

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE  
BENCH AT CHENNAI**

**Original Application No 137 of 2021**

**Gutha Gunasekhar,**

Age: 36 years,  
S/o. G. Rama Krishnama Naidu,  
Nagillavaripalli village, Peddauppara palli,  
SomalaMandal, Chittoor district,  
Andhra Pradesh – 517257,  
Mail: [sfavpbr@gmail.com](mailto:sfavpbr@gmail.com),  
Phone No: 9886681956 and 41 others

..... Applicants

Vs

**Union of India,**

Represented by its Secretary,  
Union Ministry of Environment, Forest & CC  
Indira Paryavaran Bhavan, Jorbagh,  
New Delhi – 110003  
Mail: [secy-moef@nic.in](mailto:secy-moef@nic.in)

Phone No: 011-24695262, 24695265. And 20 others ..... Respondents

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It is certified that all the documents contained in the above annexure are true copies.

Date: 15.11.2021

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, (SZ),  
CHENNAI**

**Original Application No. 137 of 2021**

IN THE MATTER OF,

**1. Gutha Gunasekhar,**

Age: 36 years,  
S/o. G. Rama Krishnama Naidu,  
Nagillavaripalli village, Peddauppara palli,  
SomalaMandal, Chittoor district,  
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**COUNTER AFFIDAVIT FILED BY THE 8<sup>th</sup> RESPONDENT**

I, N. Jayamma, wife of Mr. N. Vankatswami Hindu, aged about 49 years, Residing at No. No.6-112, Peddaupparpalli, Somala, Chittoor District, Andhra Pradesh-517 257. do hereby solemnly affirm and sincerely state as follows:

1. I am the 8<sup>th</sup> respondent herein and as such I am well acquainted with the facts of the case and competent to swear to this counter affidavit. I has been authorized to file this counter affidavit on behalf of the 9 to 21 respondents.

2. I have read the application filed by the applicants and deny the various allegations, save those that are specifically admitted herein and put the applicant to the strict proof of the same.

3. It is submitted that the prayers sought for in the application are not maintainable and the same ought to be dismissed with costs since the applicants have not come before this Hon'ble Tribunal with clean hands.

4. It is submitted that the applicants have filed the above Original Application, *inter alia*, directing the Respondents therein from restraining the State of Andhra Pradesh from taking up lift irrigation

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projects and balancing reservoirs under G.O. Rt. 444 dated 26.08.2020 and G.O Rt. 461 dated 02.09.2020.

5. It is further submitted that the respondents 8 to 21 are all farmers residing in the Somala District of Chittoor/Royalaseema region which suffers from scanty and dry rainfall. The present scheme which the applicants seek to stop was being put up for the benefit for the people of Somal Chittoor District such as the respondents herein needless to mention the respondents and other farmers would be put to severe loss and great prejudice if the said scheme is stopped. The Aadhar Card of the respondents is Annexed herewith as proof of residence and the same maybe marked as **Annexure-1 (colly)**.

6. It is further submitted that they came to learn about the present application through various newspaper reports and upon coming to learn about the present application had filed I.A.No.115 of 2021 seeking to be impleaded as respondents in the present application since the respondents 8 to 21 would be greatly benefitted from the implementation of the schemes proposed in G.O. Rt. Nos. 444 and 461 dated 26.08.2020 and 02.09.2020 respectively. It is submitted that this Hon'ble Tribunal vide order dated 15.09.2020 allowed the I.A and the respondents herein have been arrayed as respondents 8 to 21.

7. It is further submitted that at the outset the respondents herein deny each and every allegation set forth in the Application save those that are expressly admitted herein. The respondents at the outset are advised to state that the present Application is barred by limitation and ought to be dismissed at the threshold. The averment that the cause of action for the present Application is the finalization of the Tender in April 2021 and when construction began in June 2021 and hence is within time and falling under the ambit of section 14 is incorrect since these are not the dates on which the cause of action first arose. The Applicants had contended that the present application raises substantial questions arising out of the proposals in G.O. Rt. No's 444 and 461 dated 26.08.2020 and 02.09.2020 respectively and the reliefs sought for in the present Application, *inter alia*, seeking to restrain the State of Andhra

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Pradesh from taking up lift irrigation projects and balancing reservoirs under G.O. Rt. No's 444 and 461 dated 26.08.2020 and 02.09.2020 respectively would show that the Applicants cause of action first arose when the said G.Os were issued by the state of Andhra Pradesh (R-3) on 26.08.2020 and 02.09.2020 respectively granting administrative approval and sanction for the proposed works. It is submitted that the Application has been filed under section 14 of the National Green Tribunal Act, 2010 (hereinafter referred to as the Act) and section 14(3) of the Act states that an Application ought to be filed within 6 months from the date on which the cause of action "*first arose*". The present application is filed only on 27.06.2021 much after the expiry of the six months period specified under section 14(3) of the Act and the sixty days period mentioned in the proviso the section. Therefore, the present Application is time barred and ought to be dismissed in *limini*.

