

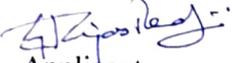
**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL (SZ)
AT CHENNAI**

ORIGINAL APPLICATION No.123 of 2021 (SZ)

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Date: 07.12.2022
CHENNAI


Applicant

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL (SZ)
AT CHENNAI**

ORIGINAL APPLICATION No.123 of 2021 (SZ)

In the matter of:

Gouraram Rajasekhar Reddy S/o. G. Sriram Reddy
H.No.2-1-1/3 and 2-1-1/4/B, Flat No.402,
Jayashekara Nivas, Nallakunta, Hyderabad.

... Applicant

Vs.

The State of Telangana,
Rep.by its Chief Secretary,
Telangana Secretariat, Hyderabad. & 11 others

... Respondents

REPLY AFFIDAVIT FILED BY THE APPLICANT

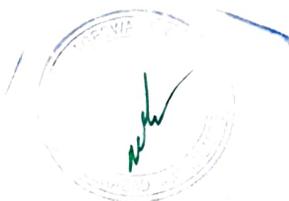
I, Gouraram Rajasekhar Reddy S/o. G. Sriram Reddy, Occupation: Advocate, Age:44 years, H.No.2-1-1/3 and 2-1-1/4/B, Flat No.402, Jayashekara Nivas, Nallakunta, Hyderabad, do hereby solemnly affirm and sincerely state as follows:

1. I am the Applicant and Party-in-Person in the instant O.A.No.123/2021, as such I am well acquainted with the facts and circumstances of the instant application. The instant reply affidavit is filed as a rejoinder to the counter affidavit dated 13/12/202 and detailed reports dated nil uploaded on 6/05/2022 and 26/05/2022.
2. That I have read the contents of the counter affidavit filed by the Respondent No.9 and findings in the detailed report filed by the Respondent No.6 and also detailed report filed by Respondent No.4 and 6, in the instant O.A and deny all material allegations and averments made therein, except those that are specifically admitted hereunder. It is respectfully prayed that Applicant may be permitted to file additional documents if required at later stage.
3. I crave the leave of this Hon'ble Tribunal to read the contents of my Affidavit filed in support pf the said Original Application, as apart and parcel of this Reply Affidavit for better appreciation of the facts and circumstances of the instant application.



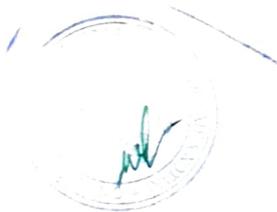
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4. It is submitted that, O.A No.100/2017 was filed challenging the re-alignment of the Gajwel Ring Road, which was passing through the FTL of Berri Cheruvu, even before the Gajwel Ring Road project work had commenced.
5. It is submitted that, the respondents had dumped huge quantities of sand & gravel and raised a bund on the lake bed of Berri Cheruvu for laying of the Gajwel Ring Road through the subject water body, the said bund is raised 250 meters inside the FLT of the water body thereby bifurcating it into two parts, which is as per the findings of the Joint Committee Report dated 13.12.2022.
6. It is submitted that, the said bund is constructed on the lake bed in blatant and willful violation of the interim order dated 10.05.2017, granted in O.A No.100/2017 (SZ), by this Hon'ble Tribunal, the said interim order was in force until the disposal of the application vide common order 30.07.2018. Later statutory appeal u/s 22 of the NGT Act 2010, was filed before the Hon'ble Supreme Court of India, wherein also interim direction of status quo was granted, the appeal was finally disposed of on 01.04.2019 directing the petitioner to approach the Hon'ble NGT. **(Page Nos.21-24, O.A)**
7. It is submitted that **@ Para 8 of the Counter Affidavit dated 13.12.2021**, filed by the Respondent No.9, Superintendent Engineer, R & B Department, which reads as under:
- “At present, the work in Survey No.90 of Mutrajally village, Gajwel Mandal, Siddipet District has been stopped in all respects since last three years and no work shall be commenced until/unless clear orders are received from Hon'ble National Green Tribunal.”*
8. It is clear that no work was carried out since December 2018, implying that the subject bund on the lake bed was constructed when the interim orders of this Hon'ble Tribunal dated 10.05.2017 were very much in force. Furthermore, letter dated 02.05.2018, addressed by the Jurisdictional Irrigation Department to the Project execution authority i.e. R & B Department and also the letter dated 01.05.2018 addressed to the Tahsildar, Gajwel Mandal, clearly demonstrates that the work of constructing the bund on the lake bed were carried in utter disregard to the interim orders of this Hon'ble Tribunal. **(Page Nos. 25-34, O.A)**
9. It is submitted that, the Rule 3(a) of the A.P Building Rules-2012, adapted by the State of Telangana, imposes restriction that no building/ development activity shall



