

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE AT CHENNAI

Original Application No 212 of 2021

IN THE MATTER OF

State of Andhra Pradesh,

Represented by its Secretary,
Water Resources Department Secretariat,
Velagapudi Guntur district,
Andhra Pradesh-522503.

....

Applicant

-vs-

Union of India

Represented by its Secretary,
Ministry of JalShakti,
Shram Shakti Bhavan, New Delhi 110001
Mail: secy-mowr@nic.in
Phone: 011-24695262, 24695265 and 4 others.

....**Respondents**

REJOINDER AFFIDAVIT FILED BY THE APPLICANT TO 5TH

RESPONDENT COUNTER AFFIDAVIT DATED 07.10.2021

Date-21-11-2021



**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**

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH AT CHENNAI**
(Under Section 18(1) read with Sections 14, 15 of National Green
Tribunal Act, 2010)

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Applicant

-VS-

1. Union of India

Represented by its Secretary,
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.....Respondents

REJOINDER AFFIDAVIT FILED BY THE APPLICANT
TO 5TH RESPONDENT COUNTER
AFFIDAVIT DATED 07.10.2021

I, J. SyamalaRao, S/o Sri. J. Satyanarayana Murthy (Late), aged about 54 years, Occ: Secretary, Government of Andhra Pradesh, R/o Vijayawada, do hereby solemnly affirm and sincerely state on oath as follows:

1.I am the Secretary, Water Resources Department to the Government of Andhra Pradesh and I am well acquainted with the facts of the case. I am authorised to depose on behalf of the Applicant. I have read the



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Reply affidavit filed BY 5TH RESPONDENT and it does not disclose any valid grounds for granting any relief prayed therein and I deny all the allegations made therein except those that are specifically admitted as hereunder.

2. In answer to the allegations in paras. 3 to 5, in the reply of the 5th Respondent, it is humbly submitted that the unauthorised construction of Dindi LIS by the 5th Respondent State of Telangana is without obtaining the “*prior environmental clearance*” as mandated by EIA notification dt. 14.09.2006. which is impermissible in Law. The jurisdiction of this Hon’ble Tribunal under Sections 14 & 15 of the NGT Act, 2010, gets attracted, whenever there is loss to Environment and a Ecosystem is disturbed. Section 2(1)(c) of NGT, Act, 2010, defines “*Environment*” which reads as under:

“Environment includes water, air and land and interrelationship which exist among and between water, air and land and Human Being, other living Species, Plants, Micro Organisms and Property”.



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A Conjoint reading of Section 2(1) (c) and Section (2)(m) of NGT Act, 2010 shows that the object of the Act is to prevent and to protect the environment and also to provide administration of environmental justice and make it easily accessible within the frame work of the statute.

3. I submit that the question of limitation does not arise especially when the 5th Respondent State of Telangana is perpetuating an illegality, which has adverse and catastrophic impact not only on the inhabitants within the 5th Respondent State of Telangana, but also on the inhabitants in the Applicant State of Andhra Pradesh, which is a lower riparian State. The illegality being committed by the 5th Respondent State of Telangana by its unilateral construction of Dindi LIS has an impact for the several generations. Once, the substantial question of law gets attracted as per Section 2(m) of the NGT Act, 2010 from the impugned cause of action, this Hon'ble Tribunal has ample jurisdiction to examine the issue, as to whether any damage is caused offending the environment in its



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territory due to the illegal acts of the 5th Respondent State of Telangana or not. Such illegal acts causing pollution amount to depriving Right to life guaranteed under Article 21 of the Constitution of India. It is settled Law that so long as damage to the environment continues, the public injury also continues along with the cause of action. Enforcement of Fundamental Rights cannot be refused solely on the grounds of laches, delay or the alike as held by the Hon'ble Supreme Court. The date of commencement of the project does not determine the starting point of limitation; whether there is any substantial question of law as defined Under Section. 2(m) due to the unauthorised construction of Dindi LIS gets attracted or not, is the basic criterion. Once there is a substantial question of law as regards to environmental issues, this Hon'ble Tribunal has ample Jurisdiction Under Sec.14 of the NGT Act, 2010. A State which has Constitutional obligations to protect the environment cannot unilaterally abdicate the mandatory procedure and cannot offend the



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environment as it likes by taking preposterous contentions. When such unauthorised and illegal acts by the 5th Respondent have been challenged, it is not open for the 5th Respondent State of Telangana to unjustly contend that filing of the present O.A. by the Applicant State is an abuse of the process of the court and such pleas are misconceived and preposterous.

