

BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE CHENNAI
MEMORANDUM OF APPLICATION
[Under Section 18(1) read with Sections 14, 15, 16 & 17 of the National Green Tribunal Act, 2010]

OA NO 72 OF 2020

Between:

Dr Lubna Sarwath

.....Applicant

AND

1-State of Telangana

Rep by its Chief Secretary

cs@telangana.gov.in

040-23452620, 23455340, EXT-2562

.....Respondent and 6 others

ADDITIONAL AFFIDAVIT FILED BY APPLICANT
3 AUG 2021

RUNNING INDEX

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ADDITIONAL AFFIDAVIT HAS THE FOLLOWING HEADS:

A. IDENTIFIED LAKES LIST FROM HMDA WEBSITE

B. OBSERVATIONS FROM SURVEY OF INDIA DIGITAL MAPS IMPOSED WITH KML LAYER OBTAINED FROM ENVIRONMENTAL CLEARANCE GIVEN TO PHOENIX GLOBAL SPACES PVT LTD ON 6 AUG 2020, IMPOSED ON SURVEY OF INDIA DIGITAL MAPS <https://indiamaps.gov.in/soiapp/> :

C. OBSERVATIONS FROM PUPPUGUDA VILLAGE CADASTRAL MAP IMPOSED ON SATELLITE IMAGERY AS GIVEN BY NATIONAL REMOTE SENSING CENTER WEBSITE ALONGWITH FIVE SATELLITE DATA LAYERS – KML LAYER OBTAINED FROM ENVIRONMENTAL CLEARANCE GIVEN TO PHOENIX GLOBAL SPACES PVT LTD IMPOSED ON THE NRSC MAPS

D. OBSERVATIONS FROM VILLAGE CADASTRAL MAP OF PUPPULGUDA VILLAGE, ISSUED BY CENTRAL SURVEY OFFICE, HYDERABAD , WITH FOCUS ON NARSINGILAKE2(HMDA LAKE ID 2939), PUPPULGUDA V, GANDIPET M, RANGAREDDY D. Vis-a-vis Physical SOI toposheet AND NRSC CADASTRAL EXTRACTS

D. CONCLUSION

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A. IDENTIFIED LAKES LIST FROM HMDA WEBSITE:

Below is the extract from HMDA list of identified water bodies downloaded from <https://www.hmda.gov.in/pdf/lakeprotection/RevisedLakes.pdf>.

Wherein, Narsingilake2 has been given lake id 2939 and identified as located at geocoordinates 17.40058, 78.35664, in Gandipet mandal(then Rajendranagar) Mandal, RR District.

Yet, HMDA has failed to issue the FTL boundary map or the Cadastral map till date in spite of our RTI query.

What we also observe from the extract that there are two asteriks against lake id 2939 Narsingilake2, with comment that '** This lake is not recorded in the Revenue Records and also not existing on the field (as reported by the Collector)' .

While it is true that the lake is not recorded in the village cadastral maps, that it is 'not existing on the field as reported by the Collector' is contrary to the facts on ground.

S.No	Lake ID	Lake Name	Sy.No	Village	Mandal	District	Latitude	Longitude	Jurisdiction
233	2924	Bhagirathamma		Poppalguda	Rajendranagar	RANGAREDDY	17° 24.891	78° 21.554	GHMC
234	2925	Kotha Cheruvu		Kokapet	Rajendranagar	RANGAREDDY	17° 23.984	78° 19.504	GHMC
235	2926	Muski Cheruvu		Narsingi	Rajendranagar	RANGAREDDY	17° 23.945	78° 21.544	GHMC
236	2927	Pedda Cheruvu		Ibrahimbagh	Rajendranagar	RANGAREDDY	17° 22.063	78° 22.782	GHMC
237	2928	Suleman Cheruvu		Kathedan	Rajendranagar	RANGAREDDY	17 19.380	78 25.616	GHMC

* This lake is recorded in the Revenue Records but not existing on the field (as reported by the Collector)

** This lake is not recorded in the Revenue Records and also not existing on the field (as reported by the Collector)

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S. No.	Lake ID	Lake Name	Sy.No	Village	Mandal	District	Latitude	Longitude	Jurisdiction
238	2929	Nalla Cheruvu		Narsingi	Rajendranagar	RANGAREDDY	17° 23.822	78° 20.692	GHMC
239	2930	Brahman Cheruvu		Gaganphad	Rajendranagar	RANGAREDDY	17° 17.246	78° 25.282	GHMC
240	2931	Mamidla Kunta		Gaganphad	Rajendranagar	RANGAREDDY	17° 17.594	78° 24.803	GHMC
241	2932 **	Nadimi Cheruvu		MANCHIREVULA	Rajendranagar	RANGAREDDY	17.36403	78.34697	HMDA
242	2933 **	Peeram Cheruvu		HIMAYATSAGAR	Rajendranagar	RANGAREDDY	17.35313	78.37296	HMDA
243	2934	Itikini Cheruvu		MANCHIREVULA	Rajendranagar	RANGAREDDY	17.37016	78.35456	HMDA
244	2935	HUDA Park Lake		RAJENDRANAGAR	Rajendranagar	RANGAREDDY	17.33113	78.44385	GHMC
245	2936	Bairagiguda		PEERAMCHERUVU	Rajendranagar	RANGAREDDY	17.36288	78.37589	HMDA
246	2937	Bairagiguda Lake		BAIRAGIGUDA	Rajendranagar	RANGAREDDY	17.36681	78.37238	HMDA
247	2938	Yerra Kunta		VATTINAGULAPALLY	Rajendranagar	RANGAREDDY	17.42189	78.30111	HMDA
248	2939 **	Narsingi Lake - 2		NARSINGI	Rajendranagar	RANGAREDDY	17.40058	78.35664	HMDA
249	2940	Thomu Gunta		VATTINAGULAPALLY	Rajendranagar	RANGAREDDY	17.42459	78.32457	HMDA
250	2941	Marshabai Kunta		KATEDHAN	Rajendranagar	RANGAREDDY	17.31985	78.4381	GHMC
251	2942 **	Narsingi Lake -3		MANCHIREVULA	Rajendranagar	RANGAREDDY	17.38527	78.35856	HMDA
252	2943 **	Pele Cheruvu		KATEDHAN	Rajendranagar	RANGAREDDY	17.32723	78.43168	GHMC
253	2944	Patti Kunta		KISMATPUR	Rajendranagar	RANGAREDDY	17.31895	78.3918	HMDA
254	2945 **	NIRD Lake		RAJENDRANAGAR	Rajendranagar	RANGAREDDY	17.30891	78.40042	GHMC
255	2946	Peram Cheruvu		GANDHAMGUDA	Rajendranagar	RANGAREDDY	17.36558	78.3853	HMDA

Pic 1: Extract from HMDA List of identified lakes

The facts on ground are that the outflow channel are actually as is notified in the Survey of India toposheets to south of lake. Further, outflow channel is culverted where it intersects the Protected Raw water conduit at geo coordintes 17°23'58.23"N 78°21'23.16"E. Outflow channel continues downstream south till it joins the outflow channel of the nearby Muskin cheruvu(also seen in the survey of india extract), that further flows southward until it joins the moosi nadi.