8. It is submitted that without prejudice to the contention that the present Application is barred by limitation. The Respondents herein crave leave to place the following facts before this Hon'ble Tribunal before dealing with the para-wise allegations set forth in the Application.

9. It is submitted that districts wherein Respondents 8 to 21 reside namely the western parts of Chittoor District/Rayalaseema Region which often suffer from draught and shortage of water. It is submitted that at least once every few years the minor Irrigation tanks do not get filled to their full capacity since these regions fall in a rain shadow region. It is relevant to mention that 80% of the population in western parts of the Chittoor district depends on agriculture.

10. It is submitted that due to frequent droughts, the farmers such as the Respondents herein face a lot of difficulties and suffer greatly due to water shortages and there is a serious impact on both their standard of living and livelihood. The water yield coming from self-catchment areas of Minor irrigation tanks is not sufficient to fill up the tanks and to feed the existing ayacut under these tanks. Hence, it becomes necessary that the existing ayacut be supplemented with surplus Project waters of Srisailem Reservoir as a permanent solution to resolve this age-old crisis.

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11. It is submitted that under these pathetic circumstances, the only hope for the Respondents and others agriculturalists in Somala Chittoor district is to get Krishna water by lift or by diversion to feed these minor irrigation tanks and to provide irrigation facilities to the eligible irrigable lands in this most backward region of Rayalaseema/ Chittoor in Andhra Pradesh. The respondents 8 to 21 are all residents of these regions and the proposed project was to benefit the respondents and other similarly placed persons residing in these regions.

12. It is submitted that the main ground agitated by the applicants is that prior environmental clearance was not obtained by the State of Andhra Pradesh for the present project. In that regard, it is respectfully submitted that both G.O. Rt. 444 dated 26.08.2020 and G.O. Rt.461 dated 02.09.2020 only proposes to lift water from the existing Galeru Nagari Sujala Sravanthi Project (GNSS project) to Handri Neeva Sujala Sravanthi Project (HNSS project). It is submitted that the tail end reaches of the HNSS project are unable to have access to water and hence the present project is necessary to ensure supply of water to these regions.

13. It is submitted that the current G.Os which are the subject matter of the present case would certainly come under the ambit of the existing Environmental Clearance given to the GNSS and HNSS project. It is submitted that both the GNSS and HNSS were issued prior to environmental clearance on 21.06.2006 and 08.05.2006 respectively. It is submitted that the clearance accorded to GNSS and HNSS would cover the project proposed in G.O.Rt. No.444 dated 26.08.2020 and G.O. Rt. No.461 dated 02.09.2020. The Respondents are advised to submit that paragraph 4 of the E.I.A notification dated 14.09.2006 mandates prior environmental clearance for all new projects or expansion or modernization of an existing project or any change in product-mix in an existing manufacturing unit beyond the specified range. The present G.O. Rt. No.444 dated 26.08.2020 only proposes to lift water from one project to another therefore it is respectfully submitted that the same would not require prior environmental clearance.

14. It is respectfully submitted that the respondents herein apprehend that the present application has been filed at the behest of

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persons with vested interests to intentionally derail the present project. This Hon'ble Tribunal certainly ought to note that the applicants would certainly have been aware that the Government of Andhra Pradesh had invited tenders for the present project since it is compulsory for all Government Tenders to be published in newspapers, tender digest, AP e-procurement Platform etc. Further the tender documents were placed before the Hon'ble Judge of the Andhra Pradesh High Court in compliance with the Andhra Pradesh Infrastructure (Transparency through Judicial Preview) Act, 2019.

15. It is further submitted that the tender documents are placed in Public Domain and the public are allowed to raise their objections. The Applicants who had sat idly throughout the tender process have approached this Hon'ble Tribunal once the Tender has been awarded. The Applicants have not approached this Hon'ble Tribunal with clean hands and with *mala fide* intention to derail and stall the proposed project to the detriment of citizens such as the respondents herein and other similarly placed persons in Somala Chitoor District.

