

**BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE BENCH AT CHENNAI  
ORIGINAL APPLICATION NO. 159 OF 2021 (SZ)**

**IN THE MATTER OF:**

KANKANA DAS

... APPLICANT

VERSUS

UNION OF INDIA AND ORS

... RESPONDENTS

**INDEX**

<b>S. NO.</b>	<b>PARTICULARS</b>	<b>P. NO.</b>
<b>1</b>	JOINT RESPONSE ON BEHALF OF THE APPLICANT TO THE STATE ACTION PLAN FILED BY ANDHRA PRADESH POLLUTION CONTROL BOARD (RESPONDENT NO.10) AND THE KARNATAKA POLLUTION CONTROL BOARD (RESPONDENT NO.6)	1-9

THROUGH



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**PLACE: CHENNAI/DELHI**

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**MOST RESPECTFULLY SHOWETH:**

**Preliminary Submission**

1. The Applicant had filed the Original Application under Section 14 and 20 of the National Green Tribunal Act, 2010 ("**NGT Act**") raising substantial questions relating to the environment arising out of the failure of Central Pollution Control Board to formulate 'State Action Plan' for Air Pollution for all 23 States by 2020 as envisaged in the National Clean Air Programme (NCAP). NCAP is a statutorily mandated nation-wide programme aimed at preventing and controlling air pollution. There is a failure on part of CPCB, SPCB and State Governments in formulating the guidelines for the preparation of SAP. NCAP emphasis on comprehensive mitigation strategies, as well as envisages augmenting and strengthening an effective ambient air quality monitoring network across the country. Furthermore, the NCAP states the mitigation actions and their stringent implementation for prevention, control and abatement of air pollution. One such action is the collaborative and participatory approach involving State Governments, Local bodies, relevant Central Ministries and other Stakeholder forming the crux of the programme, and accordingly,

mandates that CPCB along with MoEFCC is to formulate guidelines for the preparation of State Action Plans ("SAP") by 2019 and thereafter each State Pollution Control Board and State Government is to formulate and implement "SAP" by 2020. That despite these stated objectives, CPCB, MoEFCC, SPCBs as well as every State Governments have failed in formulating and implementing the SAP within the stipulated timeframes, i.e., by 2019 and 2020 respectively.

2. The present joint response is filed highlighting the lacunas in the State Action Plans submitted by the Andhra Pradesh Pollution Control Board (Respondent No. 10) and the Karnataka Pollution Control Board (Respondent No.6) which would result in deteriorating the air quality of the states and thereby making the mandate under the National Clean Air Programme (NCAP) unachievable.

**RESPONSE TO THE ANDHRA PRADESH STATE ACTION PLAN  
FILED BY THE ANDHRA PRADESH POLLUTION CONTROL  
BOARD ON 09.02.2023**

3. That the indicative template of the Central Pollution Control Board (CPCB) broadly covers industrial emission, vehicular emission, construction and demolition waste, road dust, emissions from burning of waste and emission due to burning agro residues and household emissions. The Respondent No. 10 Andhra Pradesh Pollution Control Board has submitted the State Action Plan on 09.02.2023. It is submitted that the following observation of the report is critical.

**State Action Plan is not comprehensive and focus on non-attainment cities:**

4. That the State action plan of Andhra Pradesh is formulated in line with the existing city action plan largely focusing on the 13 non-attainment cities (Point 5, Pg. 15 of the SAP Karnataka). The mandate of the NCAP under Para 7.7 requires formulation of State Action Plans to mitigate air pollution and to actively involve the State Governments

through collaborative and participatory approach involving the local bodies and relevant central ministers to focus on the sources of pollution across the State. Thereby focusing only on the non-attainment city defeats the very purpose of the National Clean Air Programme mandate.

5. That it is pertinent to note that, individual comprehensive city action plans were already proposed for the non-attainment cities and therefore the purpose of the State Action plan is to consider the pollution aspects of the entire state, based on which actions should be put in place and based on which target coverage should also be established.

