

**BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI**

**MA.No. 03 OF 2024 (SZ)**

**IN THE MATTER OF:**

**THE STATE OF TELANGANA  
THROUGH CHIEF SECRETARY,  
SECRETARIAT, HYDERABAD**

**.....APPLICANT**


**VS**

**UNION OF INDIA AND OTHERS**

**.....RESPONDENT**

**ADDITIONAL TYPED SET OF PAPERS**

place : Chennai  
Date : 07.09.2024

  
**Counsel For The Applicant  
Mrs H. Yasmeen Ali**



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**MOST RESPECTFULLY SHOWETH:**


1. It is stated that the State of Telangana (Applicant herein) has filed the present M.A 3 of 2024 on 07.02.2024 before this Hon'ble National Green Tribunal to restrain Andhra Pradesh from proceeding with the construction of Rayalaseema Lift Irrigation Scheme immediately till the terms of order of this Hon'ble Tribunal dated 17.12.2021 are complied with.
2. It is submitted that the MoEF & CC and Joint Committee were also directed to submit their respective reports to this Hon'ble Tribunal within a period of four months for consideration i.e by April 2022.
3. It is submitted that the subsequent developments occurred in the present case are as under :
  - i. The Applicant State addressed letters dated 01.03.2024 to the Secretary, MoJS and Secretary, MoEF & CC stating that Andhra Pradesh was proceeding with the construction of Rayalaseema Lift Irrigation Scheme in violation of NGT order dated 17.12.2021 and requested to take necessary action in directing the concerned Member of Joint Committee to furnish the report as called for by the Hon'ble NGT(SZ) at the earliest. Further it was requested to take necessary action and effective steps to stop this illegal construction activity of the Government of Andhra Pradesh and protect the genuine and legitimate claims of the people of Telangana on Krishna waters. Copies of the letters of the Secretary, Govt of Telangana addressed to MoJS & MoEf & CC dated 01.03.2024 are annexed hereto and marked as ANNEXURE-1.

Attester  


V. Manu Kumar  
Chief Engineer, IS&WR  
O/o the Engineer-in-Chief (General),  
IS&WR Unit, Hyderabad-500 082.

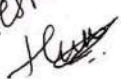
- ii. Subsequently Ministry of Jal Shakti addressed a letter to Government of Telangana on 18.04.2024 informing that in compliance with the direction of Hon'ble NGT, though CWC nominated its member on 27.01.2022 itself, but MoEF & CC constituted the Joint Committee vide their letter no. IRO/VIJ/EPA/NGT/106-22/2021 dated 07.03.2024. Further informed that the visit of the project was undertaken by the Joint committee on 13.03.2024 and 14.03.2024 and the report of the Joint Committee has been finalized and shall be submitted to Hon'ble NGT by MoEF & CC in due course. A copy of the letter of the Ministry of Jal shakti addressed to the Govt of Telangana dated 18.04.2024 is annexed hereto and marked as **ANNEXURE-2**.
- iii. On 29.04.2024, the Govt of Andhra Pradesh has submitted before Hon'ble KWDT-II in its Statement of Case (SoC) that it is proceeding with the construction of Phase-I of Rayalaseema Lift Irrigation Scheme with stipulated time frames. Extracts of Statement of Case filed by Govt of Andhra Pradesh filed before Hon'ble KWDT-II is annexed hereto and marked as **ANNEXURE-3**.
- iv. It is submitted that on 23.05.2024, while enclosing the copy of the annexure filed by Govt of Andhra Pradesh in its Statement of Case, the Applicant State addressed a letter to MoJS and requested to restrain Govt of Andhra Pradesh from Construction of Rayalaseema Lift Irrigation Scheme. A copy of the letter of the Secretary, Govt of Telangana addressed to MoJS dated 23.05.2024 is annexed hereto and marked as **ANNEXURE-4**.
- v. In response to the Govt of Telangana letter dated 23.05.2024, Ministry of Jal Shakti addressed a letter to Govt of Telangana


Attester  


  
Chief Engineer, IS&WR  
O/o the Engineer-in-Chief (General),  
IS&WR Unit, Hyderabad-500 082.

and informed that the visit of the project was undertaken by the Joint Committee on 12.03.2024 and 13.03.2024 and the report has been finalized and submitted to MoEF & CC vide letter no. IRO/VIJ/EPA/NGT/106-22/2021 dated 22.03.2024 by the Joint Committee with the request to file same in the Hon'ble NGT. A copy of the letter of the Ministry of Jal shakti addressed to the Govt of Telangana dated 12.06.2024 is annexed hereto and marked as **ANNEXURE-5**.

- vi. It is submitted that the State of Andhra Pradesh (3<sup>rd</sup> Respondent) furnished its report before Hon'ble NGT along with latest photographs stating that no work is going on. However it is to submit that the photographs are vague and do not give the true picture of the work site. From the photographs published in the Newspaper dated 19.12.2023 which were filed before this Hon'ble NGT in the M.A 3 of 2024 (at Page Nos.367 to 375) and the latest google earth pictures, it is clear that considerable work has been done by State of Andhra Pradesh at the site of RLIS after the Hon'ble NGT order dated 17.12.2021.
- vii. It is submitted that on 31.07.2024, while enclosing the Google Earth photographs of delivery Cistern and Forebay depicting the actual ground work took place since the Hon'ble NGT order dated 17.12.2021, the Applicant State addressed a letter to the KRMB and requested to conduct site visit and submit the factual report along with the latest photographs to MoJS, Govt of India to take further necessary action. A copy of the letter of the Engineer-in-Chief, State of Telangana to the KRMB dated. 31.07.2024 is annexed hereto and marked as **ANNEXURE-6**.
- viii. The final Joint Committee report dated 22.03.2024 secured by way of an RTI application. In the report, it is mentioned that the

Attester  


V. H.   
 Chief Engineer, IS&WR  
 O/o the Engineer-in-Chief (General),  
 IS&WR Unit, Hyderabad-500 082.

work has been carried out by the project proponent. A copy of the Joint Committee report dated 22.03.2024 is annexed hereto and marked as ANNEXURE-7.

- ix. It is submitted that in the Minutes of the 13<sup>th</sup> Meeting of the Expert Appraisal Committee for River Valley and Hydroelectric Projects, it was recorded that the agenda item 13.50 "Directions of the Hon'ble National Green Tribunal, Southern Bench at Chennai in MA No 3 of 2024 in OA No 71 of 2020" was deliberated. In the Minutes, it is mentioned that the joint committee constituted by Hon'ble NGT inspected the site on 13<sup>th</sup> & 14<sup>th</sup> March, 2024 and submitted that the work of the project is in progress. A copy of extracts of the minutes of 13<sup>th</sup> meeting of Expert Appraisal Committee held on 13.08.2024 is annexed hereto and marked as ANNEXURE-8.
- i. It is therefore humbly stated that in view of the above facts it is crystal clear that a lot of construction activity took place since the Hon'ble NGT order dated 17.12.2021. Therefore, Govt of Telangana requests this Hon'ble Tribunal to take these facts into consideration and pass orders in MA 3 of 2024 of OA No.71/2020 accordingly and thus render justice.

Dated: 03/09/2024

Place: Hyderabad

Attester  




**DEPONENT**

Chief Engineer, IS&WR  
O/o the Engineer-in-Chief (General),  
IS&WR Unit, Hyderabad-500 082.

## VERIFICATION

I, V. Mohan Kumar, S/o V. Venkat Ratnam, aged about 60 years. Chief Engineer, Inter State & Water Resources, Irrigation & CAD Department of the State of Telangana, R/o, Hyderabad do hereby verify that the contents of the above Application are true to my knowledge and belief. I believe the same to be true and no part of it is false & nothing material concealed.

Date: 03/09/2024

Place: Hyderabad

V. Mohan Kumar

DEPONENT

Chief Engineer, IS&WR  
O/o the Engineer-in-Chief (General),  
IS&WR Unit, Hyderabad-500 082.

Swore and signed  
before me on 03-09-24

Hussain





L.No.6797/ISWR/2023, Dated:01.03.2024

To  
The Secretary,  
Department of Water Resources, RD&GR,  
Ministry of Jal Shakti, Government of India,  
Shram Shakti Bhavan,  
Rafi Marg, New Delhi - 110001.

Madam,

Sub:-Irrigation & CAD Dept. – Unauthorised Construction of works related to Govt. of A.P, G.O.Rt.No.203 Dt: 05.05.2020 - Enhancement of Pothireddypadu Head Regulator, SRMC, Banakacherla Regulators, etc. – Requesting to direct the Joint committee to furnish the report on status of construction of Rayalseema LIS as directed by Hon'ble NGT and also request to restrain AP from further Construction- Regarding.

- Ref:-1) Govt. of AP G.O.Rt.No. 203, Dt: 05.05.2020.  
2) Hon'ble NGT order copy dated 29.10.2020.  
3) KRMB Inspection report dated 13.08.2021.  
4) Hon'ble NGT final order copy of O.A No. 71/2020 (SZ)  
Dt. 17.12.2021.  
5) ENC(G) letter addressed to KRMB vide Lr.No.ENC(G)/  
ISWR/SE/DD(K)/AP Projects /Vol.VII, Dated. 19.12.2023.

\*\*\*\*\*

Kind attention is invited to the reference 2<sup>nd</sup> cited, wherein Hon'ble NGT(SZ) vide its order dated 29.10.2020 in O.A. 71 of 2020 has directed Govt. of Andhra Pradesh not to proceed with the construction of Rayalseema LIS (RLIS) project without getting prior Environmental clearance. Further, Hon'ble NGT vide its Order dated 17.12.2021 in M.A. 2 & 3 (Ref 4<sup>th</sup> cited) while reiterating its earlier order, constituted a Joint Committee with Senior officers from MoEF & CC, Geological Survey of India and Central Water Commission to go in to the question whether the work undertaken by Andhra Pradesh is in excess of what is required for preparation of DPR and consider the damage caused to Environment. The Joint Committee was directed to submit the report with in a period of four months. But in spite of passage of over two years, the report is awaited.

In the absence of the report by joint Committee, Govt of Andhra Pradesh is proceeding with the construction of RLIS and lining works of SRMC in violation of the NGT order.

It is therefore requested to take necessary action in directing the concerned Member of Joint Committee to furnish the report as called for by the Hon'ble NGT(SZ) at the earliest. The Joint Committee may also be requested to make a site visit and find out the factual position and also assess the work done by Andhra Pradesh after the KRMB site inspection report dated 13.08.2021, in violation of Tribunal orders.

Further, it is requested to take necessary action and effective steps to stop this illegal construction activity of the Government of AP and protect the genuine and legitimate claims of the people of Telangana on Krishna waters.

In view of the brisk progress of work of RLIS by Andhra Pradesh, an urgent intervention is sought in the interest of justice.

Yours faithfully,



Secretary to Government  
Irrigation & CAD Department

Copy to

The Chairman, KRMB with a request to arrange an immediate site visit of Senior officers for ascertaining the factual position and find out if any work has been taken by Govt. of Andhra Pradesh after the KRMB inspection report dated.13.08.2021 to till date.

## GOVERNMENT OF ANDHRA PRADESH

## ABSTRACT

Water Resources Department –Irrigation schemes to draw and utilize 6 TMC to 8 TMC per day from Srisaillam Reservoir - Administrative approval - Accorded – Orders - Issued.

## WATER RESOURCES (PROJECTS.III) DEPARTMENT

G.O.RT.No. 203

Dated: 05-05-2020.

Read the following:-

- 1) From the Chief Engineer (P), Kurnool Lr.No.CE/KNL/DEE4/AEE2/ Rayalaseema Projects/2019, Dt:31-12-2019.
- 2) From the Chief Engineer (P), Kurnool Lr.No.CE/KNL/DEE4/AEE2/ Rayalaseema Projects/2020/02 Govt, Dt:10-01-2020.
- 3) From the Chief Engineer (P), Kurnool Lr.No.CE/KNL/DEE4/AEE2/ Rayalaseema Projects/2020/ Dt:16 & 18.04.2020.

&amp;&amp;&amp;&amp;

**ORDER:**

In the letters 1<sup>st</sup> to 3<sup>rd</sup> read above, the Chief Engineer (P), Kurnool has requested the Government to accord administrative approval for the following works for an amount of Rs.7045.06 Crores:

| S.No. | Name of the Project  | Estimate cost in Rs. Crores |
|-------|--|-----------------------------|
| I     | Rayalaseema Pumping system (3 TMC per day) from Sangameswaram to SRMC at km 4 from Pothireddypadu Head Regulator   | 3889.00                     |
| II    | Upgradation of Pothireddypadu Head Regulator and BCR Complex to Draw 80,000 C/S of Water From Foreshore of Srisaillam Reservoir                                      | 570.55                      |
| III   | i)Lining of Existing SRBC/GNSS Canal Upto Berm Level to Draw 30000 c/s (upto Gorukallu Balancing Reservoir)  | 981.93                      |
|       | ii) Construction of additional Infall Regulator with 03 vents to accommodate 10000 c/s capacity including Excavation of approach channel and leading channel for GBR | 38.70                       |
|       | iii) Lining of Existing SRBC/GNSS Canal Upto Berm Level to Draw 30000 c/s (in between Gorukallu Reservoir to Owk Reservoir)  | 1564.88                     |
|       | <b>Total</b>   | <b>7045.06</b>              |

2. Government after careful examination of the proposal of Chief Engineer (P), Kurnool, hereby accorded administrative sanction for an amount of Rs.6829,15,00,000/- (Rupees Six Thousand Eight hundred Twenty nine Crores and Fifteen Lakhs only) for the following works as detailed below:

| S.No | Name of the work   | Cost (Rs. in Crores) | Comprising components of work  |
|------|--|----------------------|--|
| I    | Rayalaseema Lift Scheme to draw and utilize 3 TMC per day from Sangameswaram to SRMC at Km 4 from Pothireddypadu Head Regulator. | 3825.00              | Approach channel, Lift systems, Infrastructure for pump stations   |
| II   | Upgradation of canal system from Pothireddypadu Head Regulator and BCR Complex from Foreshore of Srisaillam Reservoir.           | 570.45               | Widening of approach channel, improvements to old Pothireddypadu head regulator, lining to SRMC, <a href="#">SLB@0.600</a> of SRMC, pool pond @ BCR complex, imp. To gates for TGP, escape channel and SRBC at BCR complex, loop canal to connect SRBC to escape channel |
| III  | i) Lining of Existing SRBC / GNSS Canal upto Berm Level to draw 30,000 c/s (up to Gorakallu Balancing Reservoir)                 | 939.65               | Construction of balance structures from Km 0.10 to Km 25.067 & 25.067 to 56.775, lining/short-creting of SRBC canal from Km 0.10 to Km   |

|  |   |                 |  |
|--|---|-----------------|--|
|  |   |                 | 25.067 & 25.067 to 56.775  |
|  | ii) Construction of additional In fall regulator with 3 vents to accommodate 10,000 c/s capacity including approach channel and leading channel for GBR | 36.95           |  |
|  | iii) Lining of Existing SRBC / GNSS Canal upto Berm Level to draw 30,000 c/s (in between Gorukallu Reservoir to Owk Reservoir)                          | 1457.10         | Construction of side walls and lining of canal from Gorakallu reservoir up to 17.386 Km, CC lining/shortcreting from Km 17.386/46.000 & from Km 46.000 to Km 57.700 & Lining of Owk Tunnel-III for additional 10,000 c/s discharge |
|  | <b>TOTAL:</b>   | <b>6,829.15</b> |  |

(Rupees Six Thousand Eight hundred Twenty nine Crores and Fifteen Lakhs only)

3. The Chief Engineer (P), Kurnool shall take further action in the matter accordingly and directed to speed up the land acquisition process and also to ensure the following before according technical sanction for the above works:

|   |  |
|---|--|
| 1 | The correctness of provisions, quantities and rates proposed in the estimates. |
| 2 | The design/drawings have to be approved by the competent authority             |
| 3 | As per the revised Sand Policy of the Govt. the Sand rate has to be adopted.   |
| 4 | Detailed estimates/quotations have to be supported for the LS provisions.      |
| 5 | All the works proposed now should not overlap in any other works/packages.     |

4. The above expenditure is debitable to the HOA: 4700-Capital Outlay on Major Irrigation -01- Major Irrigation - Commercial - MH - 133-GNSS – GH 11 State Development Schemes - SH 27 C&D - 530 Major Works - 531 – Major Works.

5. This order issues with the concurrence of the Finance (FMU.WR.II) Department vide their UO No. FMU0MRAS(WR2)/128/2020-FMU-WR-II, dt:01.05.2020.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

ADITYA NATH DAS  
SPECIAL CHIEF SECRETARY TO GOVT

To  
The Chief Engineer (Projects), Kurnool.  
Copy to:  
The Director of Works & Accounts, Vijayawada.  
The Finance (FMU.WR.II) Department  
The Accountant General, AP, Hyderabad  
PS to Hon'ble Minister for WRD;  
PS to Special Chief Secy (WRD)  
File No. ICD01/MJIR/17/2020-PROJECTS-III(Comp No.1076666)  
SF/SC

//FORWARDED :: BY ORDER//

SECTION OFFICER



**KRISHNA RIVER MANAGEMENT BOARD  
HYDERABAD**

**REPORT OF THE TEAM CONSTITUTED  
FOR INSPECTION OF  
RAYALASEEMA LIFT SCHEME  
(ANDHRA PRADESH)**

**AUGUST 2021**

**REPORT ON THE SITE VISIT OF THE TEAM CONSTITUTED BY KRISHNA RIVER MANAGEMENT BOARD (KRMB) FOR THE INSPECTION OF RAYALASEEMA LIFT SCHEME (RLS) IN ANDHRA PRADESH**

**1. BACKGROUND**

Shri Gavinolla Srinivas, resident of Narayanpet District filed O.A. No. 71/2020 in Hon'ble National Green Tribunal (SZ), Chennai, by questioning the validity of Rayalaseema Lift Scheme (RLS) taken up by the Govt. of Andhra Pradesh (GoAP).

Hon'ble National Green Tribunal (NGT) in the matter, vide order dated: 24<sup>th</sup> February, 2021, under Para 15 and Para 16 stated as under:

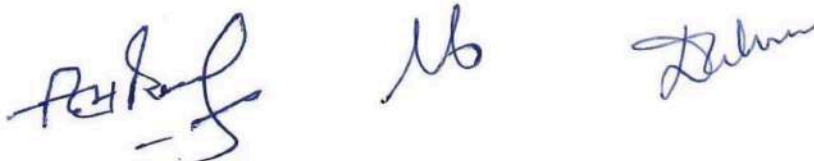
*"so under such circumstances, we feel that there is no necessity at this stage for go into the investigation in this matter and Krishna River Management Board, on the basis of the complaint made by the Telangana Government in this regard, are at liberty to go into the question and if it is found that there is any violation of direction of this Tribunal in the proceedings with the matter on the basis of the investigation conducted by them independently, they are at liberty to take appropriate action against the 4<sup>th</sup> respondent (GoAP) in accordance with the law, apart from the applicant to approach this Tribunal at that stage."*

*"the Krishna River Management Board is directed to take appropriate decision in the application at the earliest."*

Accordingly, Chairman, KRMB, constituted a team consisting of officers from KRMB Secretariat and Central Water Commission (CWC), with a direction to find out if there is any violation of directions of NGT proceedings in this matter. The team consisted of the following officers:

- |      |  |                        |
|------|--|------------------------|
| i)   | Shri Harikesh Meena, Member, KRMB                    | Team Leader & Convenor |
| ii)  | Shri D. M. Raipure, Member Secretary, KRMB           | Member                 |
| iii) | Shri L. B. Muanthang, Member (Power), KRMB           | Member                 |
| iv)  | Shri P. Devender Rao, Director, KGBO, CWC, Hyderabad | Member                 |

GoAP did not facilitate the visit of the team to the project site citing various reasons.



Subsequently, again Shri Gavinolla Srinivas filed M.A. No.02/2021 Hon'ble NGT, Southern Zone, Chennai in O.A. No. 71/2020 in connection with the construction of Rayalaseema Lift Scheme.