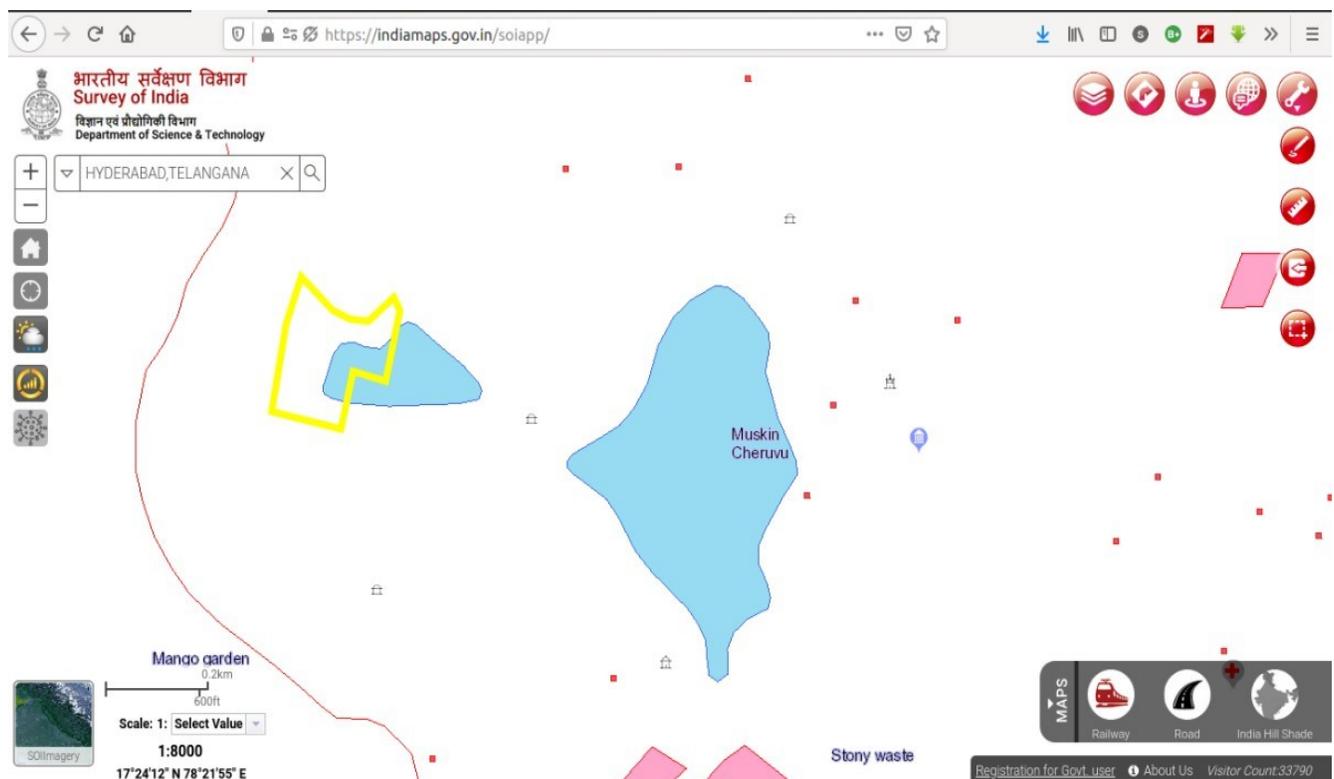
Such, being the facts, on ground, there was no attempt to set the records straight, rather Environment clearances were given on 6 Aug 2020 to construct on Narsingilake2 (HMDA lake id 2939) and also on Balkapur nala and on the outflow channel of the lake, and the protected raw drinking water conduit, much after case was filed and Joint Committee report order was passed by Tribunal on 21 may 2020.

B. OBSERVATIONS FROM SURVEY OF INDIA DIGITAL MAPS IMPOSED WITH KML LAYER OBTAINED FROM ENVIRONMENTAL CLEARANCE GIVEN TO PHOENIX GLOBAL SPACES PVT LTD ON 6 AUG 2020, IMPOSED ON SURVEY OF INDIA DIGITAL MAPS <https://indiamaps.gov.in/soiapp/> :

Kml file of the construction site for which Environmental clearance has been given has been imposed on the digital Survey of india maps issued by Department of science of technology, Government of India from the weblink <https://indiamaps.gov.in/soiapp/> .

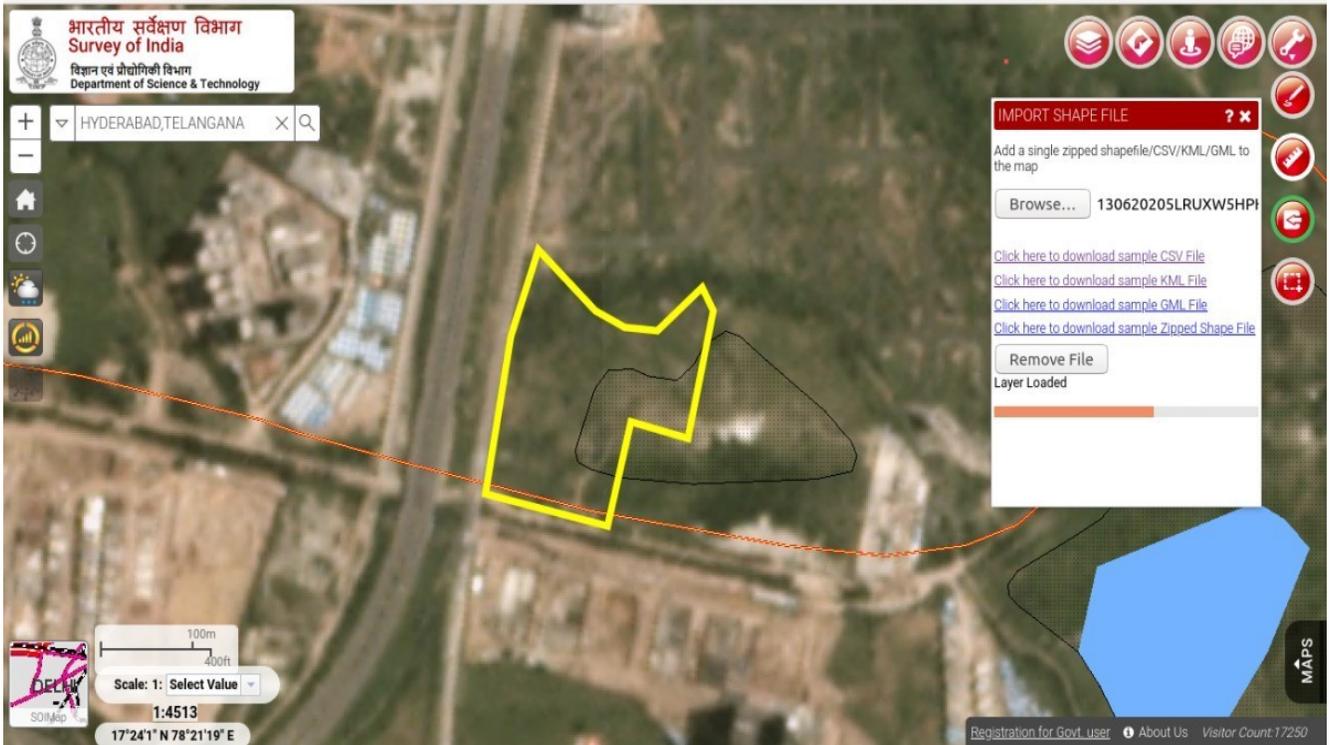
Two extracts are being displayed below. One extract from the SOIApp and the other is the SOISatellite extract.

It is observed from the SOI satellite extract that the construction site has encroached upon the FTL and buffer zones of the lake, as well as the balkapur channel, and the protected raw water channel on the west, and north and southern sides.