16. It is submitted that the bald allegations in the application that there has been damage to the bunds of Seetama lake are denied. The respondents submit that there has been no damage to the lake's bunds. It is submitted that the photos annexed with the Application do not show any damage to the lake. It is a bald allegation, bereft of proof and has been made only for the purpose of the application. In fact, the images found in page 223 and 224 of the Application paper book are images taken from Google and are from the official website of the 3<sup>rd</sup> Respondent's Water Resources Department.

17. With regard to the averment made in paragraph 1 of the affidavit, is denied as false. It is submitted that there has been no physical inspection by irrigation officials and the tender documents have incorrectly stated that the affected land is dry and cropping is groundnut and jawar (Jonna) is denied. The allegations that there are alternatives to the present reservoir and the authorities are going ahead without public hearing and alternative studies are also incorrect. It is submitted that the tenders were placed before the State Level Technical Committee and

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the judicial preview Authority had placed the proposals for formation of reservoirs in public domain and received objections from the public as well. The respondents herein understand that all the objections were considered and some dismissed by the Preview Committee and suggestions were given by the said Committee. The averment that there is an existing construction of Adavipalle reservoir by the 3<sup>rd</sup> Respondent which has same Ayacut but the authorities instead of completing the project and providing water have proposed new reservoirs and that this unilateral and illegal action will affect hundreds of villagers and submerge lakhs of Mangoo Trees and Horticulture is also denied. The 3<sup>rd</sup> Respondent has properly appreciated the ground realities of the residents of Somala Chitoor District and for their benefit is proceeding with the G.Os. These areas are arid and dry and cultivation is very difficult and without lifting of water from GNSS to HNSS and construction of these reservoirs as contemplated in the G.Os, the respondents and similarly placed villagers will be put to irreparable loss, prejudice and hardship.

18. With regard to the averments made in paragraphs 2(i) and 2(ii) of the affidavit are denied as false and they relate to the background of GNSS and HNSS the same are not in dispute.

19. With regard to the averment made in paragraph 2 (iii) of the affidavit is denied as false. The averment that the 3<sup>rd</sup> Respondent has proposed several new lift irrigation projects in 2021 to lift water from Srisailam reservoir without prior EC, clearances and approvals from KRMB and CWC is denied. The allegations that new projects with no assessment by Moef and CC or appraisals by KRMB, CWC are denied. The respondents are advised to state that the present project will not be classified as "Expansion and Modernization" of an existing project warranting Environmental Clearance and hence this allegation is denied. It is pertinent to mention that the original allocation of HNSS is 40 TMC which it has not been able to realize and the present reorganization of lifting water from GNSS will only allow HNSS to utilize the capacity to which they were accorded environmental clearance.

20. With regard to the averment made in paragraph 2(iv) of affidavit is denied as false. It is pertaining to Rayalseema Lift Irrigation scheme

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(RLIS) being declared illegal by this Hon'ble Tribunal in O.A.No.71 of 2020 and the finding reiterated in M.A.No.6 of 2020 in O.A.No.71 of 2020 dated 24.02.2021 and the allegation that the 3<sup>rd</sup> Respondent is not co-operating with KRMB to conduct RLIS are not relevant to the present case and the respondents therefore do not wish to respond to the same. Applicants are, however, put to strict proof of the same.

21. With regard to the averment made in paragraph 3 of the affidavit is denied as false. The 3<sup>rd</sup> respondent has not obtained mandatory clearance from Expert Appraisal Committee and EC under category 1(c)(ii) for lift scheme and reservoirs proposed in GNSS and HNSS schemes in the year 2021 is denied. As stated earlier, the reason for applying for prior EC will not arise in the present case.

22. With regard to the averment made in paragraph 4 of the affidavit is denied as false. The state of Andhra Pradesh initiates new projects in Krishna River they ought to obtain clearance from the Krishna River Management Board under section 84 of Andhra Pradesh Reorganization Act, 2014 is outside the purview of this Hon'ble Court's Jurisdiction and hence warrants no response from the respondents herein. It is, however, submitted that the proposals which are the subject matter of the present application will not come under the ambit of "new project" as stated in the Reorganization Act, 2014.

23. With regard to the averment made in paragraph 5 of the affidavit is denied as false. The 3<sup>rd</sup> Respondent is going ahead with the projects ignoring rule of law, EIA notification 2006, Judgment of NGT. The construction of Lift Irrigation Project and balancing reservoirs are going to be implemented without public hearing, socio-environmental impact study at ground and alternative studies is denied for the reasons mentioned *supra*.

