

**BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) AT CHENNAI**  
**APPLICATION.NO. 61 OF 2022 (SZ)**

Between

1. MugasiAnumanpalliVillage Panchayat,  
 Rep by its President  
 Modakurichi Panchayat Union,  
 Modakurichi Taluk,  
 Erode District and 9 Others. ...Applicants

/Versus/

1. Union of India  
 Rep. by its Secretary,  
 The Ministry of Environment, Forests and Climate Change  
 Jorbagh, New Delhi and 9 others. ..Respondents

**REJOINDER AFFIDAVIT ON BEHALF OF THE APPLICANTS**

I, N. Senthil Kumar, Son of NK Nallapa Gounder, the 07<sup>th</sup> Applicant herein, residing at 4/162, Thathi kadu, Nathakadaiyur, Kangayam Taluk, Tirupur - 638108 do hereby solemnly affirm and state on oath as under:-

1. That I am the President of Nathakadaiyur Village Panchayat, Tirupur district, District and 07<sup>th</sup> Applicant herein and I am filing this Rejoinder on behalf of other Applicants also, and as such I am well conversant with the facts and circumstances of the case and in that capacity I am duly competent to swear to the present affidavit. I have read the Reply affidavit of the 10<sup>th</sup> Respondent and I deny the correctness of all the averments contained therein except those that are specifically admitted hereunder.

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 Corrn:

  
 தலைவர் / செயல் அலுவலர்,  
 நத்தக்காடையூர் கிராம உறுமட்சி.

2. That after carefully going through the Reply Statement filed by 10<sup>th</sup> respondent/Superintending Engineer, WRO, Bhavani Basin Circle, Erode District, I am submitting the present Rejoinder Affidavit for kind consideration of this Hon'ble Tribunal.

3. That the issue involved in the present Application is against the proposed project is being proceeded without following the mandatory requirements of environmental impact assessment and without obtaining any Environmental Clearance. Furthermore, the disastrous effect on the ground water table, scarcity of drinking water in the region has not even taken into consideration. The proposed project leads to removal of large tract of social forest decades old trees to the stretch of more than 200 kilometers. The failure of the authorities to assess and study the impact on the environment prone to cause irreparable damages to the Environment.

4. The Applicant submits that the Panchayats has Power constituted under Part IX, Eleventh Schedule in Section 243-G of Constitution of India endowed the Panchayats with power and authority to enable them to function as institution of self government. The proviso also entrusted the panchayats including the duty to protect the environment as envisaged in the Eleventh Schedule. Hence the official respondents could not raise any objection regarding this Application. Moreover the 10<sup>th</sup> respondent is not competent to sworn the reply affidavit, hence the issue of obtaining

environmental clearance must be clarified by the Respondents Nos.1 and 3. This Rejoinder Affidavit has been divided into three parts for the sake of clarity:

- A. Steps taken by the 10<sup>th</sup> respondent, whether adequate;
- B. Directions required for obtaining prior environmental clearance and permissions, and according to the Environment (Protection) Act, 1986 and the 2006 Notification as amended in implementing the proposed project as per G.O.Ms.No. 276 Public works Department dated 09.11.2020 for concrete lining of Lower Bhavani project canal in the name of extension, renovation and modernisation of lower Bhavani sub Basin project system, and;
- C. How effective implementation above said action can be ensured.

**A. Steps taken by the 10<sup>th</sup> Respondent, whether adequate;**

5. The Applicant submits that no maintenance has been done since the inauguration of the project in 1952. There are no permanent luskers (maintenance persons) appointed by the 3<sup>rd</sup> respondent till date. About 15 – 20 tons of waste clothes, 100s of tons of waste building debris are lying inside the canal. The canal has become the dumping ground of plastic waste bottles and other non-compostable filth by miscreants who had no connection with the irrigation canals. Though the canal is under the control and supervision of the Public work department for the last 70 years, it has not moved its little finger to desilt and clean the canal till July, 2022.

6. The Applicants submit that is there any scientific data to prove such a statement that mud canals will lose their standards and lead to seepage? It's a well-established fact that the mud canal strengthens as time goes by. The Applicants submit that we have no objection to carrying out repair work and maintenance in existing concrete or stone structures after stakeholder consultation.

**B. DIRECTIONS REQUIRED:**

7. The Applicants submit that in the Reply the 10<sup>th</sup> respondent submitted that the seepage loss in the conveyance of water is presently ascertained as 50%. For which is there any non-partial third-party study or data or analysis done? And whether the Central Water Authority or the authorities authorized by the Statute has analyzed and given report?

8. The Applicants submit that the 10<sup>th</sup> respondent submitted that at present the canal is unable to cater to the needs of the entire ayacut satisfactorily. On what basis that the 10<sup>th</sup> respondent says this? Is there any scientific study at the instance of the Expert members? Was there a stakeholder consultation on LBP riots? Saying that there is an inadequate supply of up to 50% is a lie and gross misrepresentation of facts.

9. The Applicants submit that the 10<sup>th</sup> respondent has stated so many things on his own without even disclosing the Detailed project Report. Hence these Applicants prayed that this Honorable court may be pleased to give a direction by appointing a retired Judge of Honourable High Court to ascertain the facts and conduct a detailed study with the aid of the Expert members of the respective fields.

