

BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT CHENNAI(SZ)

O.A. 27 OF 2023

Tellam Naresh

.... Petitioner

Vs

Union of India and 3 others

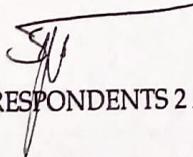
... Respondents

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It is Certified that the above documents are true copies of the Originals

DATED AT CHENNAI ON THIS THE 10TH DAY OF OCTOBER 2023


COUNSEL FOR RESPONDENTS 2 AND 4

①

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH AT CHENNAI
ORIGINAL APPLICATION No. 27 of 2023

IN THE MATTER OF

1. Mr. Tellam Naresh
S/o. Nageshwarao
Sithanagram Village, Parnashala Post,
Dummugudem Mandalam, Bhadradi
Kothugudem District, Telangana 507137.

2. Mr. Bura Laxminarayana
S/o. Jogaiah
Kamalapuram, Mangapeta Mandal,
Mulugu district, Telangana State 506172 : Applicants.

Versus

1. Union of India
Rep. by its Secretary,
Union Ministry of Environment, Forest & CC
Indira Paryavaan Bhavan
New Delhi. 110003.

2. Union of India,
Rep. by its Secretary
Union Ministry of Jal Shakti
Sram Shakti Bhavan
Rafi Marg, New Delhi. 110001

3. Irrigation & CAD Department, Telangana
Rep. by its Principal Secretary,
J-Block, 6th Floor, room No.623,
Secretariat Road, Opp. BRKR Building,
Hyderabad, Telangana 500022.

4. Godavari River Management Board,
Rep. by its Member Secretary,
Government of India, Ministry of Water Resources
5th floor, Jalasoudha, Errum Manzil,
Hyderabad, Telangana 500082.

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5. Telangana State Pollution Control Board,
Rep. by its Member Secretary,
A-3, Paryavaran Bhavan
Sanath Nagar Industrial Estate,
Sanat Nagar, Hyderabad 500018.

Respondents.

REPLY AFFIDAVIT FILED BY RESPONDENT Nos. 2 and 4

I, Bathula Venkataswamy son of Late Shri B. Pullaiah working as the EE (Admn), having office at Godavari River Management Board (GRMB), Government of India, Department of Water Resources, 5th floor, Jalasoudha, Errum Manzil, Hyderabad, Telangana 500082 do hereby solemnly affirm and sincerely state as follows

1. I am working in the Office of the fourth Respondent herein and as such I am well acquainted with the facts of the case. I have been duly authorized to sign this affidavit on behalf of Respondent Nos 2 and 4.

2. It is submitted that the Original Application is filed and raised various issues on construction of Sitammasagar Barrage without environmental clearance, Forest clearance and in violation of EIA Notification of 2006 and intermly prayed to direct the respondents of Government of Telangana not to proceed with the construction without these clearances.

3. At the outset, it is respectfully submitted that the applicants have not made any specific prayer in respect of Respondent No. 2 Ministry of Jal Shakti (MoJS) and Respondent No 4 Godavari River Management Board (GRMB) since they are not anyway associated with the construction of Sitarama Sagar Project and GRMB is not mandated to take any action against the project authorities.

4. It is submitted that as per "Guidelines for Submission, Appraisal and Acceptance of Irrigation and Multipurpose Projects, 2017" of then Ministry of Water Resources, River Development & Ganga Rejuvenation (MoWR, RD&GR), Advisory Committee of Department of Water Resources, River Development & Ganga Rejuvenation (DoWR, RD&GR), Ministry of Jal Shakti (MoJS), "on Major & Medium Irrigation, multipurpose and flood control projects" conveys its acceptance to the proposals of such projects on inter-State rivers, submitted by Project Authorities, based on techno-economic appraisal of the same by Central

B. Venkataswamy
20/01/2023

Water Commission (CWC) Thereafter DoWR, RD&GR, MoJS conveys Investment Clearance for the projects accepted by the Advisory Committee, based on statutory clearances necessary for the Projects

5. As per the provisions of the section 84(1) of the Andhra Pradesh Reorganization Act 2014, the Central Government has constituted an Apex Council headed by the Union Minister of Jal Shakti and the Chief Ministers of the States of Andhra Pradesh and Telangana as its members, which functions inter-alia include planning and approval of proposals for construction of new projects, if any, based on Godavari or Krishna River water, after getting the proposal appraised and recommended by the River Management Boards and by the Central Water Commission, wherever required.

