

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE AT
CHENNAI
M.A.No.4 OF 2023
IN
ORIGINAL APPLICATION No.:180/2021(SZ)

IN THE MATTER OF:

BADDAM RAJI REDDY & ORS Applicants

Versus

UNION OF INDIA & ORS Respondents

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S. No	PARTICULARS	P.NO.
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A.Sanjeev Kumar
Special Government Pleader

DATE :20.04.2023
PLACE: Hyderabad

H.Yaasmeen Ali
Counsel for the State of Telangana

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL (SZ)**AT CHENNAI****M.A No.4 of 2023****in****O.A No.180 OF 2021**

1.BADDAM RAJI REDDY S/o. MALLA REDDY

Village:, Gudatpally

Old Dist: KARIMNAGAR,

New Dist: SIDDIPET,

Pincode: 505467 and 4 others

.... Applicants

-Vs-

1.Union of India Rep. by its Secretary,

Union Ministry of Environment, Forest & CC

Indira Paryavaran Bhavan Jorbagh,

New Delhi-110003.

2. Union of India,

Rep. by its Secretary,

Union Ministry of Jai Sakti Sramasakti Bhavan,

New Delhi-110001.

3. Irrigation & CAD Department,

Rep. by its Principle Secretary J-Block,

6th Floor, Room No :-623, Secretariat Road,

Opp. BRKR Building,

Hyderabad,

Telangana 500022.

4. Central Water Commission (CWC) ,

Rep.by its Chairman,

SewaBhavan, R.K. Puram,New Delhi — 110606.

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5. Godavari River Management Board,
Rep. by its Member Secretary,
Government of India,
Ministry of Water Resources 5th Floor,
Jalasoudha, Errum Manzil,
Hyderabad, Telangana-500082.

6. District Collector of Siddipet,
ICC Building, Kushal Nagar,
Hyderabad Road Siddipet,
Telangana-502103.

7. Engineer-in-Chief,
O/o. Engineer-in-Chief(A.W),
I & CAD Department,
Jalasoudha Building,
Errum Manzil, Jalasoudha,
First Floor, Hyderabad,
Telangana-500082.

8. Engineer-in-Chief (Projects), Irrigation,
LMD Colony, Kaimnagar,
Telangana-505527.

.... Respondents

COUNTER AFFIDAVIT FILED BY THE 3rd RESPONDENT

I, Rajat Kumar, S/o B.K.Sinha, aged about 59 years,
Designation: Special Chief Secretary, I&CAD Department, Government




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of Telangana, Hyderabad do hereby solemnly and sincerely affirm and state on oath as follows:

1. I am the Special Chief Secretary to Government, I & CAD Department, Government of Telangana, Hyderabad and I am authorized to depose on behalf of the 3rd respondent herein.

2. I have read the M.A in O.A. filed by the Applicants and deny all the material allegations made therein, except those that are specifically admitted hereunder.

3. At the outset, it is submitted that the petition filed by the complainants is misconceived, not maintainable in law and on facts.

4. It is submitted that, in the Gouravelly Reservoir project site, the Project Proponent has not carried out any expansion of work. The protection works such as weed removal, rectifying the rain gullies, chutes, Parapet walls and revetment are only carried out for the 85% of completed work. The contention of the applicants that the project proponent has been continuing the construction of the project, in violation of the orders of this Hon'ble Tribunal is incorrect.

5. It is submitted that the Petitioners have contended that the joint committee constituted by the Hon'ble NGT confirmed that the project proponent illegally proceeded with the construction of the project. But the same is factually incorrect. The Joint committee constituted by the Hon'ble NGT has opined that "the project proponent has obtained Environment Clearance for the Flood Flow Canal Project, Amendment from MoEF&CC would have been obtained by the project proponent as the scope of the project changed. Therefore, changing the scope of the project without




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approval of the MoEF&CC attracts violation of EIA Notification 2006 duly suggesting to impose Environmental Compensation”.