Pic 2: Phoenix construction site kml layer(yellow line) imposed on digital SOIApp

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Pic 3: Phoenix construction site kml layer (yellow line) imposed on digital SOISatellite

Thus, it is observed that Environmental clearances for construction inside water bodies in spite of existing notification of the Narsingilake2 on Government of India's Department of science and technology issued Survey of India maps. Pertinent to note is that EC was granted for construction on 6 aug 2020 after the Tribunal's orders to the Joint Committee to submit report on 21 may 2020.

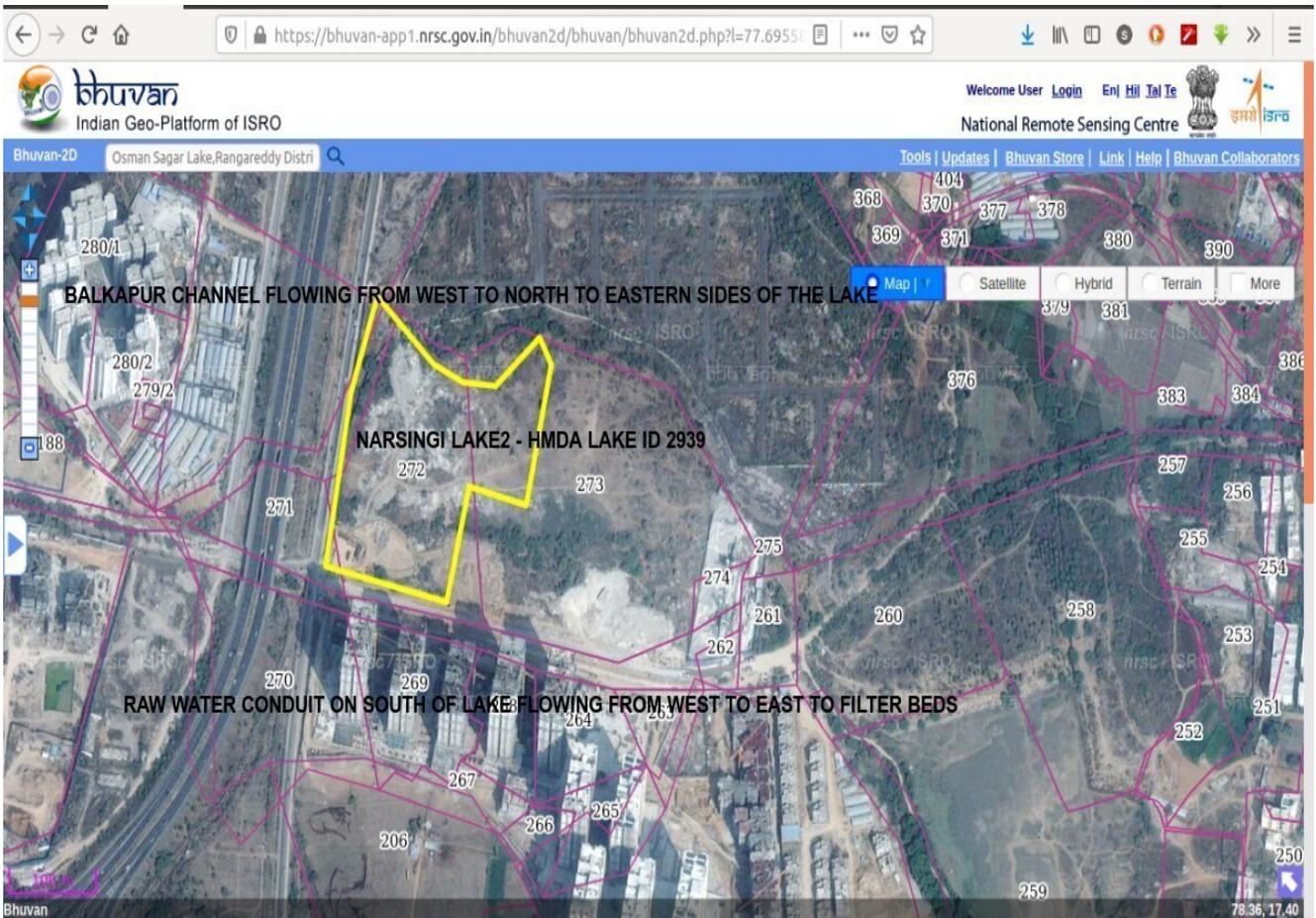
C. OBSERVATIONS FROM PUPPUGUDA VILLAGE CADASTRAL MAP IMPOSED ON SATELLITE IMAGERY AS GIVEN BY NATIONAL REMOTE SENSING CENTER WEBSITE ALONGWITH FIVE SATELLITE DATA LAYERS – KML LAYER OBTAINED FROM ENVIRONMENTAL CLEARANCE GIVEN TO PHOENIX GLOBAL SPACES PVT LTD IMPOSED ON THE NRSC MAPS

The existence of Narsingilake2 (HMDA lake id 2939) can be confirmed from NRSC online at <https://bhuvan-app1.nrsc.gov.in/bhuvan2d/bhuvan/bhuvan2d.php?l=77.695581169294&b=13.19337649858&r=77.716180534528&t=13.203515248656&val=s#> . Below are five extracts from NRSC cadastral cum satellite imagery data as seen from five layers given by NRSC titled as 'NRSC HR DATA 1M 2012 2016 SATELLITE', 'NRSC HR DATA 1M 2018 SATELLITE', 'NRSC 2.5M DATA 2016 SATELLITE', 'NRSC 2.5M DATA 2009-10 SATELLITE', and 'NRSC CARTOSAT 2S MS 1.5M SATELLITE'.

Pink lines are cadastral map imposed by NRSC on satellite imagery. Two continuous lines that are not numbered to the west and east of Narsingi lake indicate the Balkapur channel, while the two continuous lines to the south of narsingi lake that are not numbered indicate the raw water conduit carrying raw drinking water from osman sagar to asifnagar filter beds.