24. With regard to the allegations in the paragraph titled "**Impact on Applicants villages and availability of alternate sites**" is denied as false. The allegations relating to the damage to the Seethama Lake bunds by the officials is false. The Photographs annexed with the application also do not show any damage to the lake bunds. In fact, as stated earlier,

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some of the photographs were available readily through a **“Google Search”**. A screenshot of the same is annexed herewith as **Annexure-2**. The allegations relating to the damage done to the Seethamma temple destroyed by contractors is also denied. The other allegations relating to sub-mergence, alternative site etc the present respondents are not competent to reply to the same. However, it is submitted that the 3<sup>rd</sup> Respondent has studied the area prior to sanctioning the proposals and keeping the interest of the agriculturalists in mind who are suffering due to draught conditions in the Somala (M) district of Chittoor.

25. With regard to the averment made in paragraph 6 of the affidavit is denied as false. The Representation given by the Applicants dated 28.02.2021 to Moef and CC, CWC and State of Andhra Pradesh etc for alternative studies and following due process of law before proceeding with the construction is not known to this respondent and the respondent cannot comment on the same. However, the applicants are put to strict proof of the same. Similarly, the allegations in para 7 is also not to the knowledge of the Respondents herein and they cannot comment on the same. However, the applicant is once again put to strict proof of these allegations.

26. With regard to the averment made in paragraph 8 of the affidavit is denied as false and it relates to certain earlier projects of the 3<sup>rd</sup> respondent wherein directions were ordered against the 3<sup>rd</sup> Respondent State to apply for EC are not relevant to the present case and hence warrants no response.

27. With regard to the averment made in paragraph 9 of the affidavit is denied as false.

28. With regard to the allegations in grounds A and B are denied as false. The present project would not come under the scope of 1(c)(ii) of EIA Notification 2006. Since the project does not expand GNSS and HNSS beyond the existing limits for which EC has been accorded. The allegations in ground B are also denied since the Respondents herein reliably understand that the State has conducted sufficient studies prior to proceeding with the project.

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29. With regard to the allegations in grounds C,D, E and F relate to the orders of this Hon'ble Tribunal and the Hon'ble Supreme Court do not warrant any response. The said cases are clearly distinguishable from the present case.

30. With regard to the allegation in ground G of the affidavit is denied as false. It is submitted that no clearances from Techno Advisory Committee, CWC Hydrological Clearance, Cost Benefit clearance etc. were obtained by the 3<sup>rd</sup> Respondent. It is submitted that the same would not be applicable in the present case for the reasons stated in the earlier paragraphs of this Counter.

31. With regard to the allegation in Ground H relates to the alternate site for the project is also denied. The Respondents herein reliably understand that the 3<sup>rd</sup> Respondent sufficiently considered all possible sites before finalizing the existing site.

32. We regard to the allegation in Ground J of the affidavit is denied as false. The Moef has returned the proposal for modification of three ECs by 3<sup>rd</sup> Respondent State is not relevant to the present case.

33. It is submitted that the present application does not raise any issue or furnished any proof of damage to the ecology or environment or any legal issue that warrants interference by this Hon'ble Tribunal. It is a mischievous application the respondents herein apprehend that it has been filed at the behest of interested persons to the detriment of agriculturalists in the Chitoor District.

34. It is submitted that the averments relating to the "Limitation" of the present Application has already been dealt with **Supra**. Suffice to mention that the present Application is not within limitation.

35. It is submitted that the interim prayers sought for ought not to be granted since grave prejudice and irreparable loss will be caused to the respondents and similarly placed persons who will benefit from the ultimate implementation of the project. No prima facie case has been made and the balance of convenience is in favour of the respondents herein and not the applicants.

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36. It is submitted that the respondents may be permitted to raise additional grounds at the time of hearing of the above Original Application.

In the above circumstances, it is humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the above Original Application No.137 of the 2021 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 Chittoor District  
on this the 15<sup>th</sup> day of November,  
2021 and signed his name  
in my presence.

X N Jayamma  
Before me

Advocate, Chittoor District

### **VERIFICATION**

I, N. Jayamma, wife of Mr. N. Vankatswami Hindu, aged about 49 years, Residing at No. No.6-112, Peddaupparpalli, Somala, Chittoor District, Andhra Pradesh-517 257 do hereby verify that the contents of Paras of Counter Affidavit are based on record and information are true to the best of my knowledge and belief.