6. It is submitted that, the Petitioners have contended that the Ministry of environment has issued show cause notice to the project proponent for taking up the project without environmental clearance. It is true, that the project proponent has received the said show cause notice and submitted its reply to the MoEF, within the stipulated time, the brief facts of the reply reads as under;

A) The Technical Advisory committee(TAC) of central water commission (CWC) in its 64th meeting conducted on 03.04.1996 accorded approval for formation of three (3 Nos) reservoir namely (1) Combined storage reservoir-I across peddavagu-II and Korutla vagu near konaraopet(V),Karimnagar dist with a storage capacity of 7.346 TMC to irrigate an ayacut of 32,000 acres .(2)MidManair reservoir with a storage capacity of 25.873 TMC to irrigate an ayacut of 68,000 acres.(3) Gouravelly reservoir with storage capacity of 1.409 TMC to irrigate an ayacut of 1,20,000 acres duly utilizing 20 TMC of Flood water of Godavari river of foreshore of Sriramsagar project. The total storage capacity under these three reservoirs is 34.314 TMC.

Later owing to massive protests and huge resistance from the local people against the construction of combined storage reservoir –I across peddavagu-II and korutlavagu near Konaraopet(V), kathalapur



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(M), Karimnagar Dist, the then Government of Andrapradesh vide G.O Ms. NO.209 Dt:17.11.1997 had bypassed the combined storage reservoir -I across peddavagu-II and korutla vagu.

B) The improper water utilization and allocation is one of the major factor and played phenomenal role in the formation of Telangana state. After formation of Telangana state the Government has reviewed the existing irrigation projects and as a part of effective utilization of water allocation and to compensate the storage lost due to dropping of combined Storage Reservoir-I (7.346 TMC) near Konaraopet (V), an alternative proposal of increasing the Gouravelly reservoir capacity from 1.409 TMC to 8.230 TMC has been proposed. As the already proposed Gouravelly reservoir for 1.409 TMC capacity is bestowed with advantages such as (i) Geographical advantage of the site at which the reservoir was proposed, (ii) minimal submergence of lands for the increased storage capacity and (iii) minimum number of families displacement which fostered for the consideration of enhanced storage capacity for Gouravelly Reservoir (iv) rise in ground water table, drinking water for the surrounding villages and live stock and to supplement to the deleted storage capacity which favoured the consideration of enhanced storage capacity for Gouravelly Reservoir to 8.230TMC.

C) Even though the capacity of the Gouravelly reservoir is increased to 8.230 TMC, there is no change in the water utilization & the contemplated ayacut under the FFC project




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from SRSP as a whole. Moreover there is no forest land involved in the submergence due to the increased capacity of the Gouravelly reservoir project and there are no notified ecologically sensitive areas, wild life ecosystems falling in the submergence earlier i.e, for 1.409 TMC capacity reservoir or now i.e., for the enhanced 8.23 TMC capacity.

7. It is submitted that the contention of the applicant that after hearing the parties and considering the reports, the Hon'ble Tribunal has accepted the Joint Committee report and counter filed by MoEF. The Hon'ble Tribunal directed the project proponent was restrained from proceeding with the project further till the proceedings initiated by the Ministry of Environment, Forest and climate change is completed. That the Hon'ble Tribunal further directed the Ministry of Environment, forest & CC to as under:

"Since the Ministry of Environment, forest and Climate Change (MoEF&CC) has taken cognizance of the alleged violations said to have been committed by the State of Telangana and initiated proceedings under Section 5 of Environment (Protection) Act, 1986 by issuing show cause notice, we feel that there is not necessary for this Tribunal to proceed with the matter and leave open the regulator to take appropriate action against the project proponent on the basis of the enquiry to be conducted by them which must also include revisiting on the question of environment compensation considering the gravity of violations committed, on account of the proceedings with the project by the project proponent and also the conduct of the project proponent both the present and past in respect of this project as well as other projects undertaken



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by them and violations of the EIA Notification, 2006 the nature of damage caused and cost of restoration required while assessing the environmental compensation and pass appropriate orders in accordance with law without much delay.”