6. In pursuance to the provisions of section 85(1) of the Andhra Pradesh Reorganisation Act, 2014, The Central Government has also constituted the Godavari River Management Board (GRMB), which functions inter-alia include making an appraisal of any proposal submitted by Project Authority for construction of new projects on Godavari River and giving technical clearance, after satisfying that such projects do not negatively impact the availability of water as per the awards of the Tribunals constituted under the Inter-State River Water Disputes Act, 1956 for the projects already completed or taken up before the appointed day.

7. DoWR, RD & GR, MoJS issued a Notification S.O. 2843(E) by publishing it in the Gazette on 15.07.2021 under Section 87(1) of APRA-2014 through which jurisdiction of GRMB has been notified.

8. As per clause 2(f) & 2(g) of the Notification S.O. 2843(E) within six months from the date of publication of this notification, both State Governments shall get complete the unapproved projects appraised and approved as per the provisions of the said Act and in accordance with the decisions taken in the 2nd meeting of the Apex Council. If approvals are not obtained within the stipulated time of six months, such completed unapproved projects shall cease to operate. This notification has come into force with effect from the 14th day of October, 2021. The said stipulated time has been extended up to 14.07.2022 vide Gazette Notification vide S.O. 1562(E) dated 01.04.2022.

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9. With regard to paragraph 3, it is submitted that Central Water Commission (CWC) forwarded a copy of DPR of the Sita Rama LIS to GRMB on 02.01.2022 after receiving it from GoTS., the GRMB Secretariat after broad examination sent comments/observations to CWC on 21.01.2022. Thereafter, the CWC requested GoTS vide letter dated 25.11.2022 to prepare and submit a consolidated DPR of Sita Rama Lift Scheme and Sitamma Sagar Multipurpose Project (SSMPP) and stated that DPR of Sita Rama LIS shall be treated as returned. The CWC forwarded a copy of DPR of combined final/modified DPR of Sita Rama LIS along with Sitamma Sagar Barrage on 10.03.2023 after receiving it from GoTS for its broad examination and the broad observations of GRMB have been submitted to CWC vide letter dated 24.04.2023, which is currently under examination in CWC.

10. With regard to paragraph 5, it is submitted that the Sita Rama Lift Irrigation Scheme has been included in Schedule-1 of Notification of jurisdiction of GRMB dated 15.07.2021 as unapproved Project (Sl.No.69). As per clause 2(f) and 2(g) of the Notification S.O.2843(E) within six months from the date of publication of this notification, State Governments shall get complete the unapproved projects appraised and approved as per the provisions of the said Act and in accordance with the decisions taken in the 2nd meeting of the Apex Council. If approvals are not obtained within the stipulated time of six months., such completed unapproved projects shall cease to operate. This notification shall come into force with effect from the 14th day of October, 2021. The said stipulated time has been extended upto 14.07.2022 vide Gazette Notification vide S.O.1562(E) dated 01.04.2022.

11. GRMB vide letter dated 20.12.2021 requested GoTS to submit the DPR of Sitammasagar Project for appraisal, in accordance with provision of Sub Section 85(8)(d) of APRA, 2014 and clause 2(f) and 2(g) of the notification dated 15.7.2021 and immediately stop the construction of the project till the DPR is appraised and approved by competent authorities under the Central Government.

12. It is further submitted that the GRMB received combined final/modified DPR of Sita Rama LIS long with Sitamma Sagar Barrage on 10.03.2023 forwarded by CWC after receiving it from GoTS. GRMB has sent its broad

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observation to CWC vide its letter dated 24.04.2023, which is currently under examination in CWC.

13. With regard to Paragraphs 1, 2, 4, 6, 7, 10 to 18 of above OA, it is submitted that these paras are not directed against the Respondent Nos 2 and 4. Hence, no comments. Moreover, Water being a State subject, planning and construction of water resources Projects are undertaken by the State Government of Telangana (in the instant case) and Respondents Nos 2 and 4 are not mandated to take any action against the Project Authority.

Prayer

In view of the submissions made above regarding role of Respondent No. 2 (Ministry of Jal Shakti) and Respondent No. 4 (Godavari River Management Board), the above paras do not come under the purview of Respondent Nos. 2 and 4 nor they are mandated to take any action against the State Government. Hence, the Hon'ble National Green Tribunal may kindly exempt the Respondent Nos. 2 and 4 from the purview of the Original Application No.27 of 2023.

Verification

I, Bathula Venkataswamy son of Late Shri B. Pullaiah, aged about 58 years, Designation: Executive Engineer (Admn), Godavari River Management Board, 5th Floor, Jalasoudha, Errum Manzil, Hyderabad, Telangana representing the respondent Nos. 2 and 4 herein, do hereby verify and declare that the contents stated in the above reply affidavit are true and correct to the best of knowledge and belief.

