

BEFORE THE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH AT PUNE

O.A. NO. 72 OF 2020

PRAKASH RAVAJI DEVGIRKAR

...APPLICANT

Versus

STATE OF MAHARASHTRA & ORS.

...RESPONDENTS

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**BEFORE THE NATIONAL GREEN TRIBUNAL,
WESTERN BENCH, PUNE**

IN

Original Application No. 72 of 2020

IN THE MATTER OF:-

Prakash Ravaji Devgirkar & Ors.

....Applicant

VERSUS

State of Maharashtra & Ors.

....Respondents

**REPLY ON BEHALF OF RESPONDENT NO. 10, MINISTRY OF
ENVIRONMENT, FOREST AND CLIMATE CHANGE**

MOST RESPECTFULLY SHOWETH:-

I, Suresh Kumar Adapa, S/o Shri. Ramulu Adapa, aged about 42 years, presently working as Scientist "E" in the Integrated Regional Office of the Ministry of Environment, Forest & Climate Change, at Nagpur, do hereby, the deponent herein do hereby solemnly affirm and state on oath as under :-

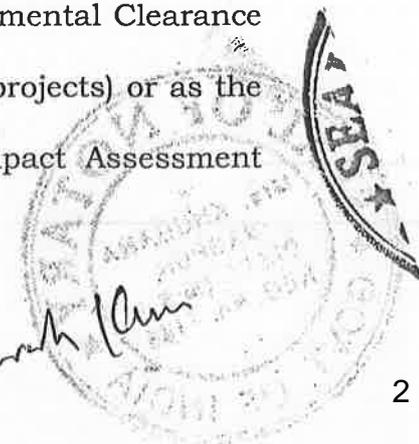
1. That I am competent to swear the present affidavit on behalf of Ministry of Environment, Forest & Climate Change (hereinafter referred to as MoEF&CC) and I am aware of the facts and circumstances of the case based on record.



A. Suresh Kumar

2. At the outset, I say and submit that I have gone through the record pertaining to the present case and I have read the contents of the present Application, and therefore, I am competent to depose what is stated herein below.
3. I humbly submit that at the outset, I deny all the averments stated in the application except those that are specifically admitted hereunder and the Applicant is put to strict proof of the same.
4. I say and submit that I am not replying to the present Application in parawise manner, however, I crave leave to file a detailed affidavit as and when necessary and required by this Hon'ble Tribunal.
5. It is submitted that present Original Application herein relates to non-compliance of precondition of the Environmental Clearance conditions for Gunjawani Irrigation Project of Pune Irrigation Project Circle, Irrigation Department, Government of Maharashtra.
6. It is submitted that under the provisions of the EIA Notification, 2006, commencement of new projects or activities or the expansion or modernization of existing projects or activities listed in the Schedule to the said notification entailing capacity addition with change in process and/or technology shall be undertaken in any part of India, as applicable, only after receipt of the prior Environmental Clearance (EC) from the Central Government (for Category 'A' projects) or as the case may be, by the State Level Environment Impact Assessment Authority (SEIAA) (for Category 'B' projects).

A. Suresh Chandra



7. It is submitted that MoEF&CC, New Delhi vide EC No. J-12011/20/2003 - IA-I dated 29th April, 2005 accorded environmental clearance (EC) to Gunjawani Irrigation Project, Pune which was subsequently amended vide EC No. J-12011/20/2003-IA-I(R)Pt. dated 20.03.2020, under the provisions of EIA Notification dated 14th September 2006.
8. It is further submitted that the applicant has contended the non-implementation of the condition of the EC and has accordingly sought intervention of the Hon'ble National Green Tribunal for rehabilitation of those villagers who have been displaced by the project and compensation for all delay. This pertains to non-compliance of Specific Condition (i) and (ii) and General Condition No. (iv) and (v) of the EC.
9. Further it is submitted that the project cited above was inspected by the Integrated Regional Office (herewith referred to as IRO) of the Answering Respondent at Nagpur on 20th September, 2021. In the report, the IRO has indicated the compliance with respect to conditions on rehabilitation of villagers (Specific condition i) to be as "compliance in progress". The relevant part of the Report with respect to Compliance of Environmental Clearance Condition is reproduced herein below:
- i. The Catchment Area Treatment Plan as has been proposed should be completed before filling up of reservoir. The Project Proponent did not provide the details pertaining to the



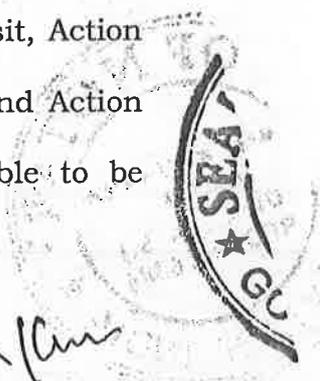
A. Suresh Kumar

activities carried out by the State Forest Department under catchment area treatment plan.

- ii. A Monitoring Committee for R&R should be constituted which must include representatives of project affected persons forth SC/ST category and a women beneficiary. The RO office observed that there was no documentary evidence for any of the claim regarding constitution of the Committee and its meeting.
- iii. The formation of multidisciplinary committee should be constituted with representatives from various disciplines of forestry, ecology, wildlife, soil conservation, NGO etc. It was observed that no such committee exists.
- iv. The six monthly monitoring reports should be submitted to the Ministry and its Regional Office, Bhopal for review. It has been observed that the report has not been submitted.

A copy of the inspection report and Monitoring Report is enclosed as **ANNEXURE A/1**

10. Accordingly, a clarification letter dated 6th October, 2021 has been issued seeking response of the Project Proponent to submit clarification for non-compliance observed during the site visit, Action Taken Report with respect to the non-compliance within and Action Plan with respect to the conditions practically not feasible to be complied in immediate timeline. (**ANNEXURE A/2**)


A. Singh (A/S)

11. It is submitted that the present counter reply 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 which the answering Respondent shall duly comply with.

12. That other/ancillary issues raised in the application under reply do not pertain to the answering respondent. The answering respondent seeks crave leave to make additional submissions, if required, during the course of the proceedings.



A. Suresh Kumar
(सुरेश कुमार ओडिया)
DEPONENT
(Suresh Kumar Adapa)

वैज्ञानिक-ई/Scientist-E
पर्यावरण, वन एवं जलवायु परिवर्तन, मंत्रालय
Ministry of Environment Forest and Climate Change
एकीकृत क्षेत्रीय कार्यालय, नागपुर-440 001
Integrated Regional Office, Nagpur-440 001



VERIFICATION

Verified at Nagpur on this 17th day of November, 2021 that the contents of the above reply are true and correct, no part of it is false and nothing material has been concealed there from.

