

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

ORIGINAL APPLICATION No 215 OF 2016

IN THE MATTER OF:

Guntu Boyina Kumar

.....APPLICANT

VS

State of Andhra Pradesh and 3 others Respondents

REPORT FILED BY THE APPCB

DATE- 2-11-2023



**M/s MADHURI DONTI REDDY
ADVOCATE**

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

Original Application No.215 of 2016

IN THE MATTER OF:

Guntu Boyina Kumar,
Kommadi, Visakhapatnam District

.....APPLCANT

VERSUS

State of Andhra Pradesh and
3 others (The District Collector Visakhapatnam, The Vice-Chairman & Housing
Commissioner A.P. Housing Board, Greater Visakhapatnam Municipal Corporation Rep
By Its Commissioner)

...RESPONDENTS

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

Date:02.11.2023


Environmental Engineer,
APPCB, Regional Office,
Visakhapatnam
Environmental Engineer
A.P. Pollution Control Board
Regional Office, Visakhapatnam

Report on the Hon'ble NGT, Chennai disposal order dated 14.02.2022 in O.A. No. 215 of 2016 (SZ) in the matters of damage to water body due to construction activity, Kommadi Village, Visakhapatnam District

It is to submit that Sri. Guntu Boyina Kumar, Kommadi, Visakhapatnam District filed an application before the Hon'ble NGT, Chennai (**O.A. No. 215 of 2016**) against damage to the water body by construction activity in survey no. 83 of Kommadi Village, Visakhapatnam District.

The Hon'ble NGT, in its orders dt. 18.03.2021, appointed a Joint Committee consisting of (1) District Collector, Visakhapatnam District (2) Commissioner, Greater Visakhapatnam Municipal Corporation (3) Senior Officer from MoEF & CC, Regional Office, Chennai (4) Senior Officer not below the rank of Joint Secretary of Revenue Department, State of Andhra Pradesh and a Senior Engineer from the Irrigation Department to inspect the area in question and submit a factual and status report before the Tribunal whether there was any environmental degradation caused on account of the construction of the houses in the place which was originally a water body.

Accordingly, the committee consisting of (1) District Collector, Visakhapatnam District - Nodal Officer; (2) the Secretary to CCA, O/o CCA, Vijayawada; (3) MoEF & CC, Vijayawada; (4) Commissioner, GVMC and (5) Superintendent Engineer, Water Resource Department, Visakhapatnam submitted a report to the Hon'ble Tribunal. From the report, the Hon'ble NGT is observed that the issue is related to construction of housing project (608 houses) for providing permanent houses to Hudhud Cyclone victims in the city by Government in an area of Ac 6.74 cts in Sy. No. 83 of Kommadi Village of Visakhapatnam Rural Mandal. Hon'ble NGT Orders dt. 18.03.2021 is enclosed as **Annexure -I**

The Hon'ble Tribunal has issued the following directions in its order dt.30.11.2021:
"Since the Government itself has invested huge amount, we have not made up our mind as to whether that will have to be removed or not to restore this water body. But in alternate, we direct the Government to identify an alternate place having double the extent of this water body for the purpose of creating a new water body for protecting environment and also the necessary steps which they can make for the purpose of restoring the inlet and outlet of the existing water body where at least some portion is being retained as water body now to explore the possibility of restoring the existing water body to the extent available to its original position. If they did not come with any proposal, this Tribunal will be compelled to pass appropriate orders in the mater in accordance with law."

Hon'ble NGT Orders dt. 31.11.2021 is enclosed as **Annexure -II**

Further, the Hon'ble NGT issued the following directions in its order dt.14.02.2022:

"We have heard learned Counsels for the parties and considered the matter. Learned Counsel for the State of Andhra Pradesh fairly stated that in the facts and circumstances while the situation is irreversible as far as the pond in question is concerned but the State is willing to provide alternative of double area for a new water body to restore the inlet and outlet of the existing water body.

"Accordingly, we direct that the above proposal be complied with within three months which will be the responsibility of the District Magistrate, Visakhapatnam. The suitability of the alternative pond will be determined by the District Magistrate, Visakhapatnam in coordination with SEIAA, Andhra Pradesh and the State PCB. The said Committee will also be at liberty to co-opt any other Expert/Institution."

"We also note that construction project has proceeded without requisite EC. In that view of the matter without disturbing the construction already raised, we direct that no further construction be made till requisite EC/statutory clearances are obtained in accordance with law. This aspect be enforced strictly by the State PCB and District Magistrate, Visakhapatnam. The said statutory Authorities may also examine whether any other compensation is required to be recovered for past violations on 'Polluter Pays' principle."

"Compliance report may be filed with the Registrar of the Southern Bench, NGT on or before 30.06.2022. If any further direction becomes necessary, the matter be placed before the Bench."

Subject to above, the application is disposed of."

Hon'ble NGT Orders dt. 14.02.2022 is enclosed as **Annexure -III**

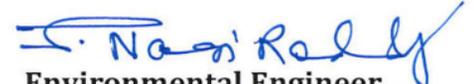
In this regard, Collector & District Magistrate, Visakhapatnam vide Lr.No. Rc.522/2015/E2, dt 06.04.2022, requested this office to give suitable suggestions by visiting the proposed project with regard to the environmental impact/pollution impact to the Engineering officials while forming new water body in the land measuring Ac.14.00 cts in Sy. No. 20p of Devarapalli Village and Mandal as ordered by the Hon'ble NGT. Letter addressed by Collector & District Magistrate, Visakhapatnam to EE, APPCB is enclosed as **Annexure -IV**

APPCB officials inspected the proposed site on 13.04.2022 and submitted the report dt.21.04.2022 to the Collector & District Magistrate, Visakhapatnam with a copy marked to the Collector & District Magistrate, Anakapalli as the proposed site identified for the development of new water pond is located in Anakapalli District after bifurcation of the districts. Report of APPCB submitted to the Collector & District Magistrate, Visakhapatnam is enclosed as **Annexure -V**.

This report is submitted for kind consideration. The APPCB will abide by all such directions as the Hon'ble Tribunal may deem fit and appropriate.

Place: Visakhapatnam

Dt.: 02.11.2023


Environmental Engineer,
APPCB, Regional Office,
Visakhapatnam
Environmental Engineer
Pollution Control Board
Regional Office, Visakhapatnam

2. There was a Public Interest Litigation filed before the Hon'ble High Court of Andhra Pradesh as W.P.282/2015 and during the pendency of the said writ petition, the respondents did not make any construction and they filed counter affidavit before the High Court admitting that the land under issue is classified as 'tank poramboke' and there are four feeder channels to feed the tank, one flowing from south to north and the other flowing from west to east. Due to the excessive exploitation of land, the excess water is flowing through a single pipe culvert and joins the existing Pedda tank of Kommadi Village in Sy.No.46. Since no further steps were taken by the respondents in proceeding with the housing project, the writ petition was disposed of as not pressed on the bonafide belief that the respondents had appointed a technical team and avoided exploitation of the lake area and the report would be in favour of the applicant. But they had again decided to proceed with the proposal.

3. The Hon'ble Supreme Court had applied the doctrine of 'public trust' in similar matters and directed the authorities not to make any construction encroaching into the water body and directing the authorities to maintain the water body as there is an obligation cast on the authorities to protect the environment which includes protection of water body against encroachment under Section 48-A of the Constitution of India. Several High Courts had also taken the same stand and issued directions not to encroach into the water body and directed the authorities to protect the water body against encroachment and pollution. Since the applicant came to understand that the respondents are interested to proceed with the project, the applicant filed this application, seeking the following relief:

"issue an order of injunction restraining the respondents permanently from carrying on any development/construction activity at Sy.No.83 of Kommadi Village, Visakhapatnam District which is classified as tank."

4. The second respondent filed reply affidavit contending as follows:

“They denied all the averments contained in the application except those that are specifically admitted herein. They reserved the right to file additional reply statement if better facts are made available at later stage.

During October, 2014, very severe cyclonic storm ‘Hudhud’ with wind velocity of more than 180 km per hour hit the city of Visakhapatnam and rural areas of north coastal districts and have caused huge damage to the entire area and entire livelihood and properties of the area were affected in very serious manner and the government had given all the support to the affected people under various categories immediate relief, restoration to normalcy and reconstruction of the affected habitations.

On the front of damages to the dwelling households more than 1.4 lakhs of houses were identified as enumerated as damaged in different degrees and as per the relief scheme of the State Disaster Relief Fund and National Disaster Relief Fund norms, the damaged houses were immediately paid the compensation for immediate repairs. Under the reconstruction scheme, government had sanctioned around 6000 houses to Visakhapatnam district and out of which around 4000 houses were planned in Visakhapatnam City as per the availability of the site and permissibility as per the Urban Planning Rules.

It is contended that this reconstruction scheme was primarily for the fishermen, people residing in hilly slope of the city and other vulnerably located population/urban poor. Accordingly it was proposed to take up rehabilitation & reconstruction of houses for the hudhud cyclone victims in the form of housing with the partnership of corporate & governmental organizations and government of Andhra Pradesh vide G;O.Rt.No.12 Housing (R&UH) Department, dt. 9.2.2015 had accorded permission to the MD, APSCHL to take up reconstruction & rehabilitation

of 1100 houses in rural areas and 6000 houses in urban areas to the cyclone victims of Srikakulam, Vizianagaram, Visakhapatnam & East Godavari Districts. The Visakhapatnam District, Andhra Pradesh was sanctioned with 5,462 houses under the said scheme and around 4000 houses were planted in city area based on the need.

For the above purpose, all the available lands fit for construction of group housing had been screened and short listed based on the need of the populations to critically identify the locations where such schemes could be constructed and all such lands were visited by the officials of housing corporation, ULBs – Greater Visakhapatnam Municipal Corporation and Visakhapatnam Urban Development Authority, Revenue and survey Departments and given the list of finalized site and accordingly, housing corporation has applied before the VUDA or lay out approval of the housing scheme and after getting the necessary clearance, the construction has started.

