

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN BENCH AT CHENNAI**

Appeal No.18 of 2020

IN THE MATTER OF:

SrideviDatla .

... APPLICANT

VERSUS

Union of India & 4 others

... RESPONDENTS

**REPLY FILED BY 2nd RESPONDENT to WRITTEN
SUBMISSION FILED BY APPELLANT ON 03.09.2021**

Date-10.09.2021



**M/s MADHURI DONTI REDDY
ADVOCATE
STANDING COUNCIL FOR GOVERNMENT OF
ANDHRA PRADESH
A.P. POLLUTION CONTROL BOARD
T.T.D. SUPREME COURT OF INDIA
#S2, Royal Castle, 26, Gill Nagar Extension, Choolaimedu, Chennai
– 600 094. Mobile: 98407 98460 / 6383121322
COUNSEL FOR RESPONDENTS 2 TO 4**

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN BENCH AT CHENNAI**

Appeal No.18 of 2020

IN THE MATTER OF:

SrideviDatla
W/o. DRSS Kumar Varma
R/o Door No.10-37-11
Ramnagar, Visakhapatnam - 530002
Andhra Pradesh.

... APPLICANT

VERSUS

1. Union of India
Through the Secretary
Ministry of Environment Forest
and Climate Change
Indira Paryavaran Bhawan,
JorBagh, New Delhi - 110003
2. State of Andhra Pradesh
Through the Chief Secretary
Secretariat Buildings
Hyderabad.
3. Andhra Pradesh Pollution Control Board
Through the Member Secretary
D.No.33-26-14/D2, Near Sunrise Hospital
Pushpa Hotel Center, Chalamvari Street,
Kasturibaipet, Vijayawada - 520008.
4. The M/s.Bhogapuram International
Airport Corporation Ltd.,
Through the Managing Director
1st Floor, FDC Complex
AC Guards, Hyderabad - 500 028.
5. GMR Visakhapatnam International Airports Limited
Through Authorised Signatory
Mr. Manomay Rai, Registered Office
10-1-43, Flat No.202, Second Floor
Siripuram Fort, Siripuram
Visakhapatnam - 530 003.
Andhra Pradesh

... RESPONDENTS

N. Karikal Valaven
R. KARIKAL VALAVEN, I.A.S.,
Special Chief Secretary to Government
Infrastructure & Investment Department
A.P. Secretariat, Velampudi,
AMARAVATI - 522 238.

REPLY FILED BY 2nd RESPONDENT to WRITTEN SUBMISSION FILED BY
APPELLANT ON 03.09.2021

I, R. Karikal Valaven, I.A.S. S/o Sri C. Rama Krishnan, Aged 58 years, Special Chief Secretary to Government of Andhra Pradesh do hereby solemnly affirm and submit as follows.

I am the Special Chief Secretary to the Government of Andhra Pradesh and I am filing this Reply on behalf of 2nd, 3rd and 4th Respondents and I am well acquainted with the facts of the case.

MOST RESPECTFULLY SHOWETH:-

1. At the outset it is submitted that that time and again, the Respondents had prayed before this Tribunal that the Appellant may argue all its grounds of appeal in its entirety and thereafter the Respondents will argue their case. But unfortunately at the absolute end of the hearing on 03.09.2021, the Appellant sought to argue and present new grounds by filing yet another set of written submissions. Appellant further relied on an expert opinion of one Dr. Rakesh Kumar Singh, rather asked him to explain certain issues which were anyways not part of the appeal grounds.
2. Such practices of calling upon experts at the rejoinder argument stage along with new grounds is absolutely unheard of and shall be discouraged so that the precious time of this Hon'ble Tribunal is not squandered. Nonetheless the Respondent herein is dealing with the additional new grounds in seriatim hereinafter.

A. DISCREPANCIES IN PROJECT AREA

Total area exceeds the figure as given in the EC letter and EIA Report Additional 259 Hectares has not been accounted for


R. KARIKAL VALAVEN, I.A.S.,
Special Chief Secretary to Government
Infrastructure & Investment Department
A.P. Secretariat, Vohra Road,
AMARAVATI - 522 238.