Date: 30.06.2023

Place: Hyderabad.

Bathula 30/06/2023
 BATHULA VENKATASWAMY
 Respondent Nos 2 and 4
 कार्य निवाहक अभियन्ता/ Executive Engineer
 गोदावरी नदी प्रबंधन बोर्ड
 GODAVARI RIVER MANAGEMENT BOARD
 भारत सरकार/Government of India
 हैदराबाद./HYDERABAD.

**Inspection Report of Member Secretary, Godavari River Management Board,
Hyderabad, to Sitamma Sagar Multi Purpose Project on 13.09.2023 in
Pursuance to the Direction of Hon'ble NGT in Case no 27/2023**

Hon'ble NGT, SZ, Chennai, vide its order dated 15.09.2023 in case no 27/2023, directed the Member Secretary, Godavari River Management Board (GRMB), Hyderabad, to visit Sitamma Sagar Multi Purpose (SSMP) project site and file a detailed report as to whether any work has been progressed in violation to the direction of Hon'ble NGT in Case no 27/2023.

The Member Secretary, GRMB visited the SSMP project site on 13.09.2023 accompanied by Executive Engineer, GRMB. Chief Engineer, Superintending Engineer, Executive Engineers and other officials of the SSMP project were present during the visit. The inspection report is as follows.

1. Project in Brief.

- 1.1 The Sita Rama Lift Irrigation Project (SRLIP) was initially formulated on 4th Aug 2017 for irrigating an area of 2.73 Lakh Hectares in 3 districts of Bhadradi Kothagudem, Khammam and Mahabubabad of Telangana State by drawing water from the river Godavari on the upstream of existing old Dummugudem Anicut. The required statutory clearances, including EC, were obtained in respect of SRLIP
- 1.2 Subsequently, Government of Telangana State (GoTS), exploring the power generation across river Godavari without disturbing the water flow, proposed for construction of a barrage across river Godavari at just downstream of existing Dummugudem Anicut. The SSMP project was formulated for power generation with the storage capacity of about 36.58 TMC by constructing a barrage cum hydro power plant at about 200 m downstream of existing Dummugudem Anicut. This water shall be supplied for irrigation through SRLIP

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which is at upstream of Dummagudem Anicut. It was stated that Central Electricity Authority has granted clearance for installation capacity of 282.8 MW of proposed hydro power plant. On construction of new barrage, the existing Dummagudem Anicut will get submerged.

- 1.3 The barrage under construction is consisting of 6 blocks in which blocks 1-5 consists of 11 bays/ spans each (11 bays x 5 blocks = 55 bays) with crest level at RL +48.000M and block - 6 (under sluice) consists of 12 bays with crest level at RL +47.000M
- 1.4 The administrative approval for SSMP Project was sanctioned by GoTS vide GO Ms No. 5 dated 14.02.2020 for an amount of Rs. 3481.90 Crores for other than the power component. Project officials, stated that there is no change in cultivable command area of SRLIP due to construction of SSMP Project.

2. History of the appraisal of the project report.

- 2.1 The Government of Andhra Pradesh (GoAP) vide their letter dated 15.09.2021 informed the GRMB that as per the news item published in Shakshi daily newspaper on 26.05.2021, the GoTS has taken up construction of Sitamma Sagar barrage across Godavari river downstream of existing Dummugudam anicut, with storage capacity of 37 TMC and to divert 2 TMC per day Godavari water which will seriously affect downstream flows and also affect Polavaram Irrigation Project (PIP) and Godavari Delta System.
- 2.2 GRMB vide its letter dated 23.11.2021 asked the Special Chief Secretary, I & CAD Department, GoTS to furnish comments/ views on this complaint. **Further the GRMB vide its letter dated 20.12.2021 has requested the Special Chief Secretary, GoTS to submit the DPR of the Sitamma Sagar barrage for appraisal in accordance with provision of sub section 85 (8) (d) of APRA 2014 and clause 2(f) and 2(g) of Gazette Notification dated**

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15.07.2021 and also directed GoTS to stop the construction of this barrage project immediately till DPR is appraised and approved by the competent authority under the Central Government.

2.3 Project Appraisal (South) Directorate (PA(S) Dte), Central Water Commission (CWC), New Delhi vide letter dated 27.12.2021 has requested Chief Engineer (FAC), Irrigation, Kothagudam, GoTS to refer GRMB letter dated 20.12.2021 and requested to submit detailed status of construction along with a copy of DPR of Sitamma Sagar barrage and its affects on SRLIP and as well as PIP. Further it was stated that SRLIP proposed on the main Godavari river is almost at the same location of the Sitamma barrage and DPR of SRLIP is currently under examination in CWC.