10. The Applicants submit that the 10<sup>th</sup> respondent states that environment clearance is not required for the reason that it is a modernization or renovation of the existing project. The 10<sup>th</sup> respondent

could not have any authority to say that there is no necessity to get Environmental Clearance. When the amended 2018 Notification clearly mandates that Environmental Clearance should be obtained, the 10<sup>th</sup> respondent without any competence, application of mind simply place the misleading and incorrect statement before this Hon'ble Tribunal. The Reply of 10<sup>th</sup> respondent is silent about the exclusion of commercialized Ayacut lands to an extent of more than 60,000 acres and those precious water running in drainages could be diverted to the irrigation purposes. The complete degradation of ground water level due to the arrest of seepage water from the LBP is not a simple issue. Because of this manmade draught several lakhs of agrarians will loose their occupation and which paves for rapid industrialization. The object of LBP is to improve and expand the agriculture not otherwise. Hence in times of climate change when the whole world is going through drastic issues due to environmental degradation and Indian law clearly state that Environmental impact assessment is mandatory.

11. The Applicant submits that the 10<sup>th</sup> respondent also stated that the Honorable Prime Minister of India laid the foundation stone for the project. This is contradictory to his previous statement that this is only a simple renovation and not a new project.

12. The Applicants submit that the Water Resource Ministry of the Government of Tamilnadu in the presence of Mr.R .Gowthaman (Super indent Engineer) Bhavani Basin circle and Mr. Kannan Executive Engineer, conducted more than 10 meetings under the chairmanship of Mr.S. Muthusamy (Honourable Minister – Housing development) who is in charge for the lower Bhavani canal and project. For which the Ayacut farmers vehemently opposed (registered Ayacut farmers) and requested

the Minister to drop the project. During the run-up to the elections in February 2021, the then leader of the opposition and Dravida Munnetra kazhagam, and present Chief Minister of Tamilnadu clearly stated during public meetings in Dharapuram, Tirupur, and Erode that the question of concretization of the LBP canal will not be taken up.

13. The Applicants submit that it is absolute false to state that it is the non-registered landholders who are protesting and it is a clear attempt to mislead this Hon'ble Tribunal.

14. The Applicants submit that the registered Ayacut farmers organized a conference in Perundurai on 24-04-2022 to seek the attention of the government to their opposition to this disastrous project. More than 40,000 farmers participated in the event on their own accord.

15. The Applicant submits that he further states that only 14,115 no. of trees in the entire 200 km length were identified to be cut which is a blatant lie. Hence in these circumstances these Applicants prayed that this Honorable Tribunal to issue an order to the concerned collectors of Erode, Tirupur and Karur, not to allow the felling of trees, Consequently it is prayed that this Hon'ble Tribunal may be pleased to add the purview of a any judicial commission to be established and to ascertain the facts listen to the farmers and recommend them to the tribunal.

16. The Applicant submits that the Superintend Engineer/10<sup>th</sup> respondent has deliberately misled this Tribunal by suppressing the information of various talks held with farmers by the Honorable Minister Mr. Muthusamy and Water Resources Development Minister Mr. Duraimurugan. The last meeting which held on 14-07-2022 in Coimbatore Le Meridian, Hosted by the Water Resource Development Ministry, and the Minister Mr. Duraimurugan, Mr. S.Muthusamy, Mr.MP Saminathan, Mr.

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Corrns:

*K. Muthusamy*  
 தலைவர் / செயலாளர்,  
 நீத்தக்காடையூர் கிராம உறவுச்சி.

SenthilBalaji, Rajyasabha MP Mr. Anthiyur Selvaraj, Mr. AG Venkatachalam MLA, District Collectors of Erode, Tirupur Karur and Coimbatore, along with 1000s of farmers. It is assured by the Government in the meeting that the committee of five members shall be formed and look into the grievance of farmers.

**C. How effective implementation above said action can be ensured:**

17. That the Application raises a larger question of sustainability of ground water level, effect of arrest of seepage water which ultimately affects the lakhs of farmers.

18. The Applicant submits that the LBP canal was designed for seepage and ayacut irrigation. Absolutely there is no material to show that the water has reached tail end areas, the said allegation is without any research and study at the instance of the Expert members. The canal irrigates on the left side for Ayacut irrigation. The right side of the canal there is no sluice for irrigation. Thadapalli Arankankottai and Kalingarayan canal irrigates on both sides, left and right, so even if they concrete the canal they will get water for irrigation. So the farmers in that area are not objecting the concrete lining. Whereas in LBP canal if they concrete vast number of acres will go dry without water. The distributory canal on the left side in LBP is far from one canal to another canal in LBP irrigation. So seepage irrigation is a must in this LBP canal. Hence the Statement made by the 10<sup>th</sup> respondent could not be accepted as he is not competent to answer the issue of Environmental Clearance and the Environmental impact Assessment Study to be done since the 1<sup>st</sup> respondent and 3<sup>rd</sup> respondent is liable to answer the said issues.

In these Circumstances it is prayed that this Hon'ble Tribunal may allow this Application by appointing an Expert Committee to conduct a

detailed study about the Environmental Impacts due to the Proposed Project in question and file a report before this Hon'ble Tribunal within time frame fixed by this Hon'ble Tribunal and pass further and other orders deem fit and proper in the circumstances of the case and thus render justice.

30th  
Solemnly affirmed at Perundurai this day of July 2022 and all the above contents are explained in Tamil to the deponent and the deponent understood the same and put his signature in my presence:-

தலைவர் / செயல் அலுவலர்,  
நத்தக்காடையூர் கிராம உறையட்சி.

BEFORE ME

M.V.  
30/07/2022

ADVOCATE-PERUNDURAI

**M. VENGADESH, B.Com., B.L.,**  
ADVOCATE  
Enrolment No. 2456/2005  
86/10, R.S.Road, (Opp.) Government Hospital  
PERUNDURAI - 638 052. Erode Dt.  
Cell: 99447 59995