A. Suresh Kumar
17/11/21

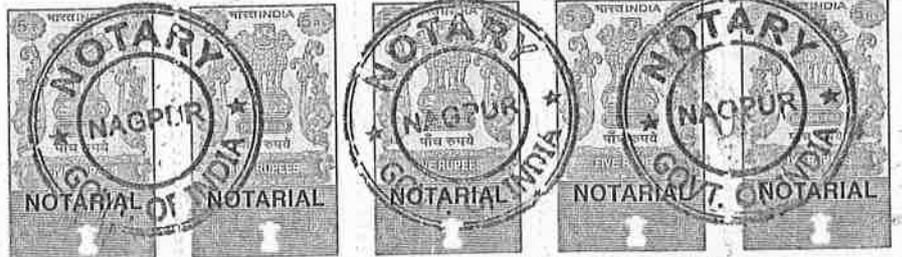
(Suresh Kumar Adapa)
(Suresh Kumar Adapa)

वैज्ञानिक-ई/Scientist-E
पर्यावरण, वन एवं जलवायु परिवर्तन, मंत्रालय
Ministry of Environment Forest and Climate Change
एकीकृत क्षेत्रिय कार्यालय, नागपुर-440 001
Integrated Regional Office, Nagpur-440 001

SWORN BEFORE ME ON THIS17..... Th
DAY OFNOV.20..21..... AT NAGPUR BY
SHRI / SMT/ KU. Suresh k. Adapa.
R/O NAGPUR WHO HAS BEEN IDENTIFIED BY
SHRI / SMT. Anuradha P. Adv.
ADVOCATE, NAGPUR

Anuradha P.
Mrs. CHANCHAL KHURANA
Advocate & Notary
Res./Off.: H/No. 41/3, Mucosabag
NAGPUR-440 014
Reg. No. 6386

NOTARIAL REG
ENTRY No. 39584
DATE 17/11/2021





भारत सरकार
GOVERNMENT OF INDIA
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
MINISTRY OF ENVIRONMENT, FORESTS
& CLIMATE CHANGE

Annexure- A/1 195
151
Integrated Regional Office
Ground Floor, East Wing
New Secretariat Building
Civil Lines, Nagpur - 440001
E-mail: apccfcentral-ngp-mef@gov.in

F.No:2-1/2005 (ENV)/ 8628

Date: 20.09.2021

To,

The Scientist'E'
Ministry of Environment, Forest & Climate Change
Indira Paryavaran Bhawan
Jorbagh Road, Aliganj
New Delhi-110003

Sub: OA No. 72 of 2020 in Prakash Ravaji Devgirkar vs. State of Maharashtra & Ors. before the Hon'ble National Green Tribunal (WZ)-reg.

Ref:

1. The IA (Monitoring) Division, Ministry of Environment, Forest & Climate Change (MoEF&CC) letter no. IA-L-11011/03/2021-IA-1(R) dated 09.08.2021
2. Environmental Clearance issued (by MoEF) for Gunjawani Irrigation Project vide letter no. J-12011/20/2003-IA-I dated 29.04.2005

Ma'am,

I am directed to invite your kind attention on the above subject and letters under reference. Site inspection of Gunjawani Irrigation Project of Pune Irrigation Project Circle (currently under Niradeoghar Project Division (Sangavi) Bhor)) located in Pune District of Maharashtra had been carried out on 17.08.2021. Detailed inspection report is enclosed herewith.

This issues with the approval of the Regional Officer, Integrated Regional Office, Nagpur.

A. Suresh Kumar
Suresh Kumar Adapa
Scientist 'E'

Encl: as above

Site inspection for monitoring of compliance status of conditions stipulated in environmental clearance granted to Gunjewani Irrigation Project of Pune Irrigation Project Circle, Irrigation Department, Govt. of Maharashtra granted by MoEF vide letter no. J-12011/20/2003-IA-I dated 29.04.2005

The IA (Monitoring) Division vide letter no. IA-L-11011/03/2021-IA-1(R) dated 09.08.2021 (copy enclosed as **Annexure-1**) requested the Integrated Regional Office (IRO), Nagpur to furnish a compliance report highlighting the compliance status of the project with respect to Environmental Clearance no. J-12011/20/2003-IA-I dated 29.04.2005 & along with a factual report highlighting the specific observation of IRO on the contention of petitioner (in OA no. 72 of 2020 in Prakash Ravaji Devgirkar vs. State of Maharashtra & Ors.) highlighted in the petition which inter-alia include following:

" 1330 persons were likely to be affected due to this project in 9 Villages. Out of this four villages are fully submerged and five villages are partly affected. The affected persons should be rehabilitated as per provisions of Maharashtra Project Affected Persons Rehabilitation Act, 1986"

Brief Background of the Petition (OA no. 72 of 2020):

Shri. Prakash Raoji Devgirkar and 34 others filed application under section 14, 15 & 18(2), 26, 28 of National Green Tribunal Act, 2010 stating that PAP's villages are submerged by State Authorities in October 2018, without rehabilitation. Applicants prayed that "State Authorities may be directed to pay compensation of Rs.20,000/- per month per family of PAP's till actual rehabilitation of PAP. Further directions may be issued that this amount be calculated from the date of submergence i.e. Oct 2018".

Brief Background of the project:

Gunjewani Irrigation project involves the construction of a earthen dam across River Kanadi, a left bank tributary of Gunjawani River. The project is located in Velhe Taluka in Pune District of Maharashtra. Four villages (Kanand, Chapet, Vaghdara & Gevhande) fully affected and five villages (Vihir, Antroli, Nivi, Bopalghar & Dhanep) partially affected. An area of 850 ha. (excluding forest land) was acquired for the project. As per the information provided, construction of the project completed in 2017.

The site inspection of the project has been carried out by the undersigned on 17.08.2021. Following representatives of Irrigation Department, Govt. of Maharashtra and District Rehabilitation Office, Pune District were present during the inspection:

1. Shri. Rajesh Dubal, Executive Engineer, Nira Devghar Project Division, Irrigation Department, Govt. of Maharashtra
2. Shri. Milind Pol, Sr. Clerk, District Rehabilitation Office, Collectorate, Pune

Initial meeting was held at the project office and site visit was carried out. Undersigned also visited the villages of rehabilitated project affected persons. Photographs of the earthen dam and reservoir are enclosed as **Annexure-2**.