- i. The above submission of the Appellant is wrong and denied since there is no additional land of 259 hectares required for the project. Table 2-3 of EIA report (Page 2-13 of EIA report) indicates the key facilities of airport and its land breakup as "construction" having the "total area of 259 hectares" which is part of the total land of 811.20 hectares.
- ii. The land breakup given in the same table having major land use elements which are given in "Italic" is the total proposed land use of the project. The total proposed land use elements are within the total land of 811.20 hectares. The extract of Table 2-3 (Page 2-14 of EIA Report) is given below, and no additional land of 259 hectares is required for the project and the total land for the project remains 811.20 hectares.

Proposed Land use details	Area in (m²)	Area in (Ha)
<i>Airside pavements</i>	13,64,000	136.38
<i>City side pavements</i>	1,74,015	17.40
<i>Buildings</i>	1,25,453	12.54
<i>Green Belt</i>	14,16,400	141.64
<i>Open and Landscape area</i>	36,16,000	361.60
<i>Solar Power</i>	14,16,000	141.64
Total	81,11,868	811.2

Under the EIA notification, for Project or Activity under Clause 7 (a), the Airports, EIA is not carried out on the basis of the extent of land. On the contrary it is done on the study area on the basis of the nature of project and activity it shall carry out while the project is in construction phase and its operation thereafter. It is pertinent to note that EIA covers the impact assessment of Construction and Operations covering a study area (53,136 hectares- Refer Table 3.4 at Page3-6) of


R. KARIKAL VALAVEN, I.A.S.,
 Special Chief Secretary to Government
 Infrastructure & Investment Department
 A.P. Secretariat, Voligapudi,
 AMARAVATI - 522 238.

10 km radius. It includes the project area of 811.20 hectare and the area beyond the project area till 10 km radius from the aerodrome reference point.

- iii. Further, the given EIA report covers complete airport project features (**Clause 2.4 @ Page 2-4**) including Aviation Academy and MRO. There are no other activities proposed at the Airport. The total area required for the airport is 811.20 hectares/2004.52 acres and 119 acres for the approach road.

Significant difference between the RITES Map and EIA Report:

- i. Appellant has raised yet another new ground/argument at the rejoinder stage which is bereft of facts, wrong and untenable. The master plan layout map enclosed (Page before page 2-3 of EIA Report) gives the information about key component of the project.
- ii. The geo coordinate map dated 27.2.2016 is part of Pre-Feasibility Report ("PFR") and EIA report. The master plan layout dated 03.02.2017 is the revised map taking into account the proposed land acquisitions and project requirements based on which the EIA study has been conducted. The revised boundary shown in the master plan layout map (**Page before page 2-3 of EIA Report**) is within available land of State of AP (2004.52 acres of airport land and 119 acres approach). The shape of land does not affect EIA and the total area of the project is within 2004.52 acres and approach road of 119 acres.

Layout Map does not show all features

- i. The above submission of the Appellant is wrong and denied. The master plan layout map enclosed (**Page before page 2-3 of EIA Report**) gives the information about key component of the project. The green belt area allocation of 141.64 hectares is also shown in the **Table 2-3 (Page 2-14 of EIA Report)**. Further, Layout

R. Karikal Valaven
R. KARIKAL VALAVEN, I.A.S.,
 Special Chief Secretary to Government
 Infrastructure & Investment Department
 AP Secretariat, Votigapudi,
 AMARAVATI - 522 238.

Map of proposed green belt area is given in the appraisal presentation; same has been presented to EAC as a part of Appraisal meeting on 13.04.2017 EAC meeting. In addition, an averment has also been made before the Hon'ble Tribunal by the Respondent No.4 regarding area allocated for the Green Belt in the Project and the same finds reference at **Paras 103 and 104 @ Pg 43 of the Addl Affidavit of R4.**

No impact assessment has been made for space reserved for commercial development

- i. The said submission is baseless and denied. It was categorically submitted before this Hon'ble Tribunal that the area *ad-measuring* 530.43 acre has been dropped from the airport development plan and not part of airport project. Once again it is emphatically reiterated that the total area for the airport project is only for 2004.52 acres along with 119 acres land for the of approach road.