Hence, verified on the 15<sup>th</sup> day of November at Chittoor District

X N Jayamma  
Deponent

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE  
BENCH AT CHENNAI**

**Original Application No 137 of 2021**

**Gutha Gunasekhar,**

Age: 36 years,  
S/o. G. Rama Krishnama Naidu,  
Nagillavaripalli village, Peddauppara palli,  
SomalaMandal, Chittoor district,  
Andhra Pradesh – 517257,  
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Phone No: 9886681956 and 41 others

..... Applicants

Vs

**Union of India,**

Represented by its Secretary,  
Union Ministry of Environment, Forest & CC  
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Phone No: 011-24695262, 24695265. And 20 others

..... Respondents

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1.	15.11.2021	<b>8<sup>th</sup> Respondent Counter</b>	
2.		<b>Annexure 1</b> Respondents residence Proof AADHAR CARD	
3.		<b>Annexure 2 “Google Search”.</b>	

It is certified that all the documents contained in the above annexure are true copies.

Date: 15.11.2021

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, (SZ),  
CHENNAI**

**Original Application No. 137 of 2021**

IN THE MATTER OF,

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**COUNTER AFFIDAVIT FILED BY THE 8<sup>th</sup> RESPONDNET**

I, N. Jayamma, wife of Mr. N. Vankatswami Hindu, aged about 49 years, Residing at No. No.6-112, Peddaupparpalli, Somala, Chittoor District, Andhra Pradesh-517 257. do hereby solemnly affirm and sincerely state as follows:

1. I am the 8<sup>th</sup> respondent herein and as such I am well acquainted with the facts of the case and competent to swear to this counter affidavit. I has been authorized to file this counter affidavit on behalf of the 9 to 21 respondents.

2. I have read the application filed by the applicants and deny the various allegations, save those that are specifically admitted herein and put the applicant to the strict proof of the same.

3. It is submitted that the prayers sought for in the application are not maintainable and the same ought to be dismissed with costs since the applicants have not come before this Hon'ble Tribunal with clean hands.

4. It is submitted that the applicants have filed the above Original Application, *inter alia*, directing the Respondents therein from restraining the State of Andhra Pradesh from taking up lift irrigation

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projects and balancing reservoirs under G.O. Rt. 444 dated 26.08.2020 and G.O Rt. 461 dated 02.09.2020.

5. It is further submitted that the respondents 8 to 21 are all farmers residing in the Somala District of Chittoor/Rayalaseema region which suffers from scanty and dry rainfall. The present scheme which the applicants seek to stop was being put up for the benefit for the people of Somal Chittoor District such as the respondents herein needless to mention the respondents and other farmers would be put to severe loss and great prejudice if the said scheme is stopped. The Aadhar Card of the respondents is Annexed herewith as proof of residence and the same maybe marked as **Annexure-1 (colly)**.

6. It is further submitted that they came to learn about the present application through various newspaper reports and upon coming to learn about the present application had filed I.A.No.115 of 2021 seeking to be impleaded as respondents in the present application since the respondents 8 to 21 would be greatly benefitted from the implementation of the schemes proposed in G.O. Rt. Nos. 444 and 461 dated 26.08.2020 and 02.09.2020 respectively. It is submitted that this Hon'ble Tribunal vide order dated 15.09.2020 allowed the I.A and the respondents herein have been arrayed as respondents 8 to 21.

7. It is further submitted that at the outset the respondents herein deny each and every allegation set forth in the Application save those that are expressly admitted herein. The respondents at the outset are advised to state that the present Application is barred by limitation and ought to be dismissed at the threshold. The averment that the cause of action for the present Application is the finalization of the Tender in April 2021 and when construction began in June 2021 and hence is within time and falling under the ambit of section 14 is incorrect since these are not the dates on which the cause of action first arose. The Applicants had contended that the present application raises substantial questions arising out of the proposals in G.O. Rt. No's 444 and 461 dated 26.08.2020 and 02.09.2020 respectively and the reliefs sought for in the present Application, *inter alia*, seeking to restrain the State of Andhra

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Pradesh from taking up lift irrigation projects and balancing reservoirs under G.O. Rt. No's 444 and 461 dated 26.08.2020 and 02.09.2020 respectively would show that the Applicants cause of action first arose when the said G.Os were issued by the state of Andhra Pradesh (R-3) on 26.08.2020 and 02.09.2020 respectively granting administrative approval and sanction for the proposed works. It is submitted that the Application has been filed under section 14 of the National Green Tribunal Act, 2010 (hereinafter referred to as the Act) and section 14(3) of the Act states that an Application ought to be filed within 6 months from the date on which the cause of action "first arose". The present application is filed only on 27.06.2021 much after the expiry of the six months period specified under section 14(3) of the Act and the sixty days period mentioned in the proviso the section. Therefore, the present Application is time barred and ought to be dismissed in *limini*.