4.I submit that Dindi LIS has been under construction without obtaining "*prior Environmental Clearance*". Each day's violation is an independent and fresh cause of action and a fresh period of limitation begins to run at every day's violation and breach of EIA Notification continue brings fresh cause of action. Thus, it is a recurring cause of action. The jurisdiction of the Hon'ble Tribunal is not only limited to violation of the EIA Notification dt:14.09.2006 of undertaking the construction of Dindi LIS without any prior Environmental Clearance, such violation raise substantial questions of law relating to environment as well as enforcement of legal right. The 5th Respondent, State of Telangana unjustly invoking



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Section 14(3) of NGT, Act, 2010 to perpetuate its illegality, which are not permissible in law. This Hon'ble Tribunal has ample jurisdiction as there is recurring violations and infractions in implementing obligation imposed by the statutory enactments specified in Schedule 1 of NGT Act, 2010. In this context, it is also relevant to submit that Section 22 of Limitation Act 1963 has direct application to the issue involved in the above O.A as there is no specific exclusion of the applicability of Sections 4 to 24 of Limitation Act, 1963 under the provisions in NGT Act, 2010. It is also relevant to submit that in O.A.No. 148 of 2021, this Hon'ble Court stayed the construction of Palamuru Rangareddy LIS by order dt:29.10.2021 stating that the State of Telangana has no right to construct Palamuru Rangareddy without obtaining prior Environmental Clearance as mandated by EIA notification dt:14.09.2006. In the said order, this Hon'ble Tribunal while dealing with the question of Limitation in paras 104-106 held as follows:



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“104. The question as to what amounts to cause of action first arose was considered by this Tribunal in *Forward Foundation vs. State of Karnataka and Ors.*¹¹ after considering the decisions reported in *Udhav Singh vs Madhav Rao Scindia*¹², *A.B.C. Laminart Pvt. Ltd. & Anr vs. A.P. Agencies, Salem* observed that it must satisfy all the legal requirements, that is, there must be a dispute, there should be substantial question relating to environment or enforcement of any legal right relating to environment and such question should arise out of the implementation of enactments specified in Schedule 1. Action must be taken within the prescribed period triggering from the date when all such ingredients are satisfied along with other legal requirements, accrual of cause of action as first arose aforesaid would have to be considered as to when it first arose. It is further observed in that decisions that in contradiction to cause of action first arose, there would be continuing cause of action, recurring cause of action or successive cause of action. These diverse concentrations with reference to cause of action are not synonyms, they certainly have a distinct and different meaning in law. The cause of action first arose would refer to a definite point of time, when requisite ingredients constituting that cause of action would complete providing applicant right to invoke the jurisdiction of the Court or Tribunal. The right to sue or right to take action could be subsequent to the accrual of such right. The concept of continuing wrong which would be foundation of continuous cause of action was accepted by the Hon^{ble} Supreme Court in case of *Balkrishna Savalram Pujari and ors. vs Shree Dnyaneshwar*¹⁴ Further, these aspects has been considered in detailed in paras 28 to 31 of the said Judgement which reads as follows:

28. The settled position of law is that in law of limitation, it is only the injury alone that is relevant and not the consequences of the injury. If the wrongful act causes the injury which is complete, there is no continuing wrong even though the damage resulting from the act may continue. In other words distinction must be made between continuance of legal injury and the continuance of its injurious effects. Where a wrongful act produces a state of affairs, every moment continuance of which is a new tort, a fresh cause of action for continuance lies. Wherever a suit is based on multiple cause of action, period of limitation will began to run from the date when the right to sue first accrues and successive violation of the right may not give rise to a fresh cause of action. [Ref: *Khatri Hotels Private Limited and Anr. v. Union of India (UOI) and Anr.*, (2011) 9 SCC 126, *Bal Krishna Savalram Pujari & Ors. v. Sh. 40 Dayaneshwar Maharaj Sansthan & Ors*, AIR 1959 SC 798, *G.C. Sharma v. Municipal Corporation of Delhi*, (1979) ILR 2 Delhi 771,



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Kuchibotha Kanakamma and Anr. v Tadepalli Ptanga Rao and Ors., AIR 1957 AP 419].

29. A cause of action which is complete in all respects gives the applicant a right to sue. An applicant has a right to bring an action upon a single cause of action while claiming different reliefs. Rule 14 of the National Green Tribunal (Practise and Procedure) Rules, 2011, shows the clear intent of the framers of the Rules that multiple reliefs can be claimed in an application provided they are consequential to one another and are based upon a single cause of action. Different causes of action, thus, may result in institution of different applications and therefore, there is exclusion of the concept of the "joinder of causes of action" under the Rules of 2011. The multiple cause of action again would be of two kinds. One, which arise simultaneously and other, which arise at a different or successive point of time. In first kind, cause of action accrues at the time of completion of the wrong or injury. In latter, it may give rise to cause of action or if the statutes so provide when the „cause of action first arose" even if the wrong was repeated. Where the injury or wrong is complete at different times and may be of similar and different nature, then every subsequent wrong depending upon the facts of the case may gives rise to a fresh cause of action.

To this general rule, there could be exceptions. In particular such exceptions could be carved out by the legislature itself. In a statute, where framers of law use the phraseology like „cause of 41 action first arose" in contradistinction to „cause of action" simplicitor. Accrual of right to sue means accrual of cause of action for suit. The expressions „when right to sue first arose" or „cause of action first arose" connotes date when right to sue first accrued, although cause of action may have arisen even on subsequent occasions. Such expressions are noticed in Articles 58 of the Limitation Act, 1963. We may illustrate this by giving an example with regard to the laws that we are dealing here. When an order granting or refusing Environmental Clearance is passed, right to bring an action accrues in favour of an aggrieved person. An aggrieved person may not challenge the order granting Environmental Clearance, however, if on subsequent event there is a breach or non-implementation of the terms and conditions of the Environmental Clearance order, it would give right to bring a fresh action and would be a complete and composite recurring cause of action providing a fresh period of limitation. It is also for the reason that the cause of action accruing from the breach of the conditions of the consent order is no way dependent upon the initial grant or refusal of the consent. Such an event would be a complete cause of action in itself giving rise to fresh right to sue. Thus, where the legislature specifically requires the action to be brought within the prescribed period of limitation computed from the date when the cause of action „first arose", it would by necessary implication exclude the extension of limitation or fresh limitation being counted from every continuing wrong, so far, it relates to the same wrong or breach and necessarily not a recurring cause of action.

