regular appointment of a new Chairperson is made – This would be in the nature of an interim arrangement.

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CIVIL ORIGINAL JURISDICTION : Writ Petition (Civil)
No. 1235 of 2017.

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Under Article 32 of the Constitution of India.

Dhruv Mehta, Sr. Adv, Ninad Laud, Kush Chaturvedi, Aman Varma, Anjuman Tripathi, Ivo D' Costa, Ms. Priyashree PH, Aditaya Swain, Advs for the Petitioner.

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K.K. Venugopal, AG, Ajit Kumar Sinha, Sr. Adv, Ms. Seema Bengani, Ritesh Kumar, Gurmeet Singh Makker, Advs for the Respondents.

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A The following Order of the Court was delivered:

ORDER

B **DR. D.Y. CHANDRACHUD, J.** 1. Consequent upon the term of the Chairperson of the National Green Tribunal having ended, it has become necessary for the Central Government to notify a Member of the Tribunal who will act as the Chairperson until a new appointment is made. Section 11 of the National Green Tribunal Act 2010 contemplates that the Central Government shall in such an eventuality notify a judicial member to act as Chairperson until a regular appointment is made. Section 11 is in the following terms:

C “11. To act as Chairperson of Tribunal or to discharge his functions in certain circumstances. –

D In the event of the occurrence of any vacancy in the office of the Chairperson of the Tribunal, by reason of his death, resignation or otherwise, such Judicial Member of the Tribunal as the Central Government may, by notification, authorize in this behalf, shall act as the Chairperson until the date on which a new Chairperson is appointed in accordance with the provisions of this Act.”

E 2. The learned Attorney General for India has placed on the record a comparative chart setting out relevant details in regard to two of the senior most judicial members of the Tribunal : Justice Jawad Rahim and Justice Raghuvendra S Rathore. From the chart, the learned Attorney General has drawn the attention of the Court to the fact that Justice Jawad Rahim and Justice R S Rathore were appointed to the NGT on 12 January 2016. Justice Jawad Rahim joined the NGT later than Justice Rathore, after he was relieved from his assignment. The Attorney General has fairly drawn the attention of the Court to the fact that Justice Jawad Rahim ranks senior in appointment to Justice RS Rathore as a Judge of the High Court.

G 3. The learned Attorney General has indicated that the Central Government would abide by the interim arrangement that is made by this Court, so as to facilitate the discharge of duties of the Chairperson until a regular appointment is made. The making of an interim arrangement is also necessitated in order to enable the acting Chairperson to participate in the selection process for filling up vacancies of members of the NGT.

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4. By an office order dated 15 March 2016, the then Chairperson of the National Green Tribunal had formulated the seniority *inter se* among the judicial members and expert members of the Tribunal. In our view, it would meet the ends of justice if the notification of the acting Chairperson under Section 11 is made in terms of the seniority indicated in the office order dated 15 March 2016. A

5. Justice Jawad Rahim shall discharge the duties of Chairperson for all purposes, including participating in the selection process for filling up vacancies of members, until a regular appointment of a new Chairperson is made. B

6. This shall be purely in the nature of an interim arrangement and shall not be construed to be a final determination of the seniority *inter se* between Justice Jawad Rahim and Justice R S Rathore, by this Court. C

Nidhi Jain

Directions issued.