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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA**

ORIGINAL APPLICATION NO.- 134 OF 2024

IN THE MATTER OF:

ASRUKHOLA DEVELOPMENT COUNCIL

APPLICANT

VERSUS

STATE OF ODISHA AND OTHERS

RESPONDENTS

INDEX

SL NO	DESCRIPTION OF THE DOCCUMENT	PAGE NO
1	Rejoinder affidavit on behalf of Applicant to the Counter affidavit filed by respondent No.2,5,6,8& 10 on 03/09/2024	1-11

SANKAR PRASAD PANI

DATE; 15/02/2025

ASHUTOSH PADHY

S.Pani *A.Padhy*

ADVOCATE

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO. - 134 OF 2024

IN THE MATTER OF:

Ashrukhala Development Council

APPLICANT

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STATE OF ODISHA AND OTHERS

RESPONDENTS

Rejoinder affidavit on behalf of Applicant to the Counter affidavit filed by respondent No.2,5,6,8& 10 on 03/09/2024

I Amarendranath Mohanty President of Asrukhala Development Council, well versed with the replies filed by Drainage Division and Competent to swear this affidavit

1. That in response to para 7 of the affidavit filed by Drainage division Kendrapada on dated 03/09/2024 it is humbly submitted that,
 - I. For more than fifty years, no systematic weed clearance activities have been conducted.
 - II. Since the 1970s, no systematic activities have been carried out, resulting in the proliferation of invasive and mat-forming weed 'Water hyacinth' that have concealed the entire water surface, consequently damaging the quality of the underlying water over time. Consequently, the argument presented in the counter affidavit is inherently erroneous and discriminatory.
2. That in response to para 10 of the affidavit filed by Drainage division



Kendrapada on dated 03/09/2024 it is humbly submitted that,

- i. Initially, there was no embankment on the northern side of the River Sukapaika. Consequently, the frequent flooding resulted in significant damage to homes and properties for the residents of the area.
- ii. The government closed the mouth of the Sukapaika River (Kani Nai) without considering the potential consequences in 1960. Following a period of 4-5 years, strong earthen road was constructed on the northern side across the embankment to protect the villagers from possible flood. But no action was taken to reopen the Sukapaika River, leading to becoming dry and dead.
- iii. The cessation of water-flow to the Ashrukhola has led to stagnation in the water body, with negligible rate of water-flow during the monsoon contributing to the proliferation of undesirable growths. The strong embankment built on the Sukapaika river not only prevented the water flow during floods but also reduced the seasonal water supply to Ashrukhola, leading to the undesirable growth of mat forming weeds.
- iv. The water from the catchment area flowed into the Ashrukhola, and the additional seasonal water from the Sukapaika during the flood subsequently contributed to much higher rate of water flow, which was helping in pushing down the weeds overgrown during the year and was cleaning the Jora naturally. The closure of the Sukapaika River and the regulation of water flow through a sluice gate have resulted in a very slow rate of water flow, contributing to the proliferation of unwanted weeds. However, a sluice gate exists, yet it regulates the water flow at much slower rate to the Ashrukhola, rendering it ineffectual for the sustenance of Ashrukhola as a cleaned water body as was before 1960.



- v. Despite assertions in the counter affidavit that meticulous and essential measures have been implemented, the actions performed over the past fifty years have proven insufficient and ineffective to rejuvenate the water body and facilitate water flow to displace the weeds.
 - vi. The term “All effective steps” to maintain Asrukholā wetland is not at all acceptable witnessing the present condition.
3. That in response to para 13 of the affidavit filed by Drainage division Kendrapada on dated 03/09/2024 it is humbly submitted that,
- i. Refer to letter number 2219 dated December 28, 2021. The Superintending Engineer of the Drainage Division in Kendrapara has approached the Tahsildar of Garadapur for the acquisition of land between RD 50.00 km and 54.92 km. Due to the negligence of the Tahsildar, your esteemed office has now initiated steps to obtain a Social Impact Assessment (SIA) report from the Nabakrushna Chaudhury Centre for Development Studies(NCCDS) as of 04.11.2023, thereby prolonging the matter for two years. Consequently, the respondent is still awaiting the reports from the (NCCDS), which underscores the negligence in the process, resulting in the delay of project sanction and prompting the ADC to approach the NGT.
 - ii. While bridges have been constructed to enhance communication among people, no actions have been taken for weed removal. Reducing the height of the many bridges including Balighai bridge obstruct the flow of water and also blocks the flow of weeds during the rainy season. This also demonstrates the short-sightedness of the implementing authority and a casual approach in managing this natural water body.



vulnerable, endangered, or critically endangered species or threatened ecological communities." It is the only global treaty to focus on a single ecosystem, promoting identification of wetlands and its conservation and wise-use. Considering the above criteria, Asrukholā is an ideal wetland which has not been identified yet as WETLAND by Govt. of Odisha/India as per Wetland rules 2010 and 2017.