One of such lands handed over to the Project Director, AP. State Housing Corporation Ltd., was the subject land admeasuring Ac.6.74 Cts covered in Sy.No.83 of Mommadi and this lands stood classified as 'tank' poramboke known as Chinna tank as per the original revenue records. As it was classified as water body, to comply with the Supreme Court directives and State Government directions with respect to dealing with the lands of water body category, the Joint Inspection team viz, Joint Collector, Superintending Engineer, Water Resource Circle, Visakhapatnam, EE, Dy EE, Revenue Divisional Officer, Visakhapatnam and Tahsildar, Visakhapatnam visited the land on 3.6.2015 and found that the existing china tank erstwhile known as Panchayat Raj tank and there was no ayacut under this tank due to urbanization. There were two feeder channels existed to feed this tank. One was flowing from south to north and another one was flowing from east

and feeds the tank. The excess water should flow through a culvert. Already master plan road was formed by VUDA across this bit of land and excess water was flowing through a single pipe culvert and flowing parallel to the existing road and after that it flows from west to east through an existing road culvert and finally joins the another tank through a slab culvert to a tank in Sy.No.46 known as Pedda tank of Kommadi. After the inspection, the irrigation authorities had given conditions as per the Supreme Court directives and State Government Regulations to develop the land categorized as water body classification. Based on the above conditional recommendations, the housing authorities had submitted final layout proposals to the UVDA authorities vide Lr.Rc.No.199/2015/Layouts/Hud-Hud, dt. 17.6.2015 and in turn VUDA had issued layout approval vide LT.No.63/2015/L5, dt. 25.7.2015 subject to the compliance of conditions implied.

The subject land was most suitable / fit for proposed housing as the surrounding lands of Sy.No.83 of Kommadi were developed as follows and located within the short distance of the selected land.

Original habitation of Kommadi village – 0.41 km

Housing new colony site (Sy.No.119, 137) – 0.82 km

Existing JNNURM Housing colony (0.82 km)

VUDA APPROVED PRIVATE layout LP.No.66/2006- abutting to Sy.No.83

New stadium – 0.91 km

Hud hud housing proposal to be constructed with the assistance of film industry people (syNo.161/1) – 1.29 km

Existing engineering college – 0.79 km

There were no indiscriminate violation of Hon'ble Supreme Court of India observations made in its order in CA.No.4787/2001, dt. 25.7.2001 as averred by the petitioner as it was an abandoned tank as per the Irrigation officials report and there

was no trace of such water body on ground and it was an abandoned tank and there was no ayacut under it. Further, this particular water body was not active there for recharging the drinking water, irrigation resources, percolation tank, cattle drinking purpose etc. Also the surrounding areas were already been developed as urbanized area as stated supra.

It is important to note that during the rainy season, the existing Gedda downward stream would be filled up with water in isolated tank 'Pedda Cheruvu' situated in Sy.No.46 whereas the proposed land in Sy.No.83 was in Urbanised nature and also steps had been taken to strengthen for flow of excess water through culvert channels.

It was further submitted that the govt. Of AP had enunciated strict guidelines vide its Memo No.65961/Asn.I(1)97-11,dt. 8.2.1999 with regard to conversion/allotment of water body porambokes read as follows:

"...government have been very rarely relaxing the ban orders where the tank bed lands are required for a public purpose like construction of houses for weaker sections and provision of land for public weaker sections and provision of land for public institutions/organizations, when no tank exist on ground due to silting, breached bund and no ayacut exists since a long time or when the catchments area as well as the ayacut itself were converted by the land owners into a built up area and tanks are not receiving water and have ceased to serve been purpose or when tanks were abandoned or have been defunct due to non receipt of water or due to formation of channel system. Collectors to consider all irrelevant aspects including the need and justification for the conversion of tank bed lands for other purposes on the opinion of the technical authorities and take a suitable decision in each case. The proposals are to be examined critically keeping in view the public interest and

the need for protecting all tanks which serve various purposes such as irrigation, provision of drinking water and the purpose of improving ground water level.

As the proposed housing for the hudhud cyclone victims was purely a public purpose and as per above cited memo, necessary conversion/allotment of water body poramboke with regard to SyNo.83 of Kommadi were submitted to the govt. through the special C.S to Govt & CCLA, AP, Hyderabad vide this office Lr.Rc.No.522/2015/E2, dt.14.8.2015 since the tank was abandoned and no ayacut under it extinguished. Further, the housing department had completed 50% of construction work.

Earlier Guntu Boyina kumar who is present petitioner had filed a PIL in Hon'ble High Court of Andhra Pradesh and detailed counter was filed by the District Administration. Further, the Hon'ble High Court vide its order dt. 18.1.2016 in PIL No.282/2015 pronounced that PIL is disposed of as not pressed.

The applicant again filed this petition in Form – I by mentioning the same grounds with a greedy motive and the present subject land was being utilised for housing for the hudhud cyclone victims which was a purely an important public purpose and also no indiscriminate violation of Hon'ble Supreme Court of India observations made in its order in C.A.No.47887/2001 dt. 25.7.2001.”

5. The fourth respondent filed reply affidavit contending as follows:

“At the outset, they denied all the averments contained in the application except those that are specifically admitted herein. They reserved the right to file additional reply statement if better facts were made available at later stage. The Commissioner, Greater Visakhapatnam Municipal Corporation was no way concerned with the construction of houses under the housing scheme of providing houses to those who were affected victims of hun hud cyclone.

The District Collector, Visakhapatnam issued proceedings, allotting the land of Ac.6.74 cts in S.No.83 of Kommadi village of Visakhapatnam Rural mandal, Visakhapatnam dt. To GVMC for construction of houses under the JNNURM program. On the said orders, the Tahsildar, Visakhapatnam rural had handed over the said land to the Commissioner GVMC on 20.3.2008. The said land was not utilized by GVMC till 2015. The Collector, VSP vide proceedings RC.No.522/2015, E2, dt. 16.4.2015 had issued orders allotting the said unutilized land to the AP State Housing Corporation, Visakhapatnam for the purpose of construction of houses in rural and urban area for hud hud cyclone victims in Visakhapatnam district as per government orders. In pursuance of the same the land of Ac.6.74 cts in SNo.83 of Kommadi village which was earlier handed over on 20.3.2008 by the Tahsildar, Visakhapatnam rural to Greater Visakhapatnam district was in turn handed over by the Town Surveyor, GVMC to the Dy. Executive Engineer, AP State Housing Corporation, Visakhapatnam authorized representative of the project director, AP State Housing Corporation Ltd., Visakhapatnam under deliver receipt Rc.No.14504/2015 TS dt. 16.4.2015. It is submitted that from the date of delivery to the AP housing corporation, the GVMC has no way concerned with the said land and no houses constructed on the said land by the GVMC.

The applicant filed the PIL No282/2015 during 2015 and the land was in possession of housing corporation for construction of houses to the cyclone victims of hud hud cyclone. The PIL was disposed off on 18.1.2016 as not pressed by the petitioner.

It is submitted that the AP housing corpn. applied to the Visakhapatnam Urban development authorities for approval of layout and the UVDA approved the layout for housing scheme for houses to the cyclone victims of hud hud toofan.

It is submitted that in view of the above and as the GVMC was not involved in the above land allotment and this 4th respondent had not constructed any houses to the hud hud cyclone victims in the land in S.No.83, tank poramboke of Komadi village, Visakhapatnam Rural Mandal.”

6. The respondents 1 and 3 had adopted the statement filed by the second respondent and filed a memo to that effect.

7. When the matter came up for hearing today through Video Conference, Mr. Boopender represented applicant. Mr. Subash, Government Pleader for Revenue Department of the State of Andhra Pradesh represented the respondents.

8. It is seen from the pleadings that it was originally a water body ‘tank poramboke’ and since it was abandoned for long time, it had lost its characteristics of a water body and they have decided to convert this water body into residential plots for providing houses for the persons affected by the cyclone. It is also mentioned that even at that time, 50% of the construction had been completed. It is not known as to the present status of the construction of houses. However, if it is really a water body merely because there was no water available for some time due to monsoon failure, that will not affect the characteristics of the water body, as has been observed by the Hon’ble Supreme Court in JAGPAL SINGH V. STATE OF PUNJAB (2011) 11 SCC 396 .

9. In order to ascertain its original status, the present status and whether there was any environmental degradation caused on account of the construction of the houses in the place which was originally a water body, we feel it appropriate to appoint a Joint Committee comprising of (1) District Collector, Visakhapatnam District (2) Commissioner, Greater Visahapatnam Municipal Corporation (3) Senior Officer from MoEF & CC, Regional Office, Chennai (4) Senior Officer not below the rank of Joint

Secretary of Revenue Department, State of Andhra Pradesh and a Senior Engineer from the Irrigation Department to inspect the area in question and submit a factual and status report before this Tribunal.

9. The Committee is directed to ascertain the original status, present status of the land, from when onwards the water storing capacity of the tank has lost its characteristics, what are all the procedures adopted by the authorities before converting this to be used for other purposes, whether there was any subsequent event of any natural calamity occurred in that area during monsoon like flood, 'hud hud' cyclone etc., on account of such construction, what are all the remedial measures taken by the government to meet the situation at the relevant time for providing safety measures for those persons if any affected by the flood after the construction was made in this area, whether any environmental damage has been caused on account of such construction and whether the ground water recharge capacity in that area has gone down on account of non availability of water for long period as alleged by the authorities.

10. The District Collector, Visakhapatnam District will be the Nodal Officer for coordination and also for providing necessary logistics for this purpose.

11. The Committee is directed to submit the report to this Tribunal on or before 29.4.2021 by e-filing in the form of Searchable PDF/OCR Supportable PDF and not in the form of Image PDF along with necessary hardcopies to be produced as per Rules.

12. The applicant is directed to submit a set of papers including the application along with the documents if any produced by them to the Members of the Committee within a week so as to enable them to comply with the direction.

