

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE AT CHENNAI

O.A.No. 84 of 2020

Between:

Shaik Nooman Basha,
Advocate
S/o Shaik Abdul Jaleel,
Aged about 48years,
R/o. Flat No. 101, SMN Apartment, Sanjeevnagar,
Nandyal, Kurnool District.

... Applicant.

A N D

1. The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Revenue Department,
A.P. Secretariat, Velagapudi,
Guntur District.
Phone No.0863 2444558
Email id: ps_prlsecyendow@ap.gov.in
2. The District Collector,
Kurnool District,
Phone No.08518231877
Email id: collector_krnl@ap.gov.in
3. The Engineer-in-chief,
Irrigation Department,
Vijayawada,
Phone: 9440908000
Email id: encirrigationap@gmail.com
4. The Revenue Divisional Officer,
Nandyal Division, Kurnool District,
Phone No.8333989000
Email id: rdonandyal@gmail.com
5. The Tahsildar,
Nandyal Mandal (Urban),
Kurnool District,
Phone No.9849904176.
Email id: nandyaltahsildar@gmail.com

... Respondents.

Attester


DEPONENT
Engineer-In-Chief(I)
Water Resources Department
VIJAYAWADA, A.P.

COUNTER AFFIDAVIT FILED BY THE 3rd RESPONDENT

I, C.Narayana Reddy, Son of C.Channa Krishna Reddy, Hindu, aged about 60 years, working as Engineer-in-Chief(Irrigation), Vijayawada do hereby solemnly affirm and sincerely state on oath as follows:-

1. I am the 3rd respondent herein and as such, I am well acquainted with the facts of the case. I am filing this counter affidavit on my behalf.

2. Brief History of Kundu River Widening:

a. It is submitted that the Kundu River originates from Uppalapadu near Orvakal Mandal of Kurnool District. The Galeru River originating from Nallamala forest, joins with Kundu River at Km. 17.300 near Ayyavaripalli of Velugodu Mandal of Nandyal District and passes through Nandyal town. The Government of Andhra Pradesh has taken up the widening and deepening of River Kundu to protect the low lying areas from inundation in Nandyal Town. In this process, the Government of Andhra Pradesh has approved administrative sanction vide G.O.Rt.No.388, dated 15.07.2020. This work was entrusted to M/s MRKR and Ritwik, Hyderabad and the work is in progress.

b. It is further submitted that this scheme is envisaged to protect the habitations located on the banks of Kundu duly widening and deepening of Kundu River with a passing discharge of 38,000 Cusecs. Accordingly, the Central Designs Organization, Government of Andhra Pradesh i.e., Chief Engineer, C.D.O., Vijayawada has approved the Hydraulic Particulars vide Lr.No.CE/CDO/EE/Div-1/DEE-2/AEE5/Escape channel - Kundu River/HPs/149/2021, dated 7.10.2021, with (1) a bed width of 107 Meters (2) full supply depth of 5 meters (3) with a top width of 125 meters and (4) with a designed velocity of 1.877 m/s. This channel carries a discharge of 38,000 cusecs. This channel design is also provided with an inspection track/vehicular road with a width of 6 meters on both sides. The Water Resources Department has acquired lands to an extent of Ac.144 on

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Right Side and Ac.68.70 on Left Side of Kundu River between chainage 45.664 to 46.836 for dumping the excavated soils, Rock Muck etc., collected from widening and deepening of Kundu River in Nandyal Urban Limits. Kundu River passes in the Urban Limits of Nandyal at Chainage from Km. 25.00 to Km. 57.00.

3. With Regard to the averment made in paragraph 2 to 11, the information filed in counter affidavit by the 5th respondent i.e Tahsildar, Nandyal Mandal (Urban) holds good.

4. It is further submitted that Hon'ble National Green Tribunal, Southern Zone, Chennai Order Dated:30.06.2020. had admitted the matter and appointed a joint committee and directed the joint committee to inspect the area in question and submit a factual as well as action taken report if any violation found in the above area. para No's 12 to 16 read as follows:-

"12. We are only concerned about the environment issue raised by the applicant in the application. So, in order to ascertain the real state of affairs and also the impact of the implementation of the scheme in the area in question, we feel it appropriate to appoint a joint committee comprising of a Senior Officer from Ministry of Environment, Forest & Climate Change (MoEF & CC), Regional Office, Chennai, the Engineer in Chief or any officer nominated by the Engineer in Chief not below the rank of Superintending Engineer of Irrigation Department, Andhra Pradesh, District Collector of Kurnool District and any senior officer from the River Protection Committee if any, functioning in State of Andhra Pradesh to inspect the area in question and submit a factual as well as action taken report if any violation found.

