

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTH ZONE, AT CHENNAI**

O.A No.148 OF 2021

IN THE MATTER OF:

D. CHANDRAMOULESWARA REDDYAND 8 OTHERS ... APPLICANTS

VERSUS

UNION OF INDIA AND 5 OTHERS ... RESPONDENTS

INDEX

SL.NO	PARTICULARS	PAGE NO.
1.	Reply Affidavit on behalf of Respondent No.5	1-20
2.	Annexure R1 (Copy of the invitation to bid/ tender notification dt: 16.01.2016)	21-27
3.	Annexure R2 (Article in The Hindu "Mission Kakatiya, Contractors in a bind"Dt: 22.01.2016)	28-29
4.	Annexure R3(Article published in Journal of Pharmaceutical Chemical & Biological Sciences , July - August 2016)	30-37
5.	Annexure R4(Press Report in Deccan Chronicle Dt: 07.08.2015)	38-40
6.	Annexure R5 (Schematic Diagram of PRLIS)	41-41
7.	Annexure R6 (ToR issued for PRLIS by MoEF&CC Dt: 11.10.2017)	42-57
8.	Annexure R7 (Letter from PCCF, Hyderabad Telangana Dt: 20.12.2016)	58-58

Through

PLACE: HYDERABAD,

MRS H.YASMEEN ALI

DATE: 24-08-2021.

Counsel for the Respondent No.5

-4-

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

SOUTH ZONE, AT CHENNAI

O.A No.148 OF 2021

D. CHANDRAMOULESWARA REDDY

AND 8 OTHERS

...APPLICANTS

-VS-

UNION OF INDIA AND 5 OTHERS...RESPONDENTS

REPLY AFFIDAVIT FILED BY THE 5TH RESPONDENT

I, Rajat Kumar, IAS, S/o. B.K. Sinha, aged about 58 years, working as Special Chief Secretary, I&CAD Department, Government of Telangana, do hereby solemnly affirm and sincerely state as follows:

1. I am the Special Chief Secretary, I&CAD Department, Government of Telangana herein and I am filing this reply affidavit on behalf of the 5th respondent herein and I am well acquainted with the facts of the case.
2. I submit that I deny all the allegations and averments contained in the above OA except those that are specifically admitted herein.
3. I submit that the answering Respondents deny and dispute each and every allegation, assertion and contention made in the Application under reply. Nothing in this Reply shall be deemed to be an admission of the averments of the Application, which, in so far as they are inconsistent with the contentions of the answering Respondents, are specifically denied in their entirety. Where the answering Respondents have not addressed or responded to each

avertment of the Application specifically, not doing so should not be construed as waiver or acquiescence of their rights to sue, proceed against or impugn the actions of the Applicant for remedies as are available to them under law. Lastly, all contentions in the present Reply are to be read without prejudice, in the alternative to each other, and should not be construed in derogation to each other. The answering Respondents also seek liberty to add to, alter and expand their objections at a later stage and as permitted by this Hon'ble Tribunal.

4. I submit that the Application is barred by limitation, tainted with malice, suppression of facts, has been filed with an oblique motive and is against the interest of the people of Telangana. At the outset, it is stated that before advertng into the merits of the case, the answering Respondents crave leave to raise certain preliminary objections which go to the root of the matter and which require adjudication at the very outset by the Hon'ble Tribunal.

5. I submit that the Applicant has alleged in the Limitation paragraph on Page No.45 of the Application that the OA is not barred by limitation. This assertion is false, as would be evident from the contents and documents attached to the Application itself and from certain other documents that have been deliberately suppressed by the Applicant.

6. I submit that the Applicant has filed the present Application under Section 14 of the National Green Tribunal Act, 2010 (**NGT Act**) which provides that an application for adjudication of disputes under that section should not be

entertained by this Hon'ble Tribunal unless it is made within a period of 6 months from the date when the "cause of action first arose". Any condonation of delay, though not sought for in the present case, is restricted under the proviso to Section 14, to a maximum of 60 days.

