

BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN BENCH AT CHENNAI  
ORIGINAL APPLICATION No. 175 of 2020

Venkatapathi Raja Yenumula  
H.No. 2-232, Kesevadasupalem  
RAZOLU Taluka, Sakhinetipalli Mandal,  
Eastgodavari District,  
Andhra Pradesh-533252

... APPLICANT

-vs-

1. Union of India  
through its Secretary,  
Ministry of Environment, Forest & CC  
Jorbagh, New Delhi-110003
2. Union of India  
rep. by its Secretary  
Ministry of Petroleum & Natural Gas  
Sastry Bhavan, New Delhi-1
3. Oil and Natural Gas Corporation Ltd  
rep. by its Chairman  
Ministry of Petroleum and Natural Gases  
Deendayal Urja Bhavan  
5A, Nelsan Mandela Marg  
Vasanth Kunj, New Delhi-110070
4. GAIL (India) Ltd  
rep. by its Chairman & Managing Director  
GAIL Bhavan, 16, Bikajikama Place  
R.K.Puram, New Delhi-110066
5. State of Andhra Pradesh  
rep. by its Chief Secretary,  
Secretariat, Velagapudi  
Guntur District, AP-522503
6. Central Pollution Control Board  
through Member Secretary  
Parivesh Bhawan, CBD- Cum Office Complex  
East Arjun Nagar, Delhi-110032
7. Andhra Pradesh Pollution Control Board  
rep. by its Member Secretary  
D.No. 33-26-14/D2, Pushpa Hotel Center  
Chalamvari Street, Kasturibaipet  
Vijayawada, Andhra Pradesh-520010.



**देवजानी बोस/DEBAJANI BOSE**  
मुख्य महाप्रबंधक (रसायन) विभाग/मुख्य पर्यावरण/CGM-Chemical & H.C.-Envl.  
हाइड्रोकार्बन महानिदेशालय/Directorate General of Hydrocarbons  
पेट्रोलियम और प्राकृतिक गैस मंत्रालय, भारत सरकार  
Ministry of Petroleum & Natural Gas, Govt. of India  
ओ.आई.डी.बी. भवन, टॉवर-ए, प्लॉट नं. 2, सेक्टर-73, नोएडा-201301 उ.प्र. (भारत)  
OIDB Bhawan, Tower-A, Plot No. 2, Sector-73, Noida-201301 U.P. (India)

8. Director General, Fire Services  
Office of the Director General,  
State Disaster Response & Fire Services Department,  
Near Police Control Room, Governorpet, Vijayawada - 520002.

9. Andhra Pradesh Police Department  
Rep. by its Deputy Inspector General of Police  
Eluru Range, Eluru, A.P. - 522501.

10. Directorate General of Mine Safety  
rep. by its CIM & Director General  
Dhanbad, Jharkhan-826016

11. District Collector and Magistrate  
East Godavari at Kakinada  
Andhra Pradesh-533001

12. District Collector and Magistrate  
West Godavari district  
Ameenapeta, Eluru, AP-534006

13. Andhra Pradesh Coastal Zone Management Authority  
rep. by its Chairman,  
Chalamvari Street, Kasturibaipeta  
Vijayawada-520010

...RESPONDENTS

COUNTER AFFIDAVIT FILED BY RESPONDENT No. 2

I, Debajani Bose, daughter of Late Shri Kiranmoy Nag, aged 59 years, working as HoD (Environment) in the office of Directorate General of Hydrocarbons (under Ministry of Petroleum and Natural Gas), do hereby solemnly affirm and sincerely state as follows:

1. I respectfully submit that I have perused the application filed by the applicant. I am well acquainted with the facts of the case and am authorized to file this affidavit on behalf of the 2<sup>nd</sup> Respondent.
2. It is respectfully submitted that the applicant has raised the issue of environmental violations allegedly committed by ONGC and GAIL, the Respondents Nos. 3 and 4 in the state of Andhra Pradesh. The applicant has alleged that the Respondents No. 3 and 4 are causing environment pollution/disasters such as damaging the coast line, discharging polluted water in sea, water bodies, open land, causing gas leakage leading to accidents in various villages, releasing smoke into air. The applicant has alleged that the said acts of the Respondents Nos. 3 and 4 are in violation of the provisions of the Water (Prevention and control of Pollution) Act, 1974, Environment (Protection) Act, 1986, Disaster Management Act, 2005, Coastal Regulatory Zone Notification 2011/2019 and the Biological Diversity Act, 2002.

