

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL, SOUTHERN ZONE  
BENCH, CHENNAI**

**ORIGINAL APPLICATION NO. 180 of 2021**

**IN THE MATTER OF: -**

**Baddam Raji Reddy and Others**

**.... Applicant(s)**

**Versus**

**Union of India and Others**

**.... Respondent(s)**

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Filed by:

Advocate for MoEF&CC

Mob. No.

Email Id:

Place:

Dated



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COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT NO. 1,

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

MOST RESPECTFULLY SHOWETH:

I **Dr.E.Arockia Lenin** S/o Emanuvel aged about 34 years working as Scientist 'C' in the Ministry of Environment, Forest and Climate Change, having an office located at 2<sup>nd</sup> Floor, Vayu Block, Indira Paryavaran Bhawan, Jor Bagh Road, Aliganj, New Delhi-03, do hereby solemnly affirm on oath and state as under:

1. It is submitted that I am working as Scientist 'C' in the office of the MoEFCC and as such am well acquainted with the facts and circumstances of the case on the basis of the records available in my office and am thus duly authorized to file this Affidavit on behalf of the Respondent No. 1 herein, i.e. the Ministry of Environment, Forest & Climate Change (hereinafter referred as answering Respondent). Specifically admitted hereunder:

2. It is submitted that the present Original Application has been filed as the Irrigation & CAD Department of State of Telangana, under Re-Engineering

Proposal, issued orders for expansion of Gouravelli Reservoir, situated in

Siddipeta District, from 1.410 TMCs to 8.23 TMCs with

without prior environmental clearance from the answering Respondent



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डॉ. इ. आरॉकिया लेनिन Dr. E. Arockia Lenin  
वैज्ञानिक 'सी'/Scientist 'C'  
उप निदेशक/Deputy Director  
पर्यावरण और जलवायु परिवर्तन मंत्रालय  
Ministry of Environment Forest & Climate Change  
एकीकृत क्षेत्रीय कार्यालय, हैदराबाद-500 004.  
Integrated Regional Office, Hyderabad-500 004.

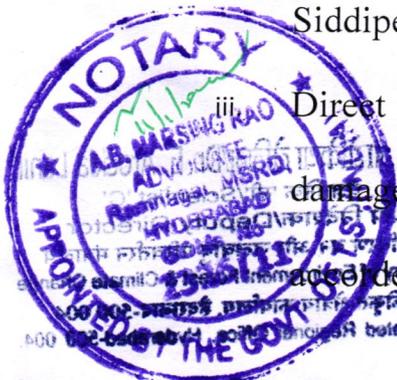
3. It is submitted that the applicant has contended that the State of Telangana is heading with old EC which was granted on 14.05.2003 for the expansion of the Gouravelli Reservoir in 2021. The Flood Flow Canal (FFC) project envisages an irrigation facility to an area of 2.2 lakh acres in the drought-prone areas of the Telangana region, diverting about 20 TMC of surplus of water from the Sri Ram Sagar Project during floods and storing in Balancing Reservoirs. Further, under Re-Engineering of the FFC Project, the ayacut has also been allegedly increased to 2.52 lakh acres.

Further, it is alleged that the State of Telangana is in gross violation of the provisions of EIA Notification, 2006, Water (Prevention and control of pollution) Act, 1974, Environment (Protection) Act, 1986 on account of initiating several changes in irrigation projects without obtaining prior Environmental Clearance (hereinafter referred to as 'EC') from the answering Respondent and without undertaking mandatory impact study that led to submergence of four villages and has caused damage to the environment and loss of livelihood.

4. It is submitted that the present application has been filed by the applicant seeking the following reliefs:

- i. Direct the respondents to stop all construction activities relating to expansion of the Flood Flow Canal and Gouravelli reservoir by the State of Telangana until the Project Proponent obtains prior EC.
- ii. Direct the respondents of Telangana not to damage natural resources for the expansion of the Flood Flow Canal and Gouravelli reservoir in Siddipeta District until the EC is granted by the answering Respondent.

iii. Direct the State of Telangana, District collector of Siddipeta not to damage the agriculture lands of farmers until the approvals are granted for the expansion of the Flood Flow Canal and Gouravelli



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Dr. E. Arockia Lenin  
वैज्ञानिक 'सी'/Scientist 'C'  
उप निदेशक/Deputy Director  
पर्यावरण वन और जलवायु परिवर्तन मंत्रालय  
Ministry of Environment Forest & Climate Change  
एकीकृत क्षेत्रीय कार्यालय, हैदराबाद-500104  
Integrated Regional Office, Hyderabad-500 004.