7. I submit that the Palamuru - Ranga Reddy Lift Irrigation Scheme ('PRLIS') was planned and the subsequent land acquisition process for this purpose was started in the year 2015. PRLIS had received approval from the Government vide GOMs No. 105 (Irrigation and CAD (Projects - I) Department) on 10.06.2015 (almost 6 years back) after which a Land Acquisition Notification was published on 25.08.2015 for acquisition of necessary land for works in relation to PRLIS. The Notification, as statutorily required, mentioned which land was being acquired while inviting objections if any. This fact was published by the answering Respondents and was accessible to the general public for a considerable period of time, thereafter this project got widespread media coverage because the government was enforcing stricter quality measures and saving public money, while speeding up land acquisition, offering satisfactory price to the farmers. At the same time, the answering Respondents invited bids for tenders for construction in the newspapers on 16.01.2016; invitations were received in the next few months and tenders awarded. The newspapers had by that time, reported that land was being acquired for PRLIS and to what extent. A copy of the invitation to bid/tender notification dated 16.01.2016

శ్రీమతి పద్మావతి దేవి
సీఎంసీ (సీఎంసీ) & నోటిఫికేషన్
సంబంధించి సమాచారం
నంబర్: 063-500063


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is annexed as **Annexure R-1**. A copy of the article in The Hindu titled "Mission Kakatiya: Contractors in a bind" dated 22.01.2016 is annexed as **Annexure R-2**.

8. I submit that, from the above sequence of events it would transpire that PRLIS was widely publicized and covered extensively in media. It is therefore inconceivable that the present Applicants, who claims to be inhabitants of Rayalaseema region were not aware about PRLIS. The Applicants have also curiously evaded to state as to when they became aware about PRLIS. Under the circumstances, it has to be taken that the Applicants had knowledge/deemed to have knowledge about PRLIS from the very beginning. Examined in that background, the present Application filed on 05.07.2021 would certainly be time-barred.

9. I submit that the Applicants cannot even contend that they have the limitation to file the present Application due to a recurring cause of action as the same is contrary to Section 14 of the NGT Act which clearly does not provide for a recurring cause of action and rather states that in the series of events, limitation would specifically be counted from when the cause of action first arose. Hence, the very basis on which the present Application is predicated is defective, and the same is therefore time barred.

10. I submit that the present Application has been filed on 3.7.2021 which is clearly outside the period of limitation and is therefore fit to be dismissed in limine without any

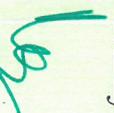
requirement of further proceedings or hearings on the merits of the Application, which in any case is a frivolous attempt to a stall a welfare project. No sufficient cause for filing the Application outside the statutory limitation period has been mentioned or provided.

11. I submit that the Application is an abuse of process of the law - the Applicant has not approached with clean hands. Several attempts have been made by interested parties in the past to stop PRLIS on some premise or the other, but no restraint order had been passed by any judicial forum, including the Hon'ble Supreme Court in any of those proceedings. There appears to be a set of individuals or some association, which does not want that the people of the State of Telangana and the citizenry of Hyderabad to get the benefit of water that would be provisioned by this scheme, and they have been misusing the process of law by filing frivolous and malicious petitions in different courts to somehow restrain or delay its further progress.

12. I submit that the application is a sheer abuse of the process of law and appears to be motivated as there are numerous mischievous and misleading averments in the Application.

BACKGROUND FACTS

13. I submit that the erstwhile Mahabubnagar District (now Mahabubnagar, Nagarkurnool, Gadwal, Narayanpet



and Wanaparthy Districts) is one of the worst drought prone and distressed areas in our country. There is tremendous shortage of drinking and farm water here as these are fluoride affected areas. A study conducted by researchers in June 2016 concluded that fluoride in water found in the Nalgonda district was more than twice the permissible limit for drinking water. As a result, a large part of the population of these districts is being forced to migrate to other parts of the country. The drought conditions are also causing social problems in the affected districts. In order to redress this situation, the answering Respondents have taken up PRLIS for alleviating the misery of these drought prone areas which will benefit 1226 villages where about 50 lakh people will get drinking water. In addition, 12.30 lakh acres agricultural land will also be supplied water. As such, in addition to PRLIS being extremely important for the concerned districts, it is also a critically important scheme for the State of Telangana. It is submitted that this Application has been filed purely for the purpose of staying such a welfare scheme, which has been initiated for providing basic amenities of water to the people of the State of Telangana. A copy of the research article titled "*Assessment of Fluoride in Ground Water for Drinking and Agricultural Purposes in Ramannapet Mandal of Nalgonda District, Telangana, India.*" by the Department of Soil Science & Agricultural Chemistry, College of Agriculture, Hyderabad published in Journal of Pharmaceutical, Chemical & Biological Sciences (July - August 2016) is annexed as **Annexure R-3**. A copy of the