- iii. The wetlands are indispensable for its countless benefits more importantly "ecosystem service". Wetlands are rich in nutrients and minerals that play various roles like water purification remove pollutants through physical, chemical, and biological processes, enhance water quality, storage of water to ensure supply during dry periods, home for both terrestrial and aquatic species particularly all threatened and endangered species, helps in the recycling process of carbon and other essentials and also sequester carbon mitigating climate change, reduce floods and storm surge, recharge ground water and also serves as a drainage. Wetlands are highly productive, biologically diverse systems and rich in bio diversity.

Asrukholā Jorā/Wetland represents a wetland that once boasted a rich biodiversity and offered exceptional ecosystem services to the inhabitants of 29 Gram panchayats until 1960. However, following a stoppage of floodwater influx, the wetland began to decline in its capability to provide these services within a decade. This deterioration became worse by the complete invasion of the mat-forming weed known as 'Water hyacinth,' which ultimately diminished its human utility. A significant number of crucial crustaceans including second largest freshwater prawn *Macrbrachium malcomsonii* and fish species like Indian Major and



Minor carps, Cat fishes and varieties of ornamental fishes that were endemic to this wetland have entirely disappeared.

- iv. The distinctive geo-location of Asrukholā Jorā/wetland, situated at a lower altitude relative to the beds of the now-defunct Sukapaika River and its parent river the Mahanadi, facilitates the management of water-flow during floods. **By reopening the mouth of the Sukapaika river, which has been closed since 1960, it becomes feasible to regulate the influx of water into Asrukholā Jorā/Wetland at desired rate.** This approach not only addresses the proliferation of the invasive water hyacinth but also represents a cost-effective and sustainable strategy for maintaining the river systems of the Sukapaika and Paika in coastal Odisha. This wetland has now evolved into a perennial and serpentine water body, **extending approximately 63 kilometers and encompassing a water area exceeding 950 acres.**
- v. Drainage is the term for the "Drains" in question that use a downward slope to remove surplus water from the ground surface or the root zone. Drainage in agriculture refers to the deliberate removal of water from the land. The elimination of Drainage is used as a byproduct of irrigation in agricultural activities, to avoid erosion, and to reclaim wetlands. A number of problems, including flooding, environmental pollution, and structural damage, are brought on by inadequate water drainage from rainfall, canal seepage, or floods. Surface drainage and subsurface drainage are the two most pertinent drainage system types in this specific case. Rainwater, sewage, garbage, etc., are all disposed of by letting them flow down in an urban drainage system. However, when excessive amounts of floodwater and rainwater, as



well as waste from sewers, are drained out, this system collapses.

- vi. The Asrukholā Wetland system functions as a drainage mechanism during monsoon and flood events; however, its ecosystem services are paramount, providing essential support for water security, food production, and the livelihoods of residents in 29 Gram Panchayats. ADC strongly opposes the naming of Asrukholā Drainage Channel, advocating instead for the official recognition of Asrukholā Wetland.

6. That in response to para 20 of the affidavit filed by Drainage division Kendrapada on dated 03/09/2024 it is humbly submitted that,

- i. There are still some illegal constructions present at the mouth point of Ashrukholā, despite the ongoing project work. It would be prudent to proceed with the demolition as planned and implement the necessary measures to move forward.

7. That in response to para 24,25 &26 of the affidavit filed by Drainage division Kendrapada on dated 03/09/2024 it is humbly submitted that,

- I. The Department of Water Resources (DoWR) acknowledges, as stated in Para Nos. 19 and 22 of their counter affidavits, that Asrukholā is not classified as a wetland despite meeting all essential criteria for wetland classification, even following its renovation in accordance with the Ramsar Convention of 1971.
- II. Proper conservation and effective maintenance of the Asrukholā wetland, with restricted activities as outlined in the Wetland Rules 2017, are very much necessary.
- III. It is further clarified that the maintenance of Asrukholā wetland should not be followed as per the guidelines of DoWR.