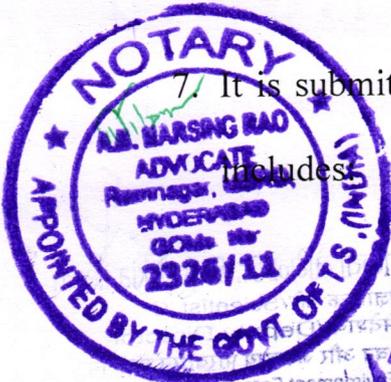
against 5<sup>th</sup> respondent project proponent against its unauthorized project i.e., Dindi LIS without any appraisal by 4<sup>th</sup> respondent and CWC and sanction by Apex Council, and contrary to the procedure envisaged under sections 84(3) (ii), 85(8)(d) and para 7 and 10 of Eleventh Schedule of the Act 6 of 2014 and EIA Notification, 2006 dated 14.09.2006 and its subsequent amendment, prejudicial impact on the applicant state and its farmers and other inhabitants of the applicant depending on water of river Krishna as illegal, arbitrary and unjust.

iii. Further to direct the respondents No. 1, 2, 3 & 4 to take immediate appropriate action against 5<sup>th</sup> respondent project proponent for constructing Dindi LIS.

5. That the answering Respondent grants Environmental Clearance to Irrigation projects in accordance with the provisions laid down in Environment Impact Assessment Notification, 2006 and its amendments thereof. The EIA Notification, 2006 clearly states the requirement of prior Environmental Clearance ("EC") before the start of any construction work in case of new projects or expansion and modernization of existing projects or activities.

6. It is submitted that Environment Impact Assessment (EIA) essentially refers to the assessment of environmental impacts likely to arise from the construction of project. EIA is a planning tool to integrate the likely environmental concerns into the developmental process right at the initial stage of planning and suggest necessary mitigation measures.

7. It is submitted that the salient features of EIA Notification, 2006 inter alia includes



डॉ. ई. आरोकिया लेनिन/Dr. E. Arockia Lenin  
वैज्ञानिक 'सी'/Scientist 'C'  
उप निदेशक/Deputy Director  
पर्यावरण वन और जलवायु परिवर्तन मंत्रालय  
Ministry of Environment Forest & Climate Change  
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(i) The EIA Notification, 2006 has categorized the projects into two categories namely; Category 'A' and Category 'B' based on their impact potential.

(ii) Category 'A' projects will be appraised at the Central level while Category 'B' projects at the State level.

(iii) State level Environment Impact Assessment Authorities and Committees (SEIAAs and SEACs) have been constituted for the purpose of appraisal of Category 'B' projects.

(iv) The stage of scoping for prescribing terms of reference by the Regulatory Agency for the EIA studies has been incorporated in accordance with the International practice. It is expected to improve the quality of EIA thereby improving the quality of decision making and minimizing the delays.

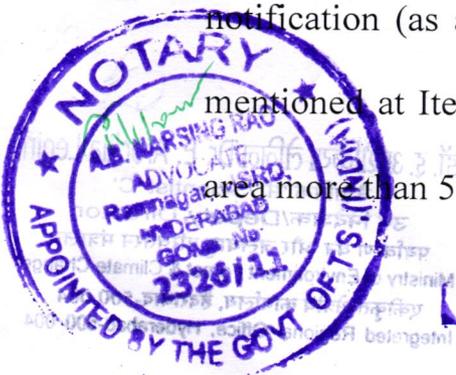
(v) The public consultation process has been made more structured. It has two components i.e. comments through correspondence and by public hearing at site. Provision to videograph the proceedings of the public hearing has been made.

(vi) NOCs from other regulatory agencies such as SPCB etc. are not a pre-requisite for considering the application for environmental clearance.

Copy of EIA Notification, 2006 as amended on 14th August, 2018 is annexed as **Annexure R-2/1**.