Casual approach of RITES

- i. The Appellant is yet again seeking to mislead this Hon'ble Tribunal with unsubstantiated averments and the said averments are vehemently denied. The cost of the proposed project in the EIA report is Rs. 2260.73 crores (**Para 1, Page 0-1 of EIA Report**), as opposed to a misleading figure of Rs. 2260730 crores, as alleged.
- ii. The allegation is ambiguous and vague. The purpose of the layout map is to show the key features and facilities of the airport in the master plan of the airport.

B. CHANGES IN LAND USE AREA

Discrepancy in the map by RITES and EIA Consultant & Shape of the Map differs significantly:

- i. The above submission of the Appellant is wrong and denied. The RITES and GreenCindia are consultants. Further, the State of A.P have engaged RITES for Techno-economic Feasibility Report and Pre-Feasibility Report, including EIA Report by GreenCindia.


R. KARIKAL VALAVEN, I.A.S.,
 Special Chief Secretary to Government
 Infrastructure & Investment Department
 A.P. Secretariat, Veligapudi,
 AMARAVATI - 522 238.

iii. The scope of work of M/s GreenCindia is to conduct the EIA Study, prepare an EIA report in compliance to EIA notification and EIA Manual and make a presentation to EAC committee. The revised boundary shown in the master plan layout map (Page before page 2-3 of EIA Report) are within available Government land earmarked for the airport project (*ad-measuring* 2004.52 acres of airport land and 119 acres for the approach road). In any event, as stated above the total area for the airport project does not exceed 2004.52 acres for the airport and 119 acres for approach road. It is also pertinent to highlight here that the shape of land does not affect environmental impact analysis.

ii. Further the maps filed by the Appellant are incorrect, inaccurate and misleading. The purpose of the layout map is only to show the key features and facilities of the airport in the master plan of the airport with proposed land use. The layout map @ **Page 2-3 of the EIA Report** clearly shows that the area for the airport project is only 2004.52 acres along with an area of area 119 acres for the approach road. The Table 2-3 (**Page 2-13 of EIA Report**) and the master plan layout (**Page 2-3 of EIA Report**) indicate the planned major land usage within the project area with key project construction components. Even assuming, without conceding that there is any change in the map, there is no change in the activity and in the impact assessment covering 10 km radius as study area.

C. CONCERN WITH RESPECT TO NOISE SURVEY

No Noise Assessment in Funnel Area

i. The above submissions of the Appellant are wrong, misleading and denied. The noise monitoring has been carried out in the funnel areas of the runway. The noise monitoring location N2 and N6 are part of funnel area. The noise monitoring was


R. KARIKAL VALAVEN, I.A.S.,
 Special Chief Secretary to Government
 Infrastructure & Investment Department
 A.P. Secretariat, Volungupudi,
 AMARAVATI - 522 238.

carried out in line with EIA Airport Guidance Manual. As per EIA guidance manual "The basis for selection of these criteria is that the aircraft gains a height of 1000ft in this area below which noise and air pollution are generated maximum during its take off stage (Para 43-44 @ Pg 23 of R4 Addl. Affidavit).

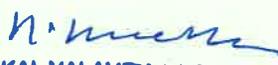
- ii. To assess the baseline noise levels, ambient monitoring was carried out at total 7 locations, which are within 10 km radius from Aerodrome Reference Point ('ARP'). All the 7 noise monitoring points spreads across an area of 10 km radius of the airport project site and are not limited to project site or runway funnel. The noise monitoring locations – N1, N3, N4, N5 and N7 are situated mainly in the human settlement location. The location N5 (Chittivalasa) is almost near to 10 km radius not near to ARP.

CPCB Protocol for Noise Monitoring has not been followed

- i. The above submissions of the Appellant are wrong and denied. In the EIA study, the Project Proponent (PP)/Respondent No.4 has duly followed the CPCB guidelines to ensure the baseline monitoring of noise and its compliances in line with operational noise monitoring requirement of CPCB and DGCA, including the unit of representation like Leq Day and Night etc.