16. The proposed five stages of pumping water to the uplands are:

- a. 1st Lift: An approach channel commences from the existing Srisailem Reservoir and leads to a Pumping Station with tunnel which lifts the water to the proposed Anjanagiri Reservoir at Narlapur village.
- b. 2nd Lift: A similar approach channel connected to a canal and Pumping Station with tunnel further lifts the water from the proposed Anjanagiri Reservoir to the proposed Sri Veera Anjaneya Reservoir at Yedula.
- c. 3rd Lift: Water is then lifted from the Sri Veera Anjaneya Reservoir through Pumping Station with tunnels and canals to fill the proposed Venkatadri Reservoir at Vattem village and Kurumurthyraya Reservoir at Karvena village with a gravity canal linking both these reservoirs.
- d. 4th Lift: A further canal and Pumping Station with tunnel takes water from the Kurumurthyraya reservoir to the proposed Udandapur reservoir.
- e. 5th Lift: Water is further lifted from the proposed Udandapur reservoir through canals and Pumping Station with Tunnel to the final proposed KP Lakshmidvipally reservoir.

17. I submit that the immediate purpose of PRLIS is to provide water for drinking and industrial purposes, and later for irrigation as well. For the present, however, the reservoirs and the connecting canals/tunnels are meant for drinking and industrial use of the water and the scheme is being presently implemented accordingly. In relation to the work already awarded, consisting of a total of 18 'Packages' upto Udandapur, the answering Respondents have already committed themselves to substantial expenditure and any stoppages would result in mounting time overruns and cost escalation, besides depriving the people of the State of Telangana, particularly in the dry erstwhile Districts of Mahabubnagar, Rangareddy, Nalagonda and the city of Hyderabad, the benefit of drinking water being provisioned by PRLIS.

18. It is stated that the contents of the applicants are incorrect as environmental clearance as per environmental Impact Assessment Notification 2006 dated 14.09.2006 is not presently required for PRLIS (as it is planned today) since it does not presently cater to irrigation. However, by way of abundant caution, the environmental clearance under the EIA notification 2006 has been applied on 28.08.2017 well in advance in anticipation for the stage when the scheme would also be extended to irrigation. The MoEF& CC has issued TOR for PRLIS vide No.-J-12011/31/2017-IA-1 (R) Dt:11.10.2017 (AnnexureR-6) valid

for 4 years. As per ToR, the project will be implemented in 2 phases.

Phase-I Drinking water component -

- I. The scheme in its first phase envisages lifting of 90TMC of flood water in 60 days during the flood season from the foreshore of the Srisailem Reservoir on Krishna river at Yellur (V), Kollapur (M) in Erstwhile Mahabubnagar (Dist) through 5 separate stages to provide drinking water facilities to enroute 1226 villages in 70 mandals of Erstwhile Mahabubnagar, Rangareddy and Nalgonda Districts, Hyderabad City and so envisages to provide water for industrial use in Erstwhile Mahabubnagar, Rangareddy and Nalgonda Districts.

Phase-II Irrigation Component:

- II. In 2nd phase, canal network will be developed from the reservoirs to create irrigation to upland areas of Erstwhile Mahabubnagar, Rangareddy and Nalgonda districts for an ayacut of 4,97,976 ha. Later on this stored water shall be used for irrigation purposes in various districts through a network of canals. In addition to the drinking water facility, it is proposed to irrigate in 4,97,976 ha of CCA in the districts of Erstwhile Mahabubnagar, Rangareddy and Nalgonda. A total of 15,790ha land will be acquired for construction various canals network, reservoir, temporary labour's colonies etc. No forestland is involved in the proposed project.