13.The Registry is directed to communicate this order to the Members of the Committee and also the State respondents, including the Chief Secretary and Principal Secretary, Department of Revenue, State of Andhra Pradesh through e-mail immediately so as to provide necessary assistance to the Committee to carry out the directions of this Tribunal.

For consideration of report, post on **29.4.2021**

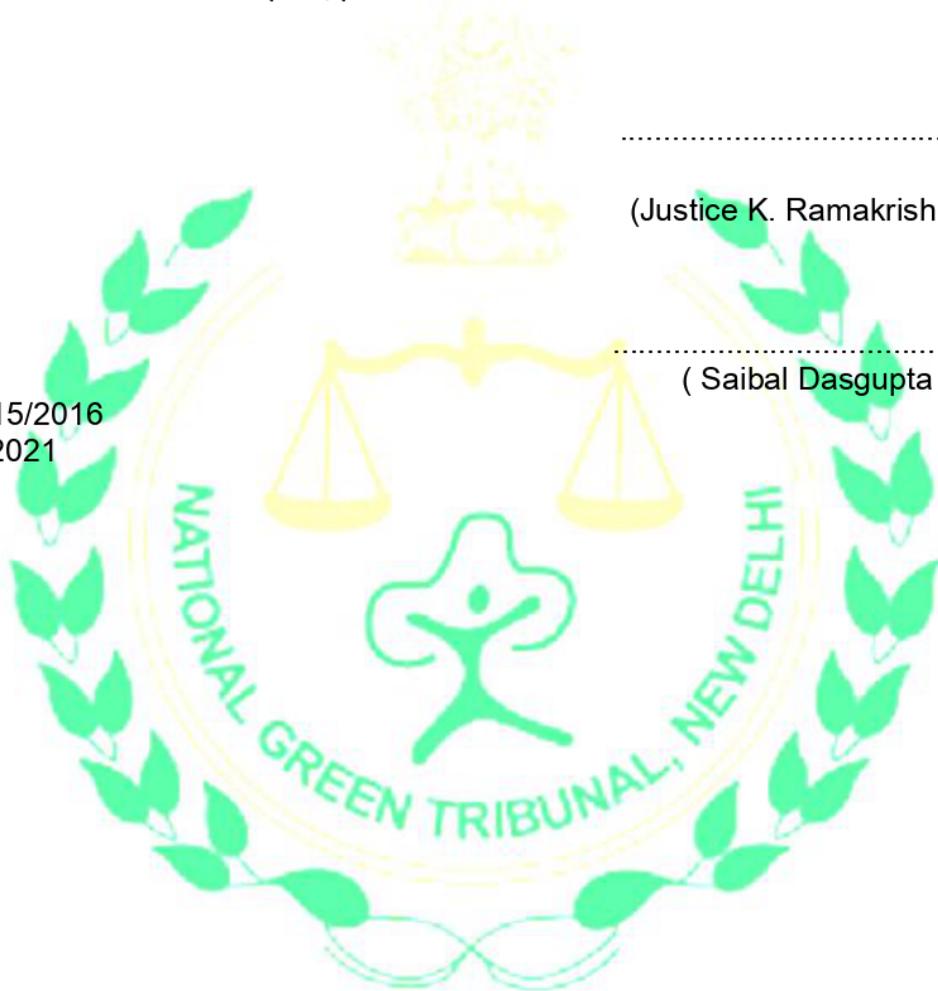
.....J.M.

(Justice K. Ramakrishnan)

.....E.M.

(Saibal Dasgupta)

O.A.215/2016
18.3. 2021
Kkr



Item No.11:

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

Original Application No. 215 of 2016 (SZ)
(Through Video Conference)

IN THE MATTER OF:

Guntu Boyina Kumar Kommadi



...Applicant(s)

The State of Andhra Pradesh
Rep. by its Secretary,
Revenue Department,
Secretariat, Hyderabad and Ors.

सत्यमेव जयते

...Respondent(s)

Date of hearing: 30.11.2021.

CORAM:

HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER

HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER

For applicant(s):

None.

For Respondent(s):

Mrs. Madhuri Donti Reddy represented
Mr. P. Subash for R1 to R4.

ORDER

1. The above case has been posted to today for consideration of Joint Committee report and also for hearing.
2. The Joint Committee has filed the report signed by some of the members on 24.10.2021, e-filed 11.11.2021 which reads as follows:-

**REPORT OF JOINT COMMITTEE APPOINTED BY THE NATIONAL
GREEN TRIBUNAL, CHENNAI IN O.A. NO.215 OF 2016
&&&**

The Hon'ble National Green Tribunal vide order in O.A. No.215 of 2016 dt:18.03.2021 has appointed a Joint Committee consisting of (1) District Collector, Visakhapatnam (2) Commissioner, Greater Visakhapatnam Municipal Corporation (3) Senior Officer MoEF & CC, Regional Office, Chennai (4) Senior Officer not below the rank of Joint Secretary of Revenue Department, State of A.P. and a Senior Engineer from the irrigation department to inspect the Sy.No.83 of Kommadi Village of Visakhapatnam (Rural) mandal and submit factual and status report before the tribunal in order to ascertain its original status, the present status and whether there was any environmental degradation caused on account of the construction of the houses in the place which was originally a water body.

Keeping in view of the directives of the Hon'ble National Green Tribunal, Chennai, the Principal Secretary to Government, Revenue Department has issued Memo No. REV01 - LANA0MISC/ 227/ 2021 - LANDS-1 dt:10.08.2021 duly nominating the following officers as the members of the Joint Committee to inspect and examine and to submit its report in the subject matter to the Hon'ble National Green Tribunal.

Sl. No.	Name of the Officer & Designation	
1.	Sri A. Mallikarjuna, I.A.S., District Collector, Visakhapatnam	Nodal Officer
2.	Sri K.R.H.B.N. Chakravarthi, I.A.S., Secretary to CCLA O/o CCLA, Gollapudi, Vijayawada.	Member
3.	Dr. Suresh Babu Pasupuleti, Scientist-C, MOEF and Climate Change, Green House Complex, Gopalareddy Road, Vijayawada	Member
4.	Smt. G. Srijina, I.A.S., Commissioner GVMC, Visakhapatnam	Member
5.	K. Surya Kumar, Superintendent Engineer, Water Resource Department, Visakhapatnam.	Member

In pursuance of the orders of the Hon'ble National Green Tribunal, Chennai in O.A.No.215/2016 dt:18.03.2021, the above constituted Joint Committee has inspected the land measuring Ac.6.74 cts in S.No.83 of Kommadi village of Visakhapatnam Rural Mandal on 17.09.2021. The Complainant was also present before the Committee.

Before submitting the report on the Points/ Observations made by the Hon'ble Tribunal, the following brief facts of the case are submitted for better adjudication of the case.

Brief facts of the case :-

- (I) Sri Guntuboyina Kumar S/o Chandraiah resident of Ramalayam Street, Kommadi, Visakhapatnam has filed Original Application No.215/2016 before the Hon'ble National Green Tribunal, (Southern Bench) Chennai with a prayer to issue an order of injunction restraining the respondents permanently from carrying on any development/construction activity at Sy.No.83 of Kommadi village which is classified as Tank and pass such further or other orders as the Hon'ble court may deem fit and proper in the facts and circumstances of the case.
- (II) During October 2014, a very severe cyclone "Hudhud" hit the city of Visakhapatnam and rural areas of North Coastal Districts, badly affecting the livelihood and causing huge loss to Private and Government properties. The Government took all the relief and rehabilitation measures and restored the situation to normalcy. Due to this havoc, many houses/dwelling units were damaged in a large number and as a relief, compensation amount was paid to the victims of house damages. The Government vide G.O.RT.No.12, Housing (R&UH) Department, Dated:- 09.02.2015 sanctioned and accorded permission to the MD, APSCHL to take up Reconstruction & rehabilitation of 1100 houses in Rural Areas and 6,000 houses in Urban Areas to the Cyclone victims of Srikakulam, Vizianagaram, Visakhapatnam & East Godavari Districts. Under the above HUDHUD housing scheme, 5462 houses were sanctioned in Visakhapatnam district only and around 4000 houses are planned in City area based on the need. In orders to provide the houses to the victims under this scheme Government land parcels were identified at different places including the suit scheduled land in Sy.No.83 of Kommadi village, Visakhapatnam Rural Mandal. Sy.No.83 of Kommadi village is classified as Tank Poramboke as per original revenue records and locally known as "Chinna Tank". The land measuring an extent of Ac.6.74 cts in Sy.No.83 of Kommadi village is notified under section 22(A)(1)(a) published in the year 1997, 2012, 2014 and 2017. The said Survey number is not excluded from the list of Govt. prohibited properties i.e., 22(A)(1)(a). The administrative sanction orders were issued vide proceedings

No.180/2015/Hud-Hud Cyclone/VSP/dt:05.05.2015 of the Collector, Visakhapatnam.

- (III) As the subject land is a water body, and in order to comply the directives of the Hon'ble Apex Court, a Joint Inspection team consisting of Joint Collector, Superintending Engineer, Water Resource Circle, Visakhapatnam, EE, Dy.EE, Revenue Divisional Officer, Visakhapatnam and Tahsildar, Visakhapatnam-(R) inspected the land on 3.6.2015 and found that the existing "Chinna Tank" (erstwhile known as Panchayat Raj tank) is not having any ayacut due to urbanization. The inspection further reveals that there are two feeder channels to feed the tank when the tank is in active use. One feeder channel is flowing from South to North and another is flowing from East to West and the excess water use to flow through a culvert. Already a master plan road is formed by VUDA across this bit of the land and excess water is flowing through a single pipe culvert parallel to the existing road from West to East and finally passing by a slabed culvert it joins another tank in Sy.No.46 known as "Pedda Tank" of Kommadi (V).
- (IV) After Inspection, the Irrigation authorities have given the following conditions as per the Hon'ble Supreme Court Directives and State Government Regulations to develop the land classified as Water Body.
1. The Gedda flowing in the vicinity of the tank should be strengthened with revetment for required discharge.
 2. The Geddas which is passing Parallel to the existing VUDA Road should be widen to cater the maximum flood discharge to curb inundation of local area upto Pedda tank which is located in downstream side i.e., S.No.83 to Sy.No.46.
- (V) Based on the above conditional recommendations, the Housing authorities submitted final layout proposals to the VUDA authorities vide Lr.Re.No.199/2015/Layouts/Hud-Hud, Dt:-17.6.2015 and in turn VUDA issued layout approval vide LT.No.63/2015/L5, Dt: 25.7.2015 subject to the compliance of conditions implied.
- (VI) The complainant Sri Guntuboyina Kumar S/o Chandraiah filed an OA No.215 of 2016 before the Hon'ble National Green Tribunal on 05.07.2016 after commencement of work of construction of houses under the Scheme in the year 2015. A Counter affidavit was filed in the said OA by the District Collector, Visakhapatnam. After perusing the counter affidavit and also further report of the District Collector, Visakhapatnam on the present status of

the land, the Hon'ble National Green Tribunal have issued orders dt:18.03.2021 directing to constitute a Joint Committee.