The compliance status of conditions stipulated in environmental clearance is as follows:

Specific Conditions:

S. No.	Condition	Compliance Status
i.	1330 person are likely to be affected due to this project in 9 Villages. Out of this four villages are fully submerged and five villages are partially affected. The affected Persons should be rehabilitated as per the provisions of Maharashtra Project Affected Persons Rehabilitation Act, 1986	<p>Compliance in progress.</p> <p>As per the information provided, Four villages (Kanand, Chapet, Vaghdara & Gevhande) were fully affected and five villages (Vihir, Antroli, Nivi, Bopalghar & Dhanep) were partially affected. An area of 850 ha. (excluding forest land) was acquired for the project.</p> <p>PP submitted that compensation of land 835 ha. under submergence was given to concerned project affected person through Special Land Acquisition Officer, Revenue Department, Govt. of Maharashtra.</p> <p>As per the data compilation register prepared by District Rehabilitation Officer, there were 1387 land holders identified for the rehabilitation. It was informed that compensation was paid to the persons whose houses were under submergence.</p> <p>Out of the 1387 land holders, only 569 land holders have deposited 65% amount for the alternative land.</p> <p>PP informed that Maharashtra Project Affected Persons Rehabilitation Act, 1986 is not in force currently. PP was asked to provide a copy of the 1986 act. However, the same was not provided by PP. It was informed that Maharashtra Project Affected Persons Rehabilitation Act, 1999 is in force currently.</p> <p>As per the section 16(2) of Maharashtra Project Affected Persons Rehabilitation Act, 1999: (enclosed as Annexure-3)</p> <p>An affected person eligible for the grant</p>

of land or plot under sub section (1) shall forfeit his right to get the same if:

- a) *he fails to communicate his willingness to accept the grant of land or plot made to him, to the Collector within a period of forty-five days from the date of receipt by him of a notice in that behalf from the Collector ; or*
- b) *he fails to deposit with the Collector, towards occupancy price of the land, sixty-five per cent. of the amount of compensation which he has received for his land which is acquired from him in the affected zone or of the likely cost of the land to be granted to him under sub-section (1), whichever is less, at the time of payment of such compensation to such affected person."*

As per the above clause, only 569 land holders were eligible for rehabilitation.

PP submitted that out of 569, 539 land holders were allotted alternative land from Sub Divisional Officer, Bhor

The representative from the DRO, Collectorate, Pune District informed that remaining 30 land holders have not given consent and changing their stand continuously. It was also informed that the land was allotted to these 30 land holders in Shirur Taluka of Pune, however these land holders demanded land in Velhe Taluka. PP submitted that this demand of compensation by the PAPs is out of the scope of Maharashtra Project Affected Persons Rehabilitation Act 1986.

In addition to the above, as per the affidavit signed by DRO, Pune (enclosed as **Annexure-4**) following are the details of applicants of Gunjewani Project in Hon'ble

		<p>NGT:</p> <table border="1"> <tr> <td>Applicants of Gunjewani Project in Hon'ble NGT</td> <td>99</td> </tr> <tr> <td>Duplicate applicants</td> <td>23</td> </tr> <tr> <td>Number of applicants removing the duplication</td> <td>76 (99-23)</td> </tr> <tr> <td>The Project Affected Person Non-eligible for alternative land: (A) Project Affected Person exceeds the economic holding (B) Not paid 65% amount for alternative land</td> <td>10 (76-10=66)</td> </tr> <tr> <td>Number of PAP's to whom alternative land was allotted prior to 2017</td> <td>38 (66-38=28)</td> </tr> <tr> <td>The project affected persons to whom lands were allotted in village Amble Tal. Shirur, District Pune (as per the consent letter of Govt. of Maharashtra dated 23.07.2020)</td> <td>11 (28-11=17)</td> </tr> <tr> <td>The PAPs whose proposals are in process (incomplete applications)</td> <td>17 (17-17=0)</td> </tr> </table> <p>The newly developed Gaothans (Settlements) were inspected and the details are enclosed as Annexure- 5.</p>	Applicants of Gunjewani Project in Hon'ble NGT	99	Duplicate applicants	23	Number of applicants removing the duplication	76 (99-23)	The Project Affected Person Non-eligible for alternative land: (A) Project Affected Person exceeds the economic holding (B) Not paid 65% amount for alternative land	10 (76-10=66)	Number of PAP's to whom alternative land was allotted prior to 2017	38 (66-38=28)	The project affected persons to whom lands were allotted in village Amble Tal. Shirur, District Pune (as per the consent letter of Govt. of Maharashtra dated 23.07.2020)	11 (28-11=17)	The PAPs whose proposals are in process (incomplete applications)	17 (17-17=0)
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The PAPs whose proposals are in process (incomplete applications)	17 (17-17=0)															
ii.	The Catchment Area Treatment Plan as has been proposed should be completed before filling up of reservoir.	<p>Partly complied.</p> <p>As per the information provided, an amount of Rs. 35,00,000/- was provided to State Forest Department for catchment area treatment plan over 995 ha. of forest land. Also plantation was developed along both banks of the reservoir for arresting the siltation. Photographs are enclosed as Annexure-6.</p>														

		PP did not provide the details pertaining to the activities carried out by State Forest Department under catchment area treatment plan.
iii.	To prevent there is no breeding of mosquito in and around the rate of flow of water should be more than 60cm/sec.	As per the information provided, the rate of flow was maintained more than 60 cm/sec. No mosquito breeding was observed during site inspection. Also PP obtained amendment of environmental clearance (20.03.2020) open canal will be converted to pipe canal with closed conduit system. Hence this condition will not be applicable in view of the amendment obtained from Ministry.

General Conditions:

S.No.	Condition	Compliance Status
i.	Adequate free fuel arrangement should be made for the labour force engaged in the construction work at project cost so that indiscriminate felling of trees is prevented.	The construction of the project is completed and same is in operation phase.
ii.	Fuel depot may be opened at the site to provide the fuel (kerosene / wood / LPG) Medical facilities as well as recreational facilities should also be provided to the labourers.	
iii.	All the labourers to be engaged for construction works should be thoroughly examined by health personal and adequately treated before issuing then work permit.	
iv.	A Monitoring Committee for R&R should be constituted which must include representatives of project affected persons forth SC/ST category and a women beneficiary.	Partly complied. As per the information provided, regular meetings were conducted under the chairmanship of District Collector/ District Rehabilitation Officer with PAPs at Pune and Saswad. It was informed that persons from SC/ST category and women beneficiaries attended the meeting. However no documentary evidence was provided in support of the above claim.