**State Action Plan gives an account of existing standards/ directions/ policies done and do not propose any action to mitigate air pollution**

6. That the table under the Industrial Emission(**5.1 at Pg16 in the CPCB compilation**) gives account of all standards, directions or schemes incorporated by the state in the year 2017-18,18-19,19-20. That these statements only give clarity on what the State has done so far and do not propose any action plan. For example Pg 26 of the State Action Plan mentions a table which anticipates an addition of new power projects for the next five years along with the total capacity of additions. However there is no action plan proposed in the entire section on how these industries are going to reduce the air pollution. The entire mandate of the NCAP is to lay down action plans and ensure that these targets are achieved.
7. That Furthermore, it is stated that a guideline for the regulation for conversion of brick Kilns to clean technologies is proposed in 5.1.4 of the Action Plan. However, there is no list of department wise industries or district wise industries mentioned which will undergo the conversion. It is also submitted that the Industrial emission section

under the Andhra Pradesh State Action Plan has generalized action points which are neither any industry specific nor intended to any highly polluted industries.

8. That it is submitted that the State Action Plan filed by the State of Andhra Pradesh only gives an account of the existing initiatives of the various regulatory agencies to mitigate air pollution and no new policies are formulated. For example, as per the indicative template, a policy is needed for replacement of heavy oil (eg. furnace oil, diesel etc.) based industries to alternate energy sources (CNG / PNG / Electricity). The response by the State says 'to be formulated' (pg 70 of the State Action Plan). It is submitted that there is a lack of clarity in the State Action Plan submitted by the Andhra Pradesh Pollution Control Board.

**The State Action Plan is silent on reducing the vehicular emissions**

9. That the table of vehicular emissions under 5.2 of the State Action Plan has not proposed any specific activities which is intended to reduce the vehicular emission. The plan for Li battery waste management in 5.2.10 of the State Action Plan from scrapped vehicles are simply reiterated from the Battery Waste Management Rules, 2022. It is further submitted that the action plan for vehicular emissions is a compilation of the action that is already undertaken. The common guidelines/ action points for the implementation to reduce the traffic congestion and road dust is also having generalized statement in the action plans. Therefore, no specific enforcement action or timeline is there for any such actions suggested.

**No details provided on financial implication and funds allocated:**

10. That one of the crucial components under the State Action Plan is the allocation of funds and their detailed funding mechanisms. The

Applicant herein submits that the State Action Plan submitted by State of Andhra Pradesh lacks information in terms of budgeting and fund allocation. For example schemes for LPG/PNG coverage to all the households as cooking fuel is ongoing under "Pradhan Mantri Ujwal Yojana"( **SI No. 1, Column 3, under Household Emission; Pg 92 of AP State Action Plan**). However the financial implications, funds allocated and funds utilized for this is not given in the respective column (Column 6, 7 and 8). This shows the lack of clarity and likely hood of implementing such actions stated.

**Ambiguity in terms of Timeline for Completion:**

11. That the indicative template of the CPCB has a column to write down specific timeline for the completion of all action plans, hence against each such activity a 'timeline for completion' is mandated. It is pertinent to note that the State Action Plan of Andhra Pradesh has missed out on this largely. For example, in case of industrial emissions, out of 15 numbers of action points proposed, only six action points have definite timeline. In case of vehicular emission section, out of 17 action points proposed, eight action points have definite timeline for completion. This amounts to almost 50% of the situations where specific timeline for completion is not given. This is direct non-compliance of the CPCB indicative template for state action plan.
12. That it is pertinent to point that the CPCB has also pointed out the following observations made by the Applicant herein in the Status report filed by CPCB on 08.02.2023 in Annexure B Pg. 336. The observations made are in line with the contentions raised by the Applicant herein.

**RESPONSE TO THE KARNATAKA STATE ACTION PLAN FILED  
BY THE KARNATAKA POLLUTION CONTROL BOARD ON  
20.01.2023**

13. That the indicative template of the Central Pollution Control Board (CPCB) broadly covers industrial emission, vehicular emission, construction and demolition waste, road dust, emissions from burning of waste and emission due to burning agro residues and household emissions. The Respondent No. 6 Karnataka Pollution Control Board has submitted the State Action Plan on 20.01.2023. It is submitted that the following observation of the report is critical.

**State Action Plan of Karnataka failed to consider the carrying capacity of Critically Polluted Areas (CPAs) which defeats the mandate under the NCAP.**

14. That the table under the Industrial Emissions has a total of 287161 industries out of which 2652 are in the Red category, 8710 are Orange category, 8975 are Green category and 8379 are White category industries (Para 4.1 at Pg. 133). The action plan states that new red and orange category industries are permitted only after submission of the scheme for complete treatment & reuse of wastewater (**SI No. 1, Column 3 of Industrial Emission under Annexure I of State Action Plan of Karnataka**). It is pertinent to note that Karnataka has two Critically Polluted Areas (CPAs) which are Peenya (78.12) and KIADB Industrial Area, Jigini, Anekal (70.99). Among these two, KIADB Industrial Area of Jigini, Anekal is still having air component as severe. Therefore permitting any new red and orange category industry after submission of scheme for complete treatment and reuse of waste water will add burden to the existing carrying capacity of the environment and therefore this aspect of the State Action Plan should be reconsidered as it will defeat the mandate of NCAP.