(VII) The Hon'ble Tribunal directed the Joint Committee to submit the report on 21.09.2021 on the following aspects.

- (1) Ascertain original status, present status of the land, from when onwards the water storing capacity of the tank has lost its characteristics.
- (2) What are all the procedures adopted by the authorities before converting this to be used for other public purposes.
- (3) Whether there was any subsequent event of any natural calamity occurred in that area during monsoon like flood, 'Hud-Hud' cyclone etc.,
- (4) On account of such construction, what are all the remedial measures taken by the Government to meet the situation at the relevant time for providing safety measures for those persons if any affected by the flood after the construction was made in this area
- (5) Whether any environmental damage has been caused on account of such construction and whether the ground water recharge capacity in that area gone down on account of non availability of water for long period as alleged by the authorities.

The observations of the Joint Committee on the above five (05) points are as follows:

Point No.1 : Ascertain original status, present status of the land, from when onwards the water storing capacity of the tank has lost its characteristics

- a) As per the revenue records the land in S.No.83 of Kommadi village, Visakhapatnam Rural Mandal with a total extent of Ac.6.74 cts is classified as "Tank" Poramboke and it is notified under section 22(A)(1)(a) published in the year 1997, 2012, 2014 and 2017. The tank is locally called as "Chinna Tank" and in abandoned stage. Long back, when the tank was in active use, there used to be two feeder channels feeding the tank. There are no features of tank on the subject land. The land is parallel to the ground level in such a way that there was no requirement for filling work before starting the project. As could be seen from the approved DPR also such provision for filling the site was not

made for development of the site and hence no work was given for the Executive Agency for site levelling.

- b) Present status of the land is covered with 19 G+3 Housing blocks on ground containing 32 houses in each block. Internal roads are formed. The Construction is in un-finished stage. This Housing project was sanctioned and started after Hudhud cyclone which occurred on 12.10.2014 in order to provide permanent houses to 608 Hudhud Cyclone victims in the city. The project Plan was approved by the VUDA for G+3 structures i.e., Ground plus Three floors with plinth area of 297 Sq. Mts. of each block. The building layout was approved by the VUDA vide Progs. LT No.63/2015/L5, dt:25.07.2015 and after approval of layout the Housing project work was started.

The contractor who was originally entrusted in the 1st instance became defaulter and he was terminated from the work by imposing penalty. The balance work was entrusted to a new contractor and the finishing works to the buildings are in progress. Already 90% of the work was completed and only finishing works are in progress and expected to be completed by January 2022.

The two feeder channels are lined with concrete upto VUDA master plan road which leads to Pedda Tank in Sy.No.46 of Kommadi village. Retaining cum CC Drain (Catchment drain) was also constructed with 3.00 Mts depth and 3.00 Mts width along the existing Gedda/ natural rain water path to carry forward the rain water coming from the existing Hill area and other catchment area to the existing Pedda tank to safe guard the flood water during rains.

There is no ayacut to the Tank in S.No.83 due to total urbanization. There are no agricultural lands below the Pedda Tank in Sy.No.46 of Kommadi village also as the entire area in the vicinity is completely urbanized.

- The total houses built are $19 \times 32 = 608$ Houses
- The built up area (plinth area) of each house is 34.12 Sq. Mts.
- Therefore, the total built-up area (excluding overhead tank area) is 608×34.12 Sq. Mts. = 20,744.96 Sq. Mts.
- The above total area of 20744.96 Sq. Mts is excluding the built up area of the overhead tank.

- c) The water storing capacity of the tank lost its characteristics and the Irrigation department is also unable to specify the period from which the tank lost its storing capacity.

Point No.2 : What are all the procedures adopted by the authorities before converting this to be used for other public purposes

As the subject land is a water body as per revenue records, and in order to comply the directives of the Hon'ble Apex Court, a Joint Inspection team consisting of Joint Collector, Visakhapatnam Superintending Engineer, Water Resource Circle, Visakhapatnam, EE, Dy.EE, Revenue Divisional Officer, Visakhapatnam and Tahsildar, Visakhapatnam-(R) inspected the land on 3.6.2015 and found that the existing "Chinna Tank" (erstwhile known as Panchayat Raj tank) is not having any ayacut due to urbanization. The inspection further reveals that there are two feeder channels to feed the tank when the tank is in active use. One feeder channel is flowing from South to North and another is flowing from East to West and the excess water use to flow through a culvert. Already a master plan road is formed by VUDA across this bit of the land and excess water is flowing through a single pipe culvert parallel to the existing road from West to East and finally passing by a slabed culvert it joins another tank in Sy.No.46 known as "Pedda Tank" of Kommadi (V).

After the Inspection, the Irrigation authorities have given the following conditions as per the Supreme Court Directives and State Government Regulations to develop the land classified as Water Body.

1. The Gedda flowing in the vicinity of the tank should be strengthened with revetment for required discharge.
2. The Gedda which is passing Parallel to the existing VUDA Road should be widen to cater the maximum flood discharge to curb inundation of local area upto Pedda tank which is located in downstream side i.e., S.No.83 to Sy.No.46.

At the time of inspection of the said team there was no trace of water in this Tank. There was no Ayacut under this Tank. Hence, the said team came to a conclusion that this tank is an abandoned one. The photographs at the time of inspection of team have also been enclosed. More over the Geddas (Channels) were strengthened by cement revetment. All measures were taken in widening the Gedda which is passing parallel to VUDA road so as to allow maximum

discharge to Pedda Tank. Hence, there are no violations of guidelines issued by Hon'ble Supreme Court in it's order in CA No.4787/2001 dt:25.07.2001.

Point No.3 : Whether there was any subsequent event of any natural calamity occurred in that area during monsoon like flood, 'hud hud' cyclone etc.,

During the inspection of the Joint Committee on 17.09.2021, the local people have stated that no inundation occurred in and around the subject land for the last 10 yrs which shows that there is no influence of this project on inundation. There are no traces of tank. There are no agricultural lands. The area is covered with structures.

Point No.4 : On account of such construction, what are all the remedial measures taken by the Government to meet the situation at the relevant time for providing safety measures for those persons if any affected by the flood after the construction was made in this area

Subject land is not a low lying area, there is no occurrence of inundation in the habitation during the monsoon season in and around this tank. More than sufficient infrastructure and ample care according to the conditions of the Irrigation were taken up to properly route the flood water to Pedda Tank by strengthening the channels with cement revetments. The rain water coming from the existing Hill area and other catchment area is properly carry forward to the existing Pedda tank to safe guard the flood water during rains by way of constructing retaining cum CC Drain (Catchment drain) with 3.00 Mts depth and 3.00 Mts width along the existing Gedda/natural rain water path.

After construction, no inundations/ calamities occurred in this area during monsoon seasons, flood and cyclones as such the question of remedial measures does not arise.

Point No.5 : Whether any environmental damage has been caused on account of such construction and whether the ground water recharge capacity in that area gone down on account of non availability of water for long period as alleged by the authorities.

No environmental damage is caused on account of such construction. Filling work was not done before starting the project, as the site is almost naturally up

to the ground level. Such provision was also not made for development site/filling work in the approved DPR.

The Joint Committee has also enquired the complainant Sri Guntuboyina Kumar S/o Chandraiah resident of Kommadi village who has stated that at the time of taking over the tank poramboke by the GVMC for the Housing project, nearly an extent of Ac.2.00 cts of land had water storage, nearly Ac.4.00 cts of land was cultivated by himself and few others and that an extent of Ac.0.74 cts was used as Cart track. He further stated that they demanded for allotment of the land in S.No.83 (subject land) for their communal purposes like construction of School, Hospital etc., He stated that the houses under construction are proposed for the beneficiaries other than their village. Hence, he filed this complaint before the Hon'ble National Green Tribunal. He finally requested to allot the Tank Poramboke land for their community purposes.

From this enquiry, it is revealed that the main contention of the complainant is only to allot the subject land for their village to its communal purposes but not to outer people by way of Housing Project. This also gives strength to the version of the officers that the said tank is already abandoned one.

The rain fall in this Visakhapatnam Rural Mandal is also analyzed. The details are furnished here under.