be allowed in the bed of Water bodies and further within 30 meters from the boundary of the FLT. **(Page Nos. 62-73, O.A)**

10. In view of the authoritative precedents of the Hon'ble Supreme Court more particularly in Jagpal Singh vs State of Punjab, such an activity of constructing a bund dumping sand and gravel on the lake bed and bifurcating it is impermissible under the law and environmental jurisprudence. **(Page Nos.96-118, O.A)**
11. It is submitted that, from the photographs filed along with objections to Joint Committee report, photographs filed herein when compared with photographs filed along with O.A demonstrates that encroachments are taking place in the FTL of the lake after the bund is constructed bifurcating the lake, which implies that in fact the said construction had bifurcated the lake and made it prone to encroachments.
12. The NOC dated 14.06.2018 issued by the jurisdictional Irrigation Department, was obtained vide RTI application, the respondents though were aware of the issuance and existence of the NOC had deliberately failed to bring it to the judicial notice of this Hon'ble Tribunal or the Hon'ble Supreme Court in the earlier round of litigation. The NOC clearly specifies that to lay the road by raising pillars more than MWL and should not affect the storage capacity of the tank at FTL and should not obstruct free flow of the water. However, in blunt violation of the NOC, the bund is constructed on lake bed by dumping huge quantities of sand and gravel, for laying of Gajwel Ring Road. And further the said NOC also states that violation of any of the condition imposed therein shall nullify the NOC. **(Page Nos.53-54, O.A)**
13. It is submitted that, the extent of the subject lake was stated as Acres 37.00 Guntas by the respondents in their counter affidavit filed before this Hon'ble Tribunal in O.A No.465/2018 (earlier O.A. No.100/2017) & O.A No. 319/2018, same is incorporated in the common final order of this Hon'ble Tribunal in the said O.As. **(Page Nos. 35-36, O.A)**. Whereas, in the RTI reply dated 30.01.2018, the extent is stated as Acres 41.04 Guntas. **(Page Nos. 57-59, O.A)**. However, the Joint Committee had concluded that extent of the subject lake as per the 1950 Revenue Records is Acres 45.17 Guntas. The Respondents had deliberately stated lesser extent i.e. Acres 37.00 Guntas in their counter affidavit filed in earlier round of litigation and missed led this Hon'ble Tribunal. Further, all along the respondents had denied that the bund is constructed in the lake bed /FTL, even in the detailed report upload on 26.05.2022 they do not admit to the fact that bund is constructed on the lake bed for laying of the Gajwel Ring Road. At every stage the respondents had intentionally misled this



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Hon'ble Tribunal and Hon'ble Supreme Court. Ultimately, by analyzing the above said facts, it can be concluded that an extent of Acres 8.17 Guntas is affected by the laying of subject bund on the lake bed, which is about 18% of the lake area and accordingly the storage capacity is affected unlike meager 5% as claimed by the respondents in their detailed report and the subject lake is bifurcated leaving it prone to encroachments.

