

**BEFORE THE NATIONAL GREEN TRIBUNAL, SITTING
AT CHENNAI**

EXECUTION APPLICATION NO. 3 OF 2023

IN

ORIGINAL APPLICATION NO. 92 OF 2020

(Under Section 18(1) r/w Section 19(1) of the National Green Tribunal Act, 2010)

IN THE MATTER OF:

Gareeb Guide (NGO) Rep. by its President, 7/41, Bahar, Sahara States, Mansoorabad, Hyderabad-500068, Phone: 8688122222, E-Mail: gareebguide@gmail.co,

.....APPLICANT

VERSUS

1. State of Andhra Pradesh Rep. by its Chief Secretary to Govt, Department of General Administration, Building No. 1, I Floor, Interim Government Complex, Secretariat, Velagapudi, Guntur, Andhra Pradesh. Phone: N.A., E-Mail: cs@ap.gov.in

2. Collector, Srikakulam District, O/O Collectorate, Srikakulam. Phone: 08942-222565, E-Mail: Collector.sklm@gmail.com

.....RESPONDENTS

OBJECTIONS, DATED: 15.11.2024 FILED BY THE APPLICANT AGAINST THE REPORT, DATED: 10.11.2024 SUBMITTED BY THE DISTRICT COLLECTOR, SRIKAKULAM i.e RESPONDENT NO. 2

MOST RESPECTFULLY SHOWETH:

It is respectfully submitted that

1. I am the Applicant and herein and as such I am well acquainted with the facts of the case.
2. The contents of the Report, dated: 10.11.2024 filed by the Respondent No. 2 are false and denied by the



FOR GAREEB GUIDE
G. Bhargavi
President

Applicant categorically such of those averments which are not specifically admitted.

3. All the contents of the Affidavit filed by the Applicant are true and correct.

4. The Report, dated: 10.11.2024 filed by the Respondent No. 2 contains the false statements to mislead this Hon'ble Tribunal. Hence, this Hon'ble Tribunal may be pleased to consider this action of the Respondent No. 2 as contempt of the court, in view of the Hon'ble Apex court Judgment, dated: 20.02.2023 passed in Civil Appeal No. 1629 of 2022.

5. Objections of the Applicant to the Report, dated: 10.11.2024 of the Respondent No. 2:

- i. Para-10: The Respondent No. 2 submitted that the agricultural land encroachments in Sy No. 59 for an extent of Ac. 7.24 and vacant land for an extent of Ac 0.44 for using of Sri lakshminarasimha swamy yatra purpose in Kakarlavani Cheruvu of Chinnadugam (V) of Jalumuru (M) were removed and **the present ground status is a vacant land is false** information submitted by the Respondent No. 2 to this Hon'ble Tribunal to mislead this tribunal.
- ii.



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For GAREES GUIDE
G. Bhagiri
President



Photograph, dated: 24.08.2024 showing the illegal cultivation in Kakarla Pond by violating the order(s) dated: 14.07.2022 & 01.12.2022 of the NGT

- iii. Para-13: The Respondent No. 2 submitted that as per the report, dated: 19.06.2024, originally Kakarla tank of Chinnadugam (V) pertains to Panchayatraj Dept. These tanks are handed over to the irrigation department in the year 2005 and **the tank is abandoned**. In the year 1978 the Narasannapeta Branch Canal of vamsadhara project has been excavated adjacent to the above said tank and the ayacut of tank was localized under Vamsadhara Project. No Ayacut is serving under this tank. Thereby **the tank has been defunct is false** information submitted by the Respondent No. 2 to this Hon'ble Tribunal to mislead this tribunal because as per the **work code 0201023038/DP/9999007191493** under MGNREGA, Rs 9,64,554/- has been spent for renovation of Kakarla pond between 26.06.2023 and 26.05.2024.