Hon'ble NGT, Southern Zone, Chennai vide order dated: 23<sup>th</sup> July,2021 in the matter under Para 7 *inter-alia* stated that:

*" .....we have directed the Krishna River Management Board to submit as to whether there is any violation of the undertakings given by the parties and the directions given by the Ministry in this regard. So they are expected to incorporate those things in their reply to be filed, for that purpose they are at liberty to conduct inspection on their own and come with the data of what is transpired at the site and also whether that is done for the purpose of preparing the DPR for the project for the purpose of ascertaining the real nature of the project or otherwise"*

Accordingly, KRMB Secretariat vide letter dated 02.08.2021 informed Government of Andhra Pradesh that a team comprising of officers of KRMB and CWC is proposed to visit the project site on 05.08.2021. GoAP vide letter dated 03.08.2021 objected about the nomination of Shri P. Devender Rao, Director, KGBO, CWC as a member of the proposed team.

Hon'ble NGT in M.A. No.02/2021 & M.A. No.03/2021 in its order dated:04.08.2021 vide Para 4 *inter-alia* stated that

*".....however, when some apprehension has been raised, it is always better that persons from both the states will have to be avoided as justice must not only be done, but it must appear to be done as well "*

Hon'ble NGT in M.A. No.02/2021 & M.A. No.03/2021 in its order dated:09.08.2021 vide Para 3 *inter-alia* stated that

*".....as only question that has to be considered is as to whether there was any excess work, than required for the purpose of preparing the DPR by the State of Andhra Pradesh has been done by them and whether they are doing any preparatory work for the execution of the proposed project... "*



## 2. RE-CONSTITUTION OF TEAM AND SITE VISIT

In light of the directions of the Hon'ble NGT, Chennai dated 04.08.2021, the team was re-constituted with the following officers from KRMB & DoWR-CWC:

- |   |          |
|---|----------|
| i) Shri D. M. Raipure, Member (Link Officer) and Member Secretary, KRMB | Convenor |
| ii) Shri L. B. Muanthang, Member (Power), KRMB                          | Member   |
| iii) Shri Darpan Talwar, Director, HCD, CWC, New Delhi                  | Member   |

The above said team that visited the project site does not have any officer from the State of Telangana or Andhra Pradesh. The team was mandated to visit the project site to conduct inspection and come with the report of what is transpired at the site and also whether that is done for the purpose of preparing the DPR for the project or actual construction of the project. A copy of the Office Order re-constituting the team is enclosed as **Annex**.

The team undertook the visit to the project site on 11.8.2021. The Chief Engineer of Rayalseema Lift Scheme facilitated the visit of the team.

## 3. MAIN COMPONENTS OF THE SCHEME

As per the DPR received in KRMB vide Letter dated 1.7.2021 of Chief Engineer (P) & DWRO, Kurnool, the proposed Rayalseema Lift Scheme (RLS) is located adjacent to the existing Pothireddypadu Head Regulator in Kurnool district of Andhra Pradesh. The main components of the scheme are as given below:

- **Approach channel:** The approach channel with EL 800 ft. is proposed for the length of 8892m in Srisailam foreshore area upto forebay of pump house.
- **Forebay:** Forebay is proposed from approach channel to the pump house for a length of 237 m.
- **Pump house:** It is proposed to be of size 250m x 40m with bottom level at about EL710 ft. The pump house is proposed to accommodate 12 no. of pumps. The proposed capacity of each pump is 81.93 Cumec.
- **Pipe Line:** The M.S. pipe line for pressure main of 5m diameter and length of 200 m for each motor is proposed from the pump house to the delivery Cistern.
- **Delivery Cistern:** Pressure main will have delivery level at EL 885.14 ft. The delivery Cistern is connected to Link Channel.
- **Link Canal:** Link channel for a length of 500m is proposed from delivery Cistern to Srisailam Right Main Canal (downstream of Pothyreddypadu



Head Regulator), joining at 300m downstream of Pothireddypadu Head Regulator.

#### 4. SITE INSPECTION AND OBSERVATIONS

The team undertook the visit to various components of the project. The observations of the team during the inspection of the site are as under:

##### (i) Approach Channel

It was observed that the approach channel was completely submerged under water as the water level in the reservoir was reported to be at EL 884.8 ft. during the visit. The Chief Engineer informed that the approach channel has been partially excavated to the extent of about 30% of total excavations at various locations to different elevations along the length. Further, the excavation levels have not reached upto the bed level of EL 800ft.

Due to submergence of the approach channel, the team could not ascertain the extent of excavation undertaken in the approach channel. It was however observed that a ledge of about 15m has been kept unexcavated between forebay and approach channel to prevent entry of water into excavated area of the forebay. An upstream view of the approach channel is placed as P1.



**P1: View of Upstream View of the Approach Channel**

##### (ii) Forebay

It was observed that a major portion of forebay, with the full length of 237m and its width, has been excavated to varying depths. The average excavated level

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*Handwritten signature*

*Handwritten signature*

of the forebay towards the pump house side is observed to be lower than the invert level of delivery tunnels. The depth of excavation of the forebay is observed to be of the order of about 150 to 180 ft towards the pump house end. Two side ramps to facilitate movement to lower levels of excavation have been observed. It was observed that the shotcreting on the walls of forebay has been carried out. Views of Downstream View of Forebay and side ramp and Wall of Forebay are placed P2 and P3.



**P2: View of Downstream View of Forebay**



**P3: View of Side ramp and Wall of Forebay**

*Handwritten signature*

*Handwritten initials 'NB'*

*Handwritten signature 'Delwa'*

**(iii) Pump House**

It was observed during the visit that full length of 250m & width of 40m of pump house pit has been excavated upto about EL730 ft. The pump house pit excavation levels were observed to be below the level of invert of delivery tunnels. The support to rock mass in the form of shotcreting/ shotcreting with pattern rock bolting has been observed on the vertically excavated walls of the pump house pit. Views of Pump house pit from Forebay and Pump house pit are placed as P4 and P5.

**P4: View of Pump house from Forebay****P5: Closure View of Pump house Pit**

*Handwritten signatures:* Arif, N, Dulwan

**(iv) Pipe line (Delivery Main)**

It was observed that ten number of tunnels out of a total of 12 have been excavated for erection of 5m diameter pipe line (delivery main). The excavation of tunnels for a short length of reportedly about 35-50m has been carried out. The shotcreting at initial area/face of tunnel was observed. Closer View of Pipe Line /Delivery Main Tunnel is placed as P6.



**P6: Closer view of Pipe line /Delivery Main Tunnel**

**(v) Delivery Cistern and Link Canal**

It was observed that the delivery cistern has been excavated to its full length and width. Significant depth of delivery cistern has been excavated. The link canal of length of about 500m is proposed to connect delivery cistern with Srisaïlam Right Main Canal (SRMC). View of the Delivery Cistern from side is placed as P7.

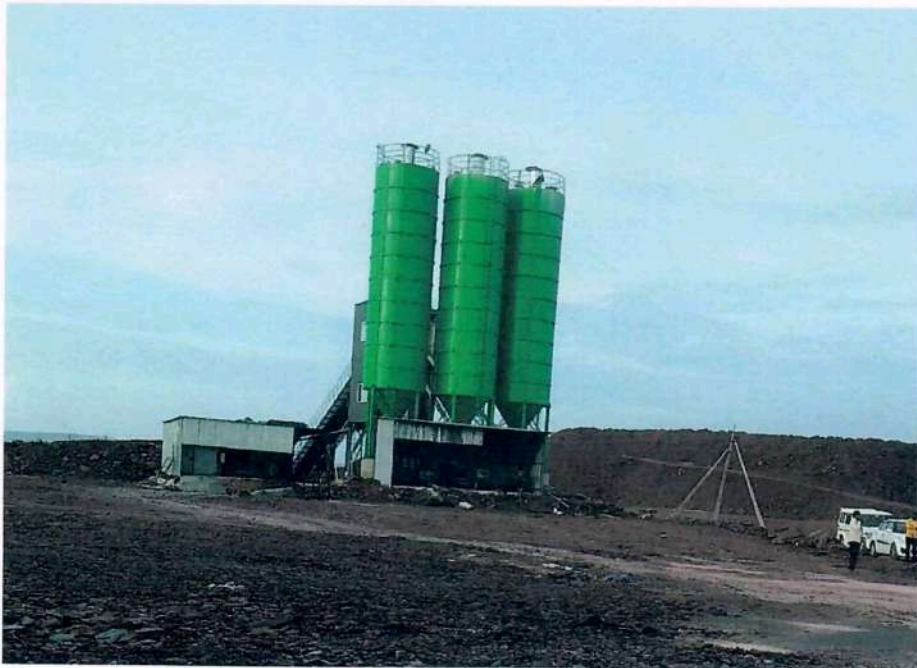
*[Handwritten signatures]*



**P7: View of the Delivery Cistern from Side**

**(vi)Batching Plant**

The team observed that two batching plants have been installed at the project site. View of Batching Plants are paced at P8 and P9.



**P8: View of Batching Plant**

*Handwritten signatures: Arshad, lb, Dulra*



**P9: View of Batching Plant**

**(vii) Stacking of Aggregates**

It was observed that coarse aggregates, fine aggregates and sand have been stacked besides the batching plant at the site. The view of stacking of aggregates is placed at P10.



**P10: Stacking of Aggregates**

**(viii) Activities ongoing at Site during visit**

During the visit, no activity was going on at the site. The view of sheds near upstream side of Delivery Chamber is placed as P11.

*Handwritten signatures and initials:*  
A. H. F.      M      Talwar

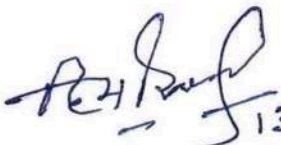


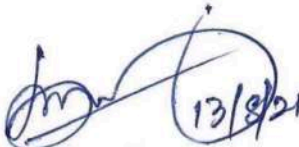
**P11: Sheds near upstream side of Delivery Chamber**

## 5. CONCLUSIONS

Based on the observations made during project site visit, the team concludes as follows:

1. The activities undertaken at the site as observed by the team have been detailed at Item number 4 "Site Inspection and Observations" above, along with the photographs taken during the visit.
2. During the visit to the project site, no activity was going on at the site. However, the team observed that two batching plants have been installed at the site. Further, coarse aggregates, fine aggregates and sand were seen stacked besides the batching plant at the site.
3. The team is of the view that the works undertaken at the site are in excess than what is, in general, required for the purpose of the preparation of Detailed Project Report as per Ministry of Water Resources' "Guidelines for the Preparation of Detailed Project Report of Irrigation and Multipurpose Projects" (2010).

  
 13.8.21  
 Shri D. M. Raipure,  
 Member (Link Officer)  
 and Member Secretary  
 KRMB

  
 13/8/21  
 Shri L. B. Muanthang,  
 Member (Power)  
 KRMB

  
 13/8/21  
 Shri Darpan Talwar,  
 Director, HCD,  
 Central Water Commission  
 New Delhi

भारत सरकार  
जलशक्ति मंत्रालय  
जलसंसाधन, नदी विकास और  
गंगा संरक्षण विभाग  
कृष्णा नदी प्रबंधन बोर्ड  
५वी मंजिल, जलसौधा  
एरुम मंजिल, हैदराबाद -५०००८२



Government of India  
Ministry of Jal Shakti  
Dept. of Water Resources,  
River Development & Ganga Rejuvenation  
Krishna River Management Board  
5th Floor, Jalasoudha, Errum Manzil  
Hyderabad – 500 082

F.No. 02/07/A/2021/KRMB/1815-19

Dt: 10 .08.2021

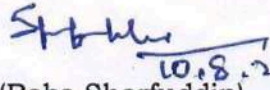
**Office Order**

In pursuant to the Hon'ble NGT, Chennai Order on the M.A. No. 02/2021 (SZ) & M.A. No. 03/2021 (SZ) in O.A. No. 71/2020 (SZ) dated 23-07-2021 and M.A. No. 06/2020 (SZ) in O.A. No. 71/2020 (SZ) and observation dated 04.08.2021 in M.A. No.02 of 2021 at para 5 regarding Rayalaseema Lift Scheme taken up by the Government of Andhra Pradesh, a team of officers from KRMB & DoWR-CWC formed on 26-03-2021 is here by reconstituted with the following members.

- |  |               |
|--|---------------|
| 1) Shri D. M. Raipure, Member (Link Officer) and<br>Member Secretary, KRMB | Convenor      |
| 2) Shri L. B. Muanthang, Member (Power), KRMB                              | Member        |
| 3) Shri Darpan Talwar, Director, HCD, CWC, New<br>Delhi                    | Expert Member |

The team may visit the project site to conduct inspection and come with the report of what is transpired at the site and also whether that is done for the purpose of preparing the DPR for the project or actual construction of the project. The team shall submit its report to KRMB before 16.8.2021.

This issues with the approval of Chairman, KRMB.

  
(Baba Sharfuddin)  
Superintending Engineer

Copy for information and necessary action to:

- ✓ 1) Shri D. M. Raipure, Member (L.O.) and Member Secretary, KRMB
- 2) Shri L. B. Muanthang, Member (Power), KRMB
- 3) Shri Darpan Talwar, Director, HCD, CWC, New Delhi
- 4) Copy for information to the Senior Joint Commissioner (PR), Ministry of Jal Shakti, Dept. of WR, RD & GR, Room No. 107-B, Shastri Bhawan, New Delhi – 110 001 for information
- 5) P.S to Chairman, KRMB

**Item No.1:****BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI****M.A. No. 02 of 2021 (SZ) & M.A. No. 03 of 2021 (SZ)****in****Original Application No. 71 of 2020 (SZ)  
(Through Video Conference)****IN THE MATTER OF**

Gavinolla Srinivas, Damargidda Mandal

....Applicant

***Versus***

Union of India &amp; Ors.

...Respondent(s)

**Judgment Pronounced on: 17<sup>th</sup> December, 2021****CORAM:****HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER****HON'BLE DR. SATYAGOPAL KORLAPATI, EXPERT MEMBER****M.A. No. 02 of 2021**

For Applicant(s):

Mr. Sravan Kumar

For Respondent(s):

Mrs. M. Sumathi for R1

Mr. D. Ramesh Kumar for R2 &amp; R5

Mrs. H. Yasmeen Ali for R3

Mr. Basu for Mrs. Madhuri Donti Reddy for R4.

**M.A. No. 03 of 2021 (SZ)**

For Applicant(s):

Mrs. H. Yasmeen Ali.

For Respondent(s):

Mrs. M. Sumathi for R1.

Mrs. Madhuri Donti Reddy for R3.

Mr. D. Ramesh Kumar for R2 &amp; R4.

**ORDER**

Judgment pronounced through Video Conference. Applications are disposed of with directions vide separate Judgment. All pending interlocutory application(s), if any, also stands disposed of.

..... J.M.  
(Justice K. Ramakrishnan)

..... E.M.  
(Dr. Satyagopal Korlapati)

M.A. No.02/2021 & 03/2021 in  
O.A. No.71/2020 (SZ)  
17<sup>th</sup> December, 2021.AM.

BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI

M.A. No. 02 of 2021 (SZ) & M.A. No. 03 of 2021 (SZ)

in

Original Application No. 71 of 2020 (SZ)

*(Through Video Conference)*

IN THE MATTER OF:

M.A. No. 02 of 2021 (SZ)

Gavinolla Srinivas  
H.No. 1-99, Bapanpally Village,  
Damargidda Mandal,  
Narayanpet District,  
Telangana – 509 407.



*Versus*

... Applicant(s)

1. Union of India,  
Rep. by its Secretary,  
Union Ministry of Environment, Forests & CC, नयते  
Indira Paryavaran Bhavan,  
Jorbagh, New Delhi-110003
2. Union of India,  
Rep by its Secretary  
Union Ministry of Jal Sakti  
Sramasakti Bhavan  
New Delhi- 110001
3. State of Telengana  
Rep by its Chief Secretary,  
Secretariat, Hyderabad- 500022
4. State of Andhra Pradesh  
Rep by its Chief Secretary,  
Secretariat, Velagapudi,  
Guntur District, AP- 522503
5. Krishna River Management Board  
Rep by its Member Secretary  
Government of India, Ministry of Water Resources,  
5<sup>th</sup> Floor, jalasoudh, Errum Manzil,  
Hyderabad- 500082

... Respondent(s)

M.A. No. 03 of 2021 (SZ)

The Chief Secretary,  
Secretariat, Hyderabad  
State of Telengana

... Applicant(s)

*Versus*

1. Union of India,  
Rep. by its Secretary,  
Union Ministry of Environment, Forests & CC,  
Indira Paryavaran Bhavan,  
Jorbagh, New Delhi-110003
2. Union of India,  
Rep by its Secretary  
Union Ministry of Jal Sakti  
Sramasakti Bhavan  
New Delhi- 110001
3. The Chief Secretary,  
Secretariat, Velagapudi,  
Guntur District, AP- 522503  
State of Andhra Pradesh
4. Krishna River Management Board  
Rep by its Member Secretary  
Government of India, Ministry of Water Resources  
5<sup>th</sup> Floor, jalasoudh, Errum Manzil,  
Hyderabad- 500082
5. M/s SPML-Infra Limited  
Rep by its Managing Director  
Having Registered Office located at  
F-27/2, Okhla Industrial Area, Phase-II,  
New Delhi- 110020



... Respondent(s)

**M.A. No. 02 of 2021**

For Applicant(s): Mr. Sravan Kumar

For Respondent(s): Mrs. M. Sumathi for R1  
 Mr. D. Ramesh Kumar for R2 & R5  
 Mr. J. Ramachandra Rao, Addl. Adv. General  
 along with Mr. Sanjeev Kumar, Spl. Govt. Pleader and  
 Mrs. H. Yasmeen Ali for R3  
 Mr. R. Venkataramani, Sr. Adv. along with  
 Mr. M.R. Srinivas and  
 Mrs. Madhuri Donti Reddy for R4.

**M.A. No. 03 of 2021 (SZ)**

For Applicant(s): Mr. J. Ramachandra Rao, Addl. Adv. General  
 along with Mr. Sanjeev Kumar, Spl. Govt. Pleader and  
 Mrs. H. Yasmeen Ali.

For Respondent(s): Mrs. M. Sumathi for R1.  
 Mr. R. Venkataramani, Sr. Adv. along with  
 Mr. M.R. Srinivas and  
 Mrs. Madhuri Donti Reddy for R3.  
 Mr. D. Ramesh Kumar for R2 & R4.

execution of the work, then State of Andhra Pradesh may be liable to pay compensation for the damage caused to the environment. So, in order to ascertain as to whether so much work is required for the purpose of DPR for such projects and if it is done in excess of what is required or what is intended as per the guidelines issued by the Centre Water Commission for this purpose we constitute a Joint Committee consist of 1) a Senior Officer from MoEF&CC, Regional Office, Vijaywada, 2) a Senior Officer from Geological Survey of India and 3) Senior Officer from Design and Planning of Irrigation and Multipurpose Projects, Centre Water Commission, New Delhi (if there is any office at Regional level at Andhra Pradesh, a officer deputed by Centre Water Commission for this purpose) to inspect the area in question and ascertain as to 1) whether the work undertaken by the State of Andhra Pradesh for the purpose of preparation of DPR is in tune with the guidelines given and whether, it is really required for that purpose and if it is excess of the guidelines provided, if so, to what extent it exceeded and assess the damage caused to the environment on account of the same and assess environmental compensation to be recovered from the State of Andhra Pradesh, 2) since the nature of work undertaken by the project proponent, namely, the State of Andhra Pradesh is in nature of execution of part of the work itself, namely, excavation for foundation, whether it will amount to preparation for the project which can be carried out only after obtaining prior environmental clearance as preparation as per EIA Notification, 2006 does not include such activities.

92. MoEF, Regional Office, Vijayawada will be the nodal agency for for coordination as well as for providing necessary logistic for the purpose.

93. So, we feel that till the MoEF&CC take a decision on the application filed by the State of Andhra Pradesh in respect of environmental clearance, we feel that it is necessary to restrain the State of Andhra Pradesh to do any further work even in respect of preparation of DPR and accordingly we direct the State of Andhra Pradesh not to proceed with any further work even in respect of preparation of DPR till MoEF&CC takes a decision on the question of environmental clearance for the project for which they have already applied for and is pending.