Only One Day Sampling was done as against the mandatory requirement of 'once in a season'

- i. The CPCB guidelines "Requirement and Procedure for Monitoring Ambient Noise Level due to Aircrafts" dated June, 2008, clearly specify that the said guidelines are for operating airports and not for proposed airport in the construction phase. The extract of aircraft noise monitoring guideline of CPCB as follows:


R. KARIKAL VALAVEN, I.A.S.,
 Special Chief Secretary to Government
 Infrastructure & Investment Department
 A.P. Secretariat, Veluppalu,
 AMARAVATI - 522 238.

Minimum Size of Airport requiring Ambient Noise Monitoring (Page 4 of the CPCB Guidelines):

Noise monitoring shall be carried out at all civil airports, which has more than 50,000 aircraft (Civil) movements per year (a movement being a take-off or a landing).

Number and Location of Monitoring Stations (Page 6 of the CPCB Guidelines):

At least two permanent stations shall be installed per runway, which has more than 25,000 movements per annum. The permanent monitoring stations shall be located on both sides of the runway, at the nearest residential area / silence zone and as far as possible under the flight paths of the aircrafts. In addition, at least four temporary stations can be installed at the residential area / silence zone and under the flight paths, where noise levels are expected to be higher.

Noise Monitoring (Page 7 of the CPCB Guidelines):

Noise monitoring shall be carried out continuously for 24 hours a day, 365 days a year in permanent stations.

In temporary stations, noise shall be monitored continuously for 7 days in each season (Summer and Winter).

- ii. As stated above, in the EIA study, the PP has followed CPCB guidelines to ensure the base line monitoring of noise and its compliance are in line with operational noise monitoring requirement of CPCB and DGCA including the unit of representation like Leq Day and Night etc.
- iii. Further, the EIA guidance manual for airport states "*noise measurements should typically be taken as per by CPCB guidelines and recorded as dB(A) in an area of 10km radius from ARP. Hourly equivalent noise levels, Leq, for day and night separately are to be recorded once in each season*" (Page 65 EIA Guidance Manual for Airport). As stated above, all the 7 location where the noise monitoring

R. Karikal Valaven
R. KARIKAL VALAVEN, I.A.S.,
 Special Chief Secretary to Government
 Infrastructure & Investment Department
 A.P. Secretariat, Veligapudi,
 AMARAVATI - 522 238.

was carried out are in consonance with the CPCB guidelines and manual requirements.

- iv. The noise monitoring requirement under CPCB guidelines for operating airports is for a period of 7 days, because the aircrafts at the airport don't operate at the same timing on all days. Rather they operate at different timings and different days, as per demand and slots available, hence the requirement of monitoring for average 7 days is only needed at the operations stage/when the airport is operational and not at the construction stage.
- v. In case of a proposed airport, the hourly equivalent noise levels, L_{eq} , for day and night separately are to be recorded once in each season, which has been duly complied with. The baseline noise levels were carried out at the above stated 7 locations and presented in the EIA report. However, during operation stage, the noise monitoring stations will be installed and CPCB and DGCA requirements will be met.

Combined Assessment of Noise Level is required to understand the total noise level; Estimating noise levels separately in contrary to the requirement of EIA Manual

- i. The EIA Guidance manual for Airport, para 5.5, states "*Noise pollution by static sources on ground are from aircraft in ground run, taxi mode and DG sets and machinery etc. Noise pollution by mobile sources is from aircraft engines and airframes under its flight path*". The manual itself provides that the noise source has to be studied for static (DG sets) and mobile source (Aircraft) separately, which has been duly complied by the PP.

N. Karikal
R. KARIKAL VALAVEN, I.A.S.,
 Special Chief Secretary to Government
 Infrastructure & Investment Department
 A.P. Secretariat, Votigapudi,
 AMARAVATI - 522 238.