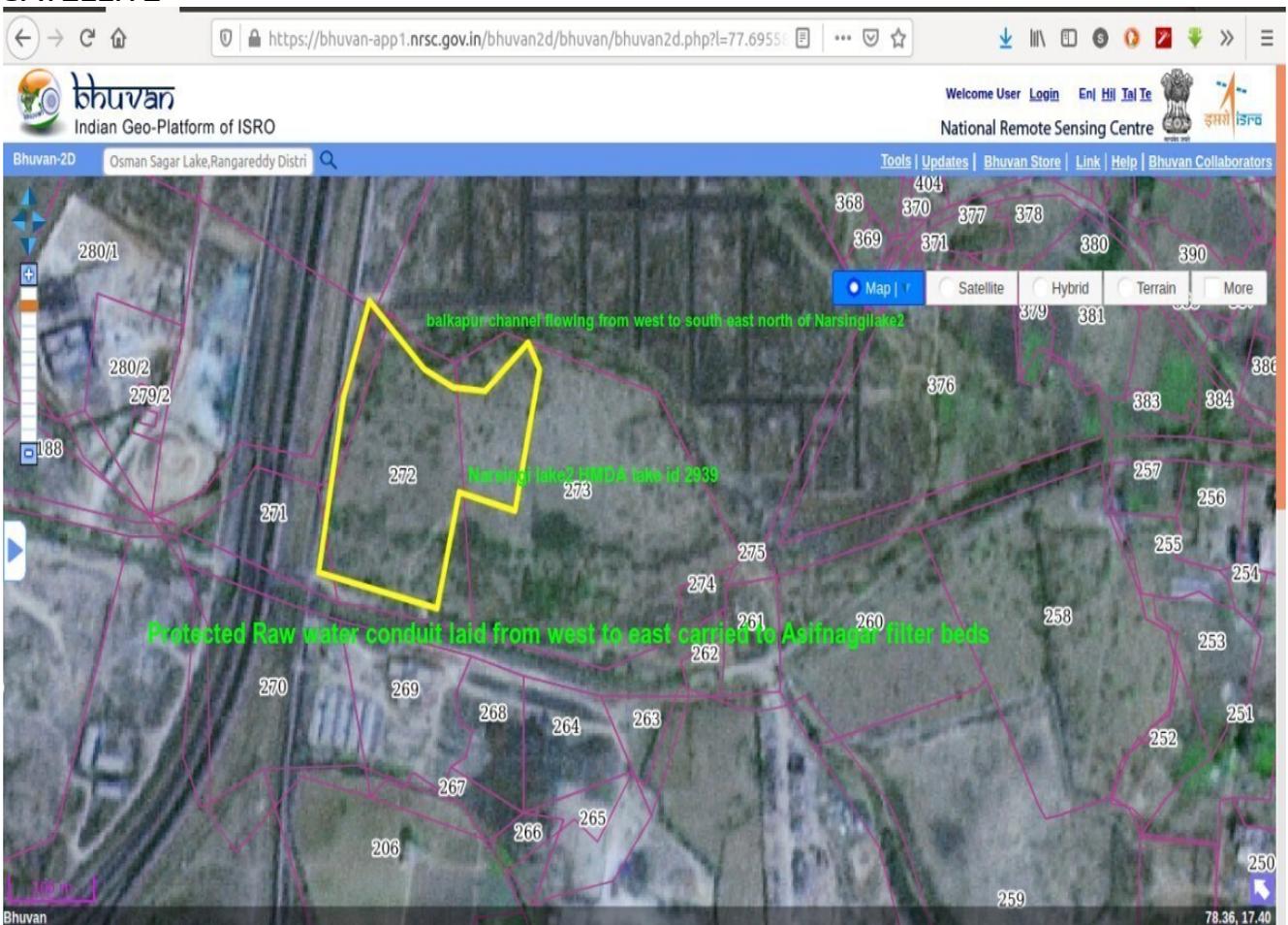
The construction site of Phoenix is demarcated with yellow line thru imposing of kml file from Environment Clearance report. Further the image is highlighted with 3 captions to show location of Balkapur channel, Narsingi lake, and, protected raw water conduit.

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Pic 5: Extract of village cadastral map imposed on satellite imagery by NRSC layer titled 'NRSC HR DATA 1M 2018 SATELLITE'

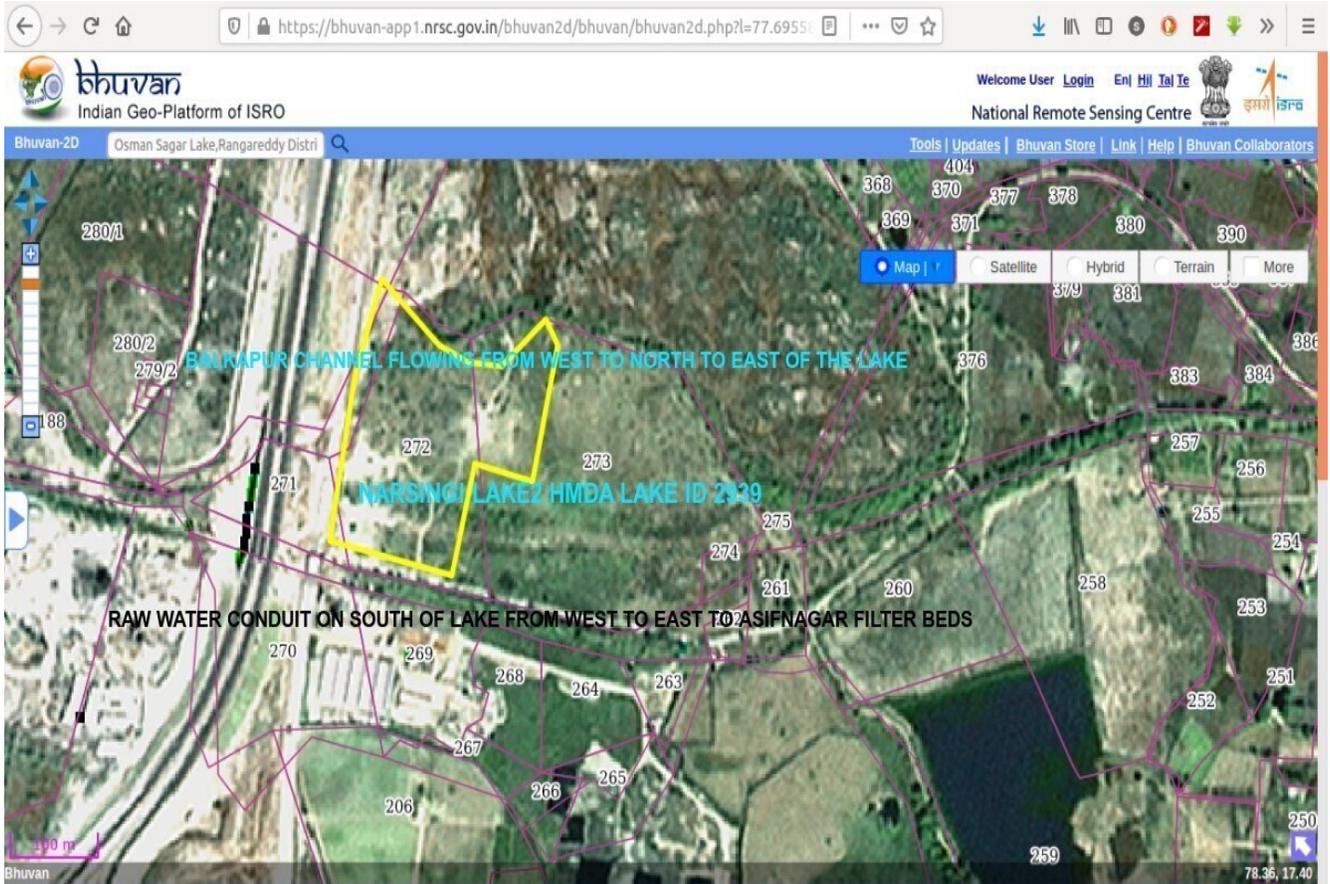
iii) Below is another extract of village cadastral map imposed on satellite imagery by NRSC. This extract has been taken from layer titled 'NRSC 2.5M DATA 2016 SATELLITE'



Pic 6: Extract of village cadastral map imposed on satellite imagery by NRSC layer titled 'NRSC 2.5M DATA 2016 SATELLITE'