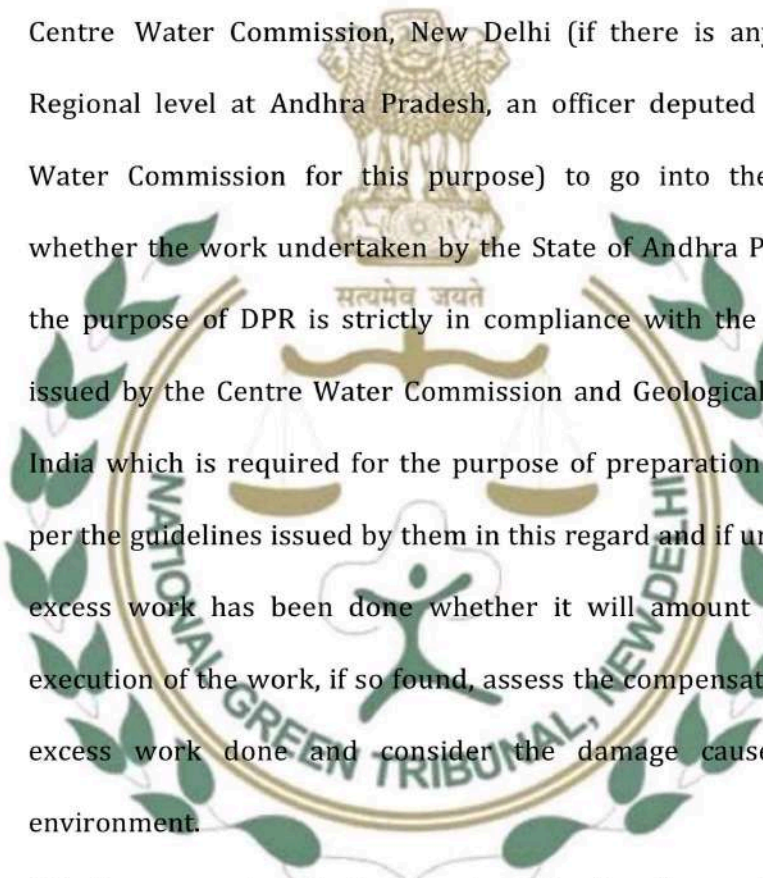
94. MoEF&CC is also directed to consider all the aspects which this Tribunal raised for the purpose of coming to the conclusion that the project requires environmental clearance while considering the scope of application for environmental clearance submitted by State of Andhra Pradesh.

95. In cases where deeper technical study is required for the purpose of preparation of DPR, then it is always better for MoEF&CC to incorporate and amend the EIA notification that for preparation of DPR if any excavation is required, then that also can be done only after obtaining prior environmental clearance in cases where that is mandated under EIA Notification, 2006 so as to avoid any misuse of that provision by the project proponents and proceed with the work in the nature of execution in the guise of preparation of DPP.

96. So under such circumstances, we feel that there is no necessity to proceed against the Chief Secretary for the alleged violation for the reasons mentioned above and we feel the applications can be disposed of as follows:

- i) In the view of the discussions made above, we feel that there is no necessity to initiate any action either for Civil contempt under Contempt of Courts Act, 1971 or for punishing him for violations of

injunction decree under Section 25 of National Green Tribunal Act, 2010 read with Section 51 Order 21 Rule 32, Code of Civil Procedure.

- 
- ii) We constitute the Joint Committee consist of 1) a Senior Officer from MoEF&CC, Integrated Regional Office, Vijaywada, 2) a Senior Officer from Geological Survey of India and 3) Senior Officer from Design and Planning of Irrigation and Multipurpose Projects, Centre Water Commission, New Delhi (if there is any office at Regional level at Andhra Pradesh, an officer deputed by Centre Water Commission for this purpose) to go into the question whether the work undertaken by the State of Andhra Pradesh for the purpose of DPR is strictly in compliance with the guidelines issued by the Centre Water Commission and Geological Survey of India which is required for the purpose of preparation of DPR as per the guidelines issued by them in this regard and if unnecessary excess work has been done whether it will amount to part of execution of the work, if so found, assess the compensation for the excess work done and consider the damage caused to the environment.
- iii) Till the report is submitted and application for environmental clearance pending with MoEF&CC is disposed of by them, the State of Andhra Pradesh is directed not to proceed with any work on ground in the guise of preparation of DPR for this Rayalaseema Lift Irrigation Scheme.
- iv) While considering the application filed by State of Andhra Pradesh for issuance of environmental clearance, the MoEF&CC is directed to consider the observation made by this Tribunal in the final

Judgement in O.A. No. 71 of 2020 which resulted in coming to the conclusion that the project requires prior environment clearance and without getting environment clearance project work should not be started has to be considered by them and then take appropriate decision in accordance with law.

- v) The MoEF&CC is also directed to take a call in cases where for preparation of DPR any extensive study regarding the feasibility and its impact on soil features has to be conducted in respect of project where prior environmental clearance is required this may be made clear by amending the EIA Notification that no DPR can be prepared for with extensive study for that purpose without obtaining prior environmental clearance and that will not cover the exemption granted for preparation as provided under the EIA Notification, 2006 so, that the misconception regarding this can be avoided.
- vi) Considering the circumstances, parties are directed to bear their respective costs in the applications.
- vii) Committee is directed to conduct the inspection and make the study and submit the report through MoEF&CC and if MoEF&CC found that it is in violation of the EIA Notification, 2006 and also the guidelines provided for preparation of DPR, then they are directed to take appropriate steps against the State of Andhra Pradesh for doing such alleged violations in accordance with law.
- viii) MoEF&CC and Joint Committee are directed to submit their respective reports to this Tribunal within a period of four months for consideration.

- ix) The office is directed to place the reports as and when received for consideration.
- x) Registry is directed to communicate this order to MoEF&CC, New Delhi, MoEF&CC, Integrated Regional Office, Vijaywada, Centre Water Commission, New Delhi, Geological Survey of India, New Delhi for their information and compliance with the directions.

97. With above directions and observations, the applications are disposed of.



..... J.M.  
(Justice K. Ramakrishnan)

..... E.M  
(Dr. Satyagopal Korlapati)

M.A. No.02/2021 & 03/2021 in  
O.A. No.71/2020 (SZ)  
17<sup>th</sup> December, 2021.AM.



30  
**GOVERNMENT OF TELANGANA**  
**IRRIGATION & CAD DEPARTMENT**

From  
Sri C. Muralidhar, B.Tech.,  
Engineer-in-Chief (General),  
Irrigation & CAD Dept.,  
2<sup>nd</sup> Floor, Jalasoudha Building,  
Errummanzil,  
Hyderabad-500082.

To  
The Chairman,  
Krishna River Management  
Board,  
5<sup>th</sup> Floor, Jalasoudha Building,  
Errummanzil,  
Hyderabad-500082.

**Lr.No.ENC(G)/ISWR/SE/DD(K)/APProjects/Vol.VII Dt.19.12.2023**

Sir,

**Sub:-** I&CAD Dept. (ISWR) Dept., -Construction of Rayalaseema LIS in violation of NGT orders -Requesting immediate action to restrain Andhra Pradesh -Reg.

- Ref:-**
1. Govt. of AP G.O.Rt.No.203, Dt: 05.05.2020.
  2. Principal Secretary, Govt. of Telangana letter addressed to KRMB vide Lr.No.8121/ISWR/2019, Dt. 12.05.2020.
  3. Hon'ble Chief Minister of Telangana letter addressed to MoJS vide D.O Lr. No. CMO/I&CAD, Dt.02.10.2020.
  4. Special Chief Secretary, Govt. of Telangana letter addressed to KRMB vide D.O Lr.No.6149/ISWR/2018, Dt. 21.06.2021.
  5. Special Chief Secretary, Govt. of Telangana letter addressed to MoEF vide Lr.No.6149/ISWR/2018, Dt. 05.07.2021.
  6. Hon'ble NGT final order copy of O.A No. 71/2020 (SZ) Dt: 17.12.2021
  7. ENC(General), I&CAD Dept., GoTS letter addressed to KRMB Vide Lr.No.ENC(G)/ISWR/SE/DD(K)/DEE1/KRMB/APP/Vol-V, Dt: 22.10.2022.
  8. ENC(General), I&CAD Dept., GoTS letter addressed to KRMB vide Lr.No.ENC(G)/ISWR/SE/DD(K)/KRMB/APP/Vol-VI, Dt:23.06.2023.
  9. ENC(General), I&CAD Dept., GoTS letter addressed to KRMB Vide Lr.No.ENC(G)/ISWR/SE/DD(K)/AP Projects/Vol.VI, Dt.01.09.2023.
  10. ENC(General), I&CAD Dept., GoTS letter addressed to KRMB Vide Lr.No.ENC(G)/ISWR/SE/DD(K)/AP Projects/Vol.VII, Dt.04.10.2023.
  11. Namaste Telangana Newspaper clipping dt.19.12.2023.

\*\*\*\*\*

Reference is invited to the series of letters cited, wherein this office has requested KRMB to restrain Andhra Pradesh from taking up any unauthorized constructions/expansions related to G.O Rt. No.203, Dt.05.05.2020.

It is learnt from the newspaper article published in Namaste Telangana Dated 19.12.2023 under the caption of "Donga ratri Seema Lift" that, the construction of Rayalaseema Lift Irrigation works is going on brisk pace by the Govt of AP, vide reference 11<sup>th</sup> cited.

Further, vide references 9<sup>th</sup> & 10<sup>th</sup> cited, this office has requested KRMB to restrain AP from proceeding with lining works of SRMC from PRP HR which are part of G.O 203, dt. 05.05.2020 and alleged RLIS Phase-I work. Unfortunately, KRMB could not restrain Andhra Pradesh from execution of the said works.

Moreover, Hon'ble NGT while dealing with MA 2 & 3 of 2021 in OA 71 of 2020, directed AP vide its order dated 17.12.2021 not to go ahead with the works related to Rayalaseema Lift Irrigation Scheme (RLIS) without obtaining Pre- Environment Clearance and so far, MoEF & CC has not sanctioned the Pre-EC. But AP is continuing the construction works in violation of the NGT order.

Further, NGT(SZ) vide its order dt.17.12.2021 constituted a Three member committee with senior officers from MoEF & CC, GSI and CWC to assess the extent of damage caused to Environment in taking up of Rayalaseema LIS by AP without obtaining prior Environment clearance within four months. But so far report from the committee is yet to be received. Therefore, the Chairman KRMB is requested to address Chairman CWC and MoEF to expedite the above report to be submitted before NGT (SZ).

This unapproved and illegal construction of Rayalaseema LIS by the Andhra Pradesh Government is in violation of KWDT-I Award and Andhra Pradesh Reorganization Act, 2014 and is detrimental to the interests of Telangana.

Hence, it is requested and essential to take immediate effective steps duly making a site visit for ascertaining the factual position and to stop these illegal activities of the AP government and also request MoEF & CC and CWC to expedite the Joint committee report to be placed before Hon'ble NGT. Further, MoWR of GoI may be appraised of the matter urgently.

Encl: A copy of vide reference 11<sup>th</sup> cited.

Yours faithfully,

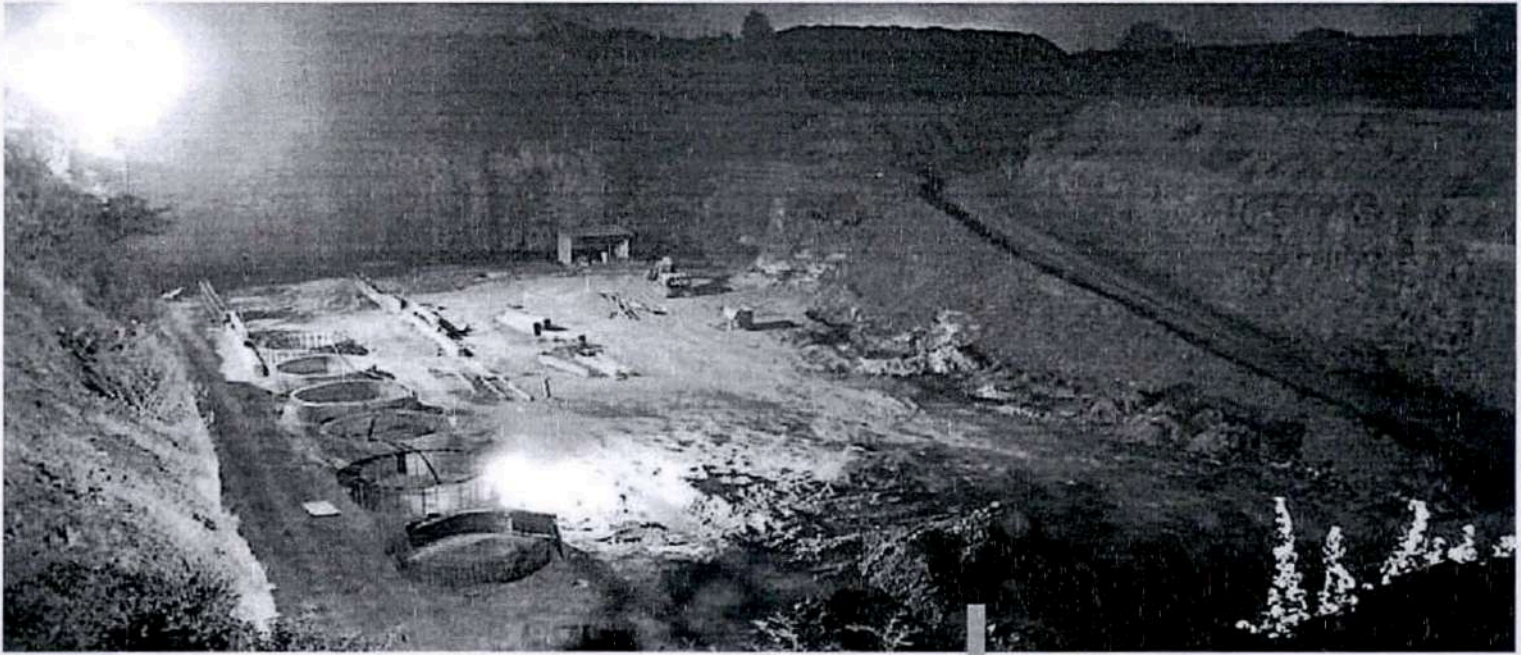
Sd/-C.Muralidhar, Dt. 19.12.2023,  
Engineer-in-Chief (General).

**Copy submitted to:**

✓ The Principal Secretary to Govt. I & CAD Dept., 4<sup>th</sup> Floor, Dr. BR Ambedkar Telangana Secretariat, Hyderabad-500063, with a request to address MoJS and MoEF.

*[Handwritten Signature]*  
19/12/2023  
for Engineer-in-Chief (General)  
*[Handwritten Initials]*

### నమస్తే తెలంగాణ



# దొంగ రాత్రి

ఏపీ బరితెగింపు  
ఎన్డీటీ ఆదేశాలు బేఖాతర్

# సీమ లిప్ట్!

దొడ్డిదారిన రాయలసీమ లిప్ట్ నిర్మాణం  
నెలరోజులుగా ప్లడ్ లైట్ల వెలుగులో పనులు

గుట్టుచప్పుడు కాకుండా నిర్మాణం ముమ్మరం

పోతిరెడ్డిపాడు హెడ్ రెగ్యులేటరీ విస్తరణ కూడా..

తెలంగాణలో ఎన్నికలె అదనుగా తంపులాటకు..

మరోవైపు సాగర్ డ్యామ్ కుడికాలువ ఆక్రమణ

ఇప్పటికీ ఆంధ్రప్రదేశ్ ఆధీనంలోనే లెఫ్ట్ కెనాల్

హైదరాబాద్, డిసెంబర్ 18 (నమస్తే తెలంగాణ): ఎన్నికల హడావుడి, కొత్త ప్రభుత్వం ఏర్పాటు తదితర అంశాల్లో తెలంగాణ నిమగ్నమై ఉండగా, ఏపీ ప్రభుత్వం ఇదే అదనుగా అక్రమాలకు తెగబడుతున్నది. పోలింగ్ కు ముందురోజే ఒకవైపు నాగార్జునసాగర్ డ్యామ్ ను సాయుధబలగాలతో ఆక్రమించుకొన్న విషయం తెలిసిందే. అదీగాక మరోవైపు గుట్టుచప్పుడు కాకుండా రాయలసీమ ఎత్తిపోతల పథకం, పోతిరెడ్డిపాడు హెడ్ రెగ్యులేటరీ విస్తరణ పనులను ముమ్మరంగా 2వ షిఫ్ట్ లో

ఇటీవల నాగార్జునసాగర్ పై అధికారులపై దౌర్జన్యానికి దిగిన ఏపీ.. మరోసారి బరితెగింది. ఎన్నికల హడావుడి, ప్రభుత్వ ఏర్పాటు వంటి వాటిలో తెలంగాణ నిమగ్నమై ఉండగా, రాయలసీమ లిప్ట్ పనులను దొడ్డిదారిన చేపట్టింది.

రాష్ట్ర పునర్వ్యవస్థీకరణ చట్టం ప్రకారం కృష్ణాదివర్ మేనేజిమెంట్ బోర్డు, అపెక్స్ కౌన్సిల్ అనుమతి తర్వాత కొత్త ప్రాజెక్టు చేపట్టాల్సి ఉండగా.. అందుకు విరుద్ధంగా శ్రీశైలం జలాశయం నుంచి రోజుకు 3 టీఎంసీలు లిప్ట్ చేసే రాయలసీమ ఎత్తిపోతలను, పోతిరెడ్డిపాడు హెడ్ రెగ్యులేటరీ విస్తరణ పనులను చేపట్టింది. అర్ధరాత్రి వేళ ప్లడ్ లైట్ల వెలుగులో ప్రాజెక్టు పనులను వేగంగా నిర్వహిస్తున్నది.

ఈ నిర్మాణం పూర్తయితే కృష్ణా బేసిన్ లోని తెలంగాణ ప్రాజెక్టులకు తీవ్ర నష్టం వాటిల్లనున్నది. రాయలసీమ ఎత్తిపోతలపై ముందుకుపోవద్దని అటు కేంద్ర జలశక్తిశాఖ, ఇటు ఎన్డీటీ ఆదేశించింది. వాటిని బేఖాతరు చేస్తూ ఏపీ కొత్త కయ్యానికి కాలు దువ్వుతున్నది.





L.No.6797/ISWR/2023, Dated: 01.03.2024

To,  
The Secretary,  
Ministry of Environment, Forest and Climate Change,  
Government of India,  
Indira Paryavaran Bhavan,  
Jor Bagh Road, New Delhi - 110003.

Sir,

Sub:- I&CAD – Unauthorized Construction of works related to Govt. of A.P, G.O.Rt.No.203 Dt:05.05.2020-Enhancement of Pothireddypadu Head Regulator, SRMC, Banakacherla Regulators etc.–Requesting to furnish the report on status of construction of Rayalseema LIS as directed by Hon'ble NGT– Regarding.

Ref:- 1) Govt of AP G.O.Rt.No. 203, Dt: 05.05.2020.  
2) Hon'ble NGT order copy dated 29.10.2020.  
3) KRMB Inspection report dated 13.08.2021.  
4) Hon'ble NGT final order copy of O.A No. 71/2020 (SZ) Dt. 17.12.2021.  
5) ENC(G) letter addressed to KRMB vide Lr.No.ENC(G)/ ISWR/SE/DD(K)/AP Projects /Vol.VII, Dated. 19.12.2023.

\*\*\*\*\*

Kind attention is invited to the reference 2<sup>nd</sup> cited, wherein Hon'ble NGT(SZ) vide its order dated 29.10.2020 in O.A 71 of 2020 has directed Govt. of Andhra Pradesh not to proceed with the construction of Rayalseema LIS (RLIS) project without getting prior Environmental clearance.

As per Hon'ble NGT order dated 17.12.2021 (reference 4<sup>th</sup> cited), it is stated that *"till the report is submitted and application for environmental clearance with MoEF & CC is disposed of by them, the State of Andhra Pradesh is directed not to proceed with any work on ground in the guise of preparation of DPR for this RLIS"* (Para 96 (iii) of NGT order dt.17.12.2021).


Further, the Tribunal in the above said order also constituted a Joint Committee comprising Senior officers from MoEF & CC, Geological Survey of India and Central Water Commission to go in to the question whether the work undertaken by Andhra Pradesh is in excess of what is required for preparation of DPR and consider the damage caused to Environment. The MoEF & Joint Committee were directed to submit the report within a period of four months. But in spite of passage of over two years, the report is awaited.