8. It is submitted that without prejudice to the contention that the present Application is barred by limitation. The Respondents herein crave leave to place the following facts before this Hon'ble Tribunal before dealing with the para-wise allegations set forth in the Application.

9. It is submitted that districts wherein Respondents 8 to 21 reside namely the western parts of Chittoor District/Rayalaseema Region which often suffer from draught and shortage of water. It is submitted that at least once every few years the minor Irrigation tanks do not get filled to their full capacity since these regions fall in a rain shadow region. It is relevant to mention that 80% of the population in western parts of the Chittoor district depends on agriculture.

10. It is submitted that due to frequent droughts, the farmers such as the Respondents herein face a lot of difficulties and suffer greatly due to water shortages and there is a serious impact on both their standard of living and livelihood. The water yield coming from self-catchment areas of Minor irrigation tanks is not sufficient to fill up the tanks and to feed the existing ayacut under these tanks. Hence, it becomes necessary that the existing ayacut be supplemented with surplus Project waters of Srisailam Reservoir as a permanent solution to resolve this age-old crisis.

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11. It is submitted that under these pathetic circumstances, the only hope for the Respondents and others agriculturalists in Somala Chittoor district is to get Krishna water by lift or by diversion to feed these minor irrigation tanks and to provide irrigation facilities to the eligible irrigable lands in this most backward region of Rayalaseema/ Chittoor in Andhra Pradesh. The respondents 8 to 21 are all residents of these regions and the proposed project was to benefit the respondents and other similarly placed persons residing in these regions.

12. It is submitted that the main ground agitated by the applicants is that prior environmental clearance was not obtained by the State of Andhra Pradesh for the present project. In that regard, it is respectfully submitted that both G.O. Rt. 444 dated 26.08.2020 and G.O. Rt.461 dated 02.09.2020 only proposes to lift water from the existing Galeru Nagari Sujala Sravanthi Project (GNSS project) to Handri Neeva Sujala Sravanthi Project (HNSS project). It is submitted that the tail end reaches of the HNSS project are unable to have access to water and hence the present project is necessary to ensure supply of water to these regions.

13. It is submitted that the current G.Os which are the subject matter of the present case would certainly come under the ambit of the existing Environmental Clearance given to the GNSS and HNSS project. It is submitted that both the GNSS and HNSS were issued prior to environmental clearance on 21.06.2006 and 08.05.2006 respectively. It is submitted that the clearance accorded to GNSS and HNSS would cover the project proposed in G.O.Rt. No.444 dated 26.08.2020 and G.O. Rt. No.461 dated 02.09.2020. The Respondents are advised to submit that paragraph 4 of the E.I.A notification dated 14.09.2006 mandates prior environmental clearance for all new projects or expansion or modernization of an existing project or any change in product-mix in an existing manufacturing unit beyond the specified range. The present G.O. Rt. No.444 dated 26.08.2020 only proposes to lift water from one project to another therefore it is respectfully submitted that the same would not require prior environmental clearance.

14. It is respectfully submitted that the respondents herein apprehend that the present application has been filed at the behest of

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persons with vested interests to intentionally derail the present project. This Hon'ble Tribunal certainly ought to note that the applicants would certainly have been aware that the Government of Andhra Pradesh had invited tenders for the present project since it is compulsory for all Government Tenders to be published in newspapers, tender digest, AP e-procurement Platform etc. Further the tender documents were placed before the Hon'ble Judge of the Andhra Pradesh High Court in compliance with the Andhra Pradesh Infrastructure (Transparency through Judicial Preview) Act, 2019.

15. It is further submitted that the tender documents are placed in Public Domain and the public are allowed to raise their objections. The Applicants who had sat idly throughout the tender process have approached this Hon'ble Tribunal once the Tender has been awarded. The Applicants have not approached this Hon'ble Tribunal with clean hands and with *mala fide* intention to derail and stall the proposed project to the detriment of citizens such as the respondents herein and other similarly placed persons in Somala Chitoor District.