8. That the categorization of all the projects and activities is based on the spatial extent of potential impacts and potential impacts on human health and natural and man-made resources. As per the Schedule appended to the said notification (as amended on 14.08.2018), the irrigation projects which are

mentioned at Item no. 1 (c) under Category A having culturable command area more than 50,000 ha. will be appraised at the Central level.



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डॉ. ई. आर्यकिया लेनिन/Dr. E. Arockia Lenin  
वैज्ञानिक 'सी'/Scientist 'C'  
उप निदेशक/Deputy Director  
पर्यावरण वन और जलवायु परिवर्तन मंत्रालय  
Ministry of Environment Forest & Climate Change  
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9. That as per the Schedule appended to the said notification (as amended on 14.08.2018), the irrigation projects mentioned at Item no. 1 (c) are covered under Category 'A' if the culturable command area is more than 50,000 ha. However, if the culturable command area is more than 2000 ha. but less than 50000 ha., then it is covered under Category 'B' and such projects require prior Environmental Clearance from State Expert Impact Assessment Authority (SEIAA). Those projects whose culturable command area is below 2000 ha., being Minor Irrigation Systems, are exempted from the requirement of environment clearance.

The Schedule appended with the EIA Notification, 2006 which provides this classification is reproduced hereunder:

Project or Activity		Category with threshold limit		Conditions if any
		A	B	
1(c)	Irrigation projects	ii) 50,000 ha. of culturable command area	(ii) >2000 ha. and < 50,000 ha. of culturable command area.	General Condition shall apply

10. Further, it is pertinent to mention that as per the records available with the answering Respondent on the Parivesh web portal (<https://parivesh.nic.in/>), the project in question has never applied for the grant of ToR or Environmental Clearance meaning thereby that the proposal of the said project was never submitted for consideration before the answering

Respondent. In order to further check the factual status of the project, the undersigned, Dr. E. Arackia Lenin



Dr. E. Arackia Lenin  
 वैज्ञानिक 'सी' / Scientist 'C'  
 उप निदेशक / Deputy Director  
 पर्यावरण वन और जलवायु परिवर्तन मंत्रालय  
 Ministry of Environment Forest & Climate Change  
 एकीकृत क्षेत्रीय कार्यालय, हैदराबाद-500 004.  
 Integrated Regional Office, Hyderabad-500 004.

question, the answering Respondent directed Integrated Regional Office, Vijayawada (hereinafter referred to as 'IRO, Vijayawada') vide communication dated 26.10.2021 and 09.11.2021 to provide details regarding Dindi LIS. Meanwhile, the counter-affidavit filed by the project proponent (Respondent no. 5) was also scrutinized. The IRO, Vijayawada vide communication dated 10.11.2021 provided documents pertaining to the said project. After perusal of the counter-affidavit of the project proponent (Respondent no. 5) and the documents received from the IRO, Vijayawada, the answering Respondent deduced some of the significant details of the project which are as follows:

- i. *The Dindi LIS is undertaken by Respondent no. 5 Project Proponent envisages **providing drinking water to the most severely affected areas by Fluorosis and irrigation facilities to drought-prone areas of Nalgonda district and Mahaboobnagar district by lifting the floodwater from the foreshore of Srisailam Reservoir to Dindi Reservoir at 0.5 TMC per day for 60 days to a quantum of 30 TMC.***
- ii. *The Respondent no. 5 Project Proponent accorded Administrative approval to the Dindi Lift Irrigation Scheme vide G.O.Ms. No: 107, I & CAD (Project-I) dept., on 11.06.2015.*
- iii. *The Culturable Command Area of Dindi LIS is **1, 37,996 ha.** Here it is pertinent to mention that as per the schedule appended to EIA Notification, 2006 (as amended on 14.08.2018), the said irrigation project falls under Category A at Item no. 1 (c) since the culturable command area is more than **50,000 ha.***

Here it is noteworthy to mention that the Respondent no. 5 Project Proponent



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वैज्ञानिक 'सी'/Scientist 'C'  
उप निदेशक/Deputy Director  
पर्यावरण वन और जलवायु परिवर्तन मंत्रालय  
Ministry of Environment Forest & Climate Change  
एकीकृत क्षेत्रीय कार्यालय, हैदराबाद-500 004.  
Integrated Regional Office, Hyderabad-500 004.