It is therefore requested to take necessary action in directing the concerned Member of Joint Committee to furnish the report as called for by the Hon'ble NGT (SZ) at the earliest.

In the absence of the report by joint Committee, Govt of Andhra Pradesh is proceeding with the construction of RLIS and lining works of SRMC in violation of the NGT order.

In view of the brisk progress of work of RLIS by Andhra Pradesh, an urgent intervention is sought in the interest of justice.

Yours faithfully,

  
Secretary to Government  
Irrigation & CAD Department

Government of India  
Ministry of Jal Shakti  
Dept. of WR, RD& GR  
(Peninsular Rivers Wing)

Room No.242 B, C-Wing  
Krishi Bhawan, New Delhi  
Dated: 18-04-2024

To,

The Secretary  
Irrigation and CAD Department,  
Government of Telangana  
Room no 24, 4<sup>th</sup> floor  
Dr. B.R. Ambedkar Telangana State Secretariat  
Hyderabad (Telangana State) – 500 022.

**Subject:** Unauthorized construction of works related to Government of AP-Status of report on construction of Rayalseema LIS-regarding.

Reference: Your Letter no.6797/ISWR/2023, dated 01.03.2024.



I am directed to refer the above cited letter in respect of the above-mentioned subject. In this respect, it is to inform that in compliance of the above direction of Hon'ble NGT, though CWC nominated its member on 27.01.2022 itself, but MoEF&CC constituted the Joint Committee vide their letter no. IRO/VIJ/EPA/NGT/106-22/2021 dated 07.03.2024.

Accordingly, visit of the project was undertaken by the Joint Committee on 13.03.2024 and 14.03.2024. The report of the Joint Committee has been finalized and shall be submitted to Hon'ble NGT by MoEF&CC in due course.

This issues with the approval of competent authority.

Yours Sincerely,

(Manoj Kumar)

18/04/2024

Sr. Joint Commissioner (PR)

Tel-011-23388020

Email- cadwmcentral-mowr@nic.in



**BEFORE THE KRISHNA WATER DISPUTES TRIBUNAL  
NEW DELHI**

(Reference Under Section 89 of the Andhra Pradesh Reorganisation Act, 2014)

**IN THE MATTER OF**

State of Andhra Pradesh

..... Applicant

And

State of Telangana

.... Respondent

To

**The Hon'ble Chairman and  
His Companion Hon'ble Members of  
The Krishna Water Disputes Tribunal, New Delhi**

**Statement of Case/Response on behalf of the State of Andhra Pradesh**

(For Index please see inside)

Date: 29.04.2024

Filed by,

  
(MAHFOOZ A. NAZKI)

Advocate-on-record,  
State of Andhra Pradesh



### **RAYALASEEMA LIFT SCHEME**

Rayalaseema is synonymous with semi-arid and drought prone region, and euphemism diametrically opposite from its prosperous times of mediaeval ages. The region includes the districts of Anantapur, Puttaparthi, Kurnool, Nandyal, YSR Kadapa, Annamayya, Chittoor & Tirupati, south of the Krishna River in Andhra Pradesh and drained by Krishna and Penna rivers.

The projects in Rayalaseema depending on draws through Pothireddypadu Head Regulator from foreshore of Srisailam Reservoir are:

|  |          |                |
|--|----------|----------------|
| Chennai Water Supply                       | :        | 15 TMC         |
| Telugu Ganga Project (T.G.P.)              | :        | 29 TMC         |
| Srisailam Right Branch Canal (S.R.B.C.)    | :        | 19 TMC         |
| Galeru Nagari Sujala Shravanthi (G.N.S.S.) | :        | 38 TMC         |
| <b>Grand Total</b>                         | <b>:</b> | <b>101 TMC</b> |

The water by gravity through Pothireddypadu can only be drawn to its designed capacity when the water level in the Srisailam Reservoir is +880ft and above although the sill level of PHR is +841 ft. The flood days available at Srisailam are diminishing year after year making it impossible to draw allocated waters by Andhra Pradesh within the short period and even the barest minimum requirements to meet Chennai water supply and drinking water needs of Rayalaseema region.

#### **Aim and Objective of the Scheme:**

Rayalaseema Lift Scheme is proposed to ensure timely & assured supply of water for drinking purpose in Rayalaseema Region including 15 TMC for Chennai water supply and to serve the contemplated ayacut under Telugu Ganga Project (TGP), Srisailam Right Branch Canal (SRBC) & Galeru Nagari Sujala Shravanthi (GNSS) which is about 9.6 lakh acres.

The Lift Scheme is not for new draws. The very purpose is to guarantee the drawl even if the water is below the sill level + 841ft of Pothireddypadu Head Regulator. The Scheme neither envisages any enhancement of ayacut / increase in the canal dimensions / increase in the utilizations nor increase in existing storage in the reservoirs.

#### **Sanction of Rayalaseema Lift Scheme :**

As part of Rayalaseema Drought Mitigation Project, the Government of Andhra Pradesh have accorded Administrative Sanction vide G.O.Rt.No.203 dt.05.05.2020 for Rayalaseema Lift Scheme (RLS) for Rs. 3825.00 crores.

Accordingly Technical Sanction was accorded vide CER/No.8/2020-21 Dt. 15/07/2020 for Rs. 3825.00 Crores.

The tender is awarded to the lowest bidder M/s SPML-NCC-MEIL (JV) for an amount of Rs. 3307,06,63,247/- (+0.88%). A total of Rs.33.40 Crores is saving to Government due to reverse tendering process.

**The proposed scheme has the following main components:**

1. **Approach channel:** Proposed for a length of about 8.892 Km in foreshore of reservoir.
2. **Forebay:** The proposed length of the Forebay is 237 m.
3. **Pump House:**
  - The pump house is proposed to accommodate 12 nos. of pumps with a capacity of 81.93 cumeqs/2893 cusecs capacity each are proposed and motors capacity of 32 MW each with operating system. The size of the Pump House is 250 m X 40 m.
  - The proposed Water drawl level: 800 ft (+243.85 m) with maximum lift of 85.14 ft (25.95 m) and Delivery level at 885.14 ft (269.82 m).
4. **Tunnels and Pipe Line:** 12 nos. of Tunnels of 5.6 m dia. and Pipe line of dia. 4.6 m.
5. **Delivery Cistern:** The size of the Delivery cistern is 134 m X 50 m.
6. **Link Canal:** Link Canal for a length of 0.50 Km is proposed from delivery cistern to SRMC, joining at 300 m just downstream of Pothireddypadu Head Regulator.
7. **Infrastructure:** 400 KV Sub station and power line.

**Benefits:** The project on completion

1. Will ensure drinking water supply to Chennai City as agreed by the riparian States of Krishna River basin.
2. Will serve the contemplated ayacut under *Telugu Ganga Project (TGP)*, Srisaillam Right Branch Canal (SRBC) & Galeru Nagari Sujala Shrawanthi(GNSS) projects in Rayalaseema Region including providing drinking water to critically, chronically drought prone areas.
3. Will enable to draw allocated water to the state of Andhra Pradesh even during lean flows when the Srisaillam reservoir level is below +854ft.

**Status on Environmental Clearance :**

As per the Hon'ble NGT directions steps are being taken to obtain Environmental Clearance in the form of amendment to the existing schemes from MoEF&CC. In this connection, a work order has been issued to Voyants Solutions Pvt. Limited, now the proposal has been relisted in Parivesh Portal on 11-10-2023. The additional details sought (ADS) by the EAC in its 14<sup>th</sup> meeting dated on 19-07-2021 are prepared and it is under process.

**Financial Progress :**

REC has come forward to assist the project by way of loan. So far, they have disbursed an amount of Rs.739.60 Crs.

- ❖ Expenditure incurred is Rs.739.60 Crs
- ❖ The financial progress of the project is 20.37 % completed.

The work is programmed to complete by 30-8-2024 for the Drinking water under Phase-I and total scheme by 30-9-2025.

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*"Rayalaseema Lift Scheme"*

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**EXECUTIVE SUMMARY****1. AIM OF THE PROJECT**

The proposed Rayalaseema Lift Scheme will serve the contemplated ayacut under TGP, SRBC & GNSS projects in Rayalaseema Region including providing drinking water to critically, chronically drought prone areas. This project also ensures drinking water supply to Chennai City as agreed by the riparian States of Krishna River basin.

**2. THE PROJECT**

The objective of the proposed Rayalaseema Lift Scheme is to supplement 3 TMC/day to Srisaillam Right Main Canal on D/s of Pothireddypadu Head Regulator in Kurnool District of Andhra Pradesh.

The proposed Rayalaseema Lift Scheme is part of Srisaillam Project. The scheme envisages assured essential supplies of water for drinking and sustainable development of drought prone Rayalaseema Region by utilizing the water already allocated to the existing and ongoing projects of Andhra Pradesh when the Srisaillam Reservoir Level falls below 854 ft and when sufficient water could not be drawn by gravity through Pothireddypadu Head Regulator. The water will be lifted by the proposed lift from foreshore of Srisaillam Reservoir and dropped into Srisaillam Right Main Canal just downstream of Pothireddypadu Head Regulator.

**3. INTERSTATE ASPECTS**

As Rayalaseema Lift Scheme is taken up within the scope of waters allocated by the Tribunal there is no other aspect which attracts interstate problems. The complete details of allocations have been furnished in Chapter-3 of the DPR

**4. THE MAIN COMPONENTS OF THE PROJECT**

- **Approach Channel:** The approach channel is proposed for a length of 8.892 Km in Srisaillam foreshore area up to forebay of Pump House on left side (Northern Side) of existing Pothireddypadu Head Regulator.
- **Forebay** is proposed from approach channel to the pump house for a length 237 m.
- **Pump House:** The pump house is to be constructed to required size of 250 m X 40 m to accommodate required 12 nos. of pumps and motors and operating system.
- **12 nos. of volute pumps** with a capacity of 81.93 cumecs/2893 cusecs capacity each are proposed.

**"Rayalaseema Lift Scheme"**

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- Total Power requirement is estimated at about 420 MW and suitable H.T/ L.T Panels, SCADA, HT/LT Cables, HM/EM Components will be provided.
- The proposed Water drawl level: 800 ft (+243.85 m) with maximum lift of 85.14 ft (25.95 m) and Delivery level at 885.14 ft (269.82 m).
- **Pipe line:** The M.S pipe line of 5000mm diameter for a length of 200 m for each motor is proposed from Pump House to Delivery Cistern.
- Construction of **Delivery Cistern**.
- Excavation of Link Canal for a length of 0.50 Km is proposed from delivery cistern to SRMC, joining at 300 m just downstream of Pothireddypadu Head Regulator:
- Providing infrastructure
  - i. Road to the pump station from Pothireddypadu Head Regulator for about 200 m.
  - ii. 400KV Sub station and electrical power line from the existing HT lines.

#### 5. HYDROLOGY

The projects namely, Telugu Ganga Project (TGP), Srisaillam Right Branch Canal (SRBC), Galeru Nagari Srujala Sravanthi (GNSS) and Chennai Water Supply are formulated more than three decades ago to utilize the water from Srisaillam Reservoir through Pothireddypadu Head Regulator.

As per clause XV of Krishna Water Disputes Tribunal(KWDT)-I, the allocation of water to be utilized (through Pothireddypadu Head Regulator) is

|  |   |        |
|--|---|--------|
| Chennai water supply                   | : | 15 TMC |
| S.R.B.C. (Srisaillam Right Bank Canal) | : | 19 TMC |
| Total                                  | : | 34 TMC |

Apart from the above, in clause 10 of Eleventh Schedule of AP Reorganisation Act, 2014 provision has been made for sharing of water. Accordingly, Telugu Ganga Project Scheme (T.G.P) to the tune of 29 TMC and Galeru Nagari Srujala Sravanthi Scheme (GNSS) to the tune of 38 TMC which is totaling to 67 TMC have been executed.

In view of the above paras, the ultimate demand to be met by Pothireddypadu Head Regulator arrives to 101 TMC.

*"Rayalaseema Lift Scheme"*

It can be justified from Table 5.1 of Chapter-5 that at 75% dependability the flood water from the dam (Spills) comes to the tune of 80.3TMC, which suffices to meet the demand of 67TMC of TGP and GNSS Schemes. It is worthwhile here to mention that the balance 13TMC of flood waters which is going waste into sea, be utilized up to the extent of possible through Rayalaseema Lift Scheme which is meant to supplement to the existing water availability at Pothireddypadu Head Regulator.

**6. COST ESTIMATE**

The total cost of the project has been worked out to be Rs. 3825 Crores. The Government of Andhra Pradesh have accorded Administrative approval for Rayalaseema Lift Scheme to an amount of Rs.3825.00 crores vide ref. G.O. Rt. No.203, WR (Proj.III) Dept., Dt: 05.05.2020

Abstract of Cost of Rayalaseema Lift Scheme is given below:

| Sl. No. | Description                       | Amount<br>(Rs. Crore) |
|---------|-----------------------------------|-----------------------|
|         | <b>DIRECT CHARGES</b>             |                       |
|         | <b>I-WORKS</b>                    |                       |
| 1       | A - Preliminary                   | 10.32                 |
| 2       | B - Land Acquisition and R&R      | 0.00                  |
| 3       | C - Works                         | 1828.91               |
| 4       | D - Regulators                    | ---                   |
| 5       | E - Falls (drops)                 | ---                   |
| 6       | F - Cross drainage works          | ---                   |
| 7       | G - Bridges                       | ---                   |
| 8       | H - Escapes                       | ---                   |
| 9       | I - Navigation Works              | ---                   |
| 10      | J - Power plants                  | ---                   |
| 11      | K - Buildings                     | 0.00                  |
| 12      | L - Earth Work and Lining         | 1360.36               |
| 13      | M - Plantation                    | 0.00                  |
| 14      | N - Tanks and Reservoirs          | ---                   |
| 15      | O - Miscellaneous                 | 2.10                  |
| 16      | P - Maintenance                   | 31.89                 |
| 17      | Q - Special T&P                   | ---                   |
| 18      | R - Communications.               | 0.00                  |
| 19      | S - Power Plant & Electric System | 0.00                  |

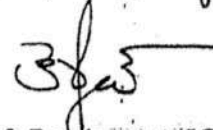
*"Rayalaseema Lift Scheme"*

| Sl. No. | Description  | Amount<br>(Rs. Crore) |
|---------|--|-----------------------|
| 20      | T - Water Supply Works   | 0.00                  |
| 21      | U - Distributaries, minors and sub-minors  | 0.00                  |
| 22      | V - Water Courses  | ---                   |
| 23      | W - Drainage   | ---                   |
| 24      | X - Environment and Ecology  | ---                   |
| 25      | Y - Losses on stock  | 7.97                  |
|         | <b>Total I</b>   | <b>3241.55</b>        |
| II      | <b>ESTABLISHMENT: 4% on Works less 'B' Lands</b>                                     | 129.66                |
| III     | <b>TOOLS AND PLANTS: 1% on I-Works</b>   | 32.42                 |
| IV      | <b>SUSPENSE</b>  | ---                   |
| V       | <b>RECEIPTS AND RECOVERIES</b>   | ---                   |
| A       | <b>TOTAL: DIRECT CHARGES</b>   | <b>3403.63</b>        |
|         | <b>INDIRECT CHARGES</b>  |                       |
| I       | Capital Value of abatement of land revenue (5% of Culturable land revenue of B-Land) | 0.00                  |
| II      | Audit & Account Charges @ 1% of cost of I-Works                                      | 32.42                 |
| III     | Provision towards GST  | 388.99                |
| B       | <b>TOTAL: INDIRECT CHARGES</b>   | <b>421.40</b>         |
|         | <b>Total Direct &amp; Indirect Charges (A+B)</b>                                     | <b>3825.00</b>        |

**7. BC RATIO**

B/C ratio worked out as per CWC norms using annual benefits to annual costs ratio gives a result of 1.71. The IRR (Internal Rate of Return) of this project is found to be 18.89%, the NPV (Net Present Value) of the project works out to be a positive figure of Rs 39,076.31 million at 10% discount rate.

True Extract of DPR



Chief Engineer, IS&WR  
Water Resources Department, GoAP  
3rd Floor, Irrigation Complex, Irrigation Compound  
Governorpet, VIJAYAWADA-520 002.





**L.No.6797/ISWR/2023, dated: 23.05.2024**

To  
The Secretary,  
Department of Water Resources, RD&GR,  
Ministry of Jal Shakti, Government of India,  
Shram Shakti Bhavan,  
Rafi Marg, New Delhi - 110001.

Madam,

Sub: Irrigation & CAD Dept- Rayalaseema Lift Irrigation Scheme-  
Requesting to direct the Joint Committee to furnish the latest report on  
status of construction of Rayalaseema LIS as directed by Hon'ble  
NGT and also requested to restrain AP from further Construction-  
Reg.

Ref: 1) Govt. of AP G.O.Rt.No. 203, Dt: 05.05.2020.  
2) Hon'ble NGT order copy dated 29.10.2020.  
3) KRMB Inspection report dated 13.08.2021.  
4) Hon'ble NGT final order copy of O.A No. 71/2020(SZ),  
Dt:17.12.2021.  
5) ENC(G) letter addressed to KRMB vide Lr.No.ENC(G)/ISWR/SE/  
DD(K)/AP Projects, Dt.19.12.2023.  
6) T.O Lr. No. 6797/ISWR/2023, Dt.01.03.2024.  
7) AP Statement of Case filed before Hon'ble KWDT-II  
on Dt. 29.04.2024.

\*\*\*\*

Kind attention is invited to the reference 6<sup>th</sup> cited, wherein it was requested that the Joint Committee constituted by the Hon'ble NGT be directed to make a site visit to ascertain the factual position and assess the work done by Andhra Pradesh after the KRMB site inspection report dated 13.08.2021, in violation of Tribunal orders. So far, the Joint Committee report has not been submitted to the Hon'ble NGT.


2. It was also brought to your kind notice that the Construction of Rayalaseema Lift Irrigation Scheme (RLIS) is being continued by Govt of Andhra Pradesh without interruption and requested to take necessary steps to stop this illegal activity immediately.

3. It is a matter of great concern that Andhra Pradesh has submitted before the Hon'ble KWDT-II in its Statement of Case (SoC) that it is proceeding with the construction of Phase-I of the Rayalaseema Lift Irrigation Scheme within the stipulated timeframes (copy enclosed).

4. In view of the above, I once again request that immediate necessary action be taken to stop this illegal construction activity of the Government of AP and protect the genuine and legitimate claims of the people of Telangana on Krishna waters.

5. In view of the brisk progress of works by Andhra Pradesh, an urgent intervention is solicited in the interest of justice.

Yours faithfully,

  
Secretary to Government,  
Irrigation & CAD Department

  
23/05

Government of India  
Ministry of Jal Shakti  
Department of WR, RD& GR  
(Peninsular Rivers Wing)

Room No.353, C-Wing  
Krishi Bhawan, New Delhi  
Dated:12-06-2024

To,  
The Secretary  
Irrigation and CAD Department,  
Government of Telangana,  
Room no 24, 4<sup>th</sup> floor,  
Dr. B.R. Ambedkar Telangana State Secretariat  
Hyderabad (Telangana State) – 500 022.

**Subject:** Report of the Joint Committee on construction of Rayalseema LIS-  
regarding

Reference: Your Letter no. 6797/ISWR/2023, dated 23.05.2024

Sir,

I am directed to refer the above cited letter in respect of the above-mentioned subject. In this respect, it is to inform that the visit of the project was undertaken by the Joint Committee on 12.03.2024 and 13.03.2024.

The report of the Joint Committee has been finalized and submitted to MoEF&CC vide letter no. IRO/VIJ/EPA/NGT/106-22/2021 dated 22.03.2024 by the Joint Committee with the request to file the same in the Hon'ble NGT.

Yours Sincerely,

Signed by

Abhiram Kumar

Date: 14-06-2024 09:57:29

(Abhiram Kumar)

Under Secretary to Gov. of India

Tel-011-23383059

Email- uspenriv-mowr@nic.in



**GOVERNMENT OF TELANGANA  
IRRIGATION & CAD DEPARTMENT**

From  
Sri G. Anil Kumar, M.Tech.,  
Engineer-in-Chief (Gen) (FAC)  
Irrigation & CAD Dept.,  
2<sup>nd</sup> Floor, Jalasoudha Building,  
Errummanzil,  
Hyderabad-500082.