8. In this regard, it is respectfully submitted that, as per the judgment of NGT Dt: 10.02.2022, the MoEF&CC, New Delhi has conducted the Expert Appraisal Committee (EAC) meeting on 15.06.2022, wherein it has been confirmed that “the project involves violation and the project will be apprised by the EAC as per the Standard operating procedure (SOP) for identification and handling of violation cases under EIA Notification, 2006 mentioned in OM, Dt: 07.07.2021. The EAC therefore, suggested the project proponent to submit the proposal afresh at PARIVESH portal for terms of reference under violation category.”

9. It is submitted that the contention of the Petitioners that despite the Judgment passed by this Hon’ble Tribunal, the project proponent is continuing the illegal construction and expansion of the project without valid Environment Clearance. The project proponent has been using police force to forcefully remove the project affected persons from the affected area and fill the reservoir. That the project proponent is illegally executing the Project defying the judgment dated 10.02.2022 passed by this Hon’ble Tribunal in O.A. No. 180 of 2021. The applicants would like to place the news reports and photographs showing the execution of works and damage caused to the residents, houses, etc.,

In this regard, it is submitted that pursuant to Hon’ble National Green Tribunal judgment Dt. 10-02-2022, the Project authorities




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have not carried out any expansion work of Gouravelly reservoir till now. Keeping in view of coming monsoon season the project proponent is carrying out only the finished item of works and protection works for 85% of completed work.

The Land Acquisition, Rehabilitation and Resettlement details are as follows.

Description	1.410 TMC(Original Capacity)		8.23 TMC (enhanced capacity)	
	Required	Acquired	Required	Acquired
Land Acquisition (in Acres)	1814-00	1814-00 (100%)	2055-00	2055-00 (100%)
Structures in No's	687	687 (100%)	124	124 (100%)
R&R PDF in No's	937	937	185	185 (100%)

As per the Act, 100% of payment was made towards LA, R&R and Structures to all the PDF's coming under the submergence of 1.410 TMC till 2018. 100% of payment was also made to the oustees under the submergence of expanded project for 8.23 TMC.

10. Further while taking the R&R Compensation the affected people had given consent that they will vacate the place and also they will not claim any further consideration in any court of Law. The oustees coming under 1.410TMC for which Environmental



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Clearance was already accorded are not vacating till now even after receiving total compensation in all respects.

11. It is submitted that some of the persons who have already received the compensation in all respects are resisting to vacate the place for which the police protection was taken to dismantle the structures only not for filling the reservoir as balance works are yet to be tackled. In addition to R&R package, shifting and transportation charges were also paid as per the Act as additional benefit on humanitarian grounds.

12. It is submitted that, the contention of the applicant that subsequent the judgment passed by this Hon'ble Tribunal, the project proponent has applied for Terms of Reference and Environment Clearance. As of now terms of reference has been granted by the Telangana State Environment Impact Assessment Authority. The SEIAA has categorically directed the project proponent not to execute the project work without environmental clearance but still the project proponent is proceeding with the project illegally in contrary to the judgement as well as the terms of reference issued by the SEIAA of Telangana. Relevant extract of the ToR are reproduced as under:

“ Specific Terms of Reference:

- a. The State Government/SPCB to take action against the projectproponent under the provisions of section 19 of the Environment (Protection) Act, 1986, and further no consent to operate to be issued till the project is granted EC (if Credible Action was not initiated).