14. The contention of the respondents that by raising the height of the weir by 10 cms the loss of storage capacity can be made good will lead to flooding of upland agricultural fields, as such it is unviable and impracticable. In fact, this Hon'ble Tribunal vide its interim orders dated 04.05.2022, had outrightly rejected such a suggestion by the respondents and by the Joint committee. **(Para @1 of Interim Order dated 04/05.2022).**
15. It is submitted that, this Hon'ble Tribunal vide its interim orders dated 06/04/2022 observed that the subject road is running between the water body, and directed the respondents to consider constructing the road as per the terms of NOC by raising pillars above MWL and were directed to file detailed report on this aspect. Same was once again reiterated in its interim order dated 04/05/2022 and further directed to consider whether construction of road as per the terms of NOC i.e. raising pillars above WML is feasible or not, if not the reasons for the same. However, the detailed report uploaded on 26/05/2022, failed to consider this aspect and totally ignored it. Furthermore, the detailed report had defended the construction of bund in the lake bed by dumping huge quantities of sand and gravel for laying of the Gajwel Ring Road. Further it is stated that 2 cross drainages vents are constructed and same will take care of the free flow of water into the lake.
16. The jurisdictional irrigation department had suggested a particular course of action and subject to adhere of those conditions, the NOC was issued, failure to follow the conditions nullifies the very NOC which is also clearly indicated therein and the whole construction of bund on the lake bed for laying Gajwel Ring Road is illegal and impermissible under the law.
17. The aspect of encroachment in the FTL as evident from the photographs filed along with objections to joint committee report were not addressed in the detailed report. Comparison of Photographs filed along with O.A and the Photographs filed later along with objections clearly demonstrates that the encroachments and illegal constructions are taking place in the FTL of the subject water body.



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18. The detailed report dated nil uploaded on 26.05.2022 states at Para @ 3, that all along the Gajwel Ring Road at Berri Cheruvu a canal is constructed, whereas the report of the TSPCB dated 31.01.2022, mentions about agricultural lands and canal on south side of the lake. It appears that detailed report is factually incorrect, there is a canal in the vicinity of the lake but it is false to state that it is constructed all along the Ring Road.
19. At Para 8 of the detailed report dated nil uploaded on 26.05.2022, alleges personal ill motive of the applicant in pursuing the present litigation. It is humbly submitted that this aspect of personal ill motive was raised time and again before this Hon'ble Tribunal and before the Hon'ble Supreme Court of India in the earlier round of litigation also, which was rejected more than once by this Hon'ble Tribunal. Further, this Hon'ble Tribunal vide its interim order dated 01.02.2022 @ para 11, had rejected the submission of the respondent counsel that applicant has vested interests, when the respondents themselves had violated the NOC issued by their own Irrigation Department.
20. It is submitted that, this Hon'ble Tribunal in its interim order dated 06.04.2022, had recorded that the applicant is agreeable for construction of elevated road by raising pillars. In these circumstances the observation in detailed report that motive of the applicant is to change the alignment is totally uncalled for and is a calculated attempt to divert the attention from the main aspect of instant litigation i.e. construction of elevated road on pillars. It also appears to be aimed at not only to demoralize the applicant and but also aimed at character assassination of applicant, so as to cast aspirations on the efforts of the applicant.
21. The Lake protection committee report dated 24.02.2022 and the Joint Committee report dated 13.12 2021, mentions about the topography of the subject lake, wherein it is stated that the water body is formed by raised bunds on 3 side on the remaining side are upland agricultural fields. And the present bund is laid on the lake bed, 250 meters into the lake bed/FTL from the uplands fields side there by bifurcating the lake into two parts and cutting it off from the entire catchment area. This aspect was precisely, highlighted time and again, the construction of bund on the lake bed to lay the road is bifurcating the lake into two parts, which is not environmental benign nor is permissible under the law and further it is nothing less than a disaster in making. The principles of sustainable development and precautionary principle of environmental jurisprudence, suggests that its better to act with precaution rather than inviting disasters. The past experiences of meddling with water bodies had proven to be disastrous and same is being repeated by the respondents in the instant



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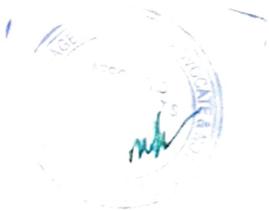
case. In the present context constructing an elevated road with raising pillars above the MWL and without affecting the FTL is the best alternative.