30. Now, we would deal with the concept of recurring cause of action. The word „recurring" means, something happening again and again and not that which occurs only once. Such reoccurrence could be frequent or periodical. The recurring wrong could have new elements in addition to or in substitution of the first wrong or when „cause of action first arose". It could even have the same features but its reoccurrence is complete and composite.



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The recurring cause of action would not stand excluded by the expression „cause of action first arose“. In some situation, it could even be a complete, distinct cause of action hardly having nexus to the first breach or wrong, thus, not inviting the implicit consequences of the expression „cause of action first arose“. The Supreme Court clarified the distinction between continuing and recurring cause of action with some finesse in the case of *M. R. Gupta v. Union of India and others*, (1995) 5 SCC 628, the Court held that:

“The appellant's grievance that his pay fixation was not in accordance with the rules, was the assertion of a continuing wrong against him which gave rise to a recurring cause of action each time he was paid a salary which was not computed in accordance with the rules. So long as the appellant is in service, a fresh cause of action arises every month when he is paid his monthly salary on the basis of a wrong computation made contrary to rules. It is no doubt true that if the appellant's claim is found correct on merits. He would be entitled to be paid according to the properly fixed pay scale in the future and the question of limitation would arise for recovery of the arrears for the past period. In other words, the appellant's claim, if any, for recovery of arrears calculated on the basis of difference in the pay which has become time barred would not be recoverable, but he would be entitled to proper fixation of his pay in accordance with rules and to cessation of a continuing wrong if on merits his claim is justified. Similarly, any other consequential relief claimed by him, such as, promotion etc. would also be subject to the defence of laches etc. to disentitle him to those reliefs. The pay fixation can be made only on the basis of the situation existing on 1.8.1978 without taking into account any other consequential relief which may be barred by his laches and the bar of limitation. It is to this limited extent of proper pay fixation the application cannot be treated as time barred since it is based on a recurring cause of action. The Tribunal misdirected itself when it treated the appellant's claim as 'one time action' meaning thereby that it was not a continuing wrong based on a recurring cause of action. The claim to be paid the correct salary computed on the basis of proper pay fixation, is a right which subsists during the entire tenure of service and can be exercised at the time of each payment of the salary when the employee is entitled to salary computed correctly in accordance with the rules. This right of a Government servant to be paid the correct salary throughout his tenure according to computation made in accordance with rules, is akin to the right of redemption which is an incident of a subsisting mortgage and subsists so long as the mortgage itself subsists, unless the equity of redemption is extinguished. It is settled that the right of redemption is of this kind. (See *Thota China Subba Rao and Ors. v. Mattapalli, Raju and Ors.* AIR (1950) F C1.” 31. The Continuing cause of action would refer to the same act or transaction or series of such acts or transactions. The recurring cause of action would have an element of fresh cause which by itself would provide the applicant the right to sue. It may have even be de hors the first cause of action or the first wrong by which the right to sue accrues. Commission of breach or infringement may give recurring and fresh cause of action with each of such infringement like infringement of a trademark. Every rejection of a right in law could be termed as a recurring cause of action. [Ref: *Ex. Sep. Roop Singh v. Union of India and Ors.*, 2006 (91) DRJ 324, 44 M/s. *Bengal Waterproof Limited v. M/s. Bombay Waterproof Manufacturing Company and Another*, (1997) 1 SCC 99].



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105. *A cumulative reading of this judgement will go to show that in the case of recurring cause of action or in respect of an violation of environmental laws which is being repeatedly done, then for each violation it will be deemed to be a cause of action for such dispute first arose give rise to right of action for the applicant to approach the Tribunal. The view taken by the Tribunal in this case was approved by the Hon'ble Apex Court in Mantri Techzone (p) ltd. vs. Forward Foundation & Ors.*

106. *A similar view has been reiterated by the Principal Bench of this Tribunal in Wilfred J. Ministry of Environment and Forests & Ors.¹⁶ and Amit Maru Vs. Secretary, Ministry of Environment and Forest & ors.¹⁷ In Amit Maru case this aspect has been considered by this Tribunal in para 26 and 27 of the judgement which read as follows:*

26. *The term „cause of action” is a bundle of facts. There cannot be two opinion about legal position that once the „cause of action” starts running, then it cannot be stopped. In case of violation of Law, particularly, like CRZ Notification, violation continues, when the construction activity goes on without hindrance. As stated before, the competent authority directed the Respondent No.9, to stop construction activity and therefore, the construction work now has come to halt. It appears prima facie that the question regarding alleged violation of CRZ, Notification, is yet to be determined by MCZMA. Under the circumstances, the Application cannot be held as totally barred by limitation, inasmuch as the „cause of action” is continuous and still remains unabated. In our opinion, question of locus as well as question of limitation ought to be decided on case to case basis.*