- ii. As per the EIA Guidance Manual, the requirement of suitable modelling of noise for "static" (DG sets) and "mobile" source (aircraft) has been done. They are part of EIA report (Page 4-20).
- iii. The noise from DG sets etc. is localised noise source whereas the aircraft noise has to be studied separately due to the possible impact because of aircraft movement over wide area. Combined Assessment of Noise Level is not required as per Manual, and only assessment of the noise levels separately is the requirement under the Manual. The said requirement is due to the fact that the noise during operational phase is generated mainly by aircrafts. This has been captured in the EAI Report in its analysis on noise impact study.

Project Proponent has failed to prove that the points N-2 and N -6 in the Monitoring sites are located on the Funnel Path – Violation of Condition X of the TOR

- i. The above submission of the Appellant is wrong and denied. The noise monitoring has been duly carried out in the funnel areas of the runway. The noise monitoring location N2 and N6 fall within the funnel area. The noise monitoring was carried out in line with EIA Airport Guidance Manual. As per the EIA Guidance Manual *"The basis for selection of these criteria is that the aircraft gains a height of 1000ft in this area below which noise and air pollution are generated maximum during its take off stage"*.
- ii. To assess the baseline noise levels, ambient monitoring was carried out at total 7 locations, which are within 10 km radius from Aerodrome Reference Point (APR). All 7 noise monitoring points spread across 10 km radius and are not limited to project site or runway funnel. The noise monitoring locations – N1, N3,

N. Murali
R. KARIKAL VALAVEN, I.A.S.,
 Special Chief Secretary to Government
 Infrastructure & Investment Department
 A.P. Secretariat, Veligapudi,
 AMARAVATI - 522 238.

N4, N5 and N7 are situated mainly in the human settlement location. The location N5 (Chittivalasa) is almost near to 10 km radius not near to ARP.

Monitoring Station is away from Human Habitation: No purpose in monitoring away from human habitation.

- i. The allegations being levelled by the Appellant are incorrect and denied. It is pertinent to mention here that the Appellant in its instant submission under reply duly acknowledges that N6 was on the extreme end of the boundary of project on western side, which extreme end is within the funnel path. Disputing such a technical point in spite of the wealth of data to the contrary is nothing but an abuse of the process of law.
- ii. The Appellant is now also arguing that points should not have been at N2 and N6 and instead, should be elsewhere. It is not the role of the Appellant to determine such technical matters – the Appellant is seeking to usurp the role of EAC. There is nothing arbitrary or unreasonable from capturing noise data at N2 and N6.

D. IMPROPER & INADEQUATE ASSESSMEN OF WATER USE

Misleading Figures with respect to capacity of STP – EIA states that 494 KLD of Recycled Water will be used while STP has capacity of 415 KLD

Misleading statement given with respect to Capacity of STP in monsoon and non-monsoon season

Discrepancies in Water Balance Diagram

- i. The Appellant understands and averments are wrong and vehemently denied. The details of availability water during monsoon and non-monsoon seasons has been captured in the EIA Report and has also been explained to EAC during the


R. KARIKAL VALAVEN, I.A.S.,
 Special Chief Secretary to Government
 Infrastructure & Investment Department
 A.P. Secretariat, Veligapudi,
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EC appraisal meeting by way of a presentation. In both the cases it is 343.4 KLD. As per estimate and water balance diagram, the waste-water treatment capacity needed is of 343.4 KLD, however, considering the water design and sustainability practices in focus, the STP treatment capacity of 415 KLD has been proposed.

- ii. The Project Proponent/Respondent No.4 explained the details with respect to water issues in detail regarding the source of water, demand of water for construction and operation, impact assessment with mitigation measures for construction and operation phases and water sustainably measures like rainwater harvesting and catch basin etc. As a part of rainwater water harvesting, catch basin with storage will be constructed with currently available technologies and techniques. There are no discrepancies that exist on water source, use and conservation are concerned.
- iii. The conditions (xi) and (xii) in the EC are very relevant by the EAC and shows the due application of mind. In the condition (xi) the EAC emphasizes the focus of water conservation and development of water in the region. However, in certain cases, if the water development is good in the region, the competent authority, which in the present case Central Ground Water Authority (CGWA), can further asses the water availability and provide the opportunity for water abstraction to meet demand of public utilities and infrastructures like airport.