16. It is submitted that the bald allegations in the application that there has been damage to the bunds of Seetama lake are denied. The respondents submit that there has been no damage to the lake's bunds. It is submitted that the photos annexed with the Application do not show any damage to the lake. It is a bald allegation, bereft of proof and has been made only for the purpose of the application. In fact, the images found in page 223 and 224 of the Application paper book are images taken from Google and are from the official website of the 3<sup>rd</sup> Respondent's Water Resources Department.

17. With regard to the averment made in paragraph 1 of the affidavit, is denied as false. It is submitted that there has been no physical inspection by irrigation officials and the tender documents have incorrectly stated that the affected land is dry and cropping is groundnut and jawar (Jonna) is denied. The allegations that there are alternatives to the present reservoir and the authorities are going ahead without public hearing and alternative studies are also incorrect. It is submitted that the tenders were placed before the State Level Technical Committee and

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the judicial preview Authority had placed the proposals for formation of reservoirs in public domain and received objections from the public as well. The respondents herein understand that all the objections were considered and some dismissed by the Preview Committee and suggestions were given by the said Committee. The averment that there is an existing construction of Adavipalle reservoir by the 3<sup>rd</sup> Respondent which has same Ayacut but the authorities instead of completing the project and providing water have proposed new reservoirs and that this unilateral and illegal action will affect hundreds of villagers and submerge lakhs of Mangoo Trees and Horticulture is also denied. The 3<sup>rd</sup> Respondent has properly appreciated the ground realities of the residents of Somala Chitoor District and for their benefit is proceeding with the G.Os. These areas are arid and dry and cultivation is very difficult and without lifting of water from GNSS to HNSS and construction of these reservoirs as contemplated in the G.Os, the respondents and similarly placed villagers will be put to irreparable loss, prejudice and hardship.

18. With regard to the averments made in paragraphs 2(i) and 2(ii) of the affidavit are denied as false and they relate to the background of GNSS and HNSS the same are not in dispute.

19. With regard to the averment made in paragraph 2 (iii) of the affidavit is denied as false. The averment that the 3<sup>rd</sup> Respondent has proposed several new lift irrigation projects in 2021 to lift water from Srisailam reservoir without prior EC, clearances and approvals from KRMB and CWC is denied. The allegations that new projects with no assessment by Moef and CC or appraisals by KRMB, CWC are denied. The respondents are advised to state that the present project will not be classified as "Expansion and Modernization" of an existing project warranting Environmental Clearance and hence this allegation is denied. It is pertinent to mention that the original allocation of HNSS is 40 TMC which it has not been able to realize and the present reorganization of lifting water from GNSS will only allow HNSS to utilize the capacity to which they were accorded environmental clearance.

20. With regard to the averment made in paragraph 2(iv) of affidavit is denied as false. It is pertaining to Rayalseema Lift Irrigation scheme

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(RLIS) being declared illegal by this Hon'ble Tribunal in O.A.No.71 of 2020 and the finding reiterated in M.A.No.6 of 2020 in O.A.No.71 of 2020 dated 24.02.2021 and the allegation that the 3<sup>rd</sup> Respondent is not co-operating with KRMB to conduct RLIS are not relevant to the present case and the respondents therefore do not wish to respond to the same. applicants are, however, put to strict proof of the same.

21. With regard to the averment made in paragraph 3 of the affidavit is denied as false. The 3<sup>rd</sup> respondent has not obtained mandatory clearance from Expert Appraisal Committee and EC under category 1(c)(ii) for lift scheme and reservoirs proposed in GNSS and HNSS schemes in the year 2021 is denied. As stated earlier, the reason for applying for prior EC will not arise in the present case.

22. With regard to the averment made in paragraph 4 of the affidavit is denied as false. The state of Andhra Pradesh initiates new projects in Krishna River they ought to obtain clearance from the Krishna River Management Board under section 84 of Andhra Pradesh Reorganization Act, 2014 is outside the purview of this Hon'ble Court's Jurisdiction and hence warrants no response from the respondents herein. It is, however, submitted that the proposals which are the subject matter of the present application will not come under the ambit of "new project" as stated in the Reorganization Act, 2014.

23. With regard to the averment made in paragraph 5 of the affidavit is denied as false. The 3<sup>rd</sup> Respondent is going ahead with the projects ignoring rule of law, EIA notification 2006, Judgment of NGT. The construction of Lift Irrigation Project and balancing reservoirs are going to be implemented without public hearing, socio-environmental impact study at ground and alternative studies is denied for the reasons mentioned *supra*.