✓ To  
The Chairman,  
Krishna River Management  
Board,  
5<sup>th</sup> Floor, Jalasoudha Building,  
Errummanzil,  
Hyderabad-500082.

**Lr.No.ENC(G)/ISWR/SE/DD(K)/APProjects/Vol.VIII/ Dt. 31.07.2024**

Sir,

**Sub:-** I&CAD Dept. – ISWR - KRMB – Unauthorised construction of Rayalaseema LIS – Request to urgently conduct site inspection of the Rayalaseema LIS – Reg.

**Ref:-** 1. ENC(General), I&CAD Dept., GoTS addressed letter to KRMB vide Lr.No.ENC(G)/ISWR/SE/DD(K)/AP Projects/Vol.VI, Dt.01.09.2023.  
2. ENC(General), I&CAD Dept., GoTS addressed letter to KRMB Vide Lr.No.ENC(G)/ISWR/SE/DD(K)/APProjects/Vol.VII Dt.19.12.2023.

\*\*\*\*\*

With reference to the letter 1<sup>st</sup> cited, this office has requested KRMB to restrain AP from proceeding with lining works of SRMC from PRP HR which are part of G.O 203, dt.05.05.2020. Unfortunately, KRMB did not restrain Andhra Pradesh from execution of the said work.

Further vide reference 2<sup>nd</sup> cited, this office has requested KRMB to make a site visit of Rayalaseema LIS for ascertaining the factual position and to stop the illegal construction by the AP Government. But no action is initiated so far by KRMB and Andhra Pradesh is continuing with the construction work in violation of Hon'ble NGT (SZ) orders dated.17.12.2021.

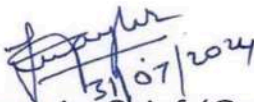
While comparing the photographs produced in the KRMB inspection report dt.13.08.2021 with the photographs enclosed in the reference 2<sup>nd</sup> cited and to the latest photographs of July, 2024 downloaded from google earth, it is observed that the work is in brisk progress related to the delivery cistern and forebay. It is also clear that the underground pump house works are seemed to be completed up to delivery outlets in the cistern. Therefore, KRMB is requested to conduct the site inspection urgently and stall the progress of work.

Further, Construction of Rayalaseema LIS @ 3 TMC per day from +798 ft level from Srisaillam reservoir is in contravention to the Tribunal Awards and Interstate agreements.

Hence, KRMB is requested to conduct the site visit and submit the factual report along with the latest photographs to MoJS, GoI to take the necessary action immediately, duly intimating to the Government of Telangana and restrain Andhra Pradesh from further construction by violating Hon'ble NGT(SZ) orders.

**Encl:** Photographs of RLIS  
(Annexures - 1 to 5)

Yours faithfully,  
Sd/- G.Anil Kumar, dt.31.07.2024,  
Engineer-in-Chief (General), FAC.

  
31/07/2024  
for Engineer-in-Chief (General) (FAC)  
31/7/24

UNAUTHORIZED CONSTRUCTION OF DELIVERY CISTERN OF RLIS

Annexure-1



P7: View of the Delivery Cistern from Side



UNAUTHORIZED CONSTRUCTION OF FOREBAY OF RLIS

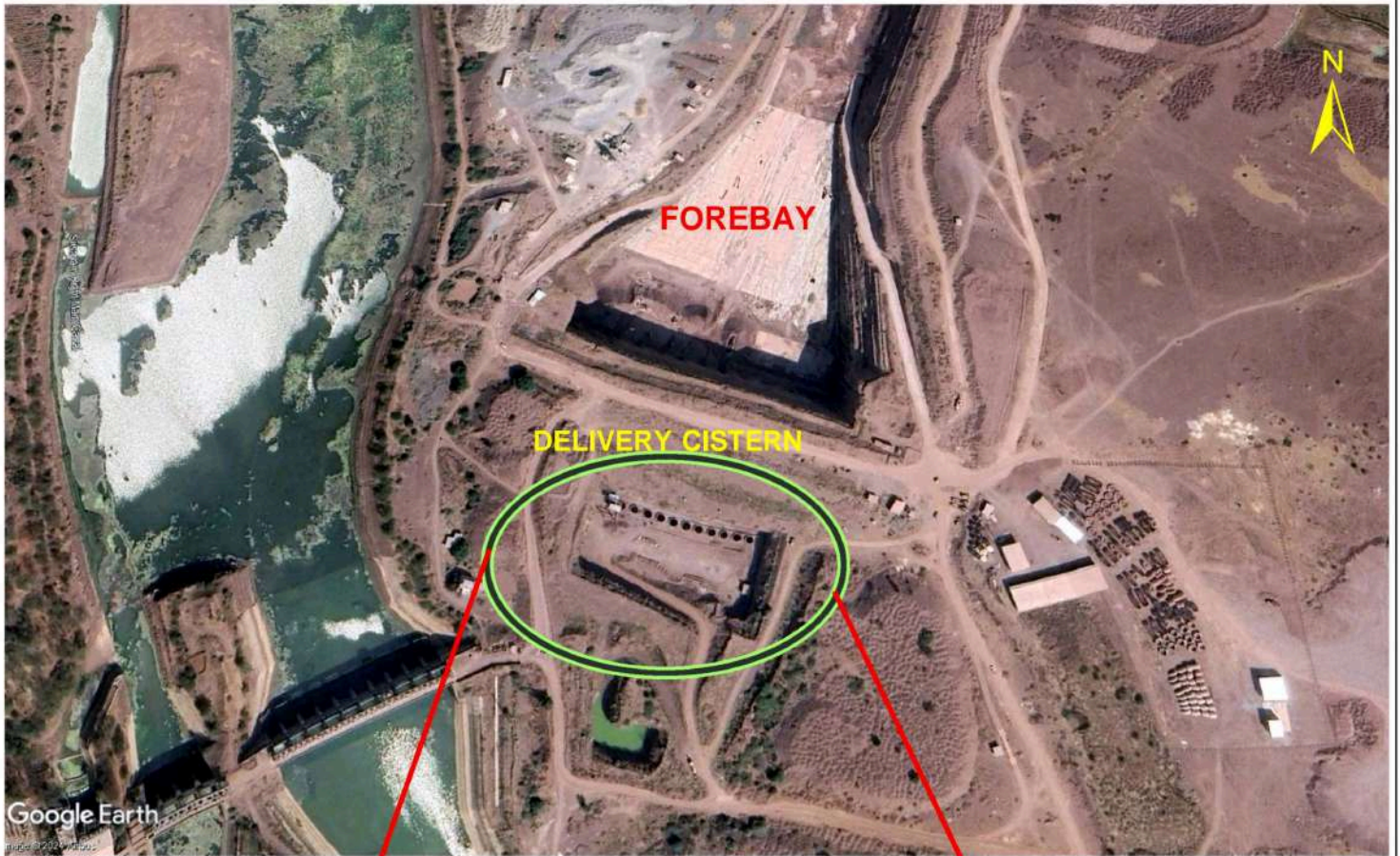
Annexure-2



# GOOGLE PHOTO OF DELIVERY CISTERN OF RLIS, 2024

52

Annexure-3





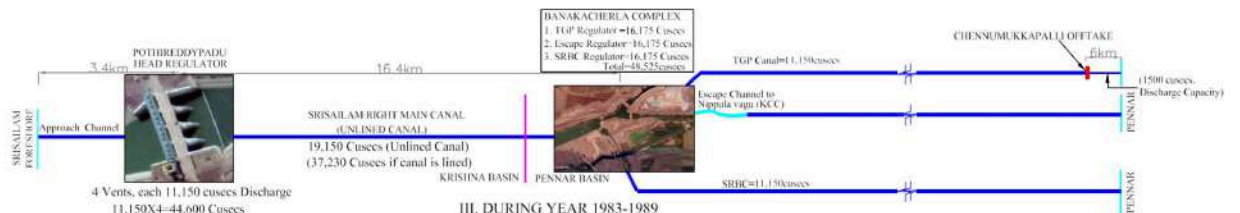
SRSISALAM FORESHORE

No Water Diversions from Srisaialam Reservoir sanctioned

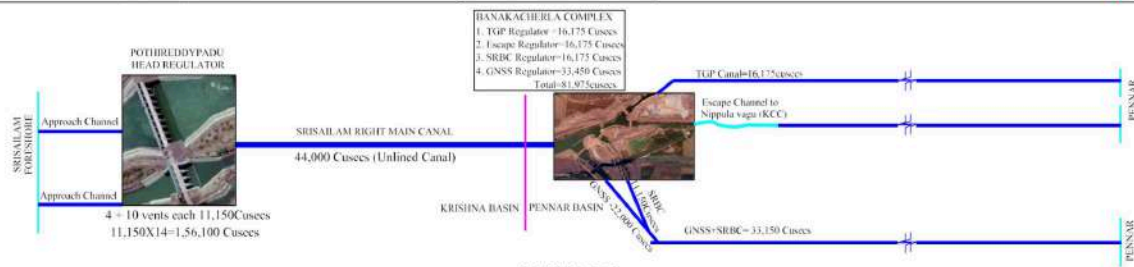
I. TILL YEAR 1976-CWC/PLANNING COMMISSION/KWDT-I AWARD



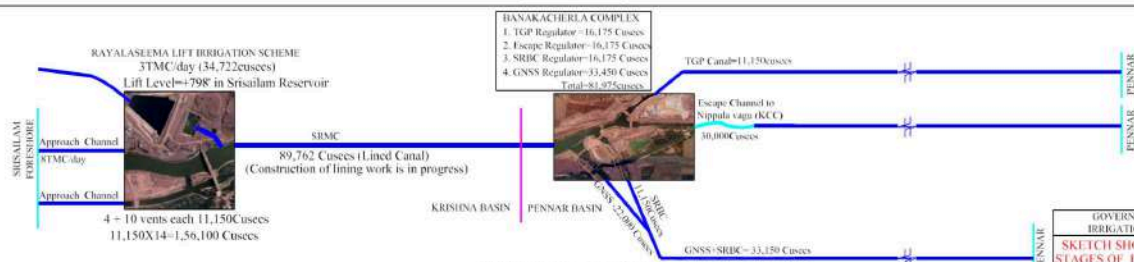
II. AS PER 1976-77 INTERSTATE AGREEMENTS



III. DURING YEAR 1983-1989



IV. YEAR 2005



V. YEAR 2020 (G.O.203)

LEGEND  
 Basin Boundary  
 Canal  
 River/Stream

GOVERNMENT OF TELANGANA  
 IRRIGATION & CAD DEPARTMENT  
 SKETCH SHOWING THE VARIOUS  
 STAGES OF POTTHIREDDYPADU LIFT  
 & BANAKACHERLA C.R. SYSTEM



**JOINT COMMITTEE INSPECTION REPORT ON STATUS OF RAYALASEEMA LIFT SCHEME ON DOWN STREAM OF POTHIREDYPADU HEAD REGULATOR, DISTRICT KURNOOL (ERSTWHILE), ANDHRA PRADESH IN THE MATTER OF M.A. NO. 02 OF 2021 (SZ) & M.A. NO. 03 OF 2021 (SZ) IN ORIGINAL APPLICATION NO. 71 OF 2020 (SZ) IN THE MATTER OF GAVINOLLA SRINIVAS VS UNION OF INDIA, AND ORS.**

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Date: 22.03.2024



Dr. Suresh Babu Pasupuleti,

Scientist 'D',

MoEF&CC, Sub Office, Vijayawada.

**डॉ. सुरेश बाबु पसुपुलेटी**  
**Dr. SURESH BABU PASUPULETI**  
 वैज्ञानिक 'डी'/SCIENTIST 'D'  
 भारत सरकार/Govt. of India  
 पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय  
 Ministry of Environment, Forest and Climate Change  
 उप कार्यालय, विजयवाड़ा/Sub Office, Vijayawada



**JOINT COMMITTEE INSPECTION REPORT ON STATUS OF RAYALASEEMA LIFT SCHEME ON DOWN STREAM OF POTHIREDYPADU HEAD REGULATOR, DISTRICT KURNOOL (ERSTWHILE), ANDHRA PRADESH IN THE MATTER OF M.A. NO. 02 OF 2021 (SZ) & M.A. NO. 03 OF 2021 (SZ) IN ORIGINAL APPLICATION NO. 71 OF 2020 (SZ) IN THE MATTER OF GAVINOLLA SRINIVAS VS UNION OF INDIA, AND ORS.**



**SUBMITTED TO  
HON'BLE NATIONAL GREEN TRIBUNAL  
SOUTH ZONE, CHENNAI  
MARCH, 2024**

### **1.0 Preamble:**

Shri Gavinolla Srinivas filled an Original Application No. 71 of 2020 (SZ) with a grievance regarding the violations committed by the State of Andhra Pradesh in implementing the new Lift Irrigation Project by name Rayalaseema Lift Scheme by providing a major water pumping scheme for extracting water from Srisailem Reservoir which is being shared by the newly formed State of Telangana and also State of Andhra Pradesh flouting the environmental laws.

Subsequently, M.A. No. 02 of 2021 was filed by the applicant in O.A. No. 71 of 2020 whereas M.A. No. 03 of 2021 was filed by the 3<sup>rd</sup> respondent in the Original Application under Section 26 and 28 of National Green Tribunal Act, 2010.

### **2.0 Orders of Hon'ble NGT, SZ, Chennai:**

The Hon'ble NGT, SZ, Chennai vide Order dated 17.12.2021 (Annexure – 1) in the matter of M.A. No. 02 of 2021 (SZ) & M.A. No. 03 of 2021 (SZ) in Original Application No. 71 of 2020 (SZ) in the matter of Gavinolla Srinivas vs Union of India, and Ors. given the following directions:

*“ii). We constitute the Joint Committee consist of 1) a Senior Officer from MoEF&CC, Integrated Regional Office, Vijaywada, 2) a Senior Officer from Geological Survey of India and 3) Senior Officer from Design and Planning of Irrigation and Multipurpose Projects, Centre Water Commission, New Delhi (if there is any office at Regional level at Andhra Pradesh, an officer deputed by Centre Water Commission for this purpose) to go into the question whether the work undertaken by the State of Andhra Pradesh for the purpose of DPR is strictly in compliance with the guidelines issued by the Centre Water Commission and Geological Survey of India which is required for the purpose of preparation of DPR as per the guidelines issued by them in this regard and if unnecessary excess work has been done whether it will amount to part of execution of the work, if so found, assess the compensation for the excess work done and consider the damage caused to the environment.”*

### 3.0 Constitution of the Joint committee:

In compliance to the Hon'ble NGT, SZ Order dated 17.12.2021 and based on the nominations received, the Joint Committee constituted comprising the following members (Annexure – 2):

1. Dr. Suresh Babu Pasupuleti, Scientist 'D', Ministry of Environment, Forest and Climate Change, Sub Office at Vijayawada.
2. Shri Shailendra Kumar Singh, Director (G), Engineering Geology Division, GSI, Hyderabad.
3. Shri M Ramesh Kumar, Director, M&A (TS) Dte. KGBO, CWC, Hyderabad.

As per the Hon'ble NGT, SZ Order dated 17.12.2021, the Joint Committee is entrusted to visit and inspect the site in question and following Terms of Reference (ToR):

- i. *whether the **work undertaken** by the State of Andhra Pradesh for the purpose of DPR is strictly in compliance with the guidelines issued by the Centre Water Commission and Geological Survey of India which is required for the purpose of preparation of DPR as per the guidelines issued by them in this regard.*
- ii. *if **unnecessary excess work has been done** whether it will amount to part of execution of the work, if so found, assess the compensation for the excess work done and consider the damage caused to the environment.*

### 4.0 Inspection by the Joint Committee:

In compliance to the Hon'ble NGT Orders, the Joint Committee has **inspected the project site on 13.03.2024 and 14.03.2024.** As per the discussions held during inspection and information provided by Govt. of Andhra Pradesh, Water Resources Department, the detailed status of the project is as follows:

#### ***4.1 History of the project:***

Rayalaseema is a drought prone region and includes the erstwhile Anantapur, Kurnool, YSR Kadapa and Chittoor district located at south of the Krishna River in Andhra Pradesh and drained by Krishna and Penna rivers.

It has abundant land, mineral and human resources and excellent potential for the establishment of next generation industries in goods and services sector. The main hindrance to the development of region is lack of 'dependable' water resources.

Rayalaseema region in Andhra Pradesh receives low rainfall ranging from 500mm to 650mm, compared to state average of 960 mm and not properly distributed over time and space. It is apt to mention here that, erstwhile Anantapur district in Andhra Pradesh receives the second lowest rainfall in the country after the Thar desert in Rajasthan.

Rayalaseema Region is mostly a rocky region with mineral resources and mainly with insufficient ground and surface-water resources, besides in some areas, the alkaline ground-water picks up fluoride.

Rayalaseema Region constitutes 41% of the geographical area in the state, whereas the cultivable area is about 36% and the irrigated area is only 20% in the state.

In fact, Telugu Ganga Project (TGP), Srisailem Right Bank Canal (SRBC), Galeru Nagari Srujala Sravanthi (GNSS) and Handri Neeva Srujala Sravanthi (HNSS) projects are formulated more than three decades ago to utilize the Krishna River waters in Rayalaseema region.

The above projects are in addition to the K.C.Canal in existence since pre independence period to serve Kurnool and YSR Kadapa districts.

Neelam Sanjeeva Reddy Sagar Srisailem Project (NSRSSP) widely known as Srisailem Project was constructed across river Krishna in the districts of

Kurnool & Mahabubnagar, which is the main source of supply of water for the projects in Rayalaseema Region of Andhra Pradesh.

Water from Srisaillam reservoir is being provided through Srisaillam Right Main Canal (SRMC) to the Rayalaseema Region and drinking water supply to Chennai city.

Construction of the project was started during the year 1963 and commissioned in 1984 with salient features as furnished below:

Maximum water level: +892 ft (271.88m)

Full Reservoir level: +885 ft (269.75m)

Gross storage capacity at FRL: 308 TMC.

*(However, its present capacity is reduced to 215.807 TMC due to siltation)*

The projects in Andhra Pradesh depend on drawls through Pothireddypadu Head Regulator (PHR) from foreshore of Srisaillam Reservoir and are as follows:

|  |         |
|--|---------|
| Telugu Ganga Project (T.G.P.)              | 29 TMC  |
| Chennai water supply (through T.G.P.)      | 15 TMC  |
| Srisaillam Right Branch Canal (S.R.B.C.)   | 19 TMC  |
| Galeru Nagari Sujala Shravanthi (G.N.S.S.) | 38 TMC  |
| Grand Total                                | 101 TMC |

Although the sill level of PHR is +841 ft, water by gravity through PHR can only be drawn to its designed capacity when the water level in the Srisaillam Reservoir is +880 ft and above.

The flood days available at Srisaillam are diminishing year after year making it impossible to draw allocated waters by Andhra Pradesh within the short

period and even the barest minimum requirements to meet Chennai water supply and drinking water needs of Rayalaseema region. Hence, Govt of Andhra Pradesh intended to draw water by pumping from a lower level from the Srisaillam reservoir and feed water to the same canal (SRBC) down stream of PHR.

#### ***4.2 Rayalaseema Lift Scheme:***

As part of Rayalaseema Drought Mitigation Project, the Government of Andhra Pradesh have accorded Administrative Sanction vide G.O.Rt.No. 203 dated 05.05.2020 for Rayalaseema Lift Scheme (RLS) for Rs. 3825.00 crores. (Annexure - 3).

Accordingly Technical Sanction was accorded vide CER/No.8/2020-21 Dt.15/07/2020 for Rs. 3825.00 Crores.

The tender is awarded to the lowest bidder M/s SPML-NCC-MEIL (JV) for an amount of Rs. 3307,06,63,247/- (+0.88%). A total of Rs. 33.40 Crores is saving to Government due to reverse tendering process.

#### ***The proposed scheme details are as follows:***

**Approach channel:** The approach channel is proposed at 800 ft level from Srisaillam foreshore area up to forebay of Pump House on left side (Northern Side) of existing Pothireddypadu Head Regulator. At this level the length of the approach channel required shall be 8.892 Km.