Environmental Clearance Letter allows Project proponent to use water far in excess of the figures as given in the EIA Report - More than double the quantity allowed in EC in comparison to the figure in the EIA Report


R. KARIKAL VALAVEN, I.A.S.,
 Special Chief Secretary to Government
 Infrastructure & Investment Department
 A.P. Secretariat, Veluppalu,
 AMARAVATI - 522 238.

- i. It is reiterated that the fresh water requirement for the airport during its operational phase is only 153 KLD. The Project Proponent will adopt all possible conservation measure to use the water wisely by adopting effective water treatment systems, water conservation utilities, rainwater harvesting pits and catch basins and water conservation landscaping and irrigation system.

E. CUMULATIVE IMPACT ASSESSMENT

- i. According to the Appellant's contention, an independent EIA is required for runway, aprons, terminal buildings and other buildings not as an "Airport". The said argument vehemently denied being absurd as the same will make the EIA Notification unworkable. This argument is completely contrary to not only OM of MoEF but also the law laid down in *Rajeev Suri (supra)* judgment.
- ii. "Airport" - under Project/ Activity (7(a)) of EIA notification, has to be seen as a one specific sector including all ancillary as "Airport". In this regard, the MoEF&CC, has prepared airport sector specific EIA Guidance Manual and published the same to help a project proponent/consultant in the preparation of the EIA report. This EIA Guidance Manual addresses the related environmental concerns for the specific sector - "Airports" (Page xvi of EIA guidance manual).It states that "*the existing manual on Environmental Impact Assessment (EIA) of MoEF, is common for all the sectors requiring prior environmental clearance.*" Considering the diversity in all sectors related to infrastructure and industrial development projects, MoEF launched a program for development of sector specific technical EIA guidance Manuals. The EIA Guidance Manual will help the project proponent/consultant in the preparation of the EIA report. It also helps the regulatory authority to review the report as well as the public to become aware of the related environmental issues.


R. KARIKAL VALAVEN, I.A.S.,
 Special Chief Secretary to Government
 Infrastructure & Investment Department
 A.P. Secretariat, Vengal Rao,
 AMARAVATI - 522 238.

- iii. It has been emphatically stated that an area *ad-measuring* 530 acres has been dropped and is no longer part of Bhogapuram Airport Project. The Project Proponent would obtain a fresh EC for additional facilities, if any, within the 2004.52 acres.
- iv. It is submitted that the financial viability of the project is not an issue related to EC. It is relevant to state that once again the Appellant is raising a new ground – that EIA has not been done for Terminal Buildings, airport buildings etc. and that this makes it multi sector. Entire argument in para 5.2 is a new submission but the reply to the such repetitive arguments and submission is detailed out at paras 26-35 @ Pgs 16 to 21. The same is not being repeated herein for the sake of brevity. Further, Appellant has selectively and without context extracted a portion of the Affidavit of Respondent No.2 (para 16 at p. 25 of Respondent No.2, Counter Affidavit).

In the above circumstances, it is humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the above Appeal No.18 of 2020 and pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case and thus render justice.

Solemnly affirmed at Vijayawada
Andhra Pradesh on this the 8th
day of September , 2021 and signed
his name in presence

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R. KARIKAL VALAVEN, I.A.S.,
Special Chief Secretary to Government
Infrastructure & Investment Department
A.P. Secretariat, Velugapudi,
AMARAVATI - 522 238.

ADVOCATE, Vijayawada

VERIFICATION

I, R. Karikal Valaven, I.A.S. S/o Sri C. Rama Krishnan, Aged 58 years, Special Chief Secretary to Government of Andhra Pradesh and Respondent No.2 do hereby state that what is stated above in paragraphs are true to the best of my knowledge and belief.

Dated at Vijayawada on this the 8th day of September 2021.

**DEPONENT**

**R. KARIKAL VALAVEN, I.A.S.,
Special Chief Secretary to Government
Infrastructure & Investment Department
A.P. Secretariat, Velagapudi,
AMARAVATI - 522 238.**