27. *What is meaning of expression „such disputes” in relation to Section 14 (2) of the NGT Act, 2010, would depend upon facts of a particular case. One cannot be oblivious of the fact that the Legislature has purposefully used the expression [70]*

„such disputes” which imply plurality of nature of dispute, which may be raised in various kind of environmental litigations. Needless to say, it will not be possible to accept straight jacket formula for applicability of sub-section (3) of Section 14. Unless it can be clearly gathered that the dispute has origin, which could be referable to a fixed time of period due to its nature itself, counting of time will not begin from the day one of fixed staring point. Nobody will deny that once limitation period commences, then it will not be arrested in the midst thereof. Close scrutiny of sub-clause (3) of Section 14, will make it amply clear that period of limitation will commence from the „date of cause of action” for such dispute when it „first arose”. If this sub-clause, is properly bisected, the legal position which emerges, may be stated in following way: a) Filing of Application can be allowed within six months from the date of „commencement of cause of action” for “such dispute” and, b) From “first date of arising of cause” of action”.



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It is also relevant to submit that the State of Telangana is constructing a common pump house for Palamuru Rangareddy and Dindi at Yelluru village proposing to lift 2 TMC per day for 60 days and utilise 1.5 TMC for Palamuru Rangareddy LIS and 0.5 TMC for Dindi LIS by diverting waters from Anjanagiri reservoir. Thus, Dindi project though undertaken as an independent project, some of the components are common for both the projects. Thus, in the light of the findings recorded by this Hon'ble Tribunal in the above referred order, the present O.A is well within limitation.

The 5th Respondent, State of Telangana unjustly invoking Section 14(3) of NGT Act, 2010 to perpetuate its illegality, which is not permissible in law. This Hon'ble Tribunal has ample jurisdiction as there is continuous violation and infraction in implementing obligation imposed by the enactments specified in Schedule 1 of the NGT Act, 2010. Thus, there is continuous legal injury to the inhabitants of the Applicant State of Andhra Pradesh. The age old irrigation systems in the Applicant State are being



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effected besides depriving Drinking water needs due to the unauthorised construction of Dindi LIS.

5.It is also relevant to submit that this Hon'ble Tribunal by order dt:15.07.2021 appointed a Joint Committee to go into the issues relating to violation of the provisions of the EIA notification, 2006 with reference to the PR LIS. The Committee submitted a report on 30.09.2021. In the said joint report submitted by the Joint Committee, the categorical observation from para 5 of Page:8 of the report which reads as follows:

*"The committee is of the view that Palamuru Rangareddy project is conceived as an irrigation scheme to lift 90 TMC ft of flood water in 60 days from the foreshore of Srisaillam Reservoir situated on Krishna river. At the location of the foreshore, eight (8) pumps of discharge capacity 85 cumecs were envisaged totalling to 680 cumecs which is equivalent to 2.07 TMC ft per day in 60 days it will amount to 120 TMC ft instead of the mentioned 90 TMC ft. On probing further, **it came to light that the additional 30 TMC ft capacity is envisaged to supplement the nearby Dindi project. At this location which is called Narlapur Reservoir site, excavation of twin tunnel is under progress and the muck excavated from the tunnel is dumped nearby without any environment management plan.** It was explained by the project proponent that this muck shall be utilised as construction material and hence the dump is temporary. Similar situation is found in all other reservoir sites by name Yedula, Vattem, Karivena and Uddandapur".*

Further in the same para 5 of page 8 of the very



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same report, the joint committee found that

“The Palamuru Rangareddy LIS was granted ToR vide their letter No:J.12011/31/2017-I-A-A® dt:11.10.2017 for preparation of EIA/EMP report and the MOEF&CC accorded a fresh clearance for doing pre-construction activities at the proposed site as per the provisions of EIA notification 2006”.

Thus, it is very clear that the construction of Dindi LIS is going on without obtaining the prior Environmental Clearance. There is no averment in the entire reply affidavit filed on behalf of the 5th Respondent that they have approached the 2nd Respondent and made an application as required and contemplated under EIA notification dt: 14.09.2006, at any point of time, for clearance. Thus, in any angle, the O.A filed by the Applicant State of Andhra Pradesh is well within the limitation and the 5th Respondent State of Telangana has no right to proceed with illegal construction of Dindi LIS. The 5th Respondent is estopped from raising a plea that the application filed by the Applicant State of Andhra Pradesh is barred by limitation besides being misconceived and preposterous.



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6. As already submitted that, there is no allocation for Dindi LIS. The need in any area of a State is not the sole basis to undertake a project, when there is no allocation and entitlement for a riparian state to utilise the proposed water from an interstate river.

There cannot be any anarchy in undertaking a project unilaterally and indiscriminately, which need to be discouraged. The socio-impact assessment even under the check list of EIA notification in protecting the interest of the lower riparian State on an interstate river is also within the competence and jurisdiction of this Hon'ble Tribunal to adjudicate. No environmental clearance will be given to a project when there is adverse impact on the lower riparian State. Since, the issue of environmental clearance and social impact assessment cannot be segregated and cannot be viewed as interstate issue. Thus, all these issues raised in the above O.A. would fall within the scope and ambit of Section 14 of the NGT, Act. Above all, it is relevant to submit that without prejudice to the above contentions and without



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admitting the need under the present project is genuine, a need has to be considered only within the allocations made by the competent Tribunal. Without any allocation for the project, the alleged need cannot be used as a ruse to violate Law and the same cannot be legally countenanced. Thus, once it is without any allocation, and when new proposed utilisation has catastrophic impact on the age old agriculture systems like KDS, KC Canal, Nagarjunasagar, SRBC and Chennai drinking water supply and other drinking water requirement in the lower riparian State are being affected, the 5th Respondent state of Telangana has no right to unauthorisedly construct the project.