**Forebay:** Forebay is proposed from approach channel to the pump house. The length of forebay is 237 m.

#### **Pump House:**

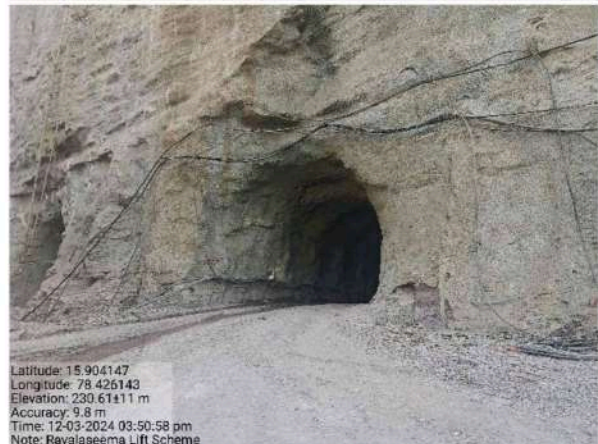
The pump house is proposed to accommodate 12 nos. of pumps and motors with operating system. The size of the Pump House is 250 m X 40 m.

12 nos. of volute pumps with a capacity of 81.93 cumecs/2893 cusecs capacity each are proposed.



### 4.3 Present status of the project:

The excavation for forebay, pump house, tunnels for delivery pipe line, and delivery cistern were almost complete with over 85% of excavation done. The excavation for 8.892 km long approach channel are under various stages at various locations with about 14 % excavation done. The photographs are as follows:





**Figure-2: Photographs taken during Joint Committee inspection of the project.**



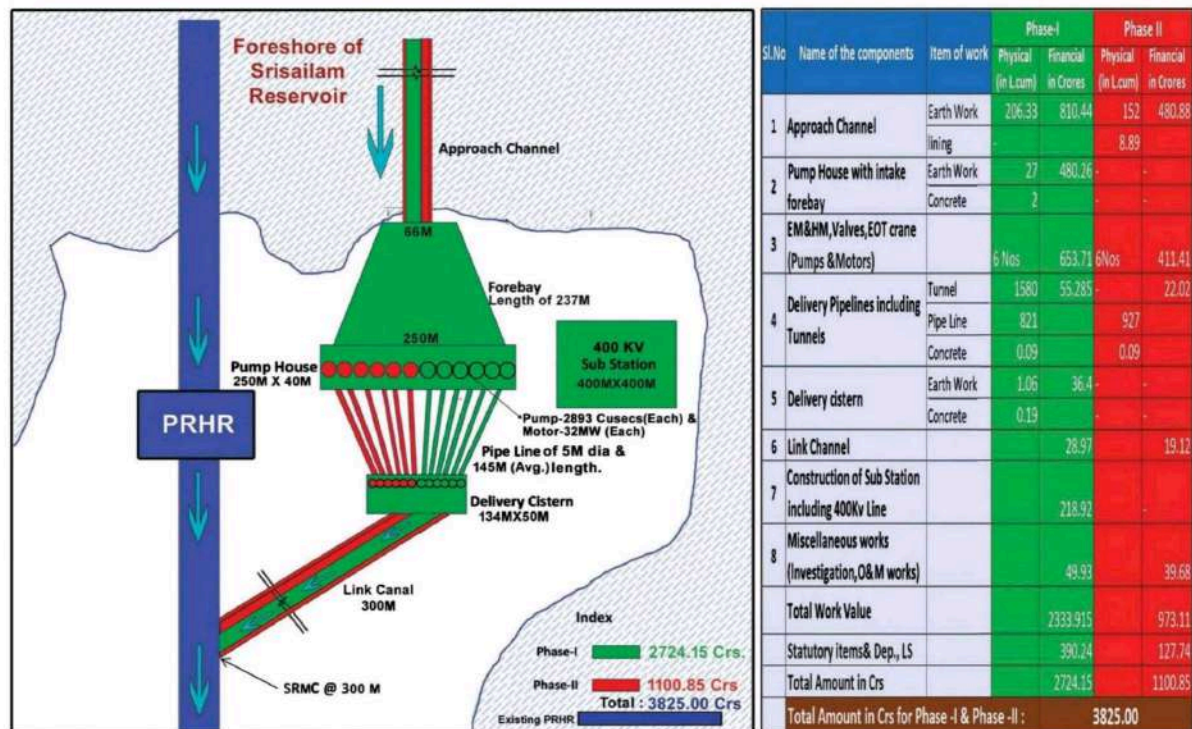
**Figure-3: The Satellite Image (Google Earth dated 06.02.2024) of the project site.**

The Government of Andhra Pradesh, Water Resources (Projects.III) Department has accorded approval vide G.O.Rt.No. 364 dated 11.08.2023 (Annexure - 4) and opted to execute the work in phased manner.

Under Phase-I (Green Colour) the works are being undertaken for the drinking water component. For this it is proposed to pump only 35.23 TMC instead of 101 TMC.

In Phase-II (Red Colour), it is proposed to take up the supplementation to irrigation component after obtaining Environmental Clearance.

### **SCHEMATIC DIAGRAM OF RAYALASEEMA LIFT SCHEME FOR PHASE-I & PHASE-II WORKS**



**Figure-5: Schematic diagram of Rayalaseema Lift Scheme for Phase-I and Phase-II works.**

#### ***4.4 Environmental Clearance Status:***

The project proponent has submitted the proposal to MoEF&CC for environmental clearance vide proposal no. IA/AP/RIV/214491/2021: F.No. J-12011/18/2006-IA.I (R) through PARIVESH portal.

The Expert Appraisal Committee (EAC) in the 14<sup>th</sup> EAC meeting held on 19.07.2021 has sought following additional information for further appraisal:

1. A holistic report on water availability in the river, with the existing and future schemes including hydropower projects, should be provided as envisaged in an approved Master plan of the river developments
2. A study showing the pre and post project temporal simulations of drawl of water from the reservoir.

3. *Detailed status of other similar water lifting projects in the region/neighbouring States along with status of environmental clearance.*
4. *The locations of any Wild life sanctuary, reserved forest area and other ecological habitats likely to be affected by the reduced levels in the reservoir post construction of the project. for giving Environmental Clearance for Rayalaseema Lift Scheme.*

At present, the proposal has been relisted in PARIVESH Portal on 11-10-2023.

### **5.0 Rules and Regulations for preparation of DPR for River Valley Projects:**

The pattern of minimum drilling required is as mentioned below:

| <b>Structures</b> | <b>Minimum Pattern of drilling</b>   |   |
|-------------------|--|---|
|                   | <b>Spacing of Drill holes/Pits/Drifts</b>  | <b>Depth of Drill holes/Pits/Drifts</b>   |
| <b>Tunnels</b>    | (i) Drill holes one at each of the portal and adit sites and additional at-least one every 1-5 km. interval depending upon the length of the tunnel. | Drill holes 5-10 m below the tunnel grade of maximum possible depth.<br><br>Wherever it is not possible to drill along the central line of the tunnel the holes can be shifted. The explorations shall be so planned as to satisfactorily portray the geological structure and tunnelling conditions. |
|                   | (ii) Drift one each at the portal and adit sites.  | Drifts shall be extended up to 10 m in fresh rock or up   |

|   |   |  |
|---|---|--|
|   |   | to tunnel face.  |
| <b>Canal and water conductor system</b> | Drill holes or pits 500 m or less apart two depict the complete profiles details. | Equal to the full supply depth of canal or one meter below the design bed level in rock whichever is less. |

Note: A minimum pattern of drilling holes and excavation of pits and drifts has been suggested above. It is however suggested that the subsurface exploration programme of the Project is chalked out in consultation with the Geologist in order to bring out clearly the foundation and abutment characteristics especially the weak zones requiring special treatment and the type and depth of cut-off in case of earth and rock-fill dams, etc.

#### **6.0 Observations of the Joint Committee:**

- As per the orders of the Hon'ble NGT, SZ, No works has been carried out during the period July, 2021 to October, 2023.
- Project Proponent is in process of excavating approach channel of about 8.892 km length, width of about 100 meters and depth of 4-5 meters (on average).
- As per the information provided, the details of soil/gravel excavated for the project are as follows:

| Details of Earth Work Excavation |                                |                      |                         |                        |                |
|----------------------------------|--------------------------------|----------------------|-------------------------|------------------------|----------------|
| S.No.                            | Description                    | Total Quantity (Cum) | Executed Quantity (Cum) | Balance Quantity (Cum) | % of Work done |
| 1                                | Approach Channel               | 45965774             | 6497211.57              | 39468562.43            | 14.13%         |
| 2                                | Pump House and its Appurtenant | 2700000              | 2349820                 | 350180                 | 87.03%         |

|  |       |          |            |            |        |
|--|-------|----------|------------|------------|--------|
|  | Works |          |            |            |        |
|  | Total | 48665774 | 8847031.57 | 39818742.4 | 18.18% |

- Since October, 2023, Project Proponent has commenced the Phase-I (drinking water component) of the project, with dewatering activities at the pump house site.
- Plate Load Test as a part of Survey and Investigation works has been carried out.
- Further, levelling course in the forebay is laid. The excavation for tunnels required for pressure mains are completed.
- Presently, works required for drinking water component are under progress at slow pace.

#### **6.1 Compliance of Hon'ble NGT Orders:**

- *whether the work undertaken by the State of Andhra Pradesh for the purpose of DPR is strictly in compliance with the guidelines issued by the Centre Water Commission and Geological Survey of India which is required for the purpose of preparation of DPR as per the guidelines issued by them in this regard.*

**Reply:** The Joint Committee is of the view that the works undertaken by the Project Proponent are **beyond the purpose of preparation of DPR**. The Project Proponent has commenced excavation works and completed around 14.14% for approach channel and around 87.03% for pump house and its appurtenant works which in total around 18.18% proposed excavation.

- *if unnecessary excess work has been done whether it will amount to part of execution of the work, if so found, assess the compensation for the excess work done and consider the damage caused to the environment.*

**Reply:** The Joint Committee concluded that the excess work has been done which is part of execution of the work. The detailed assessment of environmental compensation which caused damage to the environment is mentioned in section 7.0.

### **7.0 Assessment of Environmental Compensation:**

As per the Central Pollution Control Board (CPCB) Guidelines and as per the Joint Committee report dated 30.09.2021 submitted in O.A. No. 148 of 2021 (SZ) in connection with Paramulu Rangareddy Lift Irrigation Scheme (PR LIS), Telangana, the following formula has been considered for calculation of Environmental Compensation:

$$EC = PI \times N \times R \times S \times LF$$

Where,

EC = Environmental Compensation in Rs. ₹/-

PI = Pollution Index of industrial sector

N = Number of days of violation took place

R = A factor in Rupees (₹) for EC

S = Factor for scale of operation

LF = Location factor

The industrial sectors have been categorized into Red, Orange and Green, based on their Pollution Index in the range of 60 to 100, 41 to 59 and 21 to 40, respectively. It was suggested that the average pollution index of 80, 50 and 30 may be taken for calculating the Environmental Compensation for Red, Orange and Green categories of industries, respectively.

'N' is number of days for which violation took place is the period between the day of violation observed/due date of direction's compliance and the day of compliance verified by CPCB/SPCB/PCC.

'R' is a factor in Rupees, which may be a minimum of 100 and maximum of 500. It is suggested to consider R as 250, as the Environmental Compensation in cases of violation.

'S' could be based on small/medium/large industry categorization, which may be 0.5 for micro or small, 1.0 for medium and 1.5 for large units.

'LF' could be based on population of the city/town and location of the industrial unit. For the industrial unit located within municipal boundary or up to 10 km distance from the municipal boundary of the city/town, following factors (LF) may be used:

'LF' will be 1.0 in case unit is located >10km from municipal boundary.

LF is presumed as 1 for city/town having population less than one million.

Based on the information available, the following values were considered for the parameters:

| Parameter                         | Value     | Remark   |
|-----------------------------------|-----------|--|
| PI (Pollution Index)              | 50        | Considered as Orange Category                              |
| N (Number of days of Violation)   | 1415      | From G.O.Rt.No.203 dated 05.05.2020 to till date of Report |
| R (A factor in Rupees (₹) for EC) | Rs. 250/- | Considered Rs. 250/- in case of violation                  |
| S (Factor for scale of operation) | 1.5       | For Large Industry Category                                |
| LF (Location factor)              | 1         | located >10km from municipal boundary                      |

**Environmental Compensation = 50 x 1415 x 250 x 1.5 x 1**

**= Rs. 2,65,31,250/-**

**(Rupees two crores sixty five lakhs thirty one thousand two hundred fifty only)**

## **8.0 Remedial Measures to Restore the damage caused to the Environment:**

1. A separate environment cell needs to be established to restore the environment damage caused. Allocations of budget and implementations of environment management protection measures to be maintained in separate account.
2. Restoration of construction area including dumping sites of excavated materials shall be ensured by levelling, filling up of borrow pits, landscaping etc. The area should be properly treated with suitable plantation.
3. Permission to be obtained from Andhra Pradesh Pollution Control Board (APPCB) for using ready mix and shall take necessary precautions to prevent the fugitive emissions.
4. The Project Proponent shall adhere with the Solid Waste Management Rules, 2016 and dispose the waste as per the rules without polluting the river & soil. If, require shall take advice from APPCB for the disposal of Biodegradable & non-biodegradable waste generated from the labour colonies.
5. The sewage generated from the labour colonies need to be treated before disposing into river or ground. The Project Proponent shall provide temporary bio toilets or septic tank for the management of sewage.
6. The soil dumps shall be stabilised by developing greenbelt and catch drains, siltation ponds are to be provided properly.
7. Water sprinkling arrangements shall be made to suppress the fugitive emissions.
8. Waste oil, used drums, vehicles, scraps, pipes and other materials have to be disposed off with APPCB authorised vendor.

9. The proposed green belt development, if any around various project appurtenances, colony rows with ornamental plants in consultation with State Forest Department shall be strictly adhered to.
10. Occurrence of stagnant pools/slow moving water channels during construction and operation of the project providing breeding source for vector mosquitoes and other parasites. The river should be properly channelized so that no smell pools and puddles are allowed to be formed
11. The equipment likely to generate high noise levels during the construction period or otherwise shall meet the ambient noise level standards as notified under the Noise Pollution(Regulation and Control) Rules, 2000, as amended in 2010 under the Environment Protection Act (EPA), 1986.
12. Permission shall be obtained from various departments which are applicable to the project prior to commencement of works.

**9. Recommendations of The Committee:**

1. The Project Proponent is required to obtain the Environmental Clearance from MoEF&CC and other statutory post facto clearances from the concerned departments/organisations.
2. The Project Proponent shall engage a third party environmental laboratory which is recognised by MoEF&CC or CPCB and shall monitor surface & ground water and ambient air quality once in a month and submit the analysis report to Regional Office of MoEF&CC and Andhra Pradesh Pollution Control Board (APPCB).
3. The Project Proponent shall obtain permission from APPCB for using ready mix and shall take necessary precautions to prevent the fugitive emissions.
4. The Project Proponent shall adhere with the Solid Waste Management Rules, 2016 and dispose the waste as per the rules without polluting


the river & soil. If, require shall take advice from APPCB for the disposal of Biodegradable & non-biodegradable waste generated from the labour colonies.

5. The sewage generated from the labour colonies need to be treated before disposing into river or ground. The Project Proponent shall provide temporary bio toilets or septic tank for the management of sewage.
6. The Project Proponent shall pay Environmental compensation of Rs. 2,65,31,250/- (Rupees two crores sixty five lakhs thirty one thousand two hundred fifty only) to CPCB/ APPCB towards violation of environmental norms for constructing the project without prior approvals.

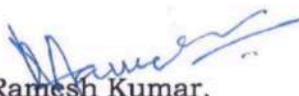
Date: 22.03.2024



Dr. Suresh Babu Pasupuleti,  
Scientist 'D',  
Ministry of Environment, Forest and  
Climate Change, Sub Office,  
Vijayawada.



22/03/2024  
Shri Shailendra Kumar Singh,  
Director (G), Engineering Geology  
Division, GSI, Hyderabad.



Shri M Ramesh Kumar,  
Director, M&A (TS) Dte.  
KGBO, CWC, Hyderabad.

**Item No.1:****BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI****M.A. No. 02 of 2021 (SZ) & M.A. No. 03 of 2021 (SZ)****in****Original Application No. 71 of 2020 (SZ)  
(Through Video Conference)****IN THE MATTER OF**

Gavinolla Srinivas, Damargidda Mandal

....Applicant

**Versus**

Union of India &amp; Ors.

...Respondent(s)

**Judgment Pronounced on: 17<sup>th</sup> December, 2021****CORAM:****HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER****HON'BLE DR. SATYAGOPAL KORLAPATI, EXPERT MEMBER****M.A. No. 02 of 2021**

For Applicant(s):

Mr. Sravan Kumar

For Respondent(s):

Mrs. M. Sumathi for R1

Mr. D. Ramesh Kumar for R2 &amp; R5

Mrs. H. Yasmeen Ali for R3

Mr. Basu for Mrs. Madhuri Donti Reddy for R4.

**M.A. No. 03 of 2021 (SZ)**

For Applicant(s):

Mrs. H. Yasmeen Ali.

For Respondent(s):

Mrs. M. Sumathi for R1.

Mrs. Madhuri Donti Reddy for R3.

Mr. D. Ramesh Kumar for R2 &amp; R4.

**ORDER**

Judgment pronounced through Video Conference. Applications are disposed of with directions vide separate Judgment. All pending interlocutory application(s), if any, also stands disposed of.

..... J.M.  
(Justice K. Ramakrishnan)

..... E.M.  
(Dr. Satyagopal Korlapati)

**M.A. No.02/2021 & 03/2021 in  
O.A. No.71/2020 (SZ)  
17<sup>th</sup> December, 2021.AM.**

BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI

M.A. No. 02 of 2021 (SZ) & M.A. No. 03 of 2021 (SZ)

in

Original Application No. 71 of 2020 (SZ)

*(Through Video Conference)*

IN THE MATTER OF:

M.A. No. 02 of 2021 (SZ)

Gavinolla Srinivas  
H.No. 1-99, Bapanpally Village,  
Damargidda Mandal,  
Narayanpet District,  
Telangana – 509 407.



*Versus*

... Applicant(s)

1. Union of India,  
Rep. by its Secretary,  
Union Ministry of Environment, Forests & GC, नयते  
Indira Paryavaran Bhavan,  
Jorbagh, New Delhi-110003
2. Union of India,  
Rep by its Secretary  
Union Ministry of Jal Sakti  
Sramasakti Bhavan  
New Delhi- 110001
3. State of Telengana  
Rep by its Chief Secretary,  
Secretariat, Hyderabad- 500022
4. State of Andhra Pradesh  
Rep by its Chief Secretary,  
Secretariat, Velagapudi,  
Guntur District, AP- 522503
5. Krishna River Management Board  
Rep by its Member Secretary  
Government of India, Ministry of Water Resources,  
5<sup>th</sup> Floor, jalasoudh, Errum Manzil,  
Hyderabad- 500082

... Respondent(s)

M.A. No. 03 of 2021 (SZ)

The Chief Secretary,  
Secretariat, Hyderabad  
State of Telengana

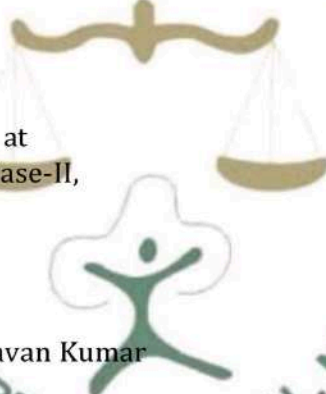
... Applicant(s)

*Versus*

1. Union of India,  
Rep. by its Secretary,  
Union Ministry of Environment, Forests & CC,  
Indira Paryavaran Bhavan,  
Jorbagh, New Delhi-110003
2. Union of India,  
Rep by its Secretary  
Union Ministry of Jal Sakti  
Sramasakti Bhavan  
New Delhi- 110001
3. The Chief Secretary,  
Secretariat, Velagapudi,  
Guntur District, AP- 522503  
State of Andhra Pradesh
4. Krishna River Management Board  
Rep by its Member Secretary  
Government of India, Ministry of Water Resources  
5<sup>th</sup> Floor, jalasoudh, Errum Manzil,  
Hyderabad- 500082
5. M/s SPML-Infra Limited  
Rep by its Managing Director  
Having Registered Office located at  
F-27/2, Okhla Industrial Area, Phase-II,  
New Delhi- 110020



सत्यमेव जयते



... Respondent(s)

**M.A. No. 02 of 2021**

For Applicant(s): Mr. Sravan Kumar

For Respondent(s): Mrs. M. Sumathi for R1  
Mr. D. Ramesh Kumar for R2 & R5  
Mr. J. Ramachandra Rao, Addl. Adv. General  
along with Mr. Sanjeev Kumar, Spl. Govt. Pleader and  
Mrs. H. Yasmeen Ali for R3  
Mr. R. Venkataramani, Sr. Adv. along with  
Mr. M.R. Srinivas and  
Mrs. Madhuri Donti Reddy for R4.