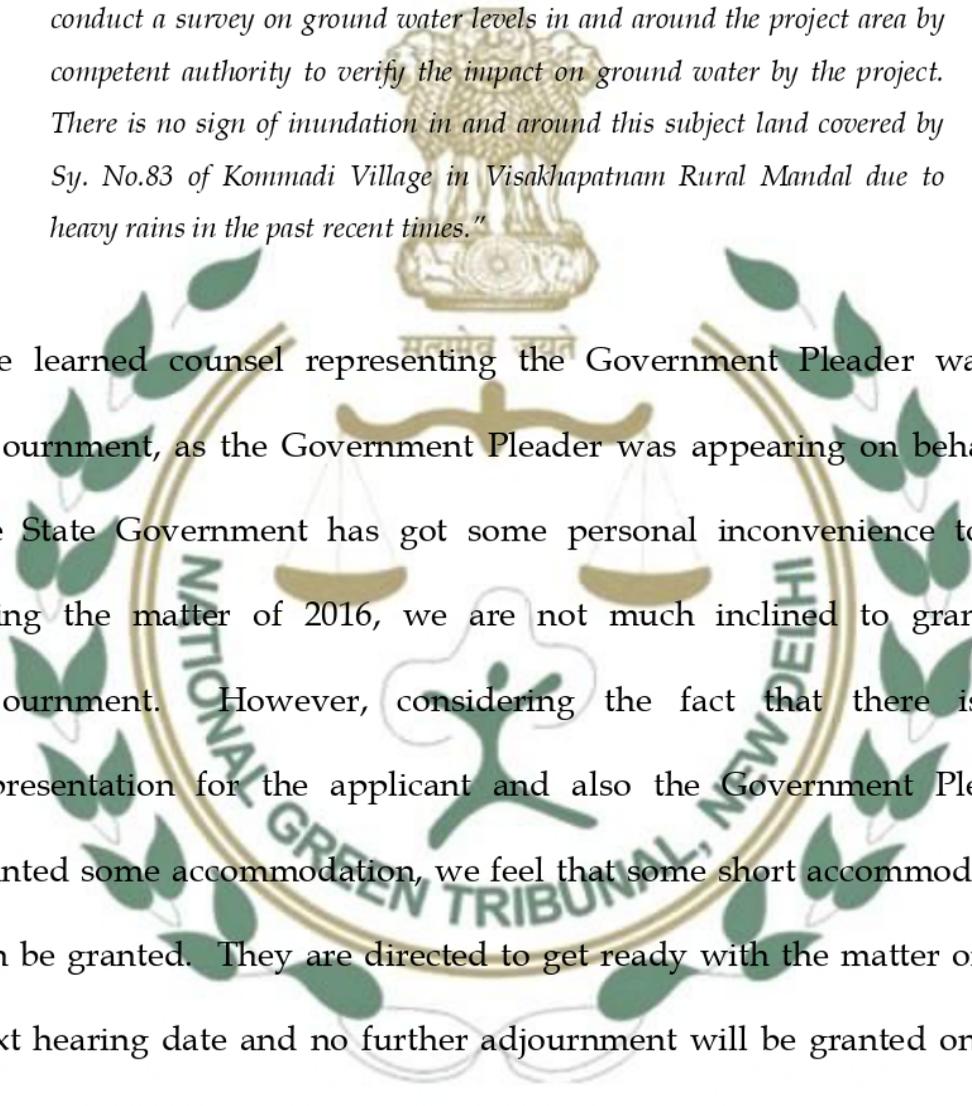
Year	Normal Rain fall in (mm)	Actual Rain fall in (mm)
2012	1006	1122
2013	1006	1451.6
2014	1006	1159.4
2015	1006	1342.2
2016	1006	1186.4
2017	1006	781.2
2018	1006	173.8
2019	1006	1083
2020	1006	1570.6

It is further reiterated that the habitation in and around this tank never got inundated due to heavy rains. The flood water was properly managed to reach the Pedda Tank.

In view of the above observations, the Joint Committee came to a conclusion that the said site is not an inundation area and there are no traces of water. In fact, though the land is classified as a tank Poramboke as per records, there are no characteristics or structure of tank long back. Presently, the site is

covered with G13 housing blocks with plinth area of 20,744.96 Mts. As per Environmental Impact Assessment Notification, 2006 and subsequent amendments, 8(a) column 4, the project requires prior Environmental Clearance (EC) from State Environmental Impact Assessment Authority (SEIAA), Andhra Pradesh. But, the project was constructed without obtaining prior Environmental Clearance from SIEAA, Andhra Pradesh.

Regarding ground water recharge capacity, it is recommended to conduct a survey on ground water levels in and around the project area by competent authority to verify the impact on ground water by the project. There is no sign of inundation in and around this subject land covered by Sy. No.83 of Kommadi Village in Visakhapatnam Rural Mandal due to heavy rains in the past recent times."

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3. The learned counsel representing the Government Pleader wanted adjournment, as the Government Pleader was appearing on behalf of the State Government has got some personal inconvenience today. Being the matter of 2016, we are not much inclined to grant an adjournment. However, considering the fact that there is no representation for the applicant and also the Government Pleader wanted some accommodation, we feel that some short accommodation can be granted. They are directed to get ready with the matter on the next hearing date and no further adjournment will be granted on that date.
 4. It is seen from the report that earlier, it was the water body and due to non availability of water, the extent has been reduced to a smaller extent and that was the reason why, they opted this area for allotting to

the Housing Board, for construction of houses to the people affected by cyclone. They never dispute the fact that it was a water body as per the revenue records and their grievance was that there was no inflow of water, thereby water is not stored to full capacity for quite long time and it is not having any ayacut areas as well. But we cannot agree with that proposition, as the Hon'ble Apex Court has held that not only the perennial water bodies but also non-perennial water bodies which have become disused on account of the negligence on the part of the authorities will have to be restored in order to protect environment. Since the Government itself has invested huge amount, we have not made up our mind as to whether that will have to be removed or not to restore this water body. But in alternate, we direct the Government to identify an alternate place having double the extent of this water body for the purpose of creating a new water body for protecting environment and also the necessary steps which they can make for the purpose of restoring the inlet and outlet of the existing water body where atleast some portion is being retained as water body now to explore the possibility of restoring the existing water body to the extent available to its original position. They are directed to come with proposal before the next hearing date i.e. 17.01.2022.

5. If they did not come with any proposal, this Tribunal will be compelled to pass appropriate orders in the matter in accordance with law.

6. The Registry is directed to communicate this order to the official respondents and also to the Chief Secretary, State of Andhra Pradesh, Principal Secretary for Environment and Irrigation and District Collector by e-mail immediately for their information and compliance of the direction.

7. For consideration of report and also for hearing, post on 17.01.2022.



सत्यमेव जयते

Sd/-

.....J.M.
(Justice K. Ramakrishnan)

Sd/-

.....E.M.
(Dr. Satyagopal Korlapati)

O.A. No.215/2016 (SZ),
30th November, 2021. Mn.



Item No. 01

(Court No. 1)

**BEFORE THE NATIONAL GREEN TRIBUNAL
SPECIAL BENCH**

(By Video Conferencing)

Original Application No. 215/2016(SZ)

Guntu Boyina Kumar Kommadi

Applicant

Versus

The State of Andhra Pradesh Hyderabad and Ors.

Respondent(s)

Date of hearing: 14.02.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER
HON'BLE DR. SATYAGOPAL KORLAPATI, EXPERT MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: Mr. M. Roopender.

Respondent(s): Mr. P. Subash for R1 to R4.

ORDER

1. Grievance in this application is against damage to the water body by construction activity at survey no. 83 of Kommadi Village, Visakhapatnam District in violation of law laid down by the Hon'ble Supreme Court *inter-alia* in *Hinch Lal Tiwari v. Kamala Devi (2001) 6 SCC 496*.

2. The application was filed on 10.08.2016 and has been pending for the last more than five years. The Tribunal has passed several orders

considering the response of the effected parties. Reference may be made to some of the orders passed earlier. On 27.09.2016, notice was issued to the respondents including the State of Andhra Pradesh, District Collector, Visakhapatnam, A.P. Housing Board and Greater Visakhapatnam Municipal Corporation.

3. On 18.03.2021, the Tribunal considered the matter comprehensively. To ascertain the current status of the issue, a joint Committee comprising (1) District Collector, Visakhapatnam District (2) Commissioner, Greater Visakhapatnam Municipal Corporation (3) Senior Officer from MoEF&CC, Regional Office, Chennai (4) Senior Officer not below the rank of Joint Secretary of Revenue Department, State of Andhra Pradesh and a Senior Engineer from the Irrigation Department was constituted. The operative part of the order is reproduced below:-

“8. In order to ascertain its original status, the present status and whether there was any environmental degradation caused on account of the construction of the houses in the place which was originally a water body, we feel it appropriate to appoint a Joint Committee comprising of (1) District Collector, Visakhapatnam District (2) Commissioner, Greater Visakhapatnam Municipal Corporation (3) Senior Officer from MoEF & CC, Regional Office, Chennai (4) Senior Officer not below the rank of Joint Secretary of Revenue Department, State of Andhra Pradesh and a Senior Engineer from the Irrigation Department to inspect the area in question and submit a factual and status report before this Tribunal.

9. The Committee is directed to ascertain the original status, present status of the land, from when onwards the water storing capacity of the tank has lost its characteristics, what are all the procedures adopted by the authorities before converting this to be used for other purposes, whether there was any subsequent event of any natural calamity occurred in that area during monsoon like flood, ‘hud hud’ cyclone etc., on account of such construction, what are all the remedial measures taken by the government to meet the situation at the relevant time for providing safety measures for those persons if any affected by the flood after the construction was made in this area, whether any environmental damage has been caused on account of such construction and whether the ground water recharge capacity in that area has gone down on account of non availability of water for long period as alleged by the authorities.”

4. In pursuance of above, report of the joint Committee was filed on 24.10.2021/11.11.2021 which was considered by this Tribunal on 30.11.2021. Finding that the water body had been adversely affected in violation of law, the Tribunal held that an alternative place with double area needs to be allocated for a new water body. Extracts from the report and the observations in the order dated 30.11.2021 are as follows:-

“....Keeping in view of the directives of the Hon'ble National Green Tribunal, Chennai, the Principal Secretary to Government, Revenue Department has issued Memo No. REVO I - LANAOMISC/ 227/ 2021 - LANDS-1 dt:10.08.2021 dui) nominating the following officers as the members of the Joint Committee to inspect and examine and to submit its report in the subject matter to the Hon'ble National Green Tribunal.