3. It is respectfully submitted that the answering Respondent, Respondent No. 2, the Ministry of Petroleum and Natural Gas (MOP&NG) is concerned with exploration and production of Oil & Natural Gas, refining, distribution and marketing, import, export and conservation of petroleum products. The Ministry is responsible for the implementation and execution of the provisions under the Oilfields (Regulation and Development) Act, 1948 and the rules framed thereunder for regulating petroleum exploration licenses, petroleum mining leases, and the collection of royalties. The 3<sup>rd</sup> and 4<sup>th</sup> Respondents, viz., ONGC and GAIL are Indian Government Corporations under the ownership and administrative control of the MoPNG.
4. It is respectfully submitted that as per the contract conditions, every operator, including ONGC and GAIL, the Respondents 3 and 4, who have been granted Petroleum Mining Lease (PML) by Respondent No. 2, have to follow applicable laws and ensure compliance of stipulated safeguard measures. The said operators are required to obtain all environmental clearances and comply with the mitigation measures suggested in the clearance letters of MoEF&CC and Consent To Establish(CTE)/ Consent To Operate(CTO) from the respective State Pollution Control Boards (SPCBs). The stipulated conditions in EC letters are monitored by MoEF&CC (Respondent No. 1) through the designated Integrated Regional Offices (IRO) of the Ministry. In addition, the contractor is also required to submit regularly the compliance reports to IRO/MoEF&CC for verification. Any violation of environmental rules and regulations by ONGC and GAIL shall have to be dealt with by the MoEF&CC (Respondent No. 1) and by the respective State Pollution Control Boards.
5. It is submitted that the applicant has stated in para no. 5 that the activities of ONGC are taking place in ecologically sensitive areas, near the habitations and agricultural lands leading to erosion of sea, damage to the soil and pollution of water bodies etc. It is submitted that the MoEF&CC is the Nodal Ministry for assessing the impacts of various activities during grant of EC under the established procedure of EIA Notification 2006 and various legislations including CRZ (Coastal Regulation Zone) Notification 2011/2019 and Biodiversity Act 2002. The aforesaid issues do not fall within the purview of the answering Respondent and therefore, has no comments to make upon the said statements.
6. It has been stated in para no. 6 that due to poor maintenance of pipelines by Respondent Nos. 3 and 4 there have been frequent incidents of oil and gas leakages from pipelines passing through the agricultural and residential lands, causing fear and panic among the people and that accidents are happening frequently. As per the

Disaster Management Plan, all accidents have to be registered and informed to the Disaster Management authorities and that the Respondents nos. 3 and 4 are not following the procedures as per the Disaster Management Plan. References have been made in para nos. 7 to 9 about the Disaster Management Plan-2015 of ONGC and the disasters which have taken place in various districts during the year 2020. Some reports which were published in local newspapers have been quoted. In the aforesaid context, it would be relevant to state that the said companies shall have to follow the procedures as per the DMP prepared by the respective companies. In view of the hazardous nature of products / process handled by the ONGC and GAIL, Disaster Management Plans (DMPs) have been prepared by the respective companies. These plans are based on various probable scenarios like Well Blow Out, Fire, Explosion, Natural Calamities etc. The consequences arising out of such incidents are accurately predicted with the help of latest technique available by various Risk Analysis Studies. To minimize the extent of damage consequent to any disaster and restoration of normalcy is the main purpose of DMP. There are on site Emergency Plans that deal with handling of the emergency within boundary of the plants mainly with the help of industry's own resources. Also when the damage extends to the neighbouring areas, affecting local population beyond boundaries of plant, off-site emergency plans are put into action in which quick response and services of many agencies are involved e.g. Government, Fire Services, Civil defence, Medical, Police, Army, Voluntary organizations etc. The Respondents nos. 3 and 4 shall have to follow the said procedures as laid down in their respective DMP. The Respondents 8 and 9 shall have to register all accidents that occur in their regions. The answering Respondent is therefore, not the competent authority to comment upon the said allegations.