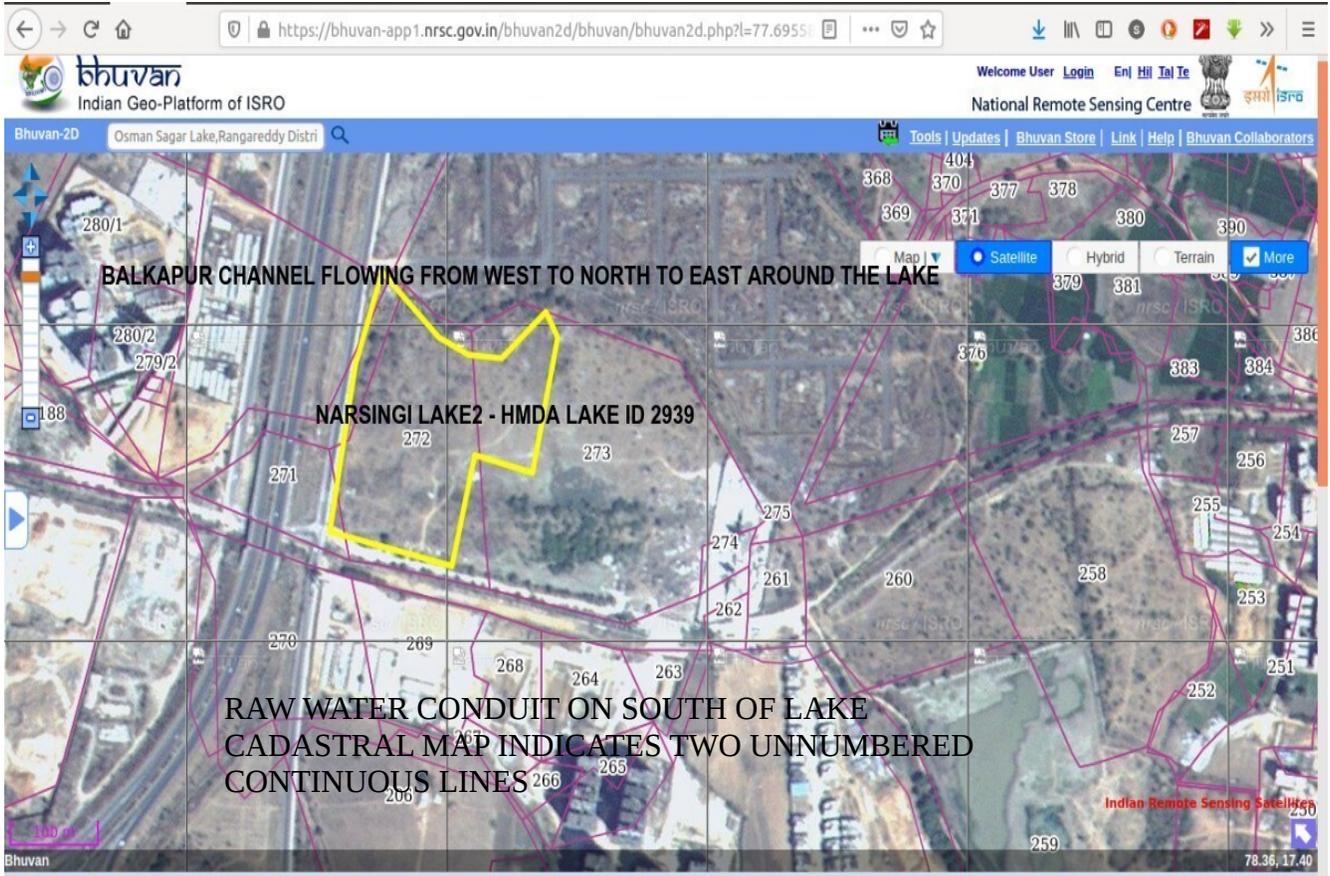
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iv) Below is another extract of village cadastral map imposed on satellite imagery by NRSC . This extract has been taken from layer titled 'NRSC 2.5M DATA 2009-10 SATELLITE'



Pic 7: Extract of village cadastral map imposed on satellite imagery by NRSC layer titled 'NRSC 2.5M DATA 2009-10 SATELLITE'

v) Below is another extract of village cadastral map imposed on satellite imagery by NRSC . This extract has been taken from layer titled 'NRSC CARTOSAT 2S MS 1.5M SATELLITE'



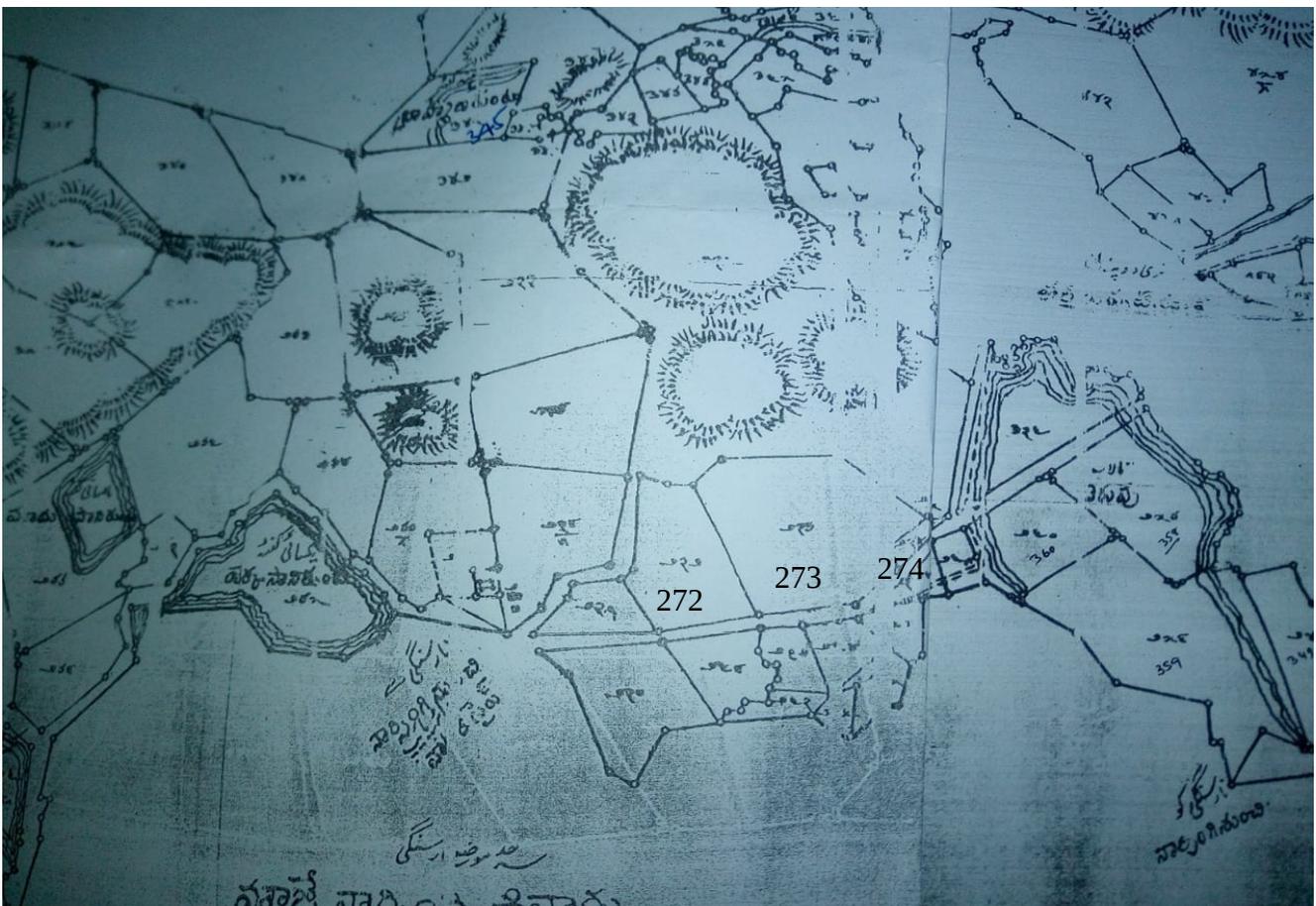
Pic 8: Extract of village cadastral map imposed on satellite imagery by NRSC layer titled 'NRSC CARTOSAT 2S MS 1.5M SATELLITE'

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D. OBSERVATIONS FROM VILLAGE CADASTRAL MAP OF PUPPULGUDA VILLAGE, ISSUED BY CENTRAL SURVEY OFFICE, HYDERABAD , WITH FOCUS ON NARSINGILAKE2(HMDA LAKE ID 2939), PUPPULGUDA V, GANDIPET M, RANGAREDDY D. Vis-a-vis Physical SOI toposheet AND NRSC CADASTRAL EXTRACTS

This is to state that, a detailed observation of the village cadastral map highlights the Balkapur channel that is around the Narsingilake2(HMDA lake id 2939) from its western boundary to its northern boundaries. The same is indicated in the map in a continuous form of two lines as a channel with no survey numbers. On the southern boundary the Raw conduit flowing from the Osman Sagar drinking water reservoir to Asifnagar Filters is indicated in continuity with two continuous lines with no survey numbers.