Sl. No.	Name of the Officer & Designation	
1.	Sri A. Mallikarjuna, I.A.S., District Collector, Visakhapatnam	Nodal Officer
2.	Sri K.R.H.B.N. Chakravarthi, I.A.S., Secretary to CCLA O/o CCLA, Gollapudi, Vijayawada.	Member
3.	Dr. Suresh Babu Pasupuleti, Scientist-C, MOEF and Climate Change, Green House Complex, Gopalareddy Road, Vijayawada	Member
4.	Smt. G. Srijina, I.A.S., Commissioner GVMC, Visakhapatnam	Member
5.	K. Surya Kumar, Superintendent Engineer, Water Resource Department, Visakhapatnam.	Member

In pursuance of the orders of the Hon'ble National Green Tribunal, Chennai in O.A.No.215/2016 dt:18.03.2021, the above constituted Joint Committee has inspected the land measuring Ac.6.74 cts in S.No.83 of Kommadi village of Visakhapatnam Rural Mandal on 17.09.2021. The Complainant was also present before the Committee.

Before submitting the report on the Points, Observations made by the Hon'ble Tribunal, the following brief facts of the case are submitted for better adjudication of the case.

Brief facts of the case :-

- (I) Sri Guntuboyina Kumar S/o Chandraiah resident of Ramalayam Street, Kommadi, Visakhapatnam has filed Original Application No.215/2016 before the Hon'ble National Green Tribunal, (Southern Bench) Chennai with a prayer to issue an order of injunction restraining the respondents permanently from carrying on any development/construction

activity at Sy.No.83 of Kommadi village which is classified as Tank and pass such further or other orders as the Hon'ble court may deem fit and proper in the facts and circumstances of the case.

(II) ***During October 2014, a very severe cyclone "Hudhud" hit the city of Visakhapatnam and rural areas of North Coastal Districts, badly affecting the livelihood and causing huge loss to Private and Government properties. The Government took all the relief and rehabilitation measures and restored the situation to normalcy. Due to this havoc, many houses/dwelling units were damaged in a large number and as a relief, compensation amount was paid to the victims of house damages. The Government vide G.O.RT.No.12, Housing (R&UH) Department, Dated:- 09.02.2015 sanctioned and accorded permission to the MD, APSCHL to take up Reconstruction & rehabilitation of 1100 houses in Rural Areas and 6,000 houses in Urban Areas to the Cyclone victims of Srikakulam, Vizianagaram, Visakhapatnam & East Godavari Districts. Under the above HUDHUD housing scheme, 5462 houses were sanctioned in Visakhapatnam district only and around 4000 houses are planned in City area based on the need. In orders to provide the houses to the victims under this scheme Government land parcels were identified at different places including the suit scheduled land in Sy.No.83 of Kommadi village, Visakhapatnam Rural Mandal. Sy.No.83 of Kommadi village is classified as Tank Poramboke as per original revenue records and locally known as "Chinna Tank". The land measuring an extent of Ac.6.74 cts in Sy.No.83 of Kommadi village is notified under section 22(A)(1)(a) published in the year 1997, 2012, 2014 and 2017. The said Survey number is not excluded from the list of Govt. prohibited properties i.e., 22(A)(1)(a). The administrative sanction orders were issued vide proceedings No.180/2015/Hud-Hud CycloneNSP/dt:05.05.2015 of the Collector, Visakhapatnam.***

(III) ***As the subject land is a water body, and in order to comply the directives of the Hon'ble Apex Court, a Joint Inspection team consisting of Joint Collector, Superintending Engineer, Water Resource Circle, Visakhapatnam, EE, Dy.EE, Revenue Divisional Officer, Visakhapatnam and Tahsildar, Visakhapatnam-(R) inspected the land on 3.6.2015 and found that the existing "Chinna Tank" (erstwhile known as Panchayat Raj tank) is not having any ayacut due to urbanization. The inspection further reveals that there are two feeder channels to feed the tank when the tank is in active use. One feeder channel is flowing from South to North and another is flowing from East to West and the excess water use to flow through a culvert. Already a master plan road is formed by VUDA across this bit of the land and excess water is flowing through a single pipe culvert parallel to the existing road from West to East***

and finally passing by a slabed culvert it joins another tank in Sy.No.46 known as "Pedda Tank" of Kommadi (V).

- (IV)** *After Inspection, the Irrigation authorities have given the following conditions as per the Hon'ble Supreme Court Directives and State Government Regulations to develop the land classified as Water Body.*
- 1. The Gedda flowing in the vicinity of the tank should be strengthened with revetment for required discharge.*
 - 2. The Geddas which is passing Parallel to the existing VUDA Road should be widen to cater the maximum flood discharge to curb inundation of local area upto Pedda tank which is located in downstream side i.e., S.No.83 to Sy.No.46.*
- (V)** *Based on the above conditional recommendations, the Housing authorities submitted final layout proposals to the VUDA authorities vide Lnlic.No.199/2015/Layouts/Flud-Hud, Dt:-17.6.2015 and in turn VUUA issued layout approval vide LT.No.63/2015/L5, Dt: 25.7.2015 subject to the compliance of conditions implied.*
- (VI)** *The complainant Sri Guntuboyina Kumar S/o Chandraiah filed an OA No.2 I5 of 2016 before the Hon'ble National Green Tribunal on 05.07.2016 after commencement of work of construction of houses under the Scheme in the year 2015. A Counter affidavit was filed in the said OA by the District Collector, Visakhapatnam. After perusing the counter affidavit and also further report of the District Collector, Visakhapatnam on the present status of the land, the Hon'ble National Green Tribunal have issued orders dt:18.03.2021 directing to constitute a Joint Committee.*
- (VII)** *The Hon'ble Tribunal directed the Joint Committee to submit the report on 21.09.2021 on the following aspects.*
- (1) Ascertain original status, present status of the land, from when onwards the water storing capacity of the tank has lost its characteristics.*
 - (2) What are all the procedures adopted by the authorities before converting this to be used for other public purposes.*
 - (3) Whether there was any subsequent event of any natural calamity occurred in that area during monsoon like flood, 'Flud-Hud' cyclone etc.,*
 - (4) On account of such construction, what are all the remedial measures taken by the Government to meet the situation at the relevant time for providing*

safety measures for those persons if any affected by the flood after the construction was made in this area

- (5) Whether any environmental damage has been caused on account of such construction and whether the ground water recharge capacity in that area gone down on account of non availability of water for long period as alleged by the authorities.*

The observations of the Joint Committee on the above five (05) points are as follows:

Point No.1 : Ascertain original status, present status of the land, from when onwards the water storing capacity of the tank has lost its characteristics

- a) As per the revenue records the land in S.No.83 of Kommadi village, Visakhapatnam Rural Mandal with a total extent of Ac.6.74 cis is classified as "Tank" Poramboke and it is notified under section 22(A)(1)(a) published in the year 1997, 2012, 2014 and 2017. The tank is locally called as "Chinna Tank" and in abandoned stage. Long back when the tank was in active use, there used to be two feeder channels feeding the tank. There are no features of tank on the subject land. The land is parallel to the ground level in such a way that there was no requirement for filling work before starting the project. As could be seen from the approved DPR also such provision for filling the site was not made for development of the site and hence no work was given for the Executive Agency for site levelling.*
- b) Present status of the land is covered with 19 G+3 Housing blocks on ground containing 32 houses in each block. Internal roads are formed. The Construction is in un-finished stage. This Housing project was sanctioned and started after Hudhud cyclone which occurred on 12.10.2014 in order to provide permanent houses to 608 Hudhud Cyclone victims in the city. The project Plan was approved by the VUDA for G+3 structures i.e., Ground plus Three floors with plinth area of 297 Sq. Mts. of each block. The building layout was approved by the VUDA vide Progs. LT No.63/2015/L5, dt:25.07.2015 and after approval of layout the Housing project work was started.*

The contractor who was originally entrusted in the 1st instance became defaulter and he was terminated from the work by imposing penalty. The balance work was entrusted to a new contractor and the finishing works to the buildings are in progress. Already 90% of the work was completed and only finishing works are in progress and expected to be completed by January 2022.

The two feeder channels are lined with concrete upto VUDA master plan road which leads to Pedda Tank in

Sy.No.46 of Kommadi village. Retaining cum CC Drain (Catchment drain) was also constructed with 3.00 Mts depth and 3.00 Mts width along the existing Geddal natural rain water path to carry forward the rain water coming from the existing Hill area and other catchment area to the existing Pedda tank to safe guard the flood water during rains.

There is no ayacut to the Tank in S.No.83 due to total urbanization. There are no agricultural lands below the Pedda Tank in Sy.No.46 of Kommadi village also as the entire area in the vicinity is completely urbanized.

- The total houses built are $19 \times 32 = 608$ Houses**
- The built up area (plinth area) of each house is 34.12 Sq. Mts.**
- Therefore, the total built-up area (excluding overhead tank area) is 608×34.12 Sq. Mts. = 20,744.96 Sq. Mts.**

The above total area of 20744.96 Sq. Mts is excluding the built up area of the overhead tank.

- c) The water storing capacity of the tank lost its characteristics and the Irrigation department is also unable to specify the period from which the tank lost its storing capacity.**

Point No.2 : What are all the procedures adopted by the authorities before converting this to be used for other public purposes

As the subject land is a water body as per revenue records, and in order to comply the directives of the Hon'ble Apex Court, a Joint Inspection team consisting of Joint Collector, Visakhapatnam Superintending Engineer, Water Resource Circle, Visakhapatnam, EE. Dy.EE, Revenue Divisional Officer, Visakhapatnam and Tahsildar, Visakhapatnam-(R) inspected the land on 3.6.2015 and found that the existing "Chinna Tank" (erstwhile known as Panchayat Raj tank) is not having any ayacut due to urbanization. The inspection further reveals that there are two feeder channels to feed the tank when the tank is in active use. One feeder channel is flowing from South to North and another is flowing from East to West and the excess water use to flow through a culvert. Already a master plan road is formed by VUDA across this bit of the land and excess water is flowing through a single pipe culvert parallel to the existing road from West to East and finally passing by a slabed culvert it joins another tank in Sy.No.46 known as "Pedda Tank" of Kommadi (V).

After the Inspection, the Irrigation authorities have given the following conditions as per the Supreme Court

Directives and State Government Regulations to develop the land classified as Water Body.