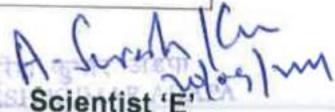
v.	Restoration of construction area including dumping site of excavated materials should be ensured by leveling, filling up of burrow pits, landscaping etc., The area should properly afforested with suitable plantation.	PP submitted that quarries for construction material were identified in the areas which were bound to be submerged.
vi.	A multidisciplinary committee should be constituted which representatives from various disciplines of forestry, ecology, wildlife, soil conservation, NGO etc. to oversee the effective implementation of the suggested safeguard measures.	Not complied. PP submitted that project level and state level committees were constituted vide Govt. of Maharashtra resolution dated 04.03.2003 for the implementation of safeguards. However, PP did not provide any documentary evidence to support the above claim. No information provided regarding 1. The inclusion of experts from various disciplines such as forestry, ecology, wild life, soil conservation. 2. Inspections conducted by the committee to monitor the safeguards
vii.	Financial provision should be made in the total budget of the project for implementation of the above suggested safeguard measures.	As per the information provided, an amount of Rs. 1862.04 lakhs was allocated for the safeguards.
viii.	Six monthly monitoring reports should be submitted to the Ministry and its Regional Office, Bhopal for review.	Not complied. PP did not submit the six monthly compliance reports regularly since the grant of EC.
ix.	Officials from Regional Office MOEF, Bhopal who would be monitoring the implementation of environmental safeguards should be given full cooperation, facilities and documents / data by the project proponents during their inspection.	PP agreed upon.
x.	The responsibility of implementation of environmental safeguards rests fully with the Government of Maharashtra.	PP agreed upon.
xi.	In case of change in the scope of the project, project would require fresh appraisal	PP agreed upon.

xii.	The Ministry reserves the right to add additional safeguard measures subsequently, if found necessary and to take action including revoking of the clearance under the provisions of the Environment (Protection) Act, 1886 to ensure effective implementation of the suggested safeguard measures in a time Bound and satisfactory manner.	PP agreed upon.
xiii.	This clearance letter is valid for a period of five years the date of issue of this letter for commencement of construction work.	As per the information provided, the project activities were completed in the year 2017.
xiv.	A copy of the clearance letter will be marked to concerned Panchayat/ local NGO, if any from whom any suggestion/ representation has been received while processing the proposal.	No information provided regarding submission of copy of clearance letter to nearest Gram Panchayat.
xv.	State Pollution Control Board/ Committee should display a copy of the clearance letter at the Regional Office, District Industries Center and Collector's office for 80days.	Does not pertain to PP.
xvi.	The project proponent should advertise within 7 days of the date of issue of the letter at least two local newspaper widely circulated in the region around the project, one of which shall be in the vernacular language of the locality concerned informing that the project has been accorded environmental clearance and copies of clearance letters are available with the state Pollution Control Board / Committee and may also be seen at Website of the Ministry of Environment and Forests at http://www.envfor.nic.in	Partly complied. Advertisement was made, however the clause of seven days was not followed.

Additional Conditions stipulated in the amendment (dated 20.03.2020) granted for EC no. J-12011/20/2003-IA-I dated 29.04.2005

The work of conversion of open canal into pipe canal is yet to be initiated.

S.No.	Condition	Compliance Status
i.	Regular monitoring of water quality as per the CPCB guidelines at designated locations shall be carried out on monthly basis and a detailed database of the same shall be prepared and recorded monthly detailed database required.	PP agreed to comply with. The work of conversion of open canal to pipe canal with closed conduit system is yet to be initiated. PP submitted that same will be taken up once the work is initiated.
ii.	Necessary control measures such as water sprinkling arrangements, etc. be taken up to arrest fugitive dust at all the construction sites.	PP agreed to comply with. PP submitted that water sprinkling arrangement will be made during the construction. It was also informed that the conversion of canal project does not involve major excavations.
iii.	Water depth sensors shall be installed at suitable locations to monitor e-flow. Hourly data to be collected and converted to discharge data with excel file.	The project will be conversion of open canal into pipe canal with closed conduit system, hence this condition is not applicable.
iv.	Minimum 15 to 20% of the average lean season flow of the river shall be maintained as environmental flow	PP agreed to comply with.
v.	Solid waste management plan in detail with efforts be made to avoid one time use of plastics.	PP agreed to comply with.
vi.	As the closed conduit system (pipe canal) is passing within 10 km radius from draft Eco-Sensitive Zone (ESZ), permission from the concerned Competent Authority shall be obtained.	As per the information provided, PP submitted application in March 2020 and same is pending with State Government.
vii.	All workers health check-up	PP agreed to comply with.
viii.	Records for restoration and leveling of excavated area.	
ix.	Documents stating free fuel arrangements for workers or stating no tree felling because of fuel arrangement.	


Scientist 'E'
 SURESH KUMAR
 वैज्ञानिक 'ई'
 SCIENTIST 'E'
 पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
 Ministry of Environment, Forest & Climate Change
 क्षेत्रीय कार्यालय (परिधन मध्य क्षेत्र)
 Regional Office (WCZ)
 नागपुर/Nagpur-460003 9/37

IA-L-11011/03/2021-IA-1(R)
Government of India
Ministry of Environment, Forest and Climate Change
IA (Monitoring) Division

Indira Paryavaran Bhawan,
 Jor Bagh Road, Aliganj
 New Delhi – 110003
 Email: rs.bora@nic.in
 Date: 9th August, 2021

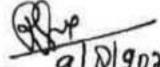
To,
 Integrated Regional Office
 Ground Floor, East Wing,
 New Secretariat Building, Civil Lines,
 Nagpur - 440001

Sub: O.A. No. 72 of 2020 in Prakash Ravaji Devgirkar Vs State of Maharashtra &Ors. before the Hon'ble National Green Tribunal (WZ) –reg.

This is in reference to the O.A. No. 72 of 2020 in Prakash Ravaji Devgirkar Vs State of Maharashtra & Ors., at Hon'ble National Green Tribunal (WZ) (*copy of the petition enclosed*). Integrated Regional Office (IRO), Nagpur is requested to furnish a compliance report highlighting the compliance status of the project with respect to Environmental Clearance No. J-12011/20/2003-IA-I dated 29.04.2005 & along with a factual report highlighting the specific observation of IRO on the contention of petitioner highlighted in the petition which inter- alia include following:

"1330 persons were likely to be affected due to this project in 9 Villages. Out of this four villages are fully submerged and five villages are partly affected. The affected persons should be rehabilitated as per the provisions of Maharashtra Project Affected Persons Rehabilitation Act, 1986".