Thus the area enclosed within the Balkapur channel to the west, north, and east, and the raw conduit on the south of survey numbers 272, 273, and 274 in the Village Cadastral map is the Narsingilake2 (HMDA lake id 2939) as further endorsed by the Survey of India Maps, National Remote Sensing Center. Survey no. 276 shows hillocks indicated north of survey numbers 272, 273 and 274.

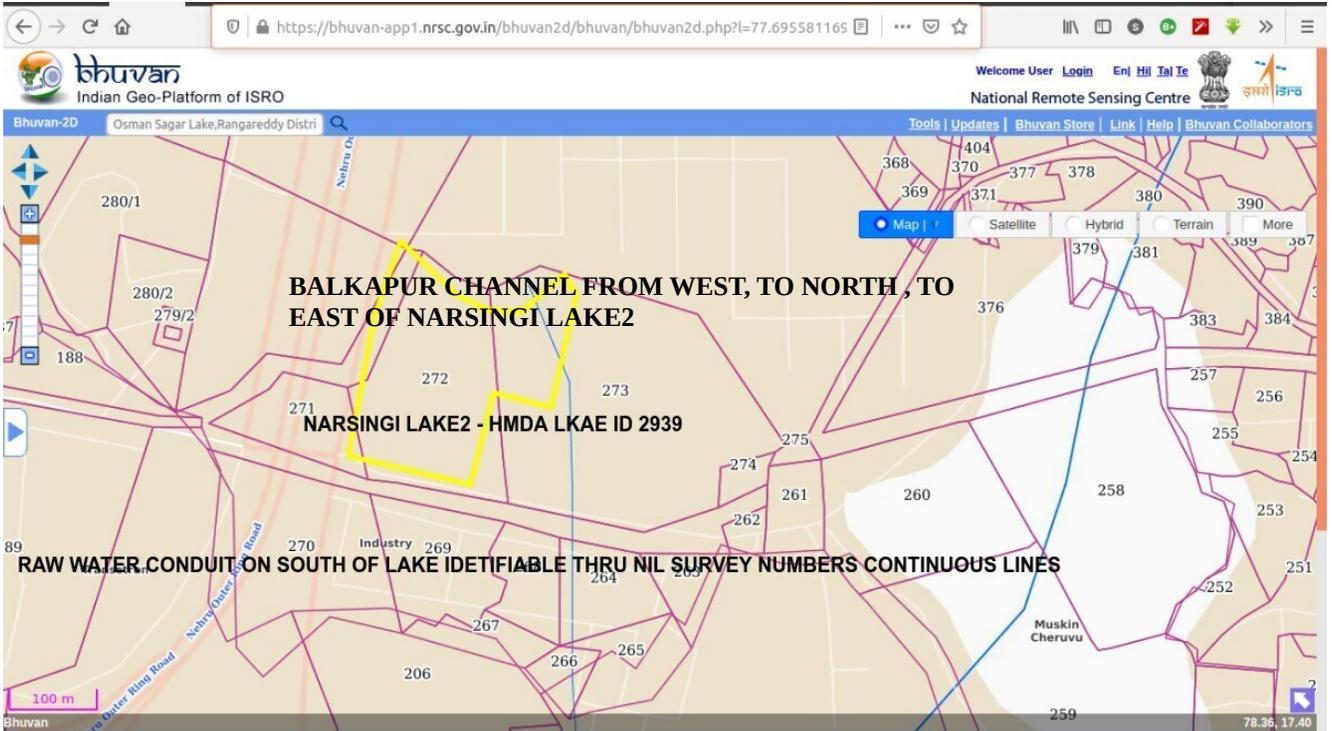


Pic 9: Extract from original Village cadastral map of Puppulguda village

The village cadastral map obtained from the NRSC website also indicates the balkapur channel, and raw water conduit flowing from west, north and eastern directions of the Narsingilake (HMDA lake id 2939) and the raw water conduit is also observed. Below is extract from NRSC website.

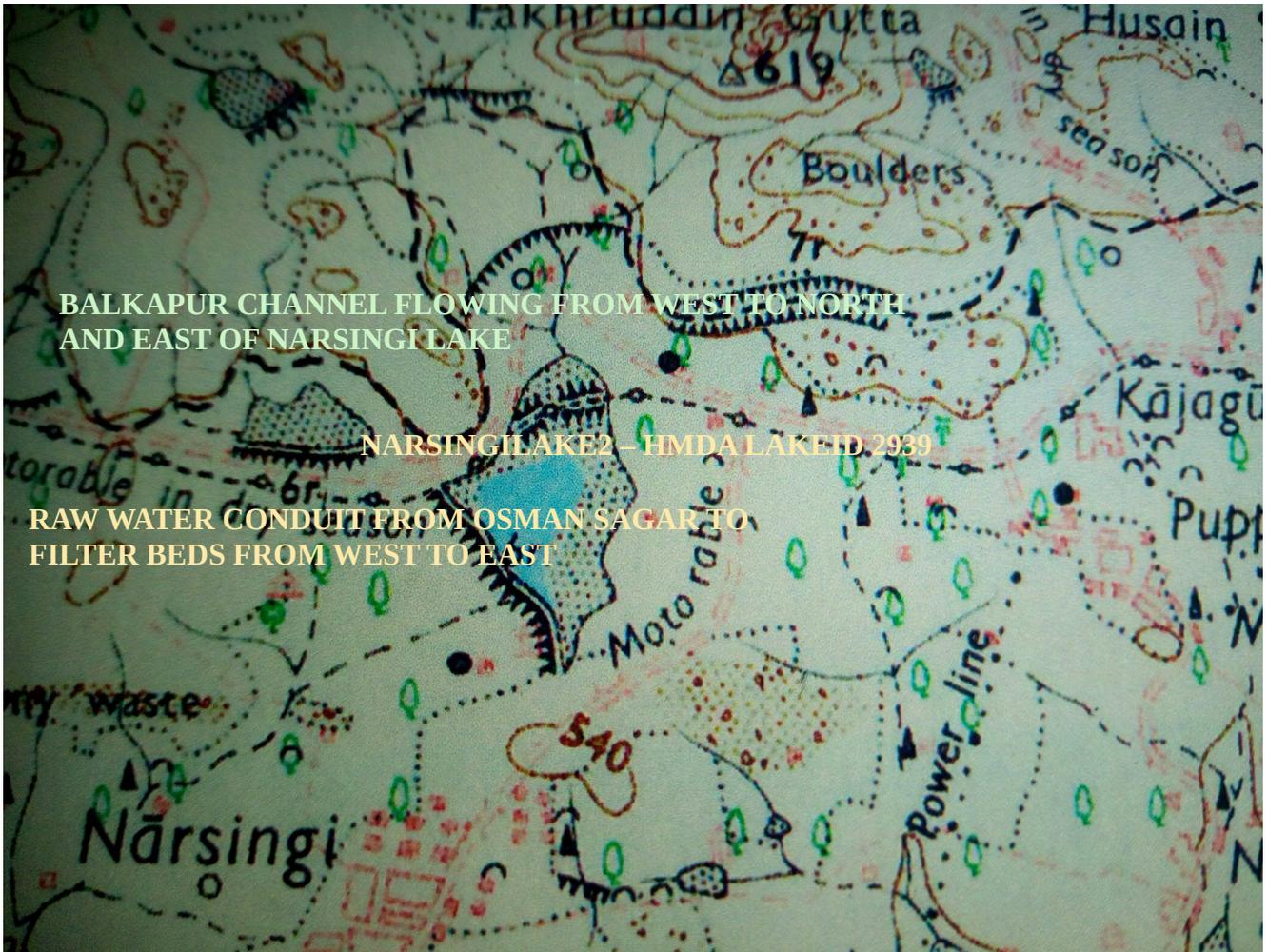
Yellow line indicate the construction site demarcation obtained from the EC granted to Phoenix.