24. With regard to the allegations in the paragraph titled "**Impact on Applicants villages and availability of alternate sites**" is denied as false. The allegations relating to the damage to the Seethama Lake bunds by the officials is false. The Photographs annexed with the application also do not show any damage to the lake bunds. In fact, as stated earlier,

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some of the photographs were available readily through a “**Google Search**”. A screenshot of the same is annexed herewith as **Annexure-2**. The allegations relating to the damage done to the Seethamma temple destroyed by contractors is also denied. The other allegations relating to sub-mergence, alternative site etc the present respondents are not competent to reply to the same. However, it is submitted that the 3<sup>rd</sup> Respondent has studied the area prior to sanctioning the proposals and keeping the interest of the agriculturalists in mind who are suffering due to draught conditions in the Somala (M) district of Chittoor.

25. With regard to the averment made in paragraph 6 of the affidavit is denied as false. The Representation given by the Applicants dated 28.02.2021 to Moef and CC, CWC and State of Andhra Pradesh etc for alternative studies and following due process of law before proceeding with the construction is not known to this respondent and the respondent cannot comment on the same. However, the applicants are put to strict proof of the same. Similarly, the allegations in para 7 is also not to the knowledge of the Respondents herein and they cannot comment on the same. However, the applicant is once again put to strict proof of these allegations.

26. With regard to the averment made in paragraph 8 of the affidavit is denied as false and it relates to certain earlier projects of the 3<sup>rd</sup> respondent wherein directions were ordered against the 3<sup>rd</sup> Respondent State to apply for EC are not relevant to the present case and hence warrants no response.

27. With regard to the averment made in paragraph 9 of the affidavit is denied as false.

28. With regard to the allegations in grounds A and B are denied as false. The present project would not come under the scope of 1(c)(ii) of EIA Notification 2006. Since the project does not expand GNSS and HNSS beyond the existing limits for which EC has been accorded. The allegations in ground B are also denied since the Respondents herein reliably understand that the State has conducted sufficient studies prior to proceeding with the project.

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29. With regard to the allegations in grounds C,D, E and F relate to the orders of this Hon'ble Tribunal and the Hon'ble Supreme Court do not warrant any response. The said cases are clearly distinguishable from the present case.

30. With regard to the allegation in ground G of the affidavit is denied as false. It is submitted that no clearances from Techno Advisory Committee, CWC Hydrological Clearance, Cost Benefit clearance etc. were obtained by the 3<sup>rd</sup> Respondent. It is submitted that the same would not be applicable in the present case for the reasons stated in the earlier paragraphs of this Counter.

31. With regard to the allegation in Ground H relates to the alternate site for the project is also denied. The Respondents herein reliably understand that the 3<sup>rd</sup> Respondent sufficiently considered all possible sites before finalizing the existing site.

32. We regard to the allegation in Ground J of the affidavit is denied as false. The Moef has returned the proposal for modification of three ECs by 3<sup>rd</sup> Respondent State is not relevant to the present case.

33. It is submitted that the present application does not raise any issue or furnished any proof of damage to the ecology or environment or any legal issue that warrants interference by this Hon'ble Tribunal. It is a mischievous application the respondents herein apprehend that it has been filed at the behest of interested persons to the detriment of agriculturalists in the Chitoor District.

34. It is submitted that the averments relating to the "Limitation" of the present Application has already been dealt with **Supra**. Suffice to mention that the present Application is not within limitation.

35. It is submitted that the interim prayers sought for ought not to be granted since grave prejudice and irreparable loss will be caused to the respondents and similarly placed persons who will benefit from the ultimate implementation of the project. No prima facie case has been made and the balance of convenience is in favour of the respondents herein and not the applicants.

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36. It is submitted that the respondents may be permitted to raise additional grounds at the time of hearing of the above Original Application.

In the above circumstances, it is humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the above Original Application No.137 of the 2021 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 Chittoor District  
on this the 15<sup>th</sup> day of November,  
2021 and signed his name  
in my presence.

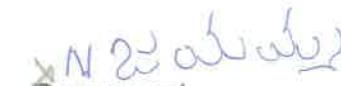
  
Before me

Advocate, Chittoor District

### VERIFICATION

I, N. Jayamma, wife of Mr. N. Vankatswami Hindu, aged about 49 years, Residing at No. No.6-112, Peddaupparpalli, Somala, Chittoor District, Andhra Pradesh-517 257 do hereby verify that the contents of Paras of Counter Affidavit are based on record and information are true to the best of my knowledge and belief.

Hence, verified on the 15<sup>th</sup> day of November at Chittoor District

  
Deponent