8. That in response to para 30 of the affidavit filed by Drainage division Kendrapada on dated 03/09/2024 it is humbly submitted that,
- i. Approximately 63 km of the Asrukholā Wetland is present, however only about 5 km is currently undergoing renovation. The Department of Water Resources has not provided any assurance regarding the completion time frame for the renovation of the entire 63 km. Despite claims by DoWR regarding the maintenance of wetlands and significant financial investment, there have been no noticeable improvements over the past five decades, set aside from a few narrow, low-height bridges intended for transportation and communication. Furthermore, these low-height bridges block the down-flow of weeds, as during floods and elevated water levels in the wetland, they obstruct the flow of weeds and water hyacinths beneath them.
 - ii. The Department of Water Resources assures that following the complete renovation of the Wetland, there will be a restoration of water flow and an improvement of the ecological system, although this has not been specifically stated.
 - iii. It is worth noting that, despite the extensive catchment area of 14,460 hectares, achieving sufficient water flow in the Wetland to facilitate the annual growth of invasive weeds remains unfeasible. The removal of Water hyacinth for natural maintenance requires the influx of water from external sources during flooding. This process is essential for the re-establishment of pre-disturbance aquatic functions, thereby stabilizing the ecosystem. It facilitates a more efficient and accelerated return of both biotic and abiotic factors, ultimately fostering the imitation of a natural, self-regulating system that is ecologically integrated to provide the basic needs of common man

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meeting all such benefits.

- iv. Upon stabilization of pre-disturbance aquatic functions, the return of biotic and abiotic factors will occur more efficiently, following a natural, self-regulating system that integrates ecologically within the wetland. This stability in restoration will also expedite the return of native flora and fauna. Due to sufficient natural food resulting from eutrophic conditions, various native as well as stocked fish species in the wetland are likely to exhibit accelerated growth. Additionally, the resurgence of extinct insect populations may attract both migratory and resident birds back to their original habitats. So the restoration of biodiversity can occur rapidly.

Date- 15/02/2025

Applicant through

Sami A Pally



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO - 134 OF 2024/EZ

IN THE MATTER OF:

ASRUKHOLA DEVELOPMENT COUNCIL APPLICANT

VERSUS

STATE OF ODISHA AND Others ... RESPONDENTS

AFFIDAVIT 15 FEB 2025

I, Amarendra Nath Mohanty, S/o Bipra Charan Mohanty aged about 76years, At/Po- Parijata Sriramnagar, Uttara sasan, Dist-Puri, 751002 do hereby solemnly affirm, and declare as under:

1. That I am the President of the applicant society in the above mentioned Original Application and I am fully conversant with the facts and circumstances of the case and therefore competent to swear this affidavit.
2. That I have read over the contents of the accompanying rejoinder affidavit and the same is true and correct and is drafted on my instruction.

Amarendra Nath Mohanty

DEPONENT

VERIFICATION

Verified on this 15 FEB 2025 day of FEB 2025 at BDR that the contents of the above affidavit are true and correct. No part of it is false and nothing material has been concealed there from.

Identified By APR 2025
Advocate

Amarendra Nath Mohanty

DEPONENT



The above named deponent(s) being duly identified by Sri. APR 2025 Advocate, Bhubaneswar.

Appears before me on oath that the contents of the affidavit are true to the best of their knowledge and belief.

Notary, Bhubaneswar

JANMEJAYA RAUTRAY
NOTARY, GOVT OF ODISHA
BHUANESWAR
REGD. NO. ON-86/2012
Web. No. - 9337121273

15 FEB 2025
4:10 PM



Sankar Pani <sankarprasadpani@gmail.com>

Rejoinder affidavit on behalf of applicant in OA134/2024

1 message

Sankar Pani <sankarprasadpani@gmail.com>

Mon, Feb 17, 2025 at 10:25 AM

To: ADVOCATE GENERAL ODISHA <advgen@nic.in>, Dn Ray <raydnr@gmail.com>, Dipanjan Ghosh <dpnjnghsh0@gmail.com>

Dear sir/madam please find the attachment.

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