2. Considering the urgency associated with the Court Matter the report may be furnished urgently to the Ministry.
3. This issues with approval of the Competent Authority.


 9/8/2021
 (R. S. Bora)

Under Secretary to the Govt of India
 Tel: 011-24610886
 Email: rs.bora@nic.in

Encl: As above

Photographs of the Earthen Dam & Reservoir







2001 : Mah. XI]

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**MAHARASHTRA PROJECT AFFECTED PERSONS
REHABILITATION ACT, 1999**

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PREAMBLE

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Maharashtra Project Affected Persons Rehabilitation Act, 1999 [2001 : Mah. XI

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REPEAL AND SAVING

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SCHEDULE

11787

MAHARASHTRA ACT No. XI OF 2001¹.[THE MAHARASHTRA PROJECT AFFECTED PERSONS REHABILITATION
ACT, 1999.]

(This Act received the assent of the President on the 7th March 2001; assent was first published in the *Maharashtra Government Gazette*, Extraordinary Part VIII, on the 14th March 2001.)

An Act to consolidate and amend the law relating to the rehabilitation of persons affected by certain projects in the State of Maharashtra and for matters connected therewith or incidental thereto.

WHEREAS it is expedient to consolidate and amend the law relating to the rehabilitation of persons affected by certain projects in the State of Maharashtra and for matters connected therewith or incidental thereto; It is hereby enacted in the Fiftieth Year of the Republic of India, as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Maharashtra Project Affected Persons Rehabilitation Act, 1999. Short title,
extent and
commence-
ment and
application.

(2) It extends to the whole of the State Maharashtra.

(3) It shall come into force on such date as the State Government may, by *notification in the *Official Gazette*, appoint.

(4) (a) It shall apply to all irrigation projects of which the area of the affected zone exceeds 50 hectares, or the area of the benefited zone exceeds 200 hectares or a *gaathan* is affected.

(b) It shall also apply to all projects, other than irrigation projects specified in clause (a), such as industry including industrial estate, atomic energy, university, oil and natural gas, energy, chemical, roads, national park, sanctuary, mines, etc. However, the entire responsibility to execute them and to rehabilitate the project affected persons shall rest with the concerned department of the Government of Maharashtra by entering into an agreement with the concerned project authority or body.

(c) Where, in the opinion of the State Government, it is necessary and expedient in the public interest to apply it to any other project, the State Government may by notification in the *Official Gazette*, declare that it shall apply in relation

¹ For Statement of Objects and Reasons, see *Maharashtra Government Gazette*, Part V-A, Extraordinary, dated the 19th April 1999, P. 307-308.

*This Act came into force by Government Notification, Revenue and Forest Department, No. LAA. 599/CR-148/Part-II/R-1, dated the 14th March 2002, w. e. f. 1st April 2002.

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(2) Subject to the provisions of this section, the Commissioner may for carrying out the purposes of this Act, also compulsorily acquire land under the Land Acquisition Act, 1894 and the acquisition of any land for any of the said purposes shall be deemed to be a public purpose within the meaning of that Act. I of 1894.

(3) The Commissioner may acquire lands included in a *gaathan* in the affected zone as far as practicable according to the provisions of Part I of the Schedule.

(4) For the purpose of rehabilitating affected persons from the affected zone under an irrigation project, including those under any irrigation project, who have remained to be rehabilitated, on land, the Commissioner may acquire land from holding in the benefited zone of the project according to the slab declared in the notification under sub-section (1) of section 13 and may also acquire, where necessary, land from any other villages or areas, as it may deem fit.

(5) All lands acquired under this section shall form part of the land pool.

(6) An affected person who is entitled but does not want alternative land in the benefited zone shall be paid fifty per cent. amount of the value of the land offered to him, such value having been worked out on the basis of the true market value estimated in the prescribed manner on the basis of the land rates determined and issued, at the relevant time, in the form of Annual Statement of Rates, by the Chief Controlling Authority under the Bombay Stamp (Determination of True Market Value of Property) Rules, 1995, framed under the Bombay Stamp Act, 1958. Bom. LX of 1958.

Preparation of proposals of rehabilitation and publication thereof.

15. Subject to the general or special order which the Commissioner may make in this behalf, the Collector shall prepare, within six months from the date of notification under sub-section (3) of section 13, the proposals in one or more stages, from time to time, as the circumstances may require for rehabilitation of the affected persons from the affected zone under a project and publish a notice containing such proposals in the manner laid down in sub-section (2) of section 11 for the information of such affected persons.

Grant and assignment of land and payment of special grant.

16. (1) An eligible affected person who is desirous of getting land or plot or both in the area shown for the purpose in the scheme published under section 15 may make an application to the Collector in the prescribed form for grant of land or plot, and subject to such rules as may be prescribed, it shall be lawful for the Collector—

(a) to grant land acquired under section 14 to such affected person with the occupancy status on the land held by him earlier;

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(b) to grant a plot of land to such affected person in a new *gaathan* or extended part of the existing *gaathan* with the occupancy status on the land held by him earlier and rupees ten thousand as a special grant for construction of house on such plot,

in such manner, as far as possible, according to the provisions of parts III and IV of the Schedule and on such terms and conditions as may be prescribed :

Provided that—

(i) if the allottee of the land under sub-clauses (a) and (b) of sub-section (1) is an occupant Class II, he shall be entitled to conversion of the land to occupant Class I after a period of ten years on payment of premium as may be prescribed ;

(ii) the affected person referred to in sub-clause (d) of clause (2) of section 2 shall be eligible to a constructed house on the basis of the *Indira Awas Scheme* of the State Government ;

(iii) the affected person referred to in sub-clause (e) of clause (2) of section 2 shall be eligible only for grant of a plot under clause (b) ;

(iv) subject to the provisions of sub-sections (2) and (3), the occupancy price of the land or plot, as the case may be, granted under clause (a) or (b), except under sub-clause (ii) above, shall be determined and paid in the manner as may be prescribed.

(2) An affected person eligible for the grant of land or plot under sub-section (1) shall forfeit his right to get the same if—

(a) he fails to communicate his willingness to accept the grant of land or plot made to him, to the Collector within a period of forty-five days from the date of receipt by him of a notice in that behalf from the Collector ; or

(b) he fails to deposit with the Collector, towards occupancy price of the land, sixty-five per cent. of the amount of compensation which he has received for his land which is acquired from him in the affected zone or of the likely cost of the land to be granted to him under sub-section (1), whichever is less, at the time of payment of such compensation to such affected person.