7. It is submitted that in para nos. 10 and 11, allegations have been made against ONGC (Respondent 3) and GAIL (Respondent 4) regarding discharge of untreated effluents into Bay of Bengal, open lands and water bodies in violation of the consent order of Andhra Pradesh Pollution Control Board (APPCB) resulting in impact on aquatic life, livestock etc. The compliance monitoring of stipulated conditions during grant of Consent For Operation (CFO) is in the domain of APPCB. The answering Respondent is therefore, not the competent authority to comment upon the said allegations.
8. It is alleged in para no. 12 that the pipelines laid by Respondent nos. 3 and 4 are affecting the farmers and photographs pertaining to the laying of pipelines in a village in East Godavari District, have been annexed. The issue does not fall within

the purview of the answering Respondent and therefore, has no comments to make upon the said statement.

9. It is alleged in para no. 13 that compensation has not been paid to the farmers for acquisition of lands by ONGC. The said issue does not fall within the purview of the answering Respondent and therefore, has no comments to make upon the said statement.
10. It is submitted that para no. 14 highlights the ONGC and GAIL pipeline explosions in East and West Godavari district, with photographs which appeared in the newspapers such as:-
  1. Gas pipeline explosion in near to Nagaram Village, West Godavari District
  2. ONGC pipeline leaks Antravedi Village, East Godavari District
  3. Minor gas leak in Kesavadaspalem Village, East Godavari District
  4. Gas pipeline leakage of ONGC in Antervedi Village in KG basin
  5. High pressure Gas Leakage in Uppidi village, Katrenikona, East Godavari district.

It has been alleged in para no. 15 that the Respondents nos. 3 and 4 have not been maintaining the pipelines properly, resulting in disasters and loss to environment, public property and human lives. The aforesaid issue does not fall within the purview of the answering Respondent and therefore, has no comments to make upon the said statement.

11. It is submitted that the erosion of sea and illegal sand extraction by ONGC contractors in Odalarevu has been referred in para no.16. It has been alleged therein that the exploration activities are also creating vibration and high noise levels. It is submitted that the MoEF&CC is the nodal Ministry for assessing the impacts of various activities during grant of EC under the established procedure of EIA notification 2006 and various legislations including CRZ (Coastal Regulation Zone) and Biodiversity Act 2002. The aforesaid issues do not fall within the purview of the answering Respondent and therefore, has no comments to make upon the said statements.

12. It is submitted that para no. 17 refers to the Report of the Expert Committee constituted by the Hon'ble High Court of Andhra Pradesh in Writ Petition No. 13341 of 2008 regarding impact of drilling in KG Basin by ONGC. The conclusions of the report dated 23.10.2009 of the Expert Committee have been reproduced.

13. It is alleged in para no. 18 that the Respondent nos. 3 and 4 are not properly implementing the conditions imposed in the EC by MoEF&CC and the Consent for Establishment by APPCB. It has also been stressed that there is a need for



verification of compliance reports submitted by ONGC through an Independent Expert Committee to find the factual situation. The monitoring of compliance of the EC falls within the domain of MoEF&CC . The answering Respondent has therefore, no comments to make regarding the said statements.