**State Action Plan is not comprehensive as it is centered around Non-Attainment Cities only:**

15. That the Applicant submits that most aspect of the action plans/ activities/policies laid down in the Karnataka State Action Plan focus on the non-attainment cities (Sl no. 3 Column 3 of Industrial Emission). For example the policy on, the usage of CNG/LPG. The mandate of the NCAP under Para 7.7 requires formulation of State Action Plans to mitigate air pollution and to actively involve the State Governments through collaborative and participatory approach involving the local bodies and relevant central ministers to focus on the sources of pollution across the State. Thereby focusing only on the non- attainment city defeats the very purpose of the National Clean Air Programme mandate.

**State Action Plan of Karnataka is not in full compliance to the indicative template issued by the CPCB:**

16. That the State Action Plan of Karnataka is also not in full compliance to the indicative template issued by the CPCB. It mainly focus on giving account of the existing initiatives of the various regulatory agencies across the State. The following are certain instances where there is no clarity on the action plan.
- a. The policy/scheme for eco-friendly mass rapid transport system in the State Action Plan states 'Ongoing: Bangalore metro rail project phase 2A and phase 2B', for which timeline for completion is stated as September 2025'. However, the action plan is silent about mass rapid transport policy/ scheme per se.
  - b. The schemes for the development of green belts/ open spaces and street sides greening on state highways in the State Action Plan states KSHIP: to be started' (**SI No. 4, column 3 of Para**

**3, Construction and Demolition Waste and Road Dust Management; Pg 177 of Karnataka State Action Plan)**

- c. The indicative template has a column for MSW management and policy for legacy waste management at dump sites. The action plan responded 'SWM Rules 2016' in both cases. **(SI No. 2 & 3, of Para 4, Emissions from burning of waste; Pg 179 of Karnataka State Action Plan)**

**Ambiguity in terms of Timeline for completion:**

17. That the indicative template requires a State to submit the status of activity in terms of whether a task has been 'complete/ongoing/to be started', hence against each such activity a 'timeline for completion' is mandated. However, the State Action Plan of Karnataka fails to lay down specific timeline for completion of targets to mitigate air pollution. At most instances, the timeline states 'completed' or 'ongoing', for which ideally should there be a specific timeline for completion. For example, the indicative template asks for policy regarding the installation of CAAQMS based on the emission potential or capacity of air-polluting industries. The timeline column of the action plan says, 'ongoing' **(SI No. 3 of Para 1, Industrial Emission of Karnataka State Action Plan)**. It is submitted that there is lack of clarity as to the stipulated time frame of the policy which points to the absence of clear cut vision to execute the State Action Plans.

**No details provided on financial implication and funds allocated:**

18. That the fund allocation and utilization status is missing in the Slnos. 1 Policy for permitting new industries in Critically Polluted Areas (CPAs), Slnos. 2 Guidelines for laying city gas distribution network, Slnos. 3 Policy for replacement of heavy oil (e.g., furnace oil, diesel etc., based industries to alternate energy sources

(CNG/PNG/Electricity), Slno.7 Policy regarding the installation of CAAQMS based on the emission potential or capacity of air-polluting industries, Slno. 8, Mechanisms to be devised for expansion to air polluting industries are not covered currently (Such as emission from utility stacks in 17 categories, etc.,) Slno. 9, Mechanisms to control fugitive emission sources Sl. No.10 Regulations for conversions of brick kilns to clean technologies, etc. It is submitted that allocation of fund and its utilization is an integral part of the template issued by the CPCB as it gives clarity and likely hood of implementing such action plans.

19. That it is pertinent to point that the CPCB has also pointed out the following observations made by the Applicant herein in the Status report filed by CPCB on 08.02.2023 in Annexure B Pg. 336. The observations made are in line with the contentions raised by the Applicant herein.
20. Therefore, in the light of the above facts, circumstances and submissions, it is submitted that both the State Action Plans submitted by the State of Andhra Pradesh and Karnataka are deficient and will not be able to achieve the goals mandated under the National Clean Air Programme (NCAP), therefore must be reconsidered.

THROUGH



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