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(3) After payment of the amount under clause (b) of sub-section (2), the remaining amount towards the occupancy price payable by the affected person for the land allotted to him shall be recovered from him free of interest in such manner and instalments as may be prescribed :

Provided that, the first instalment of such recovery shall commence one year after the irrigation facility is made available to him.

(4) The State Government shall pay a special grant to all such affected persons who have deposited an amount as per clause (b) of sub-section (2) of this section but have not been allotted land in the benefited zone and the rate of the special grant shall be rupees four hundred *per mensem* for the period from the date of actual displacement of the person from the land to the date of allotment of land in the benefited zone.

(5) Nothing in this Act shall prevent, the project authority to lease out to the affected person the land acquired from him till the gorge filling of an irrigation project is taken up and not used for quarrying dam seat, etc.

(6) Nothing in this Act shall prevent the Collector to lease out to the affected person the land acquired from him in the benefited zone, which is still in his possession, for whatever reason, till the possession of such land is granted to any eligible affected person and such land shall be given only on lease.

power to grant developed land to the project affected person.

17. Where the acquiring body disposes developed land from the land acquired for the purposes of the project, the project affected person would be entitled to twelve and half per cent. develop land of the land acquired from him, on payment of amount prescribed by State Government.

Execution of layout by project authority or any other agency and after completion, vesting thereof in Zilla Parishad.

18. The execution of every lay out of a new *gaathan* or the extension of an existing *gaathan*, as the case may be, in so far as it relates to public utilities, civic and other amenities and services shall be carried out by the respective project authority, or where the Commissioner considers it necessary so to do, it may by an order in writing entrust it to any such agency as it may deem fit. On completion of the said works in all respects and on issue of a certificate in writing by the Collector under his hand and seal to that effect, the said

* This Affidavit Yet to be Submitted, *



**BEFORE THE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE, BENCH AT PUNE**

O. A. NO.72 OF 2020 (WZ)

From District: Pune (MAHARASHTRA)

Prakash Ravaji Devgirikar
and others

....Applicants

v/s

State of Maharashtra and others

... Respondents

AFFIDAVIT

I, Uttam Patil, Deputy Collector (Rehabilitation)

Pune District, Pune, do hereby state on solemn affirmation as follows:

1. I say that I have gone through the Original Application filed by the Applicants. I am filing this affidavit in reply to the same. Nothing in this affidavit be treated as admission of something stated in the Original Application unless it is answered, clarified or otherwise explained. I may be permitted to file additional affidavit if the circumstances so required.
2. I say that, by order dt. 20.10.2020, this Hon'ble Tribunal was pleased to direct Constitution of a Committee, consisting 1) Collector, Pune, and 2) Maharashtra State Pollution Control Board, (SPCB) and to direct them to submit a factual and action taken report.
3. The State Government has issued a resolution dated 29 March 2012 under Art.162 of the Constitution of India bifurcating the functions of the Collector and Additional Collector of a district. The issue of rehabilitation is dealt with by Additional Collector, Hereto annexed and marked as **Exhibit R-1** is a



copy of the resolution dt. 29 March 2012.

4. As per the order dated 20.10.2020, the Committee held its meeting on 29.10.2020. The following officers attended the meeting.

1) Mr. Vijaysingh Deshmukh - Addl. Collector, Pune.

2) Mr. Uttam Patil - Dy. Collector, Rehabilitation, Pune

3) Mr. Pratap Jagtap - Representative of Regional Office of Maharashtra Pollution Control Board (SPCB).

4) Mr. Digambar Dubal - Executive Engineer, Nira Deoghar Project Division.

5) Mr. Saourabh Pingle - Assistant Engineer, Class-I

6) Mr. N.V. Girme - Assistant Engineer, Class-I

I say that, the officers at Sr. Nos. 4, 5 and 6 represented Maharashtra Krishna Valley Development Corporation (the Project Authority).

During this meeting, a Committee comprising Additional Collector, Pune and the representative of SPCB was constituted as per the order of this Hon'ble Tribunal. This is reflected in the order dt. 15.1.2021 of the Collector, Pune, copy of which is annexed herewith and marked as **EXHIBIT 'R-2'**.

5. The Committee held its meeting on 29.10.2020.

During this meeting, it realised as follows:-

Sr	Details	Total
1.	Applicants of Gunjwani Project in NGT	99
2.	Double applicants	23
3.	Total Number of Applicants	76
4.	The Project Affected Person Non - eligible for alternate land (A) Project Affected Person exceeds the economic holding (B) Not paid 65% amount for alternate land.	10
5.	Number Of PAP's Whom alternate Land Has been allotted prior to 2017 (Wadgaon Bande, Rahu, Pilanwadi Tal. Daund, Ganegaon Khalsa, Jategaon BK Tal. Shirur, Wagajwadi, Kenjal and Pabe Tal. Bhor)	38
6.	The Project Affected persons, to whom lands are allotted in Village Amble Tal. Shirur Dist. Pune (As per consent letter of Govt. Maharashtra dated 23 July 2020)	11
7.	The PAPs whose proposals are in process (incomplete applications)	17

I am annexing to this affidavit as **EXHIBIT 'R-3'** is the copies of 11 orders allotting the lands collectively.

6. I say that, the Committee is seriously looking into

the issue of allotment of alternate lands. It will submit its progress report periodically.

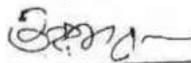
7. Taking disadvantage of the pending proceedings, number of PAPs are multiplying the proceedings.
8. In O.A. No.43/2016, there were 50 applicants. Now, 35 more applicants have filed O.A. No.72 of 2020. Certain applicants are common. **Once the Committee is looking into the grievance regarding resettlement, fresh OAs are unnecessary and are time barred.**
9. I am placing on the record, the compliance report, filed by Sub-Divisional Officer, Bhor from time to time. The said compilation is collectively marked as **EXHIBIT 'R-4'**
10. I say that, the applicants have prayed for payment of Rs.20,000/- per month by way of compensation till they are rehabilitated. The said prayer may be rejected because, the State Government has been taking steps to rehabilitate the persons affected by Gunjawani Irrigation Project. The Project Affected Persons are changing their stand continuously. The

expenses on village site in Shirur Taluka were wasted, because all of sudden, they demanded village site in Velha Taluka. Accordingly, the Govt. was required to set up a village site at Dhanep in Velha Taluka. All these difficulties are pointed out in various replies filed before the Tribunal. The provisions of Resettlement Act do not lay down any time period for rehabilitation and this demand of compensation is outside the provisions of Act. They are at the most entitled for the sustenance allowance, if eligible.