22. It is submitted that, due to the laying of the bund in the lake bed and construction of Ring Road in the vicinity of the water body, the inflow channels into the lake are affected, it has caused flooding in the upland area of the lake especially in the R & R colony, which was inundated in last two monsoon seasons, which was widely reported in vernacular media. The said R & R Colony is a huge urban conglomerate in the upland area of the water body, wherein habitants of 8 villages are being rehabilitated, whose are project displaced persons of Mallannasagar reservoir apart of Kaleshwaram project in the district of Siddipet.
23. The detailed report states that two vents/ cross drainage structures are constructed on the bund laid in the lake bed for free flow of water from one part of the lake into other part, from catchment area and from uplands region of the lake. The said vents may not hinder the free flow in case of regulated release of water into the lake from the canal, but the situation may not be same in case of heavy rainfall during monsoon season. However, it cannot be said to be alternative to an elevated road raised on pillars which shall not hinder the water flow into the water body.
24. It is submitted that, the estimated cost of 21.92 Kms long four lane Gajwel Ring Road is Rs.223.23 Crores as per the Tender documents and L.S. Agreement. Which was further revised for an additional amount of Rs.120 crores in the year 2021 and was re-tendered in July 2021 for the remaining pending work. As such, the total cost of the project is Rs.350 crores, which includes the cost of land acquisition.

In view of the above facts and circumstances that there are no valid or substantial grounds in the counter affidavit and detailed report filed by the Respondent No.9 and also detailed report filed by Respondent No.4 & 6, the same is devoid of merits.

It is therefore prayed that this Hon'ble Tribunal may be pleased to allow the instant Original Application, as prayed for in the interest of justice and pass such other order or orders as may be deemed fit, proper and necessary in the facts and circumstances of the case in the interest of conservation and protection of the environment and thus render justice.


Applicant



VERIFICATION STATEMENT

I, Gouraram Rajashekar Reddy, S/o G. Sriram Reddy, aged 44 years, R/o H. No.2-1-1/3 & 2-1-1/4/B, Flat No.402, Jayashekara Nivas, Nallakunta, Hyderabad-500 044, do hereby verify that the contents of the above paragraphs are true to the best of knowledge and that I have not suppressed any material facts.


Applicant.

Solemnly and sincerely affirm this,
The 07th day of December, 2022,
and signed his name in my presence

Before me

Advocate.




ATTESTED
CHALLARI NAGESWARA PAO, Advocate
Notary, Appointed by Govt. of T.S.
G.O.M.S. No. 1394/11, 2021-2026
HIG-I, B-4, F-12, Baghlingampally, Hyd-44.