14. It is submitted that para no. 19 refers to the Office Memorandum No. 3-11013/25/2014-IA.I, dated 11-08-2014 of MoEF&CC which is regarding the guidelines for environment sustainability and CSR related issues. It has been alleged in para no.20 that the Respondents 3 and 4 have been spending huge money under Corporate Social Responsibility as per Sustainable Development Principles, but, the said money is either siphoned off or partially spent or misused. The answering Respondent has no comments to make regarding the said statements.

15. Para nos. 21 to 25 refer to various orders passed by the various Benches of the Hon'ble Tribunal in the cases of O.A. No. 43 & 44 of 2020 (EZ) and O.A. No. 66 of 2020 (SZ) pertaining to the incident of Blowout in the producing well of Baghjan 5 under the Baghjan Oilfield of OIL in Tinsukia District, Assam and the incident of gas leakage and damage caused in Tiruvarur, Tamil Nadu. The Applicant has prayed in para no. 26 that as the environmental damages in Andhra Pradesh are more severe than in Assam and Tamil Nadu, there is a need for comprehensive study for restoration of ecology and preventing future disaster. To elaborate the issue on gas leakages in various villages in East Godavari Dist. during 2020 and its impact on eco system, the following judgements have been referred to:

(1) Hon'ble Supreme Court in the matter of *State of Bihar –vs- Deokaran Nenshi and anr.*, reported in ( 1972) 2 SCC 890;

(2) Hon'ble Tribunal in the matter of *Forward Foundation, a Charitable Trust and ors. –vs- State of Karnataka and ors.*, reported in 2015 ALL (I) NGT Reporter (2) (Delhi) 81;

16. It is stated in para no. 27 that the Respondents nos. 3 and 4 are violating CRZ notification and causing damage to marine ecology and the applicant has prayed that the said issues raised by the applicant be addressed. It is respectfully submitted that the implementation of provisions of CRZ Notification falls within the purview of MOEF&CC and therefore, the answering Respondent has no comments to make regarding the said statements.

17. It is submitted that the grounds for submission of the present application, reiterate the alleged environmental violations by the Respondents nos. 3 and 4 in East & West



Godavari Dist. causing damage to ecology, biodiversity, agricultural lands, sea beaches and people living in the said areas. It is submitted that the MoEF&CC is the nodal Ministry for assessing the impacts of various activities during grant of EC under the established procedure of EIA notification 2006 and various legislations including CRZ (Coastal Regulation Zone) and Biodiversity Act 2002. The aforesaid issues do not fall within the purview of the answering Respondent.

18. It is submitted that the applicant has prayed for the following interim reliefs:

- I. Direct Central Pollution Control Board and Andhra Pradesh Pollution Control Board to inspect the release of polluted water at beach of Bay of Bengal, ponds and wells in Kesanipally of Malkipuram mandal Odalarevu, Nagaram in East Godavari district of Andhra Pradesh for stopping the illegal discharge of polluted water;
- II. Direct the Deputy Inspector General of Police, District Collector of East Godavari to stop illegal extraction of beach sand at Odalarevu in East Godavari district by the contractors of ONGC and stop the erosion of sea/take protective measures;
- III. Direct the Respondents No.3, 4, 11 & 12 to provide clean drinking water to the affected villagers In East and West Godavari districts.

It is respectfully pointed out that no interim prayers have been made relating to the answering Respondent no. 2 (MoP&NG).

The interim prayers primarily are for directing the Central and State Pollution Control Boards for stopping discharge of polluted water and for directing the DIG (Police), East Godavari Dist. to stop illegal extraction of beach sand.

19. The main prayers related to Respondent no. 2 are as follows:

Prayer no. ii) Direct the Respondents Nos. 1, 2, and 5 to take action on the persons responsible for continuous environmental disasters such as accidents, gas leakages due to lack of effective monitoring in the KG Basin region.

- It is respectfully submitted that as detailed in the introduction to this reply affidavit, all the operators including ONGC & GAIL who have been granted Petroleum Mining Lease (PML) by Respondent No. 2 have to follow applicable laws and ensure compliance of stipulated safeguard measures.