**M.A. No. 03 of 2021 (SZ)**

For Applicant(s): Mr. J. Ramachandra Rao, Addl. Adv. General  
along with Mr. Sanjeev Kumar, Spl. Govt. Pleader and  
Mrs. H. Yasmeen Ali.

For Respondent(s): Mrs. M. Sumathi for R1.  
Mr. R. Venkataramani, Sr. Adv. along with  
Mr. M.R. Srinivas and  
Mrs. Madhuri Donti Reddy for R3.  
Mr. D. Ramesh Kumar for R2 & R4.

**Judgment Reserved on: 4<sup>th</sup> October, 2021**

**Judgment Pronounced on: 17<sup>th</sup> December, 2021**

**CORAM:**

**HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER**

**HON'BLE DR. SATYAGOPAL KORLAPATI, EXPERT MEMBER**

Whether the Judgement is allowed to be published on the Internet – Yes/No

Whether the Judgement is to be published in the All India NGT Reporter – Yes/No

**JUDGMENT**

***Delivered by Justice K. Ramakrishnan, Judicial Member.***

1. M.A. No. 02 of 2021 was filed by the applicant in O.A No. 71 of 2020 whereas M.A. No. 03 of 2021 was filed by the 3<sup>rd</sup> respondent in the original application under Section 26 and 28 of National Green Tribunal Act, 2010.
2. The common allegation in both these applications was that as per Judgement dated 29.10.2020 this Tribunal has disposed of case with following directions:

60. So, this application is disposed of as follows..

(i) Since, the Ministry of Jal Shakti has already directed the Andhra Pradesh Government not to proceed with the project without submitting the Detailed Project Report (DPR) before the Krishna River Management Board (KRMB) and getting their appraisal done, there is no necessity for this Tribunal to go into the question whether prior approval from the Krishna River Management Board (KRMB) is required or not as the matter has to be considered by the Board after evaluating the Detailed Project Report (DPR) to be produced before them as directed by the Ministry of Jal Shakti as that is covered by the provisions of the Andhra Pradesh Reorganisation Act, 2014.

(ii) since, the Tribunal has prima facie found that there is a component of irrigation envisaged in the project and which requires prior Environmental Clearance (EC), and without getting prior Environmental Clearance (EC), the 4<sup>th</sup> respondent is not entitled to proceed with the project, the 4<sup>th</sup> respondent is restrained from proceeding of the work without getting Environmental Clearance (EC).

The parties are directed to bear their respective costs in the application.

3. According to the applicants, as per the above Judgement, the Tribunal had restrained State of Andhra Pradesh, 4<sup>th</sup> respondent and 3<sup>rd</sup> respondent respectively in the above applications, from proceeding with the Rayalaseema Lift Irrigation Scheme without obtaining environmental clearance. According to the applicants, in both these cases, they have violated the order of injunction passed by this Tribunal and they were trying to proceed with the project. So, the applicant in O.A. No. 71 of 2020 earlier filed M.A. No. 06 of 2020 before this Tribunal for similar relief and this Tribunal had by order dated 24.02.2021 disposed of the matter accepting the affidavit filed by the Chief Secretary, State of Andhra Pradesh affirming that they are not doing anything in violation of the order passed and they have no intention to violate the same as well and what they were doing is only as permitted by this Tribunal doing the investigation for the purpose of preparing Detailed Project Report (DPR) which has to be prepared by the State of Andhra Pradesh for the purpose of presentation before the Authorities for getting permission as directed by Krishna River Management Board and Ministry of Jal Shakti.
4. This Tribunal also observed that there is nothing to disbelieve the assertions made by the Chief Secretary, State of Andhra Pradesh and if there is any violation found by Krishna River Management Board, they are at liberty to take appropriate action against them. It is alleged that in spite of that the State of Andhra Pradesh is proceeding with the work and in fact in the guise of preparing DPR, they are proceeding with the work itself.
5. It is also alleged in the M.A. No. 02 of 2021 that the 4<sup>th</sup> respondent has filed an application for environmental clearance before the MoEF&CC and the correspondence between State of Andhra Pradesh and the MoEF&CC

will go to show that even now they are of the opinion that there is no environmental clearance required for this project. They have also undertaken extensive excavation as part of execution of this work. This is nothing but clear violation of the direction issued by this Tribunal and thereby they have committed the offence punishable under Section 26 read with Section 28 of the National Green Tribunal Act, 2010 and they filed this application seeking following relief:

- (i) Declare the action of the State of Andhra Pradesh, Chief Secretary of Andhra and the officials of Irrigation Department is violative of Section 26 and 28 of the NGT Act, 2010 and initiate non compliance proceedings according to law.
- (ii) Direct Union Ministry of Environment, Forest & CC to take action against the project proponent for executing Rayalaseema Lift Irrigation Scheme without Environment Clearance.
- (iii) Restrain the State of Andhra Pradesh from executing Rayalaseema Lift Irrigation Scheme without the approvals from respondents nos. 1 to 3 and Krishna River Management Board.
- (iv) Pass any such order, as the Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

6. In M.A. No. 03 of 2021 apart from reiterating the same allegations made by the applicant in M.A. No. 02 of 2021, they have further alleged that State of Andhra Pradesh had floated tenders for this project on 13.07.2020 evidenced by annexure A-6 and Contractor on the basis of the tender affirmed in his favour, was undertaking the work but State of Andhra Pradesh had misrepresented before this Tribunal that they are not proceeding with the work but they are only proceeding with the investigation for preparation of DPR. On getting the order dated 24.02.2021, State of Telengana had addressed the letter to Krishna River Management Board on 20.03.2021 evidenced by annexure A-7 produced along with the application. Now, they have engaged large number of persons to go with the work evidenced by annexure- A8 series photographs produced. According to the applicant in this application, Tribunal has got wider powers to take appropriate action against the

violators of the directions issued by the Tribunal and filed this application seeking following reliefs:

- a. Hold a physical inspection by this Hon'ble Tribunal at the cost of the applicant herein in view of the aggravated form of contempt.
- b. Initiate action and pass appropriate orders under Section 26 and 28 of the NGT Act, 2010 against the respondent for the wilful violation of the Judgement dated 29.10.2020 in O.A. No. 71 of 2020(SZ) of this Hon'ble Tribunal;
- c. Restrain the State of Andhra Pradesh from executing Rayalaseema Lift Irrigation Scheme without the prior environmental clearance approvals from Union Environment Ministry and Union Jal Shakti Ministry and Krishna River Management Board as per Section 84 of AP Organisation Act, 2014.
- d. Pass any such order, as the Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

7. Respondents 2 and 5 filed their reply affidavit contending that the Department of Water Resources, River Development and Ganga Rejuvenation, Ministry of Jal Shakti Vide letter no. R-21012/2/2020-PenRiv-MoWR dated 19<sup>th</sup> May, 2020 (Annexure-A1 produced along with the counter) directed Krishna River Management Board to further direct the State of Andhra Pradesh not to go ahead with the Rayalaseema Lift Scheme till the same are appraised by KRMB/Central Water Commission and sanction of Apex Council is obtained, as it is provided under para 7 of the 11<sup>th</sup> Schedule of Andhra Pradesh Reorganisation Act, 2014 that no new projects can be taken up on Krishna River without its appraisal by Krishna River Management Board and without obtaining sanction of Apex Council. Accordingly, Krishna River Management Board had directed State of Andhra Pradesh not to proceed with the project vide their communication dated 20.05.2020 evidenced by annexure-A2.

8. Further, 12<sup>th</sup> meeting of the Board of Krishna River Management Board was convened on 04.06.2020, wherein deliberations were held, inter-alia on the above project and also on some other projects of Andhra Pradesh about which Government of Telengana had complained. Similarly, State

of Andhra Pradesh also made some complaints on the projects undertaken by State of Telengana. Both the States were directed not to go ahead with the unapproved projects till the Detailed Project Reports are appraised by the Board/CWC and sanctioned by Apex Council which was evident from minutes of the meeting evidenced by annexure-A3 produced along with the counter. The States were directed to produce the DPR to the Krishna River Management Board within weeks time and both the States submitted in the meeting that issue of submission of DPR will be appraised to their respective State Governments and further action will be taken accordingly.

9. Government of Andhra Pradesh, vide Krishna River Management Board letter F. No. 02/04/2020/KRMB/2690-93 dated 02.12.2020 evidenced by annexure-A4 produced along with the counter, was requested to submit the DPR. Subsequently, Government of Andhra Pradesh vide letter dated 11.11.2020 evidenced by annexure-A5 furnished the DPR of RLS for appraisal and necessary action.
10. Central Water Commission, New Delhi vide their letter dated 16.12.2020 evidenced by annexure-A6 produced along with counter, communicated certain observations on DPR of Rayalaseema Lift Irrigation Scheme. Accordingly, KRMB requested Government of Andhra Pradesh vide letter dated 08.01.2021 evidenced by annexure-A7 to submit DPR of Rayalaseema Lift Irrigation Scheme for appraisal as desired by the Central Water Commission as per the Guidelines of Ministry of Jal Shakti for preparation of DPR for Irrigation and Multipurpose Projects, 2010. It is also mentioned therein that all requisite data and analysis shall be included in the DPR. Simulation studies to examine whether the Rayalaseema Lift Irrigation Scheme does not negatively impact the

availability of water for the projects/schemes already completed or taken up in the Krishna basin, shall also form a part of the DPR. But such a DPR was not received.

11. As per the directions of this Tribunal in M.A. No. 06 of 2020 in O.A. No. 71 of 2020, KRMB communicated to Government of Andhra Pradesh vide their letter F. No. 02/07/A/2021/KRMB/557-559 dated 04.03.2021 evidenced by annexure-A8 produced along with counter that it proposes to send a team consisting of officers from KRMB and CWC to the proposed project location during 2<sup>nd</sup> week of March, 2021. The Government of Andhra Pradesh was requested to nominate a nodal officer for facilitating and interaction with the team. Government of Andhra Pradesh informed KRMB vide letter dated 09.03.2021 evidenced by annexure-A9 that KRMB may first visit the projects being taken up by the State of Telengana in violation of Andhra Pradesh Reorganisation Act, 2014 for which State of Andhra Pradesh requested well in advance before considering the visit of Rayalaseema Lift Irrigation Scheme.

12. KRMB constituted a joint team vide their office order dated 26.03.2021 evidenced by annexure-A10 produced along with the counter, consisting of officers from KRMB and CWC, with a direction to find out as to whether there is any violation of direction of Hon'ble National Green Tribunal proceedings in this matter. KRMB vide letter dated 31.03.2021 evidenced by annexure- A11 informed Government of Andhra Pradesh that the KRMB constituted a team to visit the location of Rayalaseema Lift Irrigation Scheme from 7<sup>th</sup> -8<sup>th</sup> April, 2021 and requested to nominate a nodal officer. Further, the documents with the site plan and investigation proposed/being carried out at project site in respect of Rayalaseema Lift Irrigation Scheme was sought for by the team during the visit.

Government of Andhra Pradesh vide their letter dated 05.04.2021 evidenced by annexure-A12 informed KRMB that as the issue is of critical nature, it is requested to place the matter before the full Board meeting of KRMB for taking a decision, till that the proposed visit to Rayalaseema Lift Irrigation Scheme may be cancelled. KRMB vide their letter dated 12.04.2021 (Annexure-A13) informed Government of Andhra Pradesh again that the team is proposed to visit the project location from 19<sup>th</sup> -20<sup>th</sup> April, 2021 with a request to nominate a nodal officer to facilitate the visit. The Government of Andhra Pradesh vide their letters dated 15.04.2021, 17.04.2021 and 18.04.2021 (Annexure-A14 series) informed KRMB that 2<sup>nd</sup> Wave of COVID-19 is spreading in Andhra Pradesh and Telengana. The Concerned Chief Engineer and Superintending Engineer are also affected with COVID-19 and finally requested to cancel the site visit of Rayalseema until a decision is taken in the Board meeting of KRMB and all the issued raised by Government of Andhra Pradesh are fully addressed and till the severity of COVID is reduced.

13. They also explained the several provisions of the Krishna Water Dispute Tribunal-1 award and the pending proceedings in respect of the same. They also mentioned that again and again they have requested the State of Andhra Pradesh to facilitate their inspection in order to comply with the direction of National Green Tribunal. Ministry of Jal Shakti vide their letter dated 02.07.2021 directed that KRMB may request the Government of Andhra Pradesh for facilitating visit of team of officials from KRMB and CWC to the project in question to enable proper reporting to the Tribunal. The same was again requested vide their letter dated 03.07.2021 informing their visit by 6<sup>th</sup>-7<sup>th</sup> July, 2021. Again State of Andhra Pradesh wanted to defer the visit. So according to them despite several series of

attempt made by KRMB, the site could not be visited by them to ascertain whether there is any violation of the direction of the National Green Tribunal at project site as they did not cooperate. They have produced the documents relied on by them along with their counter affidavit in support of their contentions. They prayed for passing appropriate orders accepting their contentions.

14.4<sup>th</sup> respondent, State of Andhra Pradesh filed their counter Affidavit in M.A. No. 02 of 2021 contending that the application is not maintainable under Section 26 and 28 of National Green Tribunal Act, 2010. They have not violated the order passed by this Tribunal and they have no intention to act disobediently to the orders passed by this Tribunal. They did not act in deviation of the orders passed by this Tribunal as well. They contended that the State of Andhra Pradesh planned to construct Rayalaseema Lift Irrigation Scheme initially at Muchumarri to draw water from the foreshore of Srisaillam Reservoir to realise its allocated water awarded by KWDT-1. In view of dwindling flows into Srisaillam Reservoir and change of inflow pattern into Srisaillam Reservoir the State of Andhra Pradesh is unable to realise its allocated share through Pothireddypadu Head Regulator as it can draw water by gravity only when the water level in Srisaillam Reservoir is +854 feet and above. The proposed Rayalaseema Lift Irrigation Scheme is planned to draw water from foreshore of Srisaillam Reservoir from +800 feet to supplement water needed for 4 systems namely (1) SRBC (19 TMC) Drinking water supply to Chennai city (15 TMC) through Telugu Ganga Project (3) Telugu Ganga Project (29 TMC) and (4) Galeru Nagari Srujala Sravanthi (38 TMC) totalling to 101 TMC. The proposed Rayalaseema Lift Irrigation Scheme is to supplement 3 TMC per day to Srisaillam Right Main Canal downstream of

Pothireddypadu Head Regulator to supplement water to above mentioned project. In order to realise the above mentioned quantity of 101 TMC, the proposed Rayalaseema Lift Irrigation Scheme is taken up by the State of Andhra Pradesh which draws water when the water level in Srisailam Reservoir is between +800 feet and to +854 feet.

15. The water will be drawn from Srisailam Reservoir through Pothireddypadu Head Regulator, when the water level in Srisailam Reservoir level is between +854 feet to +885 feet and these draws are by gravity. However, when the water level in Srisailam Reservoir has gone below +854 feet, the water would be drawn through Rayalaseema Lift Irrigation Scheme upto a level of +800 feet.

16. The applicant filed the O.A. No. 71 of 2020 before this Tribunal challenging the scheme and the Tribunal disposed of the matter with certain directions. Pending the Original Application, this Tribunal by order dated 13.07.2020 permitted the State of Andhra Pradesh to proceed with the tenders and also to conduct necessary survey in respect of preparation of DPR for Rayalaseema Lift Irrigation Scheme. Subsequently, 4<sup>th</sup> respondent called for tenders and the lowest bidder entered into an agreement with the State of Andhra Pradesh in respect of the Rayalaseema Lift Irrigation Scheme. In the light of the various observations made by the Tribunal while passing the final Judgement dated 29.10.2020, the bidder was requested to conduct a detailed survey and investigation and to suggest alternative site, if any, other than the original site i.e. Mutchyumarri to avoid land acquisition. After a preliminary investigation, the bidder suggested that the Rayalaseema Lift Irrigation Scheme may be constructed on the left side of the Pothireddypadu Head Regulator, where Government land is available.

17. The alternate proposal made by the bidder was considered by the Technical Committee comprising of two Chief Engineers from Central Designs Organisation, Vijayawada and Chief Engineer, Kurnool. The Expert Committee approved the alternative site i.e. on the left side of the Pothireddypadu Head Regulator in the light of some of the observations made by this Hon'ble Tribunal and to avoid land acquisition. Thereafter, the State of Andhra Pradesh requested the Geological Survey of India to inspect the alternative site at Pothireddypadu Head Regulator as regards its feasibility. The Geological Survey of India vide its Lr. No. 43/EGD/GSI/SR/2020, dated 04.12.2020 issued feasibility report, stating that the alternative location is suitable for construction of Rayalaseema Lift Irrigation Scheme. The conservator of Forest of Nagarjunsagar-Srisailem Tiger Reserve was also requested to furnish his views on the alternative site. The Conservator of Forest of Nagarjunsagar-Srisailem Tiger Reserve vide proceedings Lr. RC. No. 1055/2021/TO, dated 27.06.2021 informed that there were no Eco Sensitive Zones within 10 km of the proposed project site and the existing Nagarjunsagar-Srisailem Tiger Reserve was situated at a distance of 11.54 km. For better appreciation of Tribunal the following comparative table would furnish necessary details of the original proposal projected before this Tribunal before passing the order dated 29.10.2020 and the modified present proposal.

| Components   | Initial Proposal of Rayalaseema Lift Scheme  | Modified Present Proposal  |
|--|--|--|
| 1. <u>Pump house:</u> Pump house is proposed to accommodate 12 nos. Of pumps. With a capacity of 81.93 cumecs. | i. Pump House located to the East of Muthumarri Village.                                     | I. The Pump House on the 'higher ground' adjacent to existing PRHR on Northern side. |
| 2. Approach channel is proposed foreshore  | ii. Approach channel running along the ridge line in submergence area for a length of 4.5 km | II. Approach channel running along the valley in Bhavanasi                           |

|  |  |  |
|--|--|--|
| <p>area to reach upto proposed pump house including forebay is proposed from the end of the approach channel upto the pump house.</p> <p>3. Pipeline: The M.S. Pipeline of 500 mm diameter is proposed from pump house to the delivery cistern.</p> <p>4. Link Canal: excavation of link canal from the delivery cistern to SRMC downstream of Pothireddeypadu Head Regulator 0.5 km</p> | <p>iii. Pipeline: The M.S. pipeline of 500mm diameter is proposed from pump house to the delivery cistern.</p> <p>iv. Link Canal Running for a length of 22.9 kms parallel to the FRL for most part, passing adjacent to/in-between resettlement villages/colonies of Sankirenipalle/N/M Ghanapuram and joining SRMC @ 4<sup>th</sup> KM.</p> <p>v. Nearly 500 acres of private lands are to be acquired for this proposal</p> | <p>river for a length of 8.89km.</p> <p>III. Delivery carried through pipelines into the DC.</p> <p>IV. Link canal for a length of 0.5 km constructed on SRDMC D/S of HR.</p> <p>V. This proposal does not require any Land Acquisition.</p> |
|--|--|--|

18. It will be seen from the table that in the modified proposal, the pump house is situated north side of the existing Pothireddeypadu Head Regulator with an approach channel of 8.892 km located in the foreshore of Srisaillam Reservoir, connecting to a forebay of 237 mts, with a link canal connecting to the existing SRMC with 0.5 kms or 500 mts. Thus, the land required for the modified proposal is only 25.02 ha. The said extent of the land is a Government land and is available at Pothireddeypadu Head Regulator, which was acquired for the construction of the Pothireddeypadu Head Regulator and excavation of SRMC to dump the spoil muck from the construction of Pothireddeypadu Head Regulator and excavation of SRMC. The dumped spoil/muck in the said Government land admeasuring to an extent of 25.20 ha will be catering to the existing gaps of the spoil banks all along SRMC to ensure the availability of Government land for the proposal of Rayalaseema Lift Irrigation Scheme. So, no fresh land acquisition is required for this purpose.