2.4 GRMB, while furnishing its observations vide its letter dated 21.01.2022 on the DPR of SRLIP to Project Appraisal Organisation, CWC, New Delhi, requested to make available to GRMB, a copy of DPR of Sitamma Sagar barrage. Further GRMB stated that, appraisal of DPR of SRLIP would not be complete till the DPR of Sitamma Sagar barrage taken up by the GoTS is furnished to GRMB Secretariate.

2.5 PA(S) Dte, CWC vide its letter dated 25.11.2022 to Engineer-In-Chief, I & CAD Department, GoTS has informed that, in the communication dated 20.10.2022 received from GoTS, it has been mentioned that, SSMP project is proposed on Godavari river at 200 Metre downstream of existing Dummugudam Anicut. SSMP project is inclusive of power, navigation, fishery and tourism and there is no irrigation component in this project. The SSMP project was discussed in the 23rd meeting of Expert Appraisal Committee (EAC) for river valley and hydro-electric project held on 28.01.2022 and in its 28th meeting held on 31.05.2022 and it was concluded that

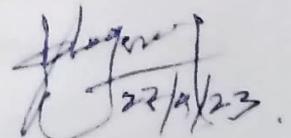
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- a) Due to construction of Sitamma Sagar barrage, the existing old Dummugudem Anicut will get submerged in the water and storage water will be utilised for the ongoing SRLIP ayaout through existing approach canal situated upstream of the existing old anicut.
- b) The proposal is an amendment/ modification to the EC given to the SRLIP vide MoEF & CC letter dated 07.01.2019.
- c) EAC, after detailed deliberation on the information submitted and as presented during the meeting, recommended the grant of Standard ToR to SSMP project (320 MW & CCA 2.73 Lakh Ha).

2.6 And in view of this, CWC stated that the clarification submitted by GoTS to CWC vide their letter dated 20.10.2022 was factually incorrect and requested GoTS that a consolidated DPR of SRLIP and SSMP project may be prepared and submitted at earliest. Till the consolidated DPR is submitted, DPR of SRLIP shall be treated as returned and not under appraisal in CWC.

2.7 Subsequent to this, GoTS has submitted vide their letter dated 27.01.2023, a combined DPR of SRLIP & SSMP project to PA(S) Dte, CWC for Techno Economic appraisal of CWC and clearance of Technical Advisory Committee (TAC) of DoWR, RD & GR. The PA(S) Dte, CWC, vide their letter dated 10.03.2023, has forwarded a copy of this combined DPR to GRMB for broad examination as per AP Reorganisation Act – 2014 and step 3 of flow chart for appraisal of DPR approved by DoWR, RD & GR.

2.8 In response to PA(S) Dte, CWC letter dated 10.03.2023, the GRMB has furnished its comments/ observations to them vide letter dated 24.04.2023.


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3. Change in the Scope of works:

- 3.1 If construction of new barrage cum hydro power plant was considered as independent project, the required EC would have been obtained for this project. Or if it is considered as an integral part of the SRLIP, it was noted, the integrated SRLIP & SSMP project have considerable change in the scope of works, due to which, the EC issued for SRLIP need revision and revised EC is required to be obtained by project authorities.
- 3.2 In view of this and **as there is change in scope of works combined DPR submitted by GoTS is under appraisal by GRMB & CWC.**
- 3.3 As the combined DPR is under appraisal, **GoTS should refrain from carrying out any construction and operation works of SRLIP & SSMP project till the TAC clearness was granted by DoWR, RD & GR which is mandatory for execution of any Major or Medium irrigation projects on interstate rivers.**

4. Progress on the various components of the works of SSMP project.

- 4.1 The project officials stated that as on the date of Hon'ble NGT order dt 24.03.2023, the concreting and construction of all the 55 piers in block 1-5 were in different elevations and other works at upstream and downstream side of barrage structure were in progress. The available 35 sets of piers shuttering frames for concreting were fixed for various stages of construction cycle of barrage piers. **Further they have stated that, in compliance with Hon'ble NGT order, various works going on at full swing due to conducive working environment, and at different stages of construction have been stopped. Thereafter only de-shuttering works, shifting of pre casted girders from near barrage location to safer place with huge cranes and**

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shifting of machinery from work site, etc were carried out to avoid any untoward incidents and to safety of project and people

4.2 The official stated that the observed flood water level on 29.07.2023 at barrage location was RL +56.62M and a discharge of 15.81 Lakh Cusecs. For this capacity of flood, had the project authorities not demobilized or not carried out de-shuttering activities, there was greater probability that, this flood would have caused abnormal damages to structures raising concerns to the safety of various components of this project. Apart from this, there is likely chances of the construction supporting materials like centring, scaffolding frames, etc getting washed out in floods and they could cause serious damage to the people at downstream villages along the river bank. The decommissioning and de-shuttering works would have taken considerable time considering the volume and then speed of works for this scale of project.