- 1. The Gedda flowing in the vicinity of the tank should be strengthened with revetment for required discharge.**
- 2. The Gedda which is passing Parallel to the existing VUDA Road should be widen to cater the maximum flood discharge to curb inundation of local area upto Pedda tank which is located in downstream side i.e., S.No.83 to Sy.No.46.**

At the time of inspection of the said team there was no trace of water in this Tank. There was no Ayacut under this Tank. Hence, the said team came to a conclusion that this tank is an abandoned one. The photographs at the time of inspection of team have also been enclosed. More over the Geddas (Channels) were strengthened by cement revetment. All measures were taken in widening the Gedda which is passing parallel to VUDA road so as to allow maximum discharge to Pedda Tank. Hence, there arc no violations of guidelines issued by Hon'ble Supreme Court in it's order in CA No.4787/200] dt:25.07.2001.

Point No.3 : Whether there was any subsequent event of any natural calamity occurred in that area during monsoon like flood, 'hud hud' cyclone etc.,

During the inspection of the Joint Committee on 17.09.2021. the local people have stated that no inundation occurred in and around the subject land for the last 10 yrs which shows that there is no influence of this project on inundation. There arc no traces of tank. There are no agricultural lands. The area is covered with structures.

Point No.4 : On account of such construction, what are all the remedial measures taken by the Government to meet the situation at the relevant time for providing safety measures for those persons if any affected by the flood after the construction was made in this area

Subject land is not a low lying area, there is no occurrence of inundation in the habitation during the monsoon season in and around this tank. More than sufficient infrastructure and ample care according to the conditions of the Irrigation were taken up to properly route the flood water to Pedda Tank by strengthening the channels with cement revetments. The rain water coming from the existing Hill area and other catchment area is properly carry forward to the existing Pedda tank to safe guard the flood water during rains by way of constructing retaining 'cum CC Drain (Catchment drain) with 3.00 Mts

depth and 3.00 Mts width along the existing Gedda/natural rain water path.

After construction, no inundations/ calamities occurred in this area during monsoon seasons, flood and cyclones as such the question of remedial measures does not arise.

Point No.5 : *Whether any environmental damage has been caused on account of such construction and whether the ground water recharge capacity in that area gone down on account of non availability of water for long period as alleged by the authorities.*

No environmental damage is caused on account of such construction. Filling work was not done before starting the project, as the site is almost naturally up to the ground level. Such provision was also not made for development site/filling work in the approved DPR.

The Joint Committee has also enquired the complainant Sri Guntuboyina Kumar S/o Chandraiah resident of Kommadi village who has stated that at the time of taking over the tank poramboke by the GVMC for the Housing project, nearly an extent of Ac.2.00 cts of land had water storage, nearly Ac.4.00 cts of land was cultivated by himself and few others and that an extent of Ac.0.74 cts was used as Cart track. He further stated that they demanded for allotment of the land in S.No.83 (subject land) for their communal purposes like construction of School, Hospital etc., He stated that the houses under construction are proposed for the beneficiaries other than their village. Hence, he filed this complaint before the Hon'ble National Green Tribunal. He finally requested to allot the Tank Poramboke land for their community purposes.

From this enquiry, it is revealed that the main contention of the complainant is only to allot the subject land for their village to its communal purposes but not to outer people by way of Housing Project. This also gives strength to the version of the officers that the said tank is already abandoned one.

The rain fall in this Visakhapatnam Rural Mandal is also analyzed. The details are furnished here under.

Year	Normal Rain fall in	Actual Rain fall in (mm)
2012	1006	1122
2013	1006	1451.6
2014	1006	1159.4
2015	1006	1342.2
2016	1006	1186.4
2017	1006	781.2
2018	1006	173.8

2019	1006	1083
2020	1006	1570.6

It is further reiterated that the habitation in and around this tank never got inundated due to heavy rains. The flood water was properly managed to reach the Pedda Tank.

In view of the above observations, the Joint Committee came to a conclusion that the said site is not an inundation area and there are no traces of water. In fact, though the land is classified as a tank Poramboke as per records, there are no characteristics or structure of tank long back. Presently, the site is covered with G13 housing blocks with plinth area of 20,744.96 Mts. As per Environmental Impact Assessment Notification, 2006 and subsequent amendments, 8(a) column 4, the project requires prior Environmental Clearance (EC) from State Environmental Impact Assessment Authority (SEIAA), Andhra Pradesh. But, the project was constructed without obtaining prior Environmental Clearance from SIEAA, Andhra Pradesh.

Regarding ground water recharge capacity, it is recommended to conduct a survey on ground water levels in and around the project area by competent authority to verify the impact on ground water by the project. There is no sign of inundation in and around this subject land covered by Sy. No.83 of Kommadi Village in Visakhapatnam Rural Mandal due to heavy rains in the past recent times.”

3. *The learned counsel representing the Government Pleader wanted adjournment, as the Government Pleader was appearing on behalf of the State Government has got some personal inconvenience today. Being the matter of 2016, we are not much inclined to grant an adjournment. However, considering the fact that there is no representation for the applicant and also the Government Pleader wanted some accommodation, we feel that some short accommodation can be granted. They are directed to get ready with the matter on the next hearing date and no further adjournment will be granted on that date.*

4. ***It is seen from the report that earlier, it was the water body and due to non availability of water, the extent has been reduced to a smaller extent and that was the reason why, they opted this area for allotting to the Housing Board, for construction of houses to the people affected by cyclone. They never dispute the fact that it was a water body as per the revenue records and their grievance was that there was no inflow of water, thereby water is not stored to full capacity for quite long time and it is not having any ayacut areas as well. But we cannot agree with that proposition, as the Hon’ble Apex Court has held that not only the perennial water bodies but also***

non-perennial water bodies which have become disused on account of the negligence on the part of the authorities will have to be restored in order to protect environment. Since the Government itself has invested huge amount, we have not made up our mind as to whether that will have to be removed or not to restore this water body. But in alternate, we direct the Government to identify an alternate place having double the extent of this water body for the purpose of creating a new water body for protecting environment and also the necessary steps which they can make for the purpose of restoring the inlet and outlet of the existing water body where atleast some portion is being retained as water body now to explore the possibility of restoring the existing water body to the extent available to its original position. They are directed to come with proposal before the next hearing date i.e. 17.01.2022.”

5. We have heard learned Counsels for the parties and considered the matter. Learned Counsel for the State of Andhra Pradesh fairly stated that in the facts and circumstances while the situation is irreversible as far as the pond in question is concerned but the State is willing to provide alternative of double area for a new water body to restore the inlet and outlet of the existing water body.

6. Accordingly, we direct that the above proposal be complied with within three months which will be the responsibility of the District Magistrate, Visakhapatnam. The suitability of the alternative pond will be determined by the District Magistrate, Visakhapatnam in coordination with SEIAA, Andhra Pradesh and the State PCB. The said Committee will also be at liberty to co-opt any other Expert/Institution.

7. We also note that construction project has proceeded without requisite EC. In that view of the matter without disturbing the construction already raised, we direct that no further construction be made till requisite EC/statutory clearances are obtained in accordance with law. This aspect be enforced strictly by the State PCB and District Magistrate, Visakhapatnam. The said statutory Authorities may also

examine whether any other compensation is required to be recovered for past violations on 'Polluter Pays' principle.

8. Compliance report may be filed with the Registrar of the Southern Bench, NGT on or before 30.06.2022. If any further direction becomes necessary, the matter be placed before the Bench.

Subject to above, the application is disposed of.

A copy of this order be forwarded to District Magistrate, Visakhapatnam, SEIAA, Andhra Pradesh and the State PCB by e-mail for compliance.

If any grievance survives, it will be open to the aggrieved party to take remedies as per law.

Adarsh Kumar Goel, CP

K. Ramakrishnan, JM

Sudhir Agarwal, JM

Dr. Nagin Nanda, EM

Dr. Satyagopal Korlapati, EM

Dr. Vijay Kulkarni, EM

Dr. Afroz Ahmad, EM

February 14, 2022
Original Application No. 215/2016(SZ)
SN

Rc.No.522/2015/E2, dt. .04.2022

Collector's Office,
Visakhapatnam.From
Dr A.Mallikarjuna, I.A.S.,
District Collector,
Visakhapatnam.To
The Executive Engineer,
AP Pollution Control Board,
Visakhapatnam

Sir,

Sub: Orders of the National Green Tribunal, Chennai in O.A.No.215/2016 - Visakhapatnam District - Feasibility report and Joint Inspection reports furnished by the RDO, Anakapalli and SE, Irrigation Circle, Vsp for land measuring Ac.14.00Cts in Sy.No.20p of Deverapalli Village and Mandal for formation of a new water body as per the orders of NGT - Request to determine the sustainability of the of this alternative pond as ordered by the Hon'ble NGT - Regarding.

Ref: 1. Order dt.14.02.2022 in O.A.No.215/2016(SZ) of the Hon'ble National Green Tribunal, Chennai.
2. Letter Rc.No.176/2022/B, dt.14.02.2022 of the Revenue Divisional Officer, Anakapalli Mandal.
3. Joint Inspection report of the RDO, Anakapalli and the Superintending Engineer, Irrigation Circle, Visakhapatnam dt.31.03.2022.

I invite attention to the references cited above.

It is to inform that in the reference 1st cited the Hon'ble National Green Tribunal, Chennai vide its orders dt.14.02.2020 in O.A.No.215/2016 has ordered to identify an alternate land measuring nearly Ac.15.00Cts for the purpose of creating a new water body for protecting environment in lieu of the land measuring an extent of Ac.6.74Cts in Sy.No.83 of Kommadi Village of Visakhapatnam Rural Mandal which was utilized for Hud Hud Housing. The operative part of the order is:

"...We have heard learned Counsels for the parties and considered the matter. Learned Counsel for the State of Andhra Pradesh fairly stated that in the facts and circumstances while the situation is irreversible as far as the pond in question is concerned but the State is willing to provide alternative of double area for a new water body to restore the inlet and outlet of the existing water body.