The Respondent No.2 also states that during the verification it is found that, **the above three inlets are intact and they are functioning. The inlets and leading channel can accommodate more than the inletting water there is no stagnation of the water is observed in the tank bed area** and also it is to state that there are no

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For GAREEB GUIDE
G. Bhagat
President

obstructing structures constructed to block the flows. Therefore, **there is no need to provide alternative arrangements** is controversy to the earlier report filed by the Respondent No. 2 states that at present there is no tank appearance on the ground and **there are no inlet and outlet canals in the Kakarlavani Cheruvu, but the outlets are on the northern side of the Kakarlavani Tank bund** and this is with an intention to mislead this Hon'ble Tribunal.

iv. Para-15: The Respondent No. 2 ignored the following:

(a) As per Para 3(a)(ii) of the G.O. Ms No. 571, Revenue (Assignment-I). Dept., Dated: 14.09.2012, only waste and dry lands should be proposed for alienation and wet, irrigated lands should not normally be considered for such as, tank beds, river beds, hillocks with afforestation etc shall not be alienated or allotted. Further, as per Para 3(c) (viii), the ban on change of classification of tank bed lands shall be strictly enforced.

(b) The order, dated: 14.09.2022 of the Division Bench of the Hon'ble High Court of Andhra Pradesh in a PIL is as follow:

".....The officials of the concerned Departments, i.e., the Departments of Municipal Administration, Forest and Revenue, shall also undertake. and complete the exercise of identification of unauthorized occupations/encroachments over the lands belonging to their respective Departments, within a period of two months from today, and thereafter, take steps for removal of such encroachments by following the principles of natural justice, i.e., issuing notice and providing opportunity of hearing to the unauthorized occupants/encroachers, within a further period of four months"



For GAREEB GUIDE
 G. Bhargava
 President

- (c) There was direction, dated: 14.07.2022 & 01.12.2022 by the NGT to the Respondent No. 2 to identify and restore the inlet and outlet of the Kakarla Pond after removing the encroachment thereupon and to restore the tank.
6. As per the Hon'ble High Court of Andhra Pradesh, the Andhra Pradesh High Court has the highest number of contempt cases because of the casual approach of officials towards court orders **(Published in all newspapers on 19.11.2022)**.
 7. The Supreme Court has observed in SUO-MOTU CONTEMPT PETITION (CIVIL) NO.3 OF 2021 viz In Re Perry Kansagra that the tendering of affidavits and undertakings containing false statements would amount to contempt of court.
 8. As per the leading newspaper i.e Orissa Post, dated: 20.01.2020, in a similar case Hon'ble NGT, EZ issued notice of contempt as well as imprisonment waring to the Khurda Collector.
 9. As per the Apex Court Judgment, dated: 20.02.2023 passed in Civil Appeal No. 1629 of 2022, the NGT is entrusted with the wholesome power to ensure that its orders are complied with. The absence of sewerage facilities is an important aspect which would merit the exercise of powers by the Tribunal under section 25. The invocation of power to levy a penalty under section 26 will not necessarily subserve the purpose.
 10. As per the Hon'ble Bombay High Court, efficacious remedy for breach of orders of NGT is under Sec 26 of NGT Act and Not before Magistrate under Sec 15 Environment Protection Act
 11. The illegal constructions/encroachments upon riverbeds/banks, hills in the form causing harm to the environment of the river polluting natural water and danger for water bodies, defacing the beauty of



For GAREES GUIDE
 G. Basu
 President

the river and damage to the environment of the river/pond, hills and the heritage sites of is irreversible and permanent.

12. The water is the most essential requirement to sustain the human life and, therefore, there is need to preserve and protect it.

13. Other Grounds if any will be argued at the time of hearing

It is hereby prayed that pending action taken based on false report, dated: 10.11.2024 submitted by the District Collector, Srikakulam, the Hon'ble Tribunal may be pleased to consider these objections and facts submitted by the applicant and take action against the Respondent No. 2 on tendering of affidavits and undertakings containing false statements and pass an appropriate order or orders as deem fit and proper in the circumstances of the case.

For GAREEB GUIDE
 G. Bhargavi
 President

APPLICANT

VERIFICATION

I Bhargavi Gundeti, President, Gareeb Guide (NGO), 7/41, Bahar, Sahara States, Mansoorabad, LB Nagar, Hyderabad-500068 do hereby verify that the contents of paras 1 to 13 believe to be true on legal advice and that I have not suppressed any material fact.

Date: 15.11.2024

Place: Hyderabad.

For GAREEB GUIDE
 G. Bhargavi
 President

APPLICANT

Bhargavi