At present, the alleged drinking water requirement and fluorosis are misleading and misconceived pleas to gain the sympathy of this Hon'ble Tribunal. In fact, the 5th Respondent State of Telangana is proposing to utilise 30 TMC of water only for irrigation purpose as evident from the TAC report filed before KWDT-II wherein Crop water requirement was assessed as



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28.8 TMC. In the affidavit of Dr.K.Palanisami, Witness of Telangana filed before KWDT-II on 13.02.2019, at page 33, the irrigation component for Dindi LIS is assessed as 29.28 TMC, exclusive of evaporation losses of 9 offline reservoirs. Thus, the need projected by the 5th Respondent State of Telangana is not genuine and it has suppressed all these facts. A copy of G.O.Rt.No. 855 dt:30.10.2017 and the statement of source wise water requirement in Krishna basin are herewith filed as **Annexure-1**. The various sources of water resources for Nalgonda District is herewith filed as **Annexure-2**. A copy of the extract of the assessment of the irrigation component stated in the affidavit of Dr.K. Palanisami, Witness of Telangana before KWDT-II is herewith filed as **Annexure-3**.

7.I submit that the allegations in Para 7, that

“it would transpire that the subject project was widely publicized and covered extensively in media. It is therefore inconceivable that the present Applicant, being a State cannot plead ignorance of the subject project construction. The Applicant has also curiously evaded to state as to when they became aware about the



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project. Under the circumstances, it has to be taken that the Applicants had knowledge/deemed to have knowledge about the project from the very beginning. Examined in that background, the present Application filed on 20.09.2021 would certainly be time-barred”.

are not true and State of Telangana is put to strict proof of these allegations. I submit that in paras 4 to 13 of Original Application, the Applicant State of Andhra Pradesh explained the various steps taken to oppose the construction of the Dindi Lift Irrigation Scheme. In pursuance of the Minutes of 2nd meeting of Apex Council dt:06.10.2020, no DPR is submitted by the 5th Respondent State of Telangana either to the 4th Respondent or to the 1st Respondent. Thus there is no appraisal by 1st Respondent or by the 4th Respondent with reference to Dindi LIS and there is no question of sanction by Apex council, without these appraisals by the 1st and 4th Respondents. Thus, there is non-compliance of the provisions of AP Reorganisation Act, 2014. Further, if the project is constructed without prior Environmental Clearance, it cannot be regularised thereafter by


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seeking “*ex-post facto Environmental Clearance*”. In fact, the Hon’ble Supreme court has categorically held that “*ex-post facto Environmental Clearance*” is alien to Environmental Juristudence. There is no allocation for Dindi LIS and the 5th Respondent State of Telangana is proposing to utilise 30 TMC of surplus waters seriously impacting the lower riparian rights jeopardising the age old irrigation systems in the Applicant State. It is not only affecting age old irrigation systems in the Applicant state of Andhra Pradesh but also impacting the drinking water requirements of the inhabitants of the Applicant State of Andhra Pradesh affecting their right to life guaranteed under Article 21 of the Constitution of India. The Applicant State of Andhra Pradesh being “*Parens patriae*” has obligation to protect the rights of its inhabitants more particularly when it is affecting the rights of the future generations. The 5th Respondent State of Telangana avoiding the scrutiny by several statutory authorities and unauthorisedly constructing Dindi LIS. The



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impact and affectation are irreparable and irreversible with reference to the magnitude of the project. Environment, being a right in generation equity, by the illegal construction of Dindi LIS, the 5th Respondent State of Telangana cannot be permitted to trample the rights of future generations. As explained in the Original Application, all are well within the State of Limitation and these allegations by the 5th Respondent State of Telangana are made without any responsibility.

8.I submit that allegations in Para 8 that

“the Applicant 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.”

are not true and State of Telangana is put to strict proof of these allegations and as explained in the



**Secretary to Government
Water Resources Department
A.P. Secretariat, Amaravati.**

Original Application, all are well within Limitation and these allegations by the 5th Respondent State of Telangana are made without any responsibility.

9. I submit that the allegations in Para 9 that

“the present Application has been filed on 20.09.2021 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 stall a welfare project. No sufficient cause for filing the Application outside the statutory limitation period has been mentioned or provided.”

are not true and State of Telangana is put to strict proof of these allegations and as explained in the Original Application, all are well within the State of Limitation and these allegations by the 5th Respondent State of Telangana are made without any responsibility.

10. I submit that the allegations in Para 10 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.”



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A.P. Secretariat, Amaravati.**

are not true and State of Telangana is put to strict proof of these allegations and as explained in the Original Application, all are well within the State of Limitation and these allegations by the 5th Respondent State of Telangana are made without any responsibility.