5. The observations made while visiting the project site.

- 5.1 There was considerable flow in the river Godavari at project site and there was not much possibility to work at that flow condition.
- 5.2 The piers of the barrage were at different elevation of construction and they were partially submerged condition.
- 5.3 The project officials stated and it was also observed that, as the flow in Godavari river has been continuing at project site since occurrence of first flood in the month of May 2023, no work was possible to be taken up since then as there was considerable flow of about 55200 Cusecs
- 5.4 No centring, scaffolding materials have been seen fixed for carrying out of any kind of construction works. They were seen kept stacked at higher elevation on the right bank of river.

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- 5.5 Erection of girders over the barrage piers for carriage way was not going on. Only few girders erected before flood were noticed.
 - 5.6 All the four batching plants for concrete preparing/ mixing and their allied plants and machines like ice plant for chilling of concrete, etc were seen in total shutdown condition and there was no symptom of any recent works carried out.
 - 5.7 Not seen any symptom of movement of any machines/ vehicles even for mobilisation of construction materials to the project site.
 - 5.8 SRLIP was also not in operation.
 - 5.9 The placement register maintained at project site for various blocks were also verified and found having no entry of any progress of work.
 - 5.10 About 30% of the works of barrage components have been completed. No work on construction of casting and erection of girders, fabrication of barrage gates was seen going on at project site.
 - 5.11 No work has yet been taken up for power plant components and this part of this SSMP project is in DPR appraisal stage. Central Electricity Authority has cleared for generating 282.8 MW from SSMP project.
6. As per the direction dated 23.05.2023 of Hon'ble NGT, the Committee members comprising of Sri. Tarun Kathula, Director, IRO, MoEF&CC, Hyderabad and Sri. K Prasad, Superintending Engineer, GRMB have inspected the project site on 28.06.2023 and submitted its report to Hon'ble NGT that decommissioning/ demobilization/ de-shuttering works were only taken up after stopping the construction activity.

7. Conclusion:

Above observations made during the visits and information received from project authorities clearly shows, there have been some physical execution of various

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components of the projects only for decommissioning, de-shuttering and demobilisation. There after, no works have been started yet. The Godavari river is in free flow condition and water flow too did not allow for doing much work since the initial flood flow in May 2023. There was no any coffer dam diversion structure seen at site for diversion of flow of water away from construction location. Over all, about 30% of the works of only barrage component stated to have been completed so far and work on power plant component is yet to be started. Some works decommissioning, de-shuttering and demobilisation taken place after the interim order of the Hon'ble NGT were found essential in the interest of safety to the structures and protect public from any eventualities.

However, it is appropriate to indicate here that, as the combined DPR is under appraisal in CWC/ GRMB, GoTS should refrain from carrying out any construction or operation works of SRLIP & SSMP projects till the TAC clearness was granted by DoWR, RD & GR and Environmental Clearance by the MoE, F&CC, which are considered mandatory for execution of any Major or Medium irrigation & multipurpose projects on any interstate rivers and approved by GRMB & Apex Council of GRMB which is mandatory as per provision in the APR Act 2014, for execution of any projects by AP or TS for use of Godavari waters

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27/01/23



Above pictures showing SSMP Project barrage on the dates of visit
Good flow of water in river Godavari could be seen.



Above pictures showing SSMP Project head regulator to the leading channel of
SRLIP from river Godavari.

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Picture above showing visit to barrage location of SSMPP along with officials of GoTS



Picture above showing visit to batching plant and chiller plant of SSMPP near barrage location, along with officials of GoTS

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Picture above and below showing all removed centring and scaffolding material of barrage of SSMMP stacked on the river bank



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BEFORE THE NATIONAL GREEN TRIBUNAL
SITTING AT CHENNAI(SZ)

O.A. 27 OF 2023

Tellam Naresh Petitioner
Vs
Union of India and 3 others
... Respondents

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S.JANARTHANAM
SENIOR PANEL CENTRAL GOVT
COUNSEL
COUNSEL FOR RESPONDENTS 2 & 4