

Daily Orders for Case WP 1859/2024

Sl. No	Judge(s) Name	Date of Order	Daily Order
1	M.NAGAPRASANNA	22/01/2024	<p>Heard the learned Advocate General appearing for the State. The petition is preferred seeking to consider the representation of the petitioner for appointment of members to the Real Estate Regulatory Appellate Tribunal ('Tribunal' for short). The Authority on 17.03.2021 had passed certain order issuing directions to the promoter of the project. An appeal is filed by the promoter and the Appellate Tribunal allows the appeal and remits the matter back to the Authority. The Authority again passes an order in favour of the petitioner on 02.09.2022. An appeal is filed by the promoter on 02.02.2023. The same is said to be pending on account of no constitution of the Tribunal. The Tribunal becomes vacant on 02.06.2023. The petitioner claims to have addressed representations to the Government seeking filling up of vacancies to the Tribunal. The State has not taken any steps to fill up the vacancy and make the Tribunal functional by appointing a Chair Person to the Tribunal. Section 22 of the Real Estate Regulatory Authority requires the State to fill in the vacancies and the proceedings to continue from that stage itself. All the orders passed by the RERA are appealable under Section 44(5) of the Act and the Appellate Tribunal is required to dispose the said appeals within 60 days from the date of receipt of the appeal. In the wake of no Chair Person being appointed to the Tribunal, plethora of petitions are preferred before this Court by the promoters against the orders passed by the Adjudicating Authority, all of which have to be filed before the Tribunal, except cases where the Authority itself has no jurisdiction. There are huge number of cases pending before this Court only on the score that the Tribunal is not functioning. The non-functioning is due to the State not appointing the Chair Person to the Tribunal to make it functional. Therefore, the State by its act prima facie, is contributing to the pendency of the cases before this Court. The learned Advocate General would ensure that appropriate steps would be taken to constitute/appoint the Chair Person to the Tribunal without any loss of time. Learned Advocate General shall place on record the timeline in which the Tribunal would become functional. List the matter on 02.02.2024 in the fresh matters list. The copy of this order shall be furnished to the learned Additional Government Advocate</p>
2	M.NAGAPRASANNA	02/02/2024	<p>Learned Advocate General would submit that in furtherance of the order dated 22.01.2024, a meeting of the concerned is taking place today. His submission is placed on record. Learned Advocate General would further submit that by the next date of hearing, the grievance of the petitioner in terms of the order that is passed on 22.01.2024 would stand redressed. The said submission is also placed on record. List the matter on 20.02.2024 in the 'fresh matters list'.</p>
3	M.NAGAPRASANNA	20/02/2024	<p>Learned HCGP would submit that action in terms of the earlier orders dated 22.01.2024 and 02.02.2024 would be taken, by the next date of hearing. List the matter on 26.02.2024 in the 'fresh matters list'.</p>
4	M.NAGAPRASANNA	26/02/2024	<p>This Court on 22.01.2024, had passed the following order: "Heard the learned Advocate General appearing for the State. The petition is preferred seeking to consider the representation of the petitioner for appointment of members to the Real Estate Regulatory Appellate Tribunal ('Tribunal' for short). The Authority on 17.03.2021 had passed certain order issuing directions to the promoter of the project. An appeal is filed by the promoter and the Appellate Tribunal allows the appeal and remits the matter back to the Authority. The Authority again passes an order in favour of the petitioner on 02.09.2022. An appeal is filed by the promoter on 02.02.2023. The same is said to be pending on account of no constitution of the Tribunal. The Tribunal becomes vacant on 02.06.2023. The petitioner claims to have addressed representations to the Government seeking filling up of vacancies to the Tribunal. The State has not taken any steps to fill up the vacancy and make the Tribunal functional by appointing a Chair Person to the Tribunal. Section 22 of the Real Estate</p>

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Regulatory Authority requires the State to fill in the vacancies and the proceedings to continue from that stage itself. All the orders passed by the RERA are appealable under Section 44(5) of the Act and the Appellate Tribunal is required to dispose the said appeals within 60 days from the date of receipt of the appeal. In the wake of no Chair Person being appointed to the Tribunal, plethora of petitions are preferred before this Court by the promoters against the orders passed by the Adjudicating Authority, all of which have to be filed before the Tribunal, except cases where the Authority itself has no jurisdiction. There are huge number of cases pending before this Court only on the score that the Tribunal is not functioning. The non-functioning is due to the State not appointing the Chair Person to the Tribunal to make it functional. Therefore, the State by its act prima facie, is contributing to the pendency of the cases before this Court. The learned Advocate General would ensure that appropriate steps would be taken to constitute/appoint the Chair Person to the Tribunal without any loss of time. Learned Advocate General shall place on record the timeline in which the Tribunal would become functional. List the matter on 02.02.2024 in the fresh matters list. The copy of this order shall be furnished to the learned Additional Government Advocate." The learned Advocate General on 02.02.2024, had submitted before this Court that steps would be taken to redress the grievance of the petitioner. The grievance of the petitioner was non-appointment of the Chair Person and Members to the Real Estate Regulatory Appellate Tribunal. The reasons for directing the State to expedite the process was, plethora of petitions being presented before this Court, which had to go before the RERA Appellate Tribunal under the provisions of the Real Estate (Regulation and Development) Act, 2016. The learned Advocate General would assure the Court that within the next three weeks, the appointment of the Chair Person and the members to the RERA Appellate Tribunal would be complete. The learned advocate General would also submit that one Member of RERA is to retire in the month of April, 2024. Therefore, without brooking any delay, the State shall initiate process of identifying and appointing the member to the ensuing vacancy, who would assume the charge immediately after the retirement of the member so that there should not be any vacuum and those petitioners also start coming before this Court. List the matter on 22.03.2024, in the fresh matters list.