11.I submit that the allegations in Para 11 that

“the Applicant himself has referred to G.O.Ms.No.105, dated 10.06.2015 and also the proceedings dated 11.10.2017 regarding the conceivment of the subject project. He has also mentioned about the litigation relating to O.A.No. 273/2015 and filed the Judgement rendered therein and also the order of the Hon’ble Supreme court dated 20.07.2016 made in W.P.No.116/2016. He has also relied on the copies of the letters dated 11.02.2017, 01.07.2017, 16.03.2018 and 02.04.2018. Thus, the State of Andhra Pradesh is aware of the construction of the Project right from 2016; but slept over the matters for all these years and filed the present Application after more than 5 years. Thus, the Application filed by the Applicant is barred by limitation.”

are not true and State of Telangana is put to strict proof of these allegations and as explained in the Original Application, all are well within the State of Limitation and these allegations by the 5th



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Respondent State of Telangana are made without any responsibility.

12.I submit that the allegations in para 12 of the reply affidavit are totally misconceived. As already submitted, the Applicant State of Andhra Pradesh has a right to maintain the above application being "*parens patrie*" and has an obligation to protect the fundamental right of its inhabitants guaranteed under Article 21 of the Constitution of India. The Section 2(j) of National Green Tribunal Act, 2010 encompasses the Applicant as well being a legal person. Thus, the contention of the 5th Respondent State of Telangana that the Applicant herein is not a "*person*" as defined under Section 2(j) of National Green Tribunal Act, 2010 is misconceived and misleading. It is not an inter- state water dispute to invoke Article 262 of the Constitution of India. The relief claimed in the above OA confines to the provisions of the NGT Act, 2010 over which no other Court or Tribunal has jurisdiction as per Section 29



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of NGT Act, 2010. Thus, the ratio in Atmalinga Reddy case has no application to the facts of the case. The further allegations in this paragraph that

“The Hon’ble Supreme Court further held that under Article 131 of Constitution, either the Central Government or State Government can institute a Suit, the said jurisdiction cannot be invoked, in view of Section 11 of 1956 Act. Hence the present Application is barred by limitation and not maintainable in law. The relevant case law being relied upon by the 5th Respondent herein on the preliminary objection is filed herewith for the kind perusal of this Hon’ble Court”

are misconceived and the State of Telangana is put to strict proof of these allegations. In the said order, this Hon’ble Tribunal while dealing with the question of Limitation in para 98 is held as follows:

“Admittedly the present project PR LIS is not falling in the permitted category of projects included the Schedule attached to the said Act. The question regarding the sharing of water or permission to be obtained from Krishna River Management Board as provided under the Andhra Pradesh Reorganisation Act 6 of 2014 will not fall within the jurisdiction of this Tribunal under Section 14, 15 and 18 of the National Green Tribunal Act, 2010. But as regards the environmental issues regarding establishment of the project and its impact on environment and violation of any environmental law in proceeding with the project, no doubt, will fall within the jurisdiction of this Tribunal under the above said provisions”.

This does not relate to interstate issues and


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A.P. Secretariat, Amaravati.

pertains to environmental issues which falls under the jurisdiction of this Hon'ble Tribunal.

The OA filed by the Applicant State is very much maintainable and this Hon'ble Tribunal alone has ample jurisdiction to consider the issues raised in the above OA under the provisions of Section 14 and 15 of the NGT Act, 2010.

13. Hence it is prayed that this Hon'ble Tribunal may be pleased to allow the above OA and pass such other order or orders, as this Hon'ble Tribunal deem fit and proper.


DEPONENT

**Secretary to Government
Water Resources Department
A.P. Secretariat, Amaravati.**

Solemnly affirmed at Vijayawada district Andhra Pradesh on this the **10TH** day of November, 2021 and signed his name in my presence

BEFORE ME



**ADVOCATE,
Vijayawada**

**PENUMAKA AJAY BABU
ADVOCATE M.A., L.L.M.,
HIGH COURT OF A.P.
CELL: 9493494444, 9966370959**

VERIFICATION

I, J. Syamala Rao, S/o Sri. J. Satyanarayana Murthy (Late), aged about 54 years, Occ: Secretary, Water Resources Department, Government of Andhra Pradesh, R/o Vijayawada, do hereby state that what is stated above in paragraphs 1 to 13 and annexures 1 to 3 are true to the best of my knowledge and belief.

Dated at Vijayawada on this the ^{10TH} day of November 2021.



DEPONENT

**Secretary to Government
Water Resources Department
A.P. Secretariat, Amaravati.**

GOVERNMENT OF TELANGANA
ABSTRACT

I&CAD Dept. – Mission Bhagiratha (Godavari and Krishna Basins) – Source wise annual water requirement- fixing of MDDL-- Orders – Issued.

IRRIGATION AND CAD (WRG-GRC) DEPARTMENT

G.O.Rt.No. 885

Dated: 30.10.2017

Read the following

- 1) From the ENC(I),Lr.No.ENC(I)/DCE1/OT2/AEE20/Water Grid/ 2017, dt: 28.08.2017.
- 2) From the ENC(I),Lr.No.ENC(I)/DCE1/OT2/AEE20/MB/2017 dt: 23.09.2017.