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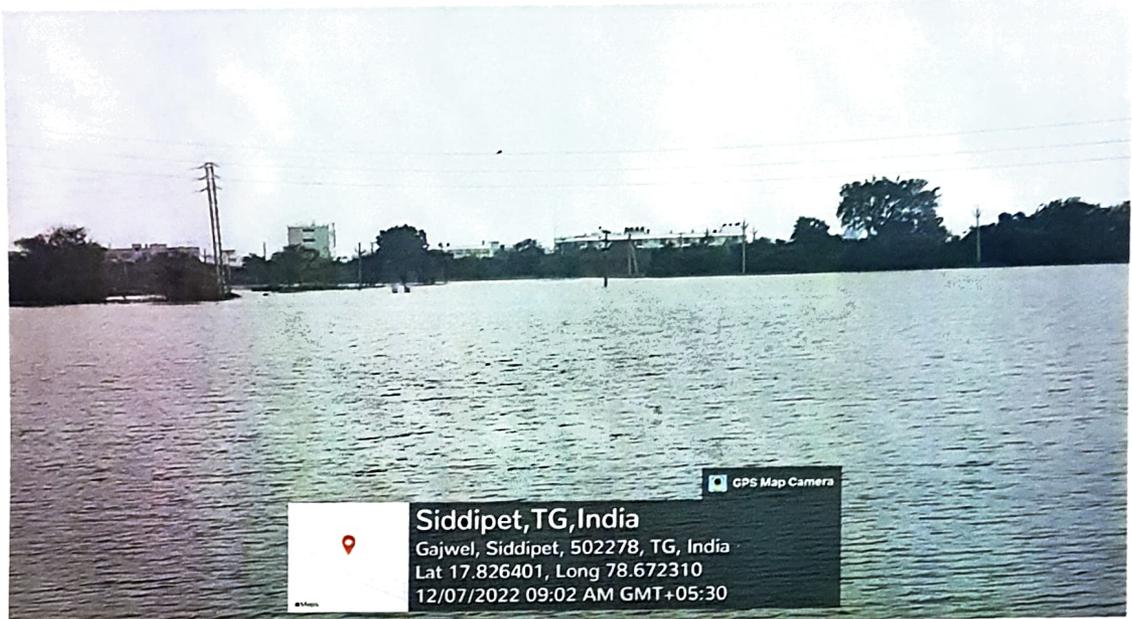
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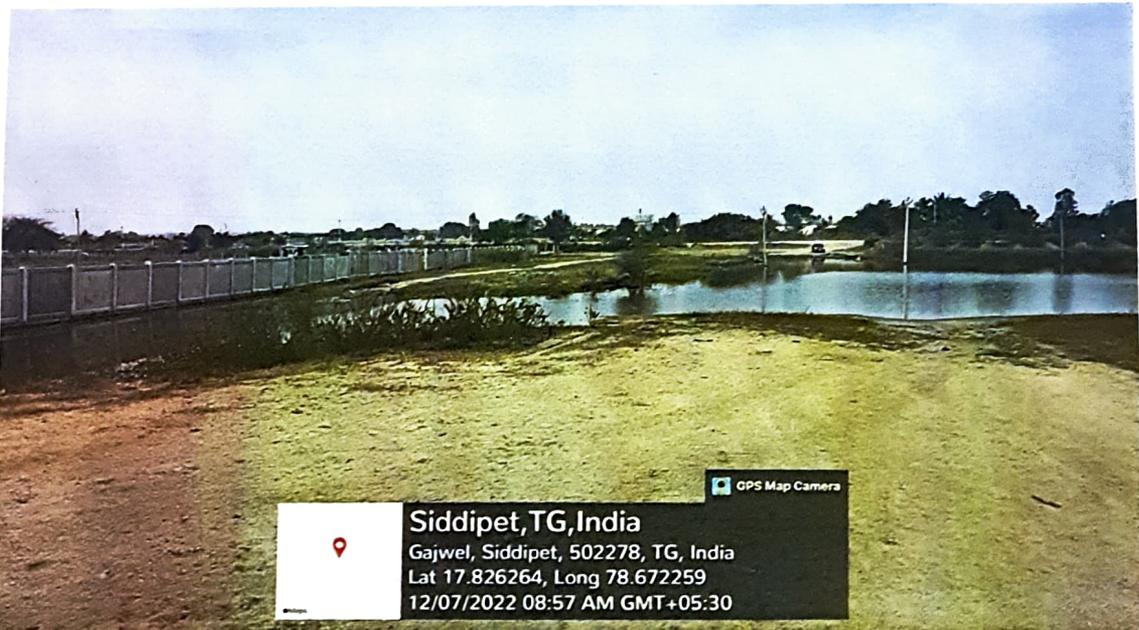
... Respondents

REPLY AFFIDAVIT FILED BY THE APPLICANT

**GOURARAM RAJASHEKAR REDDY
APPLICANT AND PARTY IN PERSON**



GPS Map Camera
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Gajwel, Siddipet, 502278, TG, India
Lat 17.826401, Long 78.672310
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GPS Map Camera
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