vide its counter affidavit (*Para no. 6 read with Annexure R5*) has admitted the fact that the construction of the project in question was initiated based upon the 'Administrative Approval' granted by the Irrigation and CAD Department of State of Telangana by issuing G.O.Ms No. 107 dated 11.06.2015. The relevant portion of para no. 6 of the counter affidavit is reproduced below:

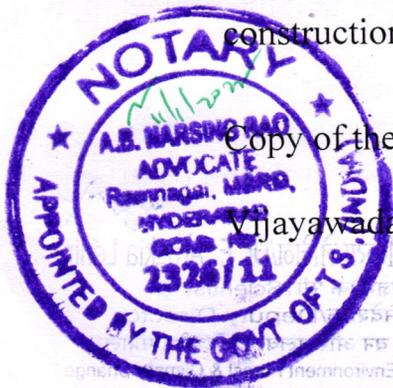
*"...For the said Scheme Administrative Approval on the basis of the estimate for an amount of Rs. 6, 190.00 crore was accorded by the Government of Telangana by issuing G.O.Ms No 107, Irrigation & CAD Department, dated 11.06.2015..."*

Further, it is also inferred from the said counter affidavit (*Para no. 11*) that the Respondent no. 5 project proponent had acknowledged the fact that the project in question has been under construction since several years. The relevant portion of para no. 6 of the counter affidavit is reproduced below:

*"...Thus, the State of Andhra Pradesh is aware of the construction of the Project right from 2016; but slept over the matters for all these years and filed the present Application after more than 5 years. Thus the Application filed by the Applicant is barred by limitation..."*

Thus, based upon the document titled as 'Brief Note on Dindi LIS' received from IRO, Vijayawada and Annexures R1 & R5 annexed with the counter affidavit of Respondent no. 5 it is established that the culturable command area of the said project is more than 50, 000 ha. which has been under construction without prior Environmental Clearance.

Copy of the document titled as 'Brief Note on Dindi LIS' received from IRO, Vijayawada is annexed as **Annexure R- 2/2**.



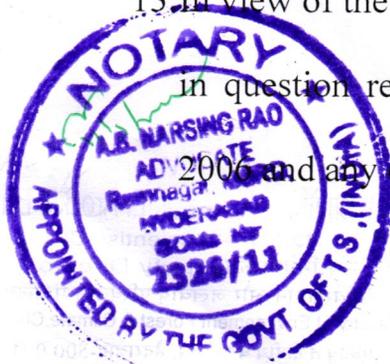
डॉ. इ. आरोकिया / Dr. E. Arockia Lenin  
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उप निदेशक / Deputy Director  
पर्यावरण वन और जलवायु परिवर्तन मंत्रालय  
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11. Further, the applicant at Para no. 3 sub-para no. (viii) of the present application has contended that the project proponent is planning to construct a single pump house to lift 2 TMC of floodwater for 60 days that would be used for both Palamuru Rangareddy Lift Irrigation Scheme (PRLIS) and Dindi LIS from foreshore of the Srisaillam reservoir.

In this regard, it is pertinent to mention that the answering Respondent has granted Terms of Reference (hereinafter referred as 'ToR') to Palamuru Rangareddy Lift Irrigation Scheme (hereinafter referred to as 'PRLIS') vide letter no. J-12011/31/2017- IA-I (R) on 11.10.2017. Whereas, the project in question (Dindi LIS), as mentioned in the foregoing paras, was not submitted before the answering Respondent for grant of ToR or grant of EC. It is submitted that as per the details available with the answering Respondent regarding the Proposal No. IA/TG/RIV/67770/2017 for the grant of ToR for construction of PRLIS was a standalone project, having no reference of Dindi LIS. As such there is no mention of Dindi LIS even in the pre-feasibility report submitted by the Project Authorities for grant of ToR for PRLIS.

12. In light of the above, it is submitted that since the project in question (having culturable command area of **1, 37,996 ha.**) falls under Category "A" classification of the EIA Notification, 2006 therefore it does require prior environmental clearance before proceeding with the construction of the project but the Project Proponent did not approach to the answering Respondent for taking requisite approval.