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A) Phase -I

Under drinking water component, the main conduit works from the foreshore of Srisailam Reservoir to K.P Laxmidevipally Reservoir were divided into 21 packages. The estimates were technically sanctioned upto Udandapur Reservoir for 18 Packages.

Tenders have been called for Packages 1 to 18 i.e., upto Udandapur Reservoir and entrusted to the agencies and the works are in progress. The balance works of main conduit for Packages 19 to 21 are ready for inviting tenders.

B) Phase-II

The MoEF&CC(GOI) have issued the terms of references (ToR) vide No. J-120111/31/2017-IA-1 (R), Dated 11.10.2017 to this scheme valid till 10th October 2021. The project proponent of PRLIS, I &CAD Dept, GoTS, awarded the work to EIA-EMP studies to M/s Voyants Solutions Pvt. Ltd., Gurugram for conducting the studies. The EIA/EMP Studies were conducted in six districts of project command area. Baseline monitoring process was conducted during monsoon and post monsoon 2019 and pre monsoon 2020. Public hearing process has been conducted on 10th August 2021 in six districts simultaneously. Soon after obtaining clearance for phase-II, irrigation component works will be taken up.

It is also pertinent to add that the allegation of the applicant that PRLIS will cater to irrigation but he cannot give any explanation as to how environmental clearance will be required if

there is no cultivable command area involved. PRLIS as proposed presently i.e. Phase-I does not contemplate irrigating any area since, it is merely consists of reservoirs and pipelines (tunnels) in between those reservoirs and without any provision for a network of canals which are needed for irrigation. The present intention of PRLIS under Phase-I is to provide drinking water and water for industrial uses only. Distributory Network facilities for irrigation are planned under Phase-II to be commenced after the plan for the present stage has been completed. As on the present stage of construction i.e. lifting water between the reservoirs, transporting and storing infrastructure can only be utilized for drinking water and industrial purposes only under phase Phase-I and separate further plan under Phase-II in regard to irrigation related infrastructure would be implemented before providing irrigation facilities.

19. I submit that the contents of the applicant – in view of EIA Notification dt:14.09.2006 issued under sub section 3 of section 3 of Environment (protection) Act, 1986 and its appending schedule to the said notification – alleging that PRLIS is a river valley project is not true and the entry 1 (C) of the EIA Notification would not apply to PRLIS, as it is presently implemented. A river valley project is one which is built in a river valley and where a project interrupts the free flow of river water. There is an already existing reservoir (Srisailem Reservoir) from which water will be drawn out. This water would be flood water (Collected during flood season) and therefore it will not interrupt the flow of the water of the Krishna River. PRLIS also does not involve construction of dams

nor are there any proposed works for production of electricity. As far as irrigation is concerned in phase - II, it is to be carried out at a later stage.

20. I submit that the Contrary to pointed out by the applicant, the process of getting Environment Clearance to the project is under way and completed 3 stages up to Public Hearing or Consultation. The project proponent is following all statutory procedures for getting approvals to the Irrigation Component under phase -II as per EIA Notification 2006 dt:14.09.2006.

21. I submit that it should also be noted that, the ultimate object of PRLIS is to implement an Irrigation infrastructure in phase-II on foundation of the presently envisaged drinking water components under phase-I. PRLIS as presently planned has no provision for Irrigation. Irrigation requires planning and construction of a network of canals originating from each proposed reservoir to take water to the surrounding villages. The schematic diagram of PRLIS clearly establishes that there are no such distributory ayacut branch canals envisaged nor a proposed to be constructed. PRLIS therefore doesn't presently and as of now, fall into category of Entry I(c) of the schedule to the EIA Notification, because the cultural command area which is involved is Nil, rather the immediate and planned aim of PRLIS is provision of drinking water and water for Industrial uses.

22. I submit that In respect of preparation of an Environment Assessment report, the answering respondents



are aware that Environmental Clearance may need to the obtained for a later date and have therefore already initiated the same and completed up to 3rd stage of Public Consultation.