Prayer no. viii) Direct the Respondents Nos. 1 to 5 to implement the Corporate Social Responsibility funds transparently and complete all the pending works initiated under CSR programs by Respondent No. 3 & 4 in accordance with Office Memorandum No. 3-11013/25/ 2014-IA.I, dated 11.8.2014. of MoEF.

- It is respectfully submitted that the utilization of funds for CSR for welfare measure of local people and restoration of eco system is monitored by MoEF&CC as a part of clearance conditions. It is submitted that no action is deemed necessary by the answering Respondent no. 2 in this regard.

Prayer no. x) Direct the Respondent No. 2 to 5 to take appropriate measures to control erosion, rising of sea in East Godavari district of Andhra Pradesh due to the activities of ONGC and GAIL in Krishna Godavari Basin.

- It is respectfully submitted that MoEF&CC is the nodal Ministry for implementation of CRZ notification and to control erosion of coastal stretches impacted due to exploration and production activities of ONGC and GAIL.

20. It is submitted that this Hon'ble Tribunal, by order dated 08.09.2020 had constituted a Joint Committee comprising of

- 1) a Senior Officer from Regional Office, MoEF&CC, Chennai,
- 2) a Senior Officer from Regional Office, CPCB, Chennai,
- 3) a Senior Officer from the APPCB,
- 4) the District Collector, East Godavari and West Godavari Districts or a Senior Officer not below the rank of Assistant Collector/Sub Divisional Magistrate designated by the respective District Collectors and,
- 5) an Expert on Petroleum Engineering from Andhra University College of Engineering, Visakhapatnam to inspect the area In question and submit a factual as well as action taken report, if here is any violation found.

The Committee has submitted joint inspection report in this regard on 09.04.2021 after inspecting the site during 08th to 11th November, 2020, and 24th to 26th February, 2021.

The Joint Committee noticed that: -

- a. the pipelines are old and need replacement,
- b. effluent treatment plants are not operating properly,
- c. hazardous waste like ETP sludge and slop oil are not being disposed off as per the Hazardous Waste Management Rules,
- d. mixing of storm water with water logging effluent during monsoon period, filling of storm water drains with sludge which ultimately affect the quality of water.



The Committee has suggested that:

- i. the unit should ensure compliance to Consent for Operation (CFO) and to Hazardous Waste Management Rules 20 16
- ii. the replacement of old pipelines is also suggested.

Based on the ground water samples collected in the area the Committee has observed that the ground water surrounding Tatipaka GCS & Refinery, Kesanapalli GCS and Odalarevu GCS is not contaminated. Further analysis of soil samples has also revealed that the sites are not contaminated and further noticed that the plantation has come up in the area.

21. It is respectfully pointed out that the answering Respondent no.2 has thus, no vital role in addressing any of the issues raised by the applicant in the above application.

Having regard to the above said facts on record, this Hon'ble Tribunal may be pleased to graciously pass appropriate orders as deemed fit and proper in the circumstances of the above said OA and dismiss the same as against Respondent No. 2 and thus render justice.

Solemnly affirmed at New Delhi  
on this the 8<sup>th</sup> day of September  
2021 and signed his name in my  
presence.

देवजानी बोस / DEBAJANI BOSE  
मुख्य प्रदूषण नियंत्रण विभाग/CGM-Chemical & Hc-D-Envl.  
वायु प्रदूषण नियंत्रण विभाग/ Directorate General of Hydrocarbons  
पेट्रोलियम और प्राकृतिक गैस मंत्रालय, भारत सरकार  
Ministry of Petroleum & Natural Gas, Govt. of India  
ओ.आई.डी.बी. भवन, टॉवर-ए, प्लॉट नं. 2, सेक्टर-73, नोएडा-201301 उ.प्र. (भारत)  
OIDB Bhawan, Tower-A, Plot No. 2, Sector-73, Noida-201301 U.P. (India)

Before me,

Advocate, Noida

(NEETIKA BAJAJ)