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Pic 10: Puppulguda village cadastral map from NRSC online depicting the Balkapur channel and raw water conduit on the west, north, east and south respectively.

The two village cadastral map extracts from Village Map and NRSC maps can be juxtaposed to the Survey of India physical toposheets of 1999 and 1978 to understand the topography and the existence of the lake. Below are extracts from physical toposheets namely 56/K/7 and 56/K/NW/7



Pic 11: Extract from Survey of India physical toposheet No. 56/K/7 issued in 1978

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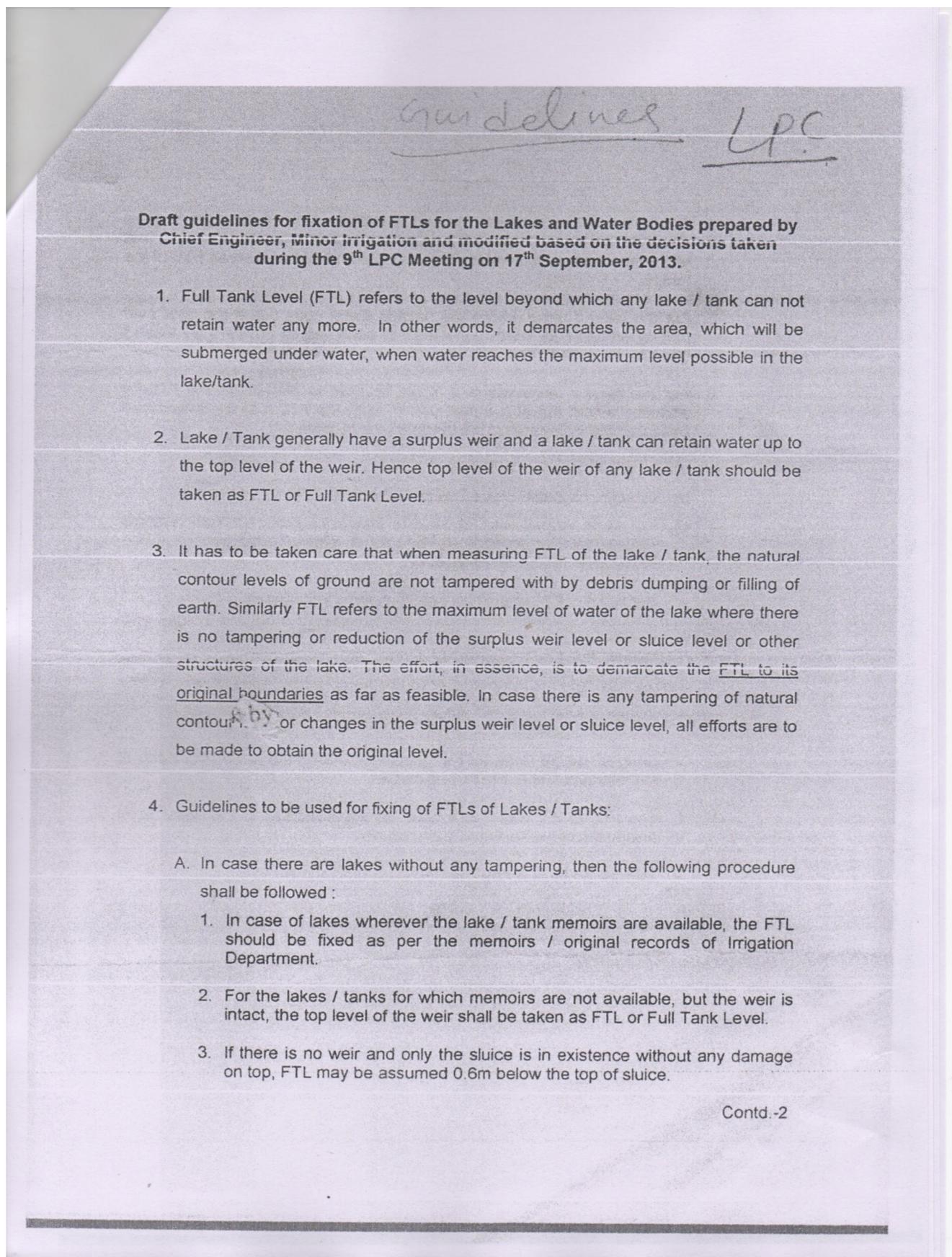
Pic 11: Extract from Survey of India physical toposheet No. 56/K/7/NW issued in 1999

The map is captioned to indicate the Balkapur channel, Narsingi lake and the raw water conduit. Further inflow and outflow channels, bunds of Narsingi lake and bund of Balkapur channel are explicit in the extract.

E. CONCLUSIONS – HMDA GUIDELINES FOR IDENTIFYING AND PROTECTING WATER BODIES:

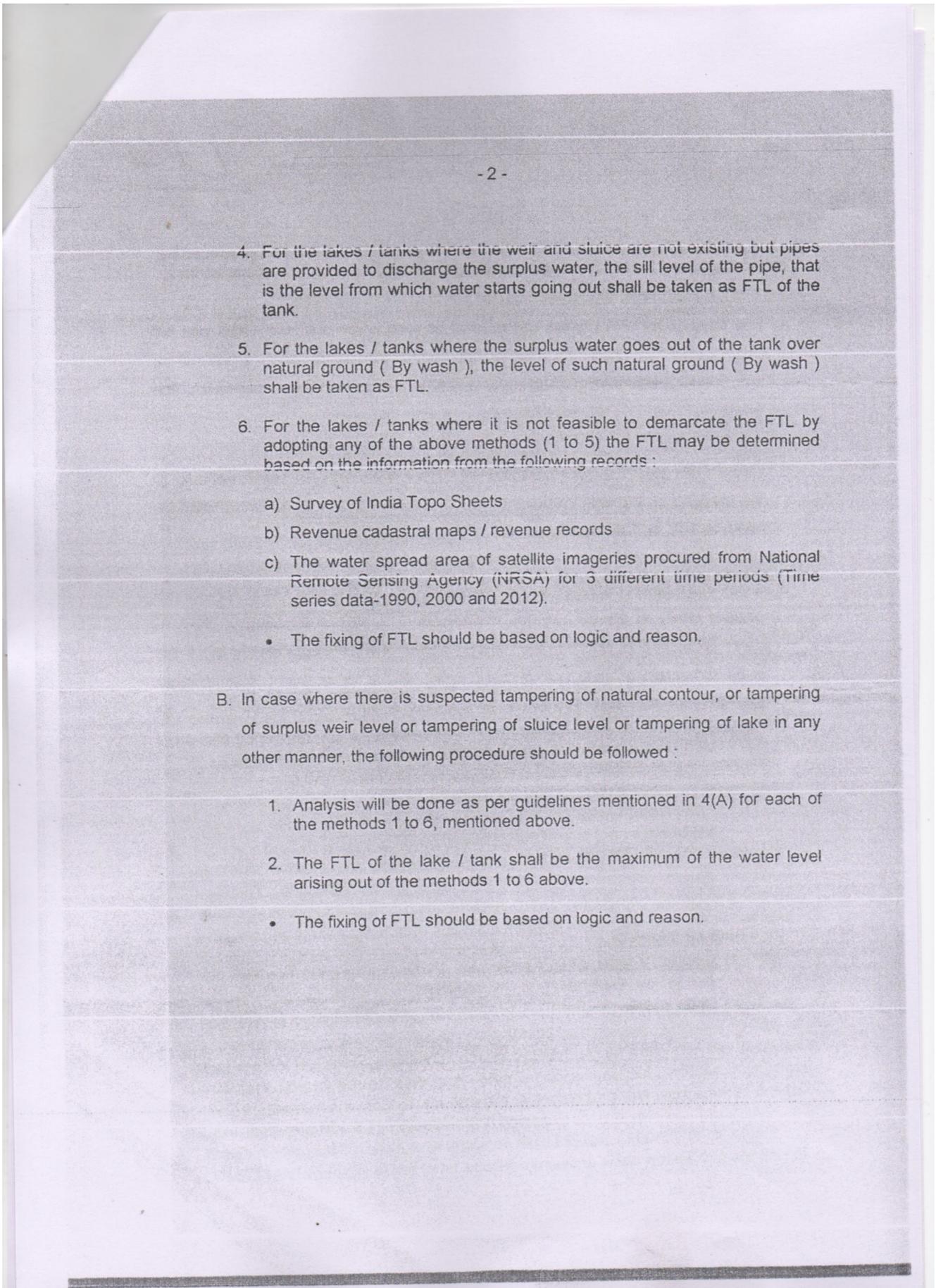
DRAFT GUIDELINES FOR FIXATION OF FTLs FOR THE LAKES AND WATER BODIES PREPARED BY CHIEF ENGINEER, MINOR IRRIGATION AND MODIFIED BASED ON DECISIONS TAKEN DURING THE 9TH LAKE PROTECTION COMMITTEE MEETING ON 17TH SEPTEMBER, 2013:

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Pic 12: PAGE 1 OF DRAFT GUIDELINES FOR FIXATION OF FTL BOUNDARIES OF WATER BODIES ISSUED BY LAKE PROTECTION COMMITTEE HMDA

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Pic 13: PAGE 2 OF DRAFT GUIDELINES FOR FIXATION OF FTL BOUNDARIES OF WATER BODIES ISSUED BY LAKE PROTECTION COMMITTEE HMDA

It is observed from the Draft guidelines that it is amply clear that all evidences from NRSC, survey of india toposheets, field visits, and finally logic and reason have to be applied for conservation of water bodies. This is totally in line with the Supreme court judgement of Hinchlal Tiwari case where apex court ordered the officials especially reveue officials to restore even water bodies that are in disuse and to conserve them for life to sustain and to protect life from the climate emergencies.

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Thus, from all the official data stated in items A to E the existence of Narsingilake2 (HMDA lake id 2939) is established beyond doubt. Likewise, the dereliction of duty, lack of good faith in the omissions and commissions of the officials and their non-application of mind is evident, not to mention, the contempt of the Supreme court orders of Hinch Lal Tiwari.

Further, the construction site for which EC has been granted by the Telangana State Environment Impact Assessment Authority and Telangana State Environment Assessment Committee encroaches the FTL and buffer zone of the Narsingilake2(HMDA lake id 2939), the balkapur channel , and the protected raw drinking water conduit. Thus the prayer below in public interest.

F. PRAYER

1- EC and CFE and all affiliated permissions given for and to enable constructions in extent of Narsingilake2 be cancelled immediately and all constructions be halted immediately. Project proponent to display the cancellation on website and media notification be issued about cancellation .

Order for demoliton of constructions and restoration of water body may please be given corresponding with the judicial prudence demonstrated by Principal bench as reported on 31 July 2021 'The NGT bench headed by Justice Adarsh Kumar Goel has directed that constructions made on-site Kaikondarahalli Lake and Kasavanahalli Lake in Bengaluru shall be demolished immediately '

<https://www.ndtv.com/bangalore-news/green-court-issues-directions-to-demolish-2-luxury-projects-in-bengaluru-2499468>

2- As it is observed that the project proponent Phoenix group is constructing in the vicinity of this lake in adjacent pupplguda village as well, overriding two more lakes, it is prayed that:

- a team free from respondents be constituted as an independent body, consisting of retired judge and officials of National Geographical Research Institute, Survey of India, National Institute of Hydrology and environmental engineers of high repute drawn from erstwhile Supreme Court Committees on Water bodies, in order to identify the FTL boundary /Maximum Water Spread and buffer zone boundary and the hydrology and structures, of 1) Narsingilake2, 2) Balkapur channel, 3) Raw water conduit, on ground as per FTL guidelines of Lake Protection Committee /HMDA and in light of all grounds substantiated by the Applicant;
- time bound Action plan be submitted for restoration of the same on war footing; - Petitioner and her team be taken on board to assist and as a third party audit and follow up for quickest restoration of the water body under the monitoring of NGT Chennai.
- A judicial probe into all the commissions and omissions of officials involved in giving the EC based upon false information, be ordered.

3- All the respondents and the Project proponent, who have been found guilty of malafide may be proceeded against; and ,all respondents, project proponent and EIA consultant, found guilty be black listed immediately; Project proponents who are on the panel/council of any governmental body or Ministry, they be removed with a notice immediately.

TSEIAA and TSEAC may be suspended and tried following due procedure in light of multiple unauthorized permissions and clearances being accorded by both the bodies, not acting in good faith and dereliction of duty.

4- NGT common order of 22 .2.2021 in 593/2017 and 673/2018 be implemented especially item 38 and 39 where accountability is fixed and punishment/penalty has been laid down.

5- Further, as NGT New Delhi Principal Bench has ordered in 614/2018 on 15 june 2021 between Dr Lubna Sarwath & Govt of Telangana, to invoke penal provisions of Sec. 25 and 26 of NGT Act. Extract from order is reproduced below:

'13. In view of above, while giving last opportunity for compliance, we require the Secretary of the concerned Departments, i.e., Local Bodies/Urban Development/Local Self Department and the Member Secretary, State PCB to remain personally present by video conferencing on the next date to show cause way of coercive measures laid down under Sections 25 and 26 of the National Green Tribunal Act, 2010 (NGT Act). Under Section 26 of the NGT Act, violation of order of this Tribunal is a criminal offence punishable with imprisonment upto three years and fine upto Rs. 10 crores. Under Section 25 of the NGT Act, 2010, the order is executable at the decree of the Civil Court. Under Section 51 of the Code of Civil Procedure, 1908, there is provision for civil imprisonment or any other order. Any other order can include stopping of salary of the erring officers.'

6- An Environment Court as ordered by the Supreme Court be established immediately, in Telangana State seated at Hyderabad with judicial member and expert member so that water bodies rich/lake-rich telangana and GHMC receive the due attention.

Water bodies including moosi nadi and all its tributary channels from north and south basins be fully protected to save citizens from water deficit, and from the wrath of climate crisis that is an existential threat and to protect citizen health including cognitive abilities.



SIGNATURE OF APPLICANT

VERIFICATION:

I, Dr Lubna Sarwath, d/o late Muhammad Khaleelullah & Mrs Roohi, identified with voter id no. WRH2244622, Passport no. S6464105 hereby verify that all stated above are true to my personal knowledge and i have not suppressed any known material fact.

DATE: HYDERABAD

PLACE: 3 aug 2021



DR LUBNA SARWATH
APPLICANT