The answering respondents crave the liberties of this honorable Tribunal to refer to the Judgment of the honorable Supreme Court in *Narmada Bachauo Andolan versus Union of India AIR 2000 SC3751* which was not considered in the case of *GOA foundation Versus Union of India bearing writ petition (C) No460/2004* and which allowed the construction of river valley project for supply of drinking water, despite severe environmental detriment. The Right to water is a fundamental right of the citizens which cannot be denied - *Narmada Bachao Andolan v Union of India (200) 10 SCC 664*:

" 248. Water is the basic need for the survival of human beings and is part of the right to life and human rights as enshrined in Article 21 of the Constitution of India and can be served only by providing source of water where there is none. The resolution of UNO in 1977 to which India is a signatory, during the United Nations water Conference resolved unanimously inter alia as under:

" All people, whatever their stage of development and their social and economic conditions, have the right to have access to drinking water in quantum and of a quality equal to their basic needs"

PRLIS has been commenced only to alleviate the misery of drought prone areas which will benefit 1226 villages where about 50 lakh people will get drinking water. As such, in addition to



PRLIS being extremely important for the concerned districts, it is also a critically important scheme for the State of Telangana.

23. I submit that the applicant has alleged that the project proponent cannot construct the PRLIS project, as there are sensitive wild life sanctuary areas especially core Amrabad tiger reserve project area, which is a rich in wild life such as tigers, leopards, bears, deers, peacocks etc.,

24. I submit that the answering Respondents remain sensitive to the environment. They were aware that the Amrabad Tiger Reserve (formerly the Rajiv Gandhi Tiger Reserve) is located in the vicinity and planned the PRLIS in such a manner that it does not involve any area either in the core Zone or Buffer Zone of the Amrabad Tiger Reserve. As per information available, in addition to the Core and Buffer Zone of the Amrabad Tiger Reserve, the PCCF, Telangana has proposed to notify, by way of abundant caution, a 1km zone outside the buffer Zone of Amrabad Tiger Reserve as an Eco- Sensitive Zone and this is pending. It is to state that no part of the PRLIS is located in the Amrabad Tiger Reserve or even in the proposed Eco—Sensitive Zone. The Chief Engineer, PRLIS has written to the PCCF, Telangana on 17.12.2016 seeking this very clarification and the PCCF, Telangana clearly and categorically affirmed this position through its letter Dt: 20.12.2016. In any case, it is clear from the letter dated 20.12.2016 of PCCF, Telangana that PRLIS neither within the 10km radius of the core of the Rajiv Tiger Reserves Forest nor is it falling in the proposed Eco-sensitive Zone around it. There is no requirement for PRLIS to obtain any clearances, permissions or approvals under the WP Act

from ministry of Environment or the National Board of Wild Life. It is also pertinent to mention that the Eco-sensitive Zone has not yet been notified and therefore any consequences/activity near or in the Zone, as mentioned in the draft notification will not attract any statutory provisions in relation thereto.

25. I submit that the MoEF&CC had fully studied and issued forest clearance for PRLIS, for Stage- I and Stage-II, vide proceeding No.Go.I/MoEF&CC/F No.8-43/2017- F.C Dt: 03.04.2018 and MoEF&CC/F.No. 8-43/2017-F-C Dt: 25.01.2019.

26. I submit that the PCCF, Hyderabad, Telangana on Dt: 20.12.2016 (Annexure-R-7) has informed that the proposed PRLIS project does not fall in the core /buffer areas and the proposed ESSZ of the Amrabad Tiger Reserve. The proposed project is located at a distance of 11.95 Kms from the core of Amrabad Tiger Reserve, 2.56 Kms from the buffer and 1.56 Km from the proposed Eco-Sensitive Zone (ESSZ) of Amrabad Tiger Reserve. The PCCF, Hyderabad, Telangana has submitted counter affidavit Dt: 13.02.2017 in the case of Application No. 273/2016(SZ) filed by Sri. B. Harshavardhan and submitted that, the construction work of PRLIS doesn't fall in the core or buffer area of Amrabad tiger reserve and it is also falling outside the proposed eco sensitive Zone around Amrabad tiger reserve. Hence, PRLIS doesn't require concurrence from National Board for Wild life.

27. I submit that the PCCF has submitted the Hon'ble Tribunal that no violation of Forest (conservation) Act, 1980 has been reported by PRLIS authorities. The forest clearance proposals submitted by the project authorities were submitted to the



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Government of India through proper channel after verification of project proposals as per the prescribed procedure for according approvals under Forest (Conservation) Act, 1980.