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- b. The project proponent shall be required to submit a bank guarantee equivalent to the amount of remediation plan and natural and community resource augmentation plan with the SPCB prior to the grant of EC. The quantum shall be recommended by the SEAC and finalized by the regulatory authority. The bank guarantee shall be released after successful implementation of the EMP, followed, by recommendations of the SEAC and approval of the regulatory authority. The proponent also shall pay penalty amount to be levied by SEIAA as per O.M. dt. 07.07.2021.
- c. Assessment of ecological damage with respect to air, water, land and other environmental attributes. The collection and analysis of data shall be done by an environmental laboratory duly notified under the Environment (Protection) Act, 1986, or an environmental laboratory accredited by NABL, or a laboratory of a Council of Scientific and Industrial Research (CSIR) institution working in the field of environment.
- d. Preparation of EMP comprising remediation plan and natural and community resource augmentation plan corresponding to the ecological damage assessed and economic benefits derived due to violation.
- e. The remediation plan and the natural and community resource augmentation plan to be prepared as an


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independent chapter in the EIA report by the accredited consultants.

Funds shall be allocated for Corporate Environment Responsibility (CER) for various activities therein. The details of fund allocation and activities for CER shall be incorporated in the EIA/EMP report.

13. The above ToR should be considered for preparation of EIA Report

xiii. In addition to all the relevant information as per the 'Generic Structure of EIA' given in Appendix III and IIIA in the EIA Notification, 2006 & its subsequent amendments.

xiv. The consultants involved in preparation of EIA/EMP report after accreditation with Quality Council of India/National Accreditation Board of Education and Training (QCI/NABET) would need to include a certificate in this regard in the EIA/EMP reports prepared by them and data provided by other Organization(s)/ Laboratories including their status of approvals etc., vide Notification dt. 19.07.2013 of the MoEF&CC.

xv. The project proponent shall submit the detailed final EIA/EMP prepared as per ToRs, to the SEIAA for considering the proposal for Environmental Clearance within 4 years, as


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per the O.M. No.J- 11013/41/2006-IA-11(1) (P) dt. 08.10.2014 of the MoEF&CC, GoI. '

xvi. "The project proponent should stop construction activity forthwith and shall also comply with the terms of the provisions of the S.O.No.804 (E) dt.14.03.2017; S.O.1030 (E), dt.08.03.2018; and O.M. dt: 07.07.2021 issued by the MoEF&CC, GoI w.r.t. SOP for identification and handling of violation cases under EIA Notification 2006.

xvii. The prescribed ToRs would be valid for a period of (5) five years as per the O.M.No.IA3-22/10/2022-IA-III (E 177258) (P) dt. 08.06.2022 of the MoEF&CC, GoI for submission of the EIA/EMP Reports."

In this regard, it is respectfully submitted that the MoEF, New Delhi has conducted the 29th EAC Meeting on 15-06-2022 through video conference with the Member Secretary and communicated the Minutes wherein it was suggested the project proponent to submit the EC proposals afresh at PARIVESH portal for Terms of Reference(ToR) under violation category.

14. Accordingly, the Form-I of Terms of Reference (ToR) in respect of Flood Flow Canal (FFC) Project from Sri Ram Sagar Project (SRSP) with expansion of Gouravelly Reservoir project from 1.410 TMC to 8.23 TMC was submitted on 02-09-2022 to EAC, MoEF&CC at PARIVESH Portal. Due to technical problem in PARIVESH 1.0, uploading of Form 1 was delayed for 3 months.



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15. Further, a message was received through EDS on PARIVESH portal from EAC on 07.09.2022 stating that "As per the provisions of the Gazette Notification SO 1886(E) Dated.20.04.02022 the all Irrigation projects having culturable command area more than 2000Ha are category-B project. Irrigation project involving Inter-state issues shall be appraised at Central level without change in category. General condition of the EIA Notification,2006 as amended shall apply. Please examine the proposal in light of the above provision and submit the application to the appropriate authority i.e., MoEFCC/SEIAA".

16. It is submitted that based on the above message, the Proposals of Terms of Reference (ToR) in respect of Flood Flow Canal (FFC) Project from Sri Ram Sagar Project (SRSP) were resubmitted to SEIAA on 06-12-2022 through PARIVESH Portal. Due to technical problem in PARIVESH 1.0, uploading of Form 1 was delayed for 3 months. Due to technical problem in creating new ID for the Project proponent in PARIVESH 2.0, uploading of Form 1 was delayed for another 3 months.