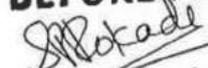
Place: Pune

Date: /07/2021

Deponent

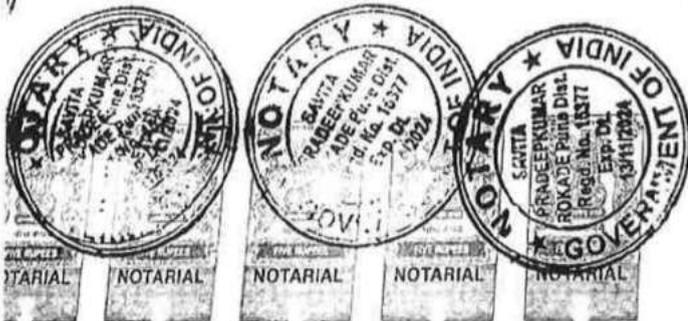

 Uttam Patil,
 Deputy Collector
 (Rehabilitation), Pune



BEFORE ME

 Savita Pradeepkumar Rokade
 ADVOCATE & NOTARY
 GOVT. OF INDIA

Noted and Registered
 at Serial Number *SD/2021*

07 JUL 2021

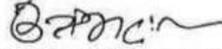


VERIFICATION

I, Uttam Patil, Deputy Collector (Rehabilitation), Pune District, Pune, do hereby state on solemn affirmation that whatever stated in the above, is based upon the information derived from the official records, which I believe to be true and correct.

Solemnly affirmed here at _____ on
this ___ day of July month of
the year 2021

AFFIANT



Uttam Patil,
Deputy Collector
(Rehabilitation), Pune

Identified by me


Advocate

(S.B. Vaidya)



Inspections of Gaothan (Villages) with rehabilitated PAPs

The Executive Engineer, Gunjawani Irrigation Project informed that the eligible PAPs were rehabilitated in three villages. Inspection of these villages was carried out on 17.08.2021. The details are as follows:

1. Dhanip-1

The undersigned interacted with Shri. Ganpat Devgirkar and other villagers. The villagers informed that the State Government provided necessary facilities as per the Maharashtra Project Affected Persons Rehabilitation Act 1986. It was observed that Roads, Drainage system, water supply, electricity, school and temple(under construction), crematorium, etc. were provided. Photographs are as follows:

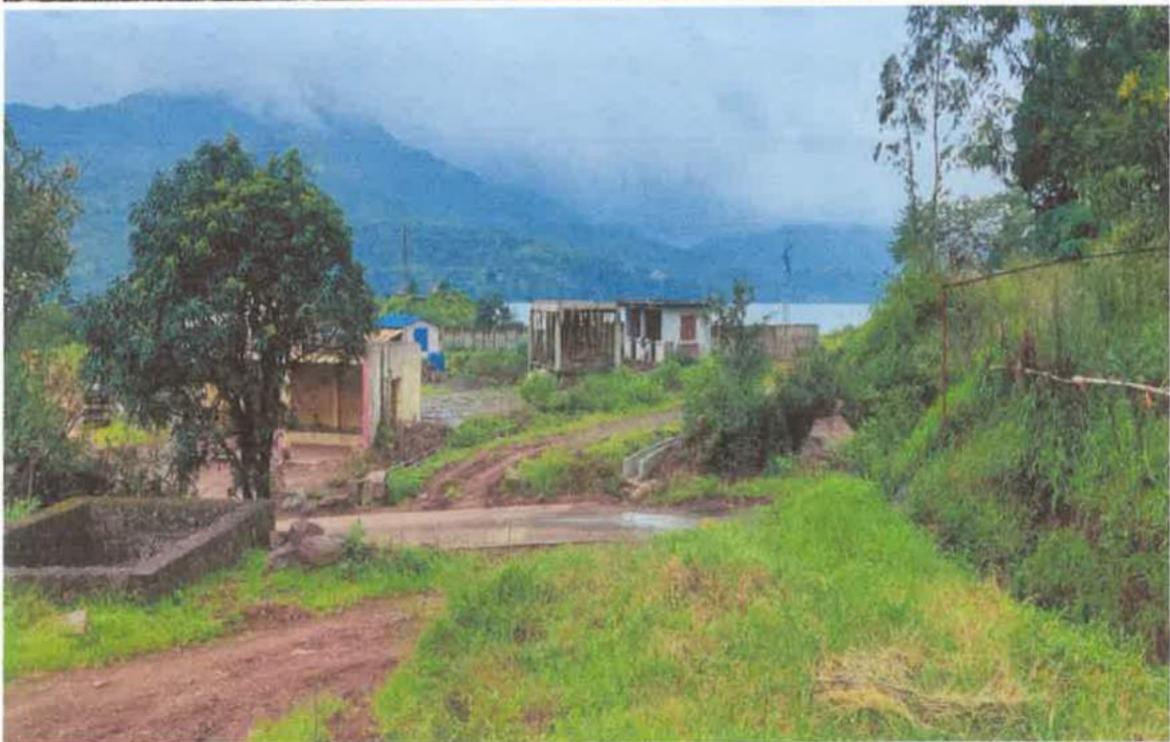


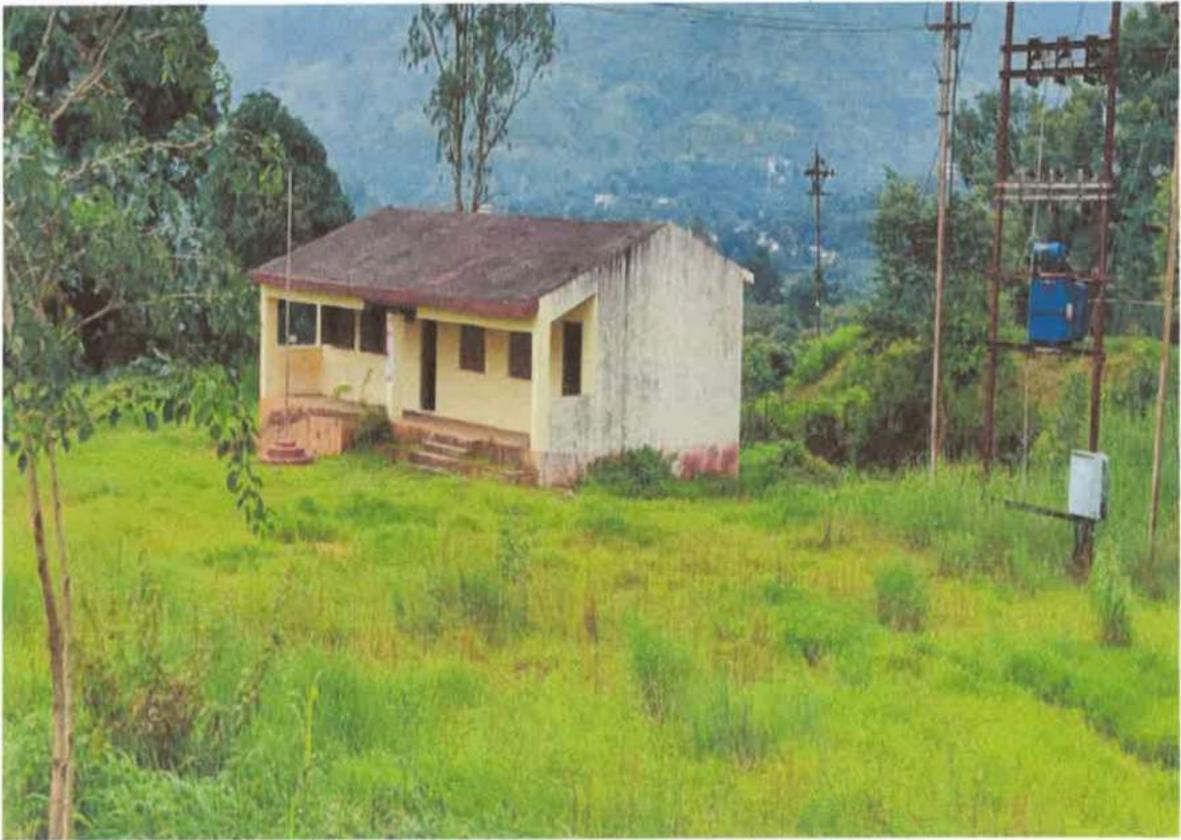




2. Dhanip-2

The undersigned interacted with Shri. Bhimaji Devgirkar and other villagers. The villagers informed that the State Government provided necessary facilities as per the Maharashtra Project Affected Persons Rehabilitation Act 1986. It was observed that Roads, Drainage system, water supply, electricity, school and temple, crematorium, etc. were provided. Photographs are as follows:







3. Adawali







Annexure-6

Plantation developed on the sides of the reservoir for arresting the siltation





535360/2021/IA_I

By Speed Post/e-mail

F. No. L-11011/03/2021-IA-1(R)

Government of India
Ministry of Environment, Forest and Climate Change
(I.A. Division)

Indira Paryavaran Bhavan
Jor Bagh Road, Aliganj
New Delhi-110 003
Email: shruti.rao@nic.in

Dated: 6th October, 2021

To,

The Chief Engineer
Pune Irrigation Project Circle
Chaskaman Project Division
Pune-411001
Maharashtra

Sub: Non compliances observed with respect to the project on Gunjewani Irrigation Project of Pune Irrigation Project Circle, Irrigation Department, Govt. of Maharashtra - reg.

Ref: i. Ministry's EC letter No. J-12011/20/2003-IA-I dated 29.04.2005.
ii. Amendment in EC letter No. J-12011/20/2003-IA-I dated 20.03.2020

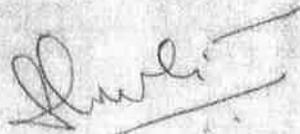
Environmental Clearance (EC) was granted to Gunjewani Irrigation Project of Pune Irrigation Project Circle, Irrigation Department, Govt. of Maharashtra vide letter No J-12011/20/2003-IA-I dated 29.04.2005 and Amendment in EC letter No. J-12011/20/2003-IA-I dated 20.03.2020 subject to implementation of the various conditions and environmental safeguards contained therein, and

2. The project was monitored by the Integrated Regional Office of this Ministry at Nagpur on 17.08.2021, which has submitted its report to Ministry vide letter dated 20.09.2021 (copy enclosed).

3. The inspection report submitted by IRO, Nagpur has been examined in the Ministry and following are the EC conditions for which no satisfactory compliance status has been submitted by the IRO:

- i. The Catchment Area Treatment Plan as has been proposed should be completed before filling up of reservoir. (Specific Condition no. 2).

Status-PP did not provide the details pertaining to the activities carried out by State Forest Department under catchment area treatment plan.



535360/2021/IA_I

- ii. A Monitoring Committee for R&R should be constituted which must include representatives of project affected persons forth SC/ST category and a women beneficiary (**General Condition no. iv**).

Status-No documentary evidence for any of the claim regarding constitution of the Committee and its meeting

- iii. Formation of multidisciplinary committee should be constituted which representatives from various disciplines of forestry, ecology, wildlife, soil conservation, NGO etc. (**General Condition no. vi**).

Status-No such committee exists.

- iv. Submission of Six monthly monitoring reports. (**General Condition no. viii**).

Status- Not submitted.

4. In view of the foregoing, the Project proponent (PP) is hereby directed to submit the (i) clarification for non-compliance observed during the site visit, and (ii) **Action Taken Report (ATR)** with respect to the non-compliance within, and (iii) Action Plan wrt the conditions practically not feasible to be complied in immediate timeline within 30 days of the receipt of this letter. It may please be noted that, if no satisfactory reply is received within the prescribed time frame, the Ministry will be constrained to take necessary action as deemed fit and appropriate in the circumstances of the case which *inter-alia* include issuance of Show-Cause Notice under the provision of section (5) of the Environment (Protection) Act, 1986.

This issues with the approval of the Competent Authority.



(Dr. Shrutu Rai Bhardwaj)
Addl. Director/Scientist 'E'

Copy to:

1. Deputy Director General of Forests (C), Ministry of Env., Forest and Climate Change, Integrated Regional Office, Ground Floor, East Wing, New Secretariat Building, Civil Lines, Nagpur- 440001.
2. The Member Secretary, Maharashtra Pollution Control Board, Kalpataru Point, 3rd and 4th floor, Opp. PVR Cinema, Sion Circle, Mumbai-400 022
3. The Chairman, Central Pollution Control Board, Parivesh Bhawan, East Arjun Nagar, Delhi-110032.



(Dr. Shrutu Rai Bhardwaj)
Addl. Director/Scientist 'E'