&&&&

ORDER:

Government have taken up the flagship program “Mission Bhagiratha” to provide protected and assured drinking water on sustainable basis to all the households of the State by tapping water from various reservoirs, projects and river flows. The commissioning of all the segments of the project has been proposed progressively from Nov/Dec, 2017 onwards. The water required for this scheme is proposed to be drawn from various projects, reservoirs and river flows spread over the State in the basins of Godavari and Krishna.

2. The Engineer-in-chief (Irrigation), Hyderabad, in his letters read above has requested the Government to accord permission for each Project/reservoir/river flow for maintaining the Minimum Draw Down Level (MDDL) for storing the required quantum of water for the scheme of Mission Bhagiratha.

3. Government after careful examination hereby orders to maintain the source wise MDDL as in the table below.

I) KRISHNA BASIN

Sl.No.	Name of Reservoir	Water required /allocated for Mission Bhagiratha(TMC) per annum	MDDL(Mts)
1	Palair	4.70	133.29
2	AKBR	1.350	241.40
3	Wyra	1.280	94.650
4	PD Pally	0.120	146.00
5	Pendlipakala	0.09	229.80
6	Udayasamudram	2.590	219.32
7	Tailpond	2.000	---
8	Koilsager	1.365	409.35
9	Jurala	1.220	313.75
10	Ramanpadu	1.000	311.03
11	Gopaldinne	0.05	301.75
12	Sankarsamudram	0.315	350.00
13	Rangasamudram	0.100	316.84
14	Sunkesula	0.140	289.00
15	Yellore	7.120	338.50

::2::

II) GODAVARI BASIN

Sl.No.	Name of Reservoir	Water required/allocated for Mission Bhaghiradha(TMC)	MDDL(Mts)
1	Gaddenna Project	0.55	357.50
2	Swarna Project	0,08	352.35
3	SRSP	6.50	320.35
4	Kadam Project	0.28	204.21
5	Komaram Bheem Project	1.77	234.60
6	Godavari River	0.6	-
7	Yellampalii	2.82	146.40
8	Medaram	0.18	228.00
9	MMD	1.41	303.20
10	LMD	6.16	275.97
11	Bheem Ghanpur	0.37	166.91
12	Dharmasager	1.03	307.46
13	Salivagu	0.47	212.10
14	Ramappa lake	0.24	198.09
15	Mulugu Ghanpur	0.69	191.92
16	Kinnerasani	0.45	109.73
17	Dhummugudem	2.11	Drawl from anicut
18	Alisager	0.82	395.25
19	Ballal	0.18	371.627
20	Chittakodur	0.17	387.00
21	Singur	5.70	520.50

4. The Engineer-in-Chief(Irrigation), Hyderabad shall take necessary further action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

S.P. SINGH
CHIEF SECRETARY TO GOVERNMENT

To

The Engineer-in- Chief(Irrigation),Hyderabad.

Copy to:

All the Chief Engineers in the State through the Engineer-in- Chief (Irrigation), Errumanzil, Hyderabad.

The Commissioner, CADA, Hyderabad

All the District Collectors.

The P.S. to Hon'ble Chief Minister.

The P.S. to Hon'ble Minister(I)

The P.S. to Chief Secretary.

The P.S. to Spl. Chief Secretary, I&CAD Dept.

// FORWARDED : : BY ORDER //

SECTION OFFICER

MISSION BHAGIRATHA - SOURCE WISE WATER REQUIREMENT (TMC) - KRISHNA BASIN

S. No.	Name of Reservoir	Ayacut under the Reservoir	FRL	Capacity at FRL	MDDL as per Irrigation Dept.	Capacity at MDDL	Intake level proposed by RWS	Capacity above intake level upto FRL	Annual requirement for Mission Bhagiratha	Corresponding MDDL proposed for Mission Bhagiratha
1	2	3	4	5	6	7	8	9	10	13
1	Palair Reservoir	21,800	133.900	2.560	126.890	0.221	130.950	1.460	4.700	133.29
2	AKBR	370000	245.000	1.500	233.800	0.064	234.000	1.432	1.350	241.10
3	Wyra Reservoir	17,390	95.880	2.536	90.280	0.380	93.140	1.371	1.280	94.65
4	PD Pally Reservoir	1,025	148.190	0.848	143.010	0.014	145.230	0.669	0.120	146.00
5	Pendlipakala Reservoir	No direct ayacut	237.500	2.263	225.200	0.050	229.000	2.012	0.090	229.80
6	Udayasamudram	1,00,000	220.000	1.523	213.550	0.130	213.310	1.417	2.590	219.32
7	Tailpond	No Ayacut	75.500	7.000	74.000	6.000	56.000	-	2.000	-

* Under NSP Lift System total requirement of 20.565 TMC + canal losses need to be stored in NSP and to be filled as and when required.