Subsequently, the State Expert Appraisal Committee (SEAC) has scheduled the Terms of Reference (ToR) meeting for the above work on 3rd January 2023.

17. During 210th meeting held on 03.01.2023, a presentation on the project was made before the SEAC at TSPCB, Paryavaran Bhavan, Sanathnagar, Hyderabad. After detailed discussions, the committee has approved the Terms of Reference (ToR) , Agenda item No.5 in respect of "Indiramma Flood Flow Canal (FFC) Project from Sri Ram Sagar Project




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(SRSP) with expansion of Gouravelly Reservoir project from 1.410 TMC to 8.23 TMC".

The Terms of Reference (ToR) for the project was approved by State Level Environment Impact Assessment Authority (SEIAA), Hyderabad with public hearing for preparation of EIA & EMP Report as per standard ToR for three seasons. Accordingly the baseline data was collected for two seasons and Post Project Environmental Monitoring (PPEM) for the earlier EC is being carried out from May 2022.

18. It is submitted that the contention of the applicant that the project proponent is completely disregarding the judgement passed by this Hon'ble Tribunal and conditions imposed by the SEIAA/MoEF. The project proponent is known for continuous violations as earlier also violated the orders passed by this Hon'ble Tribunal in O.A.No. 148 of 2021. The Hon'ble Tribunal has imposed an exemplary penalty of Rs. 300 Crores for violating the Interim Order of this Hon'ble Tribunal. In the present case also the project proponent is committing willful disobedience of the Judgment passed by this Hon'ble Tribunal. Hence the project proponent and the concerned officials deserve to be considered for action under Sections 26, 27 and 28 of the National Green Tribunal Act, 2010.

19. In this regard, it is submitted that the project proponent is not violating the orders of Hon'ble Tribunal and conditions imposed by SEIAA/MOEF, only the protection and finishing works were being carried out at project for the 85% of completed work. In the mean time of obtaining the Environment Clearance for expansion of the project, clearing the submergence area by dismantling the



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structures and displacing the project affected persons is being carried out for whom the total compensation towards LA, R&R and Structures was already paid.

20. It is submitted that the Petitioners who have filed the case in NGT were the oustees in the submergence of the project for 1.410 TMC and compensation was already paid to them in all respects.

21. It is further respectfully submitted that, Irrigation projects are eco-friendly projects unlike the industries which generate the pollution causing environmental damage. In fact due to construction of Irrigation projects with reservoir for storage of water to meet the requirements, during the seasons where there is no rainfall resulting drought and same would improve not only the ground water but also increases /improves the Flora and Fauna in the vicinity and as such there would not be any damage to the environment on account of Irrigation projects.

Hence it is prayed that the Hon'ble Tribunal may kindly consider the above plea while passing the orders on M.A.No.4/2023 in original application no 180 of 2021.

It is submitted that in view of the above, there are no merits in the application and the same is liable to be dismissed.

It is therefore, prayed that this Hon'ble Tribunal may be pleased to dismiss the application and pass such other order or orders as the Hon'ble Tribunal may deem fit and proper in the circumstances of the case.



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Solemnly affirmed and the contents
Of this affidavit at Telangana on this the
day of April, 2023 and signed
his name in my presence

Before me,


Advocate, Telangana
(S. Deekshith Kumar Teja) 23949
TS 1509/2022

VERIFICATION

I, Rajat Kumar, S/o. B.K.Sinha, aged about 59 years,
Designation: Special Chief Secretary, I & CAD Department,
Government of Telangana, Hyderabad, the 3rd respondent herein,
do hereby verify and declare that the contents stated in the above
reply affidavit are true and correct to the best of my knowledge and
belief.


RESPONDENT NO. 3
Special Chief Secretary to Govt.
Irrigation & CAD Department
Telangana Secretariat,
Hyderabad - 500 022.

Date: 20.04.2023

Place: Hyderabad


A. Sanjeev Kumar,
Special Government Pleader
H. Yasmeen Ali
Counsel for the State of Telangana