*6. Accordingly, we direct that the above proposal be complied with within three months which will be the responsibility of the District Magistrate, Visakhapatnam. **The suitability of the alternative pond will be determined by the District Magistrate, Visakhapatnam in coordination with SEIAA, Andhra Pradesh and the State PCB.** The said Committee will also be at liberty to co-opt any other Expert/Institution.*

7. We also note that construction project has proceeded without requisite EC. In that view of the matter without disturbing the construction already raised, we direct that no further construction be made till requisite EC/statutory clearances are obtained in accordance with law. This aspect be enforced strictly by the State PCB and

District Magistrate, Visakhapatnam. The said statutory Authorities may also examine whether any other compensation is required to be recovered for past violations on 'Polluter Pays' principle.

8. Compliance report may be filed with the Registrar of the Southern Bench, NGT on or before 30.06.2022. If any further direction becomes necessary, the matter be placed before the Bench.

Subject to above, the application is disposed of.

A copy of this order be forwarded to District Magistrate, Visakhapatnam, SEIAA, Andhra Pradesh and the State PCB by e-mail for compliance.

If any grievance survives, it will be open to the aggrieved party to take remedies as per law."

In the reference 2nd cited, the Revenue Divisional Officer, Anakapalli Division has submitted a report stating that the Tahsildar, Devarapalli Mandal has submitted report vide letter Rc.No.34/2022/SA, dt.14.02.2022 stating that he has identified the Government land to an extent of Ac.14.00Cts in Sy.No.20p of Devarapalli Village and Mandal in consultation with irrigation authorities. As per SFA of Devarapalli Village, the Sy.No.20 stands classified as Poramboke (Billala Metta) within an extent of Ac.161.75Cts. In the proposed extent of Ac.14.00Cts, a small water body existed in an extent of Ac.3.50Cts and an extent of Ac.4.00Cts (approximately) is under encroachment and some farmers are cultivating the lands without any valid pattas and remaining extent is free from encroachment and the land in Sy.No.20p admeasuring an extent of Ac.14.00Cts is feasible for formation of new water body. The Revenue Divisional Officer, Anakapalli has finally reported that the land in Sy.No.20p admeasuring Ac.14.00Cts is feasible for formation of new water body for protection of environment as ordered by the National Green Tribunal, Chennai.

In the reference 3rd cited, the Revenue Divisional Officer, Anakapalli reported that he along with Superintending Engineer, Irrigation, Visakhapatnam, DEE of Raiwada Reservoir Project Sub-division and Tahsildar, Devarapalli have inspected the land and further reported that the land identified for formation of new water body was located on downstream of Raiwada Reservoir Project at a distance of nearly 1Km. The site is receiving inflows from its self catchment area and the normal rainfall is around 1185 mm. As on the date of inspection it was observed that there was some stagnated water showing that the bed is of less permeability. The Geo-Coordinates of the site are 18°00'00.3"N 82°57'58.5"E. The team opined that the area of water stagnated is around Ac.14.00Cts in Sy.No.20p of Devarapalli (V) & (M) in Visakhapatnam District which is classified as Konda Poramboke (Rall Metta). On enquiry from the local people, the excess water from the stagnated water

point is flowing along the Sy.No.20 and it is ultimately joins in the Sarada River. There are no villages or houses located near the identified land. Further the Land Acquisition problem will not arise, since it was purely Government land as reported by the Tahsildar, Devarapalli. They have further reported that as per the preliminary walk through survey, the identified government land is suitable for formation of new water body for environmental protection as ordered by the Hon'ble National Green Tribunal, Chennai.

Therefore, it is requested to give suitable suggestions by visiting subject project necessarily with regard to the environmental impact/Pollution impact to the Engineering officials while forming new water body in the land measuring Ac.14.00Cts in Sy.No.20p of Devarapalli Village and Mandal as ordered by the Hon'ble National Green Tribunal, Chennai.

Yours faithfully,
Sd/- A. Mallikarjuna
District Collector,
Visakhapatnam

\t.c.b.o\


Superintendent (E)

Copy to the Revenue Divisional Officer, Visakhapatnam for necessary action

Copy to the Tahsildar, Devarapalli for necessary action.

**ANDHRA PRADESH POLLUTION CONTROL BOARD
REGIONAL OFFICE, VISAKHAPATNAM**

D.No.39-33-20/4/1, Madhavadhara Vuda Colony, Visakhapatnam - 530018,

Lr. No. 1278/APPCB/RO-VSP/2022

Date:21.04.2022

To
The Collector & District Magistrate,
Visakhapatnam District.

Sir,

Sub: APPCB, RO, VSP - Orders of the Hon'ble National Green Tribunal, Chennai in O.A.No.215/ 2016 - Visakhapatnam District - Feasibility report and Joint Inspection reports furnished by the RDO, Anakapalli and SE, Irrigation Circle, Vsp for land measuring Ac.14.00Cts in Sy.No.20p of Deverapalli Village and Mandal for formation of a new water body as per the orders of NGT - Request to determine the sustainability of the alternative pond as ordered by the Hon'ble NGT - Remarks of Regional Office, APPCB, Visakhapatnam- Submitted - Reg.

Ref:

1. Order dt.14.02.2022 in O.A.No.215/2016 (SZ) of the Hon'ble National Green Tribunal, Chennai. .
2. Letter Rc.No.176/2022/B, dt.14.02.2022 of the Revenue Divisional Officer, Anakapalli Mandal.
3. Joint Inspection report of the RDO, Anakapalli and the Superintending Engineer, Irrigation Circle, Visakhapatnam dt.31.03.2022.
4. Proceeding RC No. 522/2015/E2/Dt. .04.2022 from Collector's office received on 06.04.2022.

With reference to the above, it is to submit that the Hon'ble National Green Tribunal, Chennai vide its orders dt.14.02.2020 in O.A.No.215/2016 has ordered to identify an alternate land measuring nearly Ac.15.00Cts for the purpose of creating a new water body for protecting Environment in lieu of the land measuring an extent of Ac.6.74Cts in Sy.No.83 of Kommadi Village of Visakhapatnam Rural Mandal which was utilized for Hud Hud Housing.

In the reference 2nd cited, the Revenue Divisional Officer, Anakapalli has reported that the land in Sy.No.20p admeasuring Ac.14.00Cts, Devarapalli (V & M), Visakhapatnam District is feasible for formation of new water body for protection of Environment as ordered by the National Green Tribunal, Chennai.

In the reference 3rd cited, the Revenue Divisional Officer, Anakapalli, during joint inspection reported that the land identified for formation of new water body was located on downstream of Raiwada Reservoir Project is at a distance of nearly 1Km. The site is receiving inflows from its self catchment area and the normal rainfall is around 1185 mm. As on the date of inspection, it was observed that there was some stagnated water showing that the bed is of less permeability.

The Geo-Coordinates of the site are 18°00'00.3"N 82°57'58.5"E. The Joint committee opined that the area of water stagnated is around Ac.14.00Cts in Sy.No.20p of Devarapalli (V) & (M) in Visakhapatnam District which is classified as Konda Poramboke (Ralla Metta).

On enquiry from the local people, the excess water from the stagnated water point is flowing along the Sy.No.20 and it is ultimately joins in the Sarada River. There are no villages or houses located near the identified land. Further the Land Acquisition problem will not arise, since it was purely Government land as reported by the Tahsildar, Devarapalli. They have further reported that as per the preliminary walk through survey, the identified government land is suitable for formation of new water body for Environmental protection as ordered by the Hon'ble National Green Tribunal, Chennai.

In this regard, this office was instructed to give suitable suggestions by visiting subject project necessarily with regard to **the** environmental impact/Pollution impact to the Engineering officials while forming new water body in the land measuring Ac.14.00Cts in Sy.No.20p of Devarapalli Village and Mandal as ordered by the Hon'ble National Green Tribunal, Chennai.

As per the instructions, officials of this office have inspected the site of the proposed pond and its surroundings on 13.04.2022. During the inspection, Sri Y.Srinivas, Revenue Inspector, Devarapalli (M) and Sri B.Nageswara Rao, VRO- Devarapalli were present. The following observations were made:

- a) The site of the new water pond to be developed is surrounded by casuarina plantations in three directions (North, South and West) and surrounded by agricultural lands in East direction. GPS Co-ordinates of the site: 17.999977 & 82.966848.
- b) It was informed by the revenue officials that the site proposed for development of new water body consists of 14.0 acres extent which get inflows from nearby Hill area. A small water body already exists in an extent of about 3.5 acres in the total extent of 14.0 acres.



- c) Raiwada reservoir exists at a distance of 350 m and the site of the proposed pond exists in downstream of the reservoir and Sarada River exists at a distance of about 270 m from the site of the new water pond.
- d) There is no industrial activities/commercial activities exist in the upstream of the proposed water pond and hence pollution impact due to industries is insignificant.
- e) Environmental Impact Assessment study covering 10 km radius of the site proposed for new water pond may be required.

f) Criteria of Site Selection and the compliance is mentioned below:

S.No.	Criteria of Site Selection	Compliance
1	Land should have more water holding capacity.	Complied.
2	Land Should not be more alkaline or acidic.	Test may be conducted through Agricultural Department
3	Low lying area is more suitable.	Complied.
4	Site must have assured water supply.	Downstream of the reservoir and get inflows from nearby Hill area.
5	Outlets and Inlets of ponds should be well built.	Possibility to provide.
6	Site should be approachable with road or path.	Complied.
7	Site must be away from floods affected areas.	Opinion to be obtained from Irrigation department.

In view of the above, it is requested the District Collector, Visakhapatnam to direct the Irrigation Department to take up the formation of new water body after conducting the Environmental impact study covering 10 km radius of the site through Reputed Environmental organizations viz EPTRI, NEERI, Andhra University etc.

Submitted.

Yours faithfully


ENVIRONMENTAL ENGINEER

Copy submitted to the District Collector, Anakapalli District for favour of information and taking necessary action.