13. In view of the above, it can be inferred with utmost certainty that the project in question requires environmental clearance as per the EIA Notification, 2006 and any construction without prior EC w.r.t the said project would be in



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उप निदेशक/Deputy Director,  
पर्यावरण वन और जलवायु परिवर्तन मंत्रालय  
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Integrated Regional Office, Hyderabad-500 004.

violation of the EIA Notification, 2006. Though, no project details about Dindi LIS is available with the answering Respondent as on date; however, as per the information available in the counter affidavit filed by the Respondent no. 5 i.e. State of Telangana, it is clear that the project is under construction after 2015 for which Administrative Approval was taken from the Irrigation department of the State of Telangana, whereas the said project required prior environment clearance under the provisions of EIA Notification, 2006 as amended.

Copy of counter affidavit of Respondent no. 5 is annexed as **Annexure R-2/3**.

14. Further, it is submitted that the answering Respondent, after critical examination of the document titled as 'Brief Note on Dindi LIS' received from the IRO, Vijayawada (Annexure R -2/2) and Counter affidavit of Respondent no. 5 project proponent (Annexure R -2/3), that such violation shall be viewed seriously, therefore the answering Respondent has issued a show cause notice under Section 5 of the Environment (Protection) Act, 1986 to the Respondent no. 5 vide dated 07.01.2022 on account of initiating construction of Dindi LIS without prior environmental clearance.

Copy of Show cause notice dated 07.01.2022 is annexed as **Annexure R-2/4**.

12. It is submitted that the present reply affidavit may kindly be taken on record and into consideration and the Hon'ble Tribunal may pass appropriate Order(s), direction(s) as deemed fit and proper under the facts and circumstances of the present case.

13. That other/ancillary issues raised in the application under reply do not pertain



डॉ. इ. आरोकिया / Dr. E. Arockia Lenin  
वैज्ञानिक 'सी'/Scientist 'C'  
उप निदेशक/Deputy Director  
पर्यावरण वन और जलवायु परिवर्तन मंत्रालय  
Ministry of Environment Forest & Climate Change  
एकीकृत क्षेत्रीय कार्यालय, हैदराबाद-500 004.  
Integrated Regional Office, Hyderabad-500 004.

to the answering respondent. The Answering Respondent seeks leave to make additional submissions, if required, during the course of the proceedings.

*Abmy*

डॉ. इ. आरोकिया लेनिन/Dr. E. Arockia Lenin  
वैज्ञानिक 'सी' /Scientist 'C'  
उप निदेशक/Deputy Director  
पर्यावरण वन और जलवायु परिवर्तन मंत्रालय  
Ministry of Environment Forest & Climate Change  
एकीकृत क्षेत्रीय कार्यालय, हैदराबाद-500 004.  
Integrated Regional Office, Hyderabad-500 004.

### VERIFICATION

I, the above named deponent do hereby solemnly affirm and state that the contents of the aforesaid affidavit are true and correct to my personal knowledge and have been derived from the official records maintained by the Respondent. No part of it is false nor has anything material been concealed there from.

Verified at Hyderabad on this 11<sup>th</sup> day of January, 2022.

*Abmy*

DEPONENT

डॉ. इ. आरोकिया लेनिन/Dr. E. Arockia Lenin  
वैज्ञानिक 'सी' /Scientist 'C'  
उप निदेशक/Deputy Director  
पर्यावरण वन और जलवायु परिवर्तन मंत्रालय  
Ministry of Environment Forest & Climate Change  
एकीकृत क्षेत्रीय कार्यालय, हैदराबाद-500 004.  
Integrated Regional Office, Hyderabad-500 004.



ATTESTED

*Abmy*  
A.B. NARSING RAO

B.Sc., LL.F

ADVOCATE & NOTARY

No. 1-7-631/2/E, Gemini Colony,  
Ramnagar, Musheerabad  
Hyderabad-48 T.S. India

11 JAN 2022

डॉ. इ. आरोकिया लेनिन/Dr. E. Arockia Lenin  
वैज्ञानिक 'सी' /Scientist 'C'  
उप निदेशक/Deputy Director  
पर्यावरण वन और जलवायु परिवर्तन मंत्रालय  
Ministry of Environment Forest & Climate Change  
एकीकृत क्षेत्रीय कार्यालय, हैदराबाद-500 004.  
Integrated Regional Office, Hyderabad-500 004.