13. The committee is directed to go into the question as to whether the present act of distributing the land acquired for widening the Kundu River to protect the area against the flood and inundation, if it is converted for the present purpose, how far it will affect the flow of excess water that is likely to be collected through the river during monsoon season and also consider the question of ecological hazards

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or disaster that is likely to be caused in future if the scheme is allowed to continue in that area and if the scheme has to continue then what are the necessary remedial measures and steps to be taken by the authorities to protect the Kundu River. If any damage has been caused to the environment or riverine environment, then the committee is directed to assess the environmental compensation payable and also fix the responsibility of the department which is liable to pay the same.

14. The committee is also directed to go into the question regarding the adverse impact on the flood plains along the river due to this act.

15. The Regional Office, Ministry of Environment, Forest & Climate Change (MoEF & CC), Chennai will be the nodal agency for co-ordination and also for providing necessary logistics for this purpose."

16. Three months time is granted to the joint committee to submit the report to this Tribunal by e-mail or by e-filing at ngtszfiling@gmail.com on or before 07.10.2020"

5. It is submitted that this Hon'ble Tribunal in its order dated 21-3-2021 had reappointed the nodal agency and directed the Joint Committee to file the report to this Tribunal on or before 27.04.2022 and the above order is read as para No's 3 to 6 as follows:-

"3. The 5th Respondent has filed their counter. The learned counsel appearing for the State of Andhra Pradesh submitted that Respondents 2 & 4 is adopting the statement filed by the 5th Respondent.

4. The Joint Committee has not filed the report so far. In order to avoid the delay, instead of directing the Nodal Agency viz., Integrated Regional Office, MoEF&CC at Vijayawada, we feel it appropriate to direct the District Collector, Kurnool as nodal agency, so that he can coordinate with the officials and conduct inspection and submit a report, as he is also one of the members of the Joint Committee.

5. The Integrated Regional Office, MoEF&CC at Vijayawada is directed to co-operate with the District Collector and make

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arrangement for the inspection and submit the report to this Tribunal at the earliest possible time, as serious environmental issue has been raised by the applicant and even on the last hearing date, this Tribunal had expressed its displeasure with the attitude and the manner in which the MoEF&CC is acting whenever they have been made as a member of the committee, failure to inspect and submitting the report to this Tribunal as expected, has to be avoided.

6. The Joint Committee is directed to file the report to this Tribunal on or before 27.04.2022 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."

6. It is submitted that Nandyal District is newly formed on 4-4-2022 under the reorganization of districts in Andhra Pradesh bifurcated from Kurnool District. The area in question comes under the purview of Nandyal District. As per the above directions of this Hon'ble Tribunal the Joint Committee is constituted with the following Officers to inspect the area in question and to submit a factual as well as action taken report if any violation found.

- 1) Joint Collector and Additional District Magistrate, Nandyal.
- 2) Dr. Suresh Babu Pasupuleti, Scientist 'D' Integrated Regional Office (IRO), Ministry of Environment, Forest and Climate Change, Vijayawada.
- 3) Superintending Engineer, Irrigation Department, Kurnool.
- 4) Environmental Engineer, Pollution Control Board, Kurnool.

7. It is submitted that the above Joint Committee has jointly inspected the site and works in question on 25.06.2022 and submitted the report based on the information provided by the Joint Collector, Nandyal.

8. It is further submitted that the proposed protection works to Kundu River are meant to meet the floods to pass off a discharge of 38,000 cusecs duly widening of Kundu River to 107 Meters of bed width and 125 Meters of top width and deepening the River to accommodate a full supply depth of 5 Meters and free board of 1 Meter with a velocity of 1.877 Meters per Second. The

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meandering portion from Km. 45.664 to Km. 46.836 on Right Side of the Kundu River is provided with side walls to protect against erosion and Meandering. The river will be regularly de-silted and depth of the river will be maintained before monsoon of each year for free flow of flood.

A. It is submitted that all factors are taken into account while designing the Kundu Protection Works against the flood and inundation. Hence, there will not be any effect to the flow of Kundu River with the proposed Housing Scheme during the monsoon season and there won't be any disaster in future, if the Housing scheme is allowed to continue in this area.

B. All care is taken to reduce the impacts if any, to avoid ecological hazards or disaster, the Irrigation authorities will take up 1) the embankments of the river (both sides) at meandering areas will be strengthened 2) The river will be regularly de-silted and depth of the river will be maintained before monsoon of each year for free flow of flood. The scheme solves the hazards of inundation being experienced year after year due to flash floods spilling over side plain lands resulting in untoward damages for the crops, properties etc.

9. In the above said circumstances, it is humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the above Original Application No.84 of 2020 and pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case and thus render justice.

Attester

Shravan mti. Ray

M/S Madhuri Danti Reddy
Counsel for 3rd Respondent


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Date:- 26/07/2022