		Acres	mts	TMC	mts	TMC	mts	TMC	mts	TMC	mts
1	2	3	4	5	6	7	8	9	10	13	
8	Koilsagar	52,280	411.330	2.276	403.000	0.281	400.000	2.276	1.365	409.35	
9	Jurala	104741	318.520	9.660	314.870	3.707	312.000	7.533	1.220	313.75	
10	Ramanpadu	4,000	311.440	0.375	304.800	0.029	307.000	0.291	1.000	311.03	
11	Gopaldinne reservoir	No direct ayacut	304.240	0.295	302.070	0.161	300.500	0.200	0.050	301.75	
12	Sankarasamudram	60,000	358.195	2.115	355.100	1.190	345.000	2.060	0.315	350.00	
13	Rangamudram	18,666	325.500	1.830	320.500	0.640	315.000	1.695	0.100	316.84	
14	Yellore reservoir	13,000	338.500	0.355	336.350	0.210	333.000	0.261	7.120	338.50(FRL)	
15	Sunkesula reservoir	-	292.000	1.235	290.500	0.750	288.000	1.047	0.140	289.00	
								Total	23.440		

Annexure-2

Projects serving in Mahaboobnagar and Nalgonda districts

S NO	Project	Mahabubnagar district		Nalgonda district	
		Utilisation (TMC)	Ayacut (Acres)	Utilisation (TMC)	Ayacut (Acres)
I. KWDT- I allocated projects @ 75% dependability					
1	RDS	15.9	87,498		
2	Koilsagar	3.9	11,700		
3	Okachettivagu	1.9	6,000		
4	Jurala project	17.84	1,02,200		
5	Bhima LIS	20	2,03,000		
6	Dindi project			3.7	10,000
7	Musi			9.4	37,999
8	NSLC			64.06	4,00,000
9	Minor Irrigation			26.82	56,614
TOTAL		59.54	4,10,398	103.98	5,04,613
II. Surplus based projects					
1	Nettempadu LIS	25.4	2,28,000		
2	Kalwakurthy LIS	40	3,65,000		
3	SLBC			40	4,00,000
Sub-Total		65.4	5,93,000	40	4,00,000
III. New Projects					
1	PR LIS	51.21	7,00,000	2.195	30,000
2	Dindi LIS	2.77	31,550	27.23	3,09,950
Sub-Total		53.98	7,31,550	29.425	3,39,950
TOTAL		178.92	17,34,948	173.41	12,44,563

Annexure-3

BEFORE THE KRISHNA WATER DISPUTES TRIBUNAL
NEW DELHI

(In the matter of Reference by the Union of India in terms of Section 89
of the AP Reorganisation Act 6 of 2014)

State of Telangana

Vs.

State of Andhra Pradesh

To
The Hon'ble Chairman and
His companion Hon'ble Members of
The Krishna Water Disputes Tribunal,
New Delhi

Annexure 7 of

**Affidavit of Sri Ghanshyam Jha in lieu of Chief Examination on issues relating to
Project wise specific allocation.**

**Water requirements in the State of Telangana from Krishna River
(In three separate volumes)**

S.No	Description	Page No.
1	Volume - I	1-35
2	Volume - II	1-67
3	Volume - III	1-144

**BEFORE THE KRISHNA WATER DISPUTES TRIBUNAL,
NEW DELHI**

(In the matter of Reference by the Union of India in terms of Section-89
of the AP Reorganisation Act 6 of 2014)

IN THE MATTER OF -

**STATE OF TELANGANA
Vs
STATE OF ANDHRA PRADESH**

To
The Hon'ble Chairman and
His companion Hon'ble Members of the
Krishna Water Disputes Tribunal,
New Delhi

**CORRECTED AFFIDAVIT OF SRI K. PALANISAMI
ON ASSESSMENT OF IRRIGATION WATER REQUIREMENT
OF MAJOR PROJECTS IN TELANGANA AND ANDHRA PRADESH**

*Recd
G.P. Swami
13/2/2019*

Filed by:

**KRISHNAMURTHI SWAMI
Advocate on Record,
State of Telangana**

Filed on : 13-02-2019

4. IRRIGATION WATER REQUIREMENT FOR DINDI LIS									
Season	Crop details	Cropping pattern in Acres	Sowing date	Crop period in days	CWR at field in mm	ER in mm	NIR in mm	GIR in mm	GIR in TMC
1	2	3	4	5	6	7	8	9	10
Nalgonda District									
Kharrif	Chillies	60000	16th august	150	473.3	126.2	347.2	578.7	4.96
Two Seasonal	Redgram	30000	1st July	180	615.4	238.4	377.0	628.3	2.69
Rabi	Jowar	51500	1st Oct	120	406.5	64.2	342.4	570.7	4.20
	Groundnut	100000	1st Oct	120	425.5	64.9	360.7	601.2	8.60
	Maize	70000	1st Oct	110	437.6	67.0	370.6	617.7	6.18
Mahabubnagar District									
Rabi	Maize	30000	1st Oct	110	437.6	67.0	370.6	617.7	2.65
Total for Dindi LIS		341500							29.28

5. IRRIGATION WATER REQUIREMENT FOR JNLIS									
Season	Crop details	Cropping pattern in Acres	Sowing date	Crop period in days	CWR at field in mm	ER in mm	NIR in mm	GIR in mm	GIR in TMC
1	2	3	4	5	6	7	8	9	10
Mahabubnagar District									
Kharrif	Maize	80000	1st July	110	472.5	261.3	211.2	352.0	4.03
Rabi	Groundnut	40000	1st Oct	120	447.4	54.9	392.4	654.0	3.74
Rabi	Jowar	68000	11th Nov	120	469.6	0.0	469.6	782.6	7.61
Two seasonal	Redgram	40000	1st July	180	657.0	243.1	413.9	689.8	3.94
Total for Jawahar Nettempadu LIS		228000							19.32