28. I submit that the other allegations of the applicants that the subject project is a new project and it should be undertaken with the sanction of the Apex Council and there are Chenchu Tribals in the sensitive area under this project and the 2nd Respondent without examining those objections granted Stage-1 and Stage-2 approvals on 03.04.2018 and 25.01.2019 and thus the 5th respondent project proponent has no right to construct Palamuru-Ranga Reddy Lift Irrigation Scheme as it has not applied under the Wild of Protection Act, 1972 etc., is without any substance.

29. I submit that answering respondents submits that the Palamuru-Rangareddy Lift Irrigation Scheme is not a new project, it was conceived prior to bifurcation of the State vide G.O.Ms.No.72 dated:08.08.2013; there are no Chenchu Tribals in the sensitive area as alleged by the applicants. Stage 1 and Stage 2 approvals were rightly granted by the 2nd respondent on 03.04.2018 and 25.01.2019, there is no challenge as on today with regard to those approvals; the applicants cannot contend that these approvals granted by the 2nd respondent without considering the aspects of habitation of Chenchu Tribals in the sensitive areas; Section 14 application is not meant for challenging the approvals granted by the authorities under the Environmental laws.

31. As stated supra, the project proponent is not entering into any reserved forest; as already stated that Wild Life Protection is no obligation and there is no requirement of obtaining permission from the Hon'ble Tribunal.

32. I submit that answering respondent submits that mostly the applicant has made several averments in Original Application with regard to allocation of water and the project proponent is contemplating to utilize water excess of its allocation is all without any substance.

33. In fact, the State of Telangana has sufficient water allocation and in proponent to the said allocation it has been undertaking the project, the petitioners contention with regard to allocation of water and the allegation of excess drawl cannot be a matter of adjudication before this Hon'ble Tribunal. In fact, this Hon'ble Tribunal has held on several occasion that U/Sec.14 of the National Green Tribunal Act,2010 the Tribunal can only consider the questions of violation of any Environmental laws, which resulted in damage to the environment and all other questions relating to issue of Environmental clearance and all other questions relating to allocation of waters has to be considered by the Apex Council. In fact, in regard to Palamuru-Rangareddy Lift Irrigation Scheme and Dindi Lift Irrigation Scheme , Government orders were issued vide G.O No.105, dated:10.06.2015 and G.O No.107 dated:11.06.2015 respectively; Writ Petition No.116/2016 was filed before the Hon'ble Supreme Court under Article 32 of the Constitution of India, the Hon'ble Court disposed of the Writ Petition on 20.07.2016 directed the Apex Council to examine all



the issues with reference to the construction of these two projects, after affording an opportunity of hearing to both the concerned State Parties. Therefore, the applicants harping upon the allocation of waters again and again is not permissible, in view of the order of the Hon'ble Supreme Court.

REPLY TO PRAYER CLAUSE:

The prayer clause is wholly denied and it is submitted that the present application be dismissed outright with cost as the present project is taken up as a welfare scheme which has been initiated for providing basic amenities of drinking water to the people of the State of Telangana. About 1226 villages and about 50 lakh distressed persons will get drinking water with Palamuru-Rangareddy lift irrigation project that aims to tackle these water problems in Telangana.

PRAYER

It is therefore prayed in light of the facts, circumstances and grounds enumerated herein above that this Hon'ble Court may be pleased to:

- A. Dismiss the present Application.
- B. Grant exemplary costs in favour of the answering Respondents.
- C. Pass any other order that this Hon'ble Tribunal so deem fit in the present case.

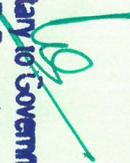
VERIFICATION

I, Rajat Kumar, IAS, S/o. B.K. Sinha, aged about 58 years, working as Special Chief Secretary, I&CAD Department, Government of Telangana on behalf of 5th respondent, 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.

Dt : 24.08.2021.

PLACE : HYDERABAD.

RESPONDENTS NO.5


**Special Chief Secretary to Government
Irrigation & CAD Department
Telangana Secretariat,
Hyderabad-500 063.**