19. The modified scheme does not involve creation of any new irrigation area as there is no increase in the capacity of the existing canal either by providing additional canals or diversion canals or by widening or enhancing the dimension of the existing canals. It is also brought to the kind notice of this Tribunal that there is no eco-sensitive zone within 10 km from the proposed site and the nearest protected area is Nagajunasagar Srisailem Tiger Reserve which is about 11.544 km. In respect of the modified scheme, the State of Andhra Pradesh had submitted a DPR to Central Water Commission on 30.06.2021. On 01.07.2021 DPR was also submitted to KRMB with all the necessary details. On 09.06.2021, the State of Andhra Pradesh has applied for environmental clearance to the modified proposal. The Expert Appraisal Committee of MoEF&CC considered the modified proposal of the State of Andhra Pradesh in its meeting on 17.06.2021 and 07.07.2021 and sought certain clarifications from the State of Andhra Pradesh and the same is pending. The following is brought to the notice of the Expert Appraisal Committee by State of Andhra Pradesh:

- (i) Water will be drawn commensurate to the allocations of the State of Andhra Pradesh out of allocation made by KWDR-I either by gravity or by pumping depending upon the water level in the Reservoir.
- (ii) It is made clear to the EAC that both mechanisms will not and cannot be operated simultaneously and that the present scheme is envisaged only to bridge the gap in the realization of allocated water for all beneficial uses including drinking and irrigation purposes.
- (iii) It is further brought to the notice of the EAC that the schemes through which water will be supplied were already granted environmental clearance vide proceedings Lr. No. J-0016/70/83-IA, dated 19.08.1998 for Telugu Ganga Project, Lr. No. J. 12011/7/95/IA, dated 07.07.1995 for SRBC and Lr. No. J-12001/18/2006-1/A1, dated 21.06.2006 for Galeru Nagari Sujala Sravanthi (GNSS).
- (iv) It is further brought to the notice of the EAC that under the proposed scheme, water would be utilized in the above mentioned existing scheme, which have environmental clearance without creating any new irrigation, no fresh environmental clearance required. However, the State of Andhra Pradesh in obedience with

the order dated 29.10.2020 passed by this Hon'ble Tribunal, applied for environmental clearance for the modified proposal.

20. In view of the report of the Geological Survey of India dated 04.12.2020, one of the members of the Expert Committee appointed by this Tribunal pending main O.A. No. 71 of 2020 raised the concern about subsidence of soil due to presence of limestone in the soil strata. In view of the subsidence factor, it has become inevitable to expose the approach channel to water. The said approach channel is duly located in the foreshore of Srisailem reservoir and gets submerged as the reservoir gets filled up. Subjecting the strata of the approach channel to get filled with water will give a realistic picture of existence of subsidence and soil failure. Thus, it became inevitable to partially expose the strata before it gets submerged and to observe the condition of the strata next year for subsidence occurrence. Thus, the approach channel in this monsoon, left exposed for study of subsidence for one drowned season. No concrete work is going on at the new site North of Pothireddypadu Head Regulator in obedience with the order passed by this Tribunal. The survey and investigation work so far done at the new site is only to expose the foundation in view of the variation in the soil strata and to rule-out the subsidence factor as regards its suitability. They have also given para-wise comments in respect of the same.

21. So, according to the State of Andhra Pradesh, they have not committed any violation of the Judgement dated 29.10.2020 and they have no intention to violate the same as well. They have stopped the work on 07.07.2021. So, they prayed for dismissal of the application.

22. State of Andhra Pradesh also filed a memo to the statement submitted by the respondents 2 and 5 wherein, they have extracted some portion of the

order of this Tribunal dated 23.07.2021 and 09.08.2021 and also directed KRMB to conduct investigation on their own to find out as to whether there is any violation. Since, some of the members of the team were not acceptable to the State of Andhra Pradesh as that member was from State of Telengana and this was brought to the notice of this Tribunal and this Tribunal had directed the Committee to include persons who are not belonging from both the States.

23. They have also filed counter affidavit in M.A. No. 3 of 2021 where they were arrayed as 3<sup>rd</sup> respondent, more or less reiterating the contentions raised by them in their counter in M.A. No. 02 of 2021 and also denied the certain allegations made by State of Telengana alleging violations of the direction issued by this Tribunal. They also raised the contention that the applicant in that application has no *locus standi* to file the application and prayed for dismissal of the application.

24. This Tribunal had directed MoEF&CC and also Joint Committee to submit their independent report regarding violations said to have been committed by State of Andhra Pradesh in respect of this Rayalaseema Lift Irrigation Scheme. MoEF&CC has filed their report in respect of Rayalaseema Lift Irrigation Scheme and the proposed site dated nil, e-filed on 07.09.2021 which reads as follows:

*"Inspection report on status of Rayalaseema Lift Scheme on down stream of Pothiredypadu Head Regulator, District Kurnool, Andhra Pradesh in the matter of M.A. No. 02 of 2021 (SZ) & M.A. No. 03 of 2021 (SZ) in Original Application No. 71 of 2020 (SZ) in the matter of Gavinolla Srinivas Vs Union of India, and Ors.*

**1. Background:**

*The Hon'ble NGT vide order dated 16.08.2021 had directed the MoEF&CC to file an independent statement regarding the allegations made in the applications in respect of the alleged violation said to have been committed by the State of Andhra Pradesh. In this regard, Ministry vide letter no. L11011/01/2020-JA-I (R) dated 02.09.2021 directed Integrated Regional Office (IRO), Vijayawada to conduct site visit and provide actual status as alleged by applicant. Based on the directions of Hon'be NGT, the site inspection conducted on 06.09.2021 and the factual observations are as follows:*

## 2. Observations:

The site inspection was conducted by Dr. Suresh Babu Pasupuleti, Scientist C, Ministry of Environment, Forest and Climate Change (MoEF&CC), Integrated Regional Office (IRO), Vijayawada on 06.09.2021. During the day of inspection, Shri R. Muralinatha Reddy, Chief Engineer & DWRO, Shri M. L. N. Vara Prasad, Executive Engineer, Shri P Subha Kumar, Executive Engineer and Other Officials were present.

It has been observed that the MoEF&CC granted three Environmental Clearances (ECs) for various canals of the project and the details are as follows:

| S.N. | Name of the project                   | Project Name   |
|------|---------------------------------------|--|
| 1.   | Telugu Ganga Project (TGP)            | P&F Dept. vide Letter No.J-11016/70/83-IA dated 19.09.1988 |
| 2.   | Srisailam Right Branch Canal (SRBC)   | MoEF vide letter No.J12011/7/95 - IA.I dated 07.07.1995    |
| 3.   | Galeru Nagari Sujala Sravanthi (GNSS) | MoEF vide letter No.J-12001/18/2006-IA-I dated 21.06.2006  |

It has been observed that there are no signs of progress in project construction works and all construction equipment's/machineries viz., drilling, batching plants, trucks, JCBs, labour hutment, etc., are under shutdown/periodic maintenance condition. Earlier procured construction materials were stored at the project site.

It has been stated by Project Proponent is that the works undertaken till date is required for the purpose of the preparation of Detailed Project Report (DPR) for which Hon'ble NGT has permitted.

It has been observed that the detailed technical joint committee inspection report by Krishna River Management Board (KRMB), Hyderabad has already submitted in front of Hon'ble NGT, SZ, Chennai in the month of August, 2021.

The main aim of Rayalaseema Lift Scheme is to supplement 3 TMC/day to SRMC on D/s of Pothireddypadu Head Regulator in Kurnool District, when the water level is below +854.00 ft in Srisailam reservoir.

In this regard, Project Proponent vide proposal no. IA/AP/RIV/214491/2021: F. No. J-12011/18/2006-IA.I (R) titled Environmental clearance for Rayalaseema Lift Scheme to supplement 3 TMC per day to SRMC on D/s of Pothireddypady Head Regulator, which is an integral part of 1. Galeru Nagari Sujala Shrvanathi (GNSS) Project in District Kurnool, Andhra Pradesh. 2. Srisailam Right Branch Canal, Andhra Pradesh. 3. Telugu Ganga Project, Page 7 of 7 Andhra Pradesh-Amendment to the Existing Environmental Clearance to include Rayalaseema Lift Scheme has submitted to MoEF&CC and is being appraised by Expert Appraisal Committee (EAC) for River Valley and Hydroelectric Projects.

## 3. Conclusions:

1. There are no signs of progress in project construction work activities and earlier procured construction materials were stored at the project site.

2. Project Proponent submitted amendment to the existing Environmental Clearance to include Rayalaseema Lift Scheme to MoEF&CC vide proposal no. IA/AP/RIV/214491/2021: F.No. J-12011/18/2006-IA.I (R) and is being appraised by Expert Appraisal Committee (EAC) for River Valley and Hydroelectric Projects."

25. Joint Committee had filed a report signed by members on 13.08.2021, e-filed on 25.08.2021 which reads as follows:

**REPORT ON THE SITE VISIT OF THE TEAM CONSTITUTED BY  
KRISHNA RIVER MANAGEMENT BOARD (KRMB) FOR THE  
INSPECTION OF RAYALASEEMA LIFT SCHEME (RLS) IN  
ANDHRA PRADESH**

**1. BACKGROUND**

Shri Gavinolla Srinivas, resident of Narayanpet District filed O.A. No. 71/2020 in Hon'ble National Green Tribunal (SZ), Chennai, by questioning the validity of Rayalaseema Lift Scheme (RLS) taken up by the Govt. of Andhra Pradesh (GoAP).

Hon'ble National Green Tribunal (NGT) in the matter, vide order dated: 24<sup>th</sup> February, 2021, under Para 15 and Para 16 stated as under:

*"so under such circumstances, we feel that there is no necessity at this stage for go into the investigation in this matter and Krishna River Management Board, on the basis of the complaint made by the Telangana Government in this regard, are at liberty to go into the question and if it is found that there is any violation of direction of this Tribunal in the proceedings with the matter on the basis of the investigation conducted by them independently, they are at liberty to take appropriate action against the 4<sup>th</sup> respondent (GoAP) in accordance with the law, apart from the applicant to approach this Tribunal at that stage."*

*"the Krishna River Management Board is directed to take appropriate decision in the application at the earliest."*

Accordingly, Chairman, KRMB, constituted a team consisting of officers from KRMB Secretariat and Central Water Commission (CWC), with a direction to find out if there is any violation of directions of NGT proceedings in this matter. The team consisted of the following officers:

- |      |  |                        |
|------|--|------------------------|
| i)   | Shri Harikesh Meena, Member, KRMB                    | Team Leader & Convenor |
| ii)  | Shri D. M. Raipure, Member Secretary, KRMB           | Member                 |
| iii) | Shri L. B. Muanthang, Member (Power), KRMB           | Member                 |
| iv)  | Shri P. Devender Rao, Director, KGBO, CWC, Hyderabad | Member                 |

GoAP did not facilitate the visit of the team to the project site citing various reasons.



Subsequently, again Shri Gavinolla Srinivas filed M.A. No.02/2021 Hon'ble NGT, Southern Zone, Chennai in O.A. No. 71/2020 in connection with the construction of Rayalaseema Lift Scheme.

Hon'ble NGT, Southern Zone, Chennai vide order dated: 23<sup>th</sup> July,2021 in the matter under Para 7 *inter-alia* stated that:

*".....we have directed the Krishna River Management Board to submit as to whether there is any violation of the undertakings given by the parties and the directions given by the Ministry in this regard. So they are expected to incorporate those things in their reply to be filed, for that purpose they are at liberty to conduct inspection on their own and come with the data of what is transpired at the site and also whether that is done for the purpose of preparing the DPR for the project for the purpose of ascertaining the real nature of the project or otherwise"*

Accordingly, KRMB Secretariat vide letter dated 02.08.2021 informed Government of Andhra Pradesh that a team comprising of officers of KRMB and CWC is proposed to visit the project site on 05.08.2021. GoAP vide letter dated 03.08.2021 objected about the nomination of Shri P. Devender Rao, Director, KGBO, CWC as a member of the proposed team.

Hon'ble NGT in M.A. No.02/2021 & M.A. No.03/2021 in its order dated:04.08.2021 vide Para 4 *inter-alia* stated that

*".....however, when some apprehension has been raised, it is always better that persons from both the states will have to be avoided as justice must not only be done, but it must appear to be done as well "*

Hon'ble NGT in M.A. No.02/2021 & M.A. No.03/2021 in its order dated:09.08.2021 vide Para 3 *inter-alia* stated that

*".....as only question that has to be considered is as to whether there was any excess work, than required for the purpose of preparing the DPR by the State of Andhra Pradesh has been done by them and whether they are doing any preparatory work for the execution of the proposed project.. "*

*[Handwritten signatures]*

## 2. RE-CONSTITUTION OF TEAM AND SITE VISIT

In light of the directions of the Hon'ble NGT, Chennai dated 04.08.2021, the team was re-constituted with the following officers from KRMB & DoWR-CWC:

- |      |  |          |
|------|--|----------|
| i)   | Shri D. M. Raipure, Member (Link Officer) and Member Secretary, KRMB | Convenor |
| ii)  | Shri L. B. Muanthang, Member (Power), KRMB                           | Member   |
| iii) | Shri Darpan Talwar, Director, HCD, CWC, New Delhi                    | Member   |

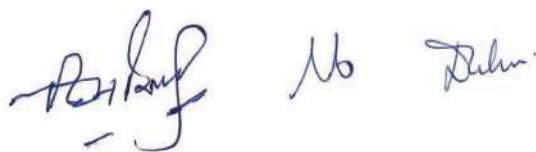
The above said team that visited the project site does not have any officer from the State of Telangana or Andhra Pradesh. The team was mandated to visit the project site to conduct inspection and come with the report of what is transpired at the site and also whether that is done for the purpose of preparing the DPR for the project or actual construction of the project. A copy of the Office Order re-constituting the team is enclosed as **Annex**.

The team undertook the visit to the project site on 11.8.2021. The Chief Engineer of Rayalseema Lift Scheme facilitated the visit of the team.

## 3. MAIN COMPONENTS OF THE SCHEME

As per the DPR received in KRMB vide Letter dated 1.7.2021 of Chief Engineer (P) & DWRO, Kurnool, the proposed Rayalseema Lift Scheme (RLS) is located adjacent to the existing Pothireddypadu Head Regulator in Kurnool district of Andhra Pradesh. The main components of the scheme are as given below:

- **Approach channel:** The approach channel with EL 800 ft. is proposed for the length of 8892m in Srisaillam foreshore area upto forebay of pump house.
- **Forebay:** Forebay is proposed from approach channel to the pump house for a length of 237 m.
- **Pump house:** It is proposed to be of size 250m x 40m with bottom level at about EL710 ft. The pump house is proposed to accommodate 12 no. of pumps. The proposed capacity of each pump is 81.93 Cumec.
- **Pipe Line:** The M.S. pipe line for pressure main of 5m diameter and length of 200 m for each motor is proposed from the pump house to the delivery Cistern.
- **Delivery Cistern:** Pressure main will have delivery level at EL 885.14 ft. The delivery Cistern is connected to Link Channel.
- **Link Canal:** Link channel for a length of 500m is proposed from delivery Cistern to Srisaillam Right Main Canal (downstream of Pothyreddypadu



Head Regulator), joining at 300m downstream of Pothireddypadu Head Regulator.

#### 4. SITE INSPECTION AND OBSERVATIONS

The team undertook the visit to various components of the project. The observations of the team during the inspection of the site are as under:

##### (i) Approach Channel

It was observed that the approach channel was completely submerged under water as the water level in the reservoir was reported to be at EL 884.8 ft during the visit. The Chief Engineer informed that the approach channel has been partially excavated to the extent of about 30% of total excavations at various locations to different elevations along the length. Further, the excavation levels have not reached upto the bed level of EL 800ft.

Due to submergence of the approach channel, the team could not ascertain the extent of excavation undertaken in the approach channel. It was however observed that a ledge of about 15m has been kept unexcavated between forebay and approach channel to prevent entry of water into excavated area of the forebay. An upstream view of the approach channel is placed as P1.



P1: View of Upstream View of the Approach Channel

##### (ii) Forebay

It was observed that a major portion of forebay, with the full length of 237m and its width, has been excavated to varying depths. The average excavated level

*Asif*      *16*      *Dulwan*

of the forebay towards the pump house side is observed to be lower than the invert level of delivery tunnels. The depth of excavation of the forebay is observed to be of the order of about 150 to 180 ft towards the pump house end. Two side ramps to facilitate movement to lower levels of excavation have been observed. It was observed that the shotcreting on the walls of forebay has been carried out. Views of Downstream View of Forebay and side ramp and Wall of Forebay are placed P2 and P3.

### **(iii) Pump House**

It was observed during the visit that full length of 250m & width of 40m of pump house pit has been excavated upto about EL730 ft. The pump house pit excavation levels were observed to be below the level of invert of delivery tunnels. The support to rock mass in the form of shotcreting/ shotcreting with pattern rock bolting has been observed on the vertically excavated walls of the pump house pit. Views of Pump house pit from Forebay and Pump house pit are placed as P4 and P5.

### **(iv) Pipe line (Delivery Main)**

It was observed that ten number of tunnels out of a total of 12 have been excavated for erection of 5m diameter pipe line (delivery main). The excavation of tunnels for a short length of reportedly about 35-50m has been carried out. The shotcreting at initial area/face of tunnel was observed. Closer View of Pipe Line /Delivery Main Tunnel is placed as P6.

### **(v) Delivery Cistern and Link Canal**

It was observed that the delivery cistern has been excavated to its full length and width. Significant depth of delivery cistern has been excavated. The link canal of length of about 500m is proposed to connect delivery cistern with Srisailam Right Main Canal (SRMC). View of the Delivery Cistern from side is placed as P7.

### **(vi) Batching Plant**

The team observed that two batching plants have been installed at the project site. View of Batching Plants are paced at P8 and P9.

### **(vii) Stacking of Aggregates**

It was observed that coarse aggregates, fine aggregates and sand have been stacked besides the batching plant at the site. The view of stacking of aggregates is placed at P10.

**(viii) Activities ongoing at Site during visit**

During the visit, no activity was going on at the site. The view of sheds near upstream side of Delivery Chamber is placed as P11.

**5. CONCLUSIONS**

Based on the observations made during project site visit, the team concludes as follows:

1. The activities undertaken at the site as observed by the team have been detailed at Item number 4 "Site Inspection and Observations" above, along with the photographs taken during the visit.
2. During the visit to the project site, no activity was going on at the site. However, the team observed that two batching plants have been installed at the site. Further, coarse aggregates, fine aggregates and sand were seen stacked besides the batching plant at the site.
3. The team is of the view that the works undertaken at the site are in excess than what is, in general, required for the purpose of the preparation of Detailed Project Report as per Ministry of Water Resources' "Guidelines for the Preparation of Detailed Project Report of Irrigation and Multipurpose Projects" (2010).

26. The State of Andhra Pradesh filed their objections to report submitted by KRMB and Joint Committee in order to substantiate their case that they have not committed any violation and it was only for the purpose of preparing the DPR as directed Geological Survey of India and Central Water Commission that extensive study will have to be done and they have not committed any violation and they have no intention to commit any violation as well and it cannot be treated as a wilful violation if any excess work has been done, in view of the circumstances mentioned in the objection.

27. The applicant in M.A. No. 2 of 2021 has filed objection to the report wherein, they have reiterated that the act of State of Andhra Pradesh will amount to partial execution of work itself and even if it is treated as a preparation for the project, then they can do the same only after obtaining prior environmental clearance and as such it will be deemed to be

violation of the direction issued by the Tribunal restraining them from proceeding with the project without obtaining environment clearance.

28. Heard the Learned Counsel for the applicant in Miscellaneous Application No. 02 of 2021, Learned Additional Advocate General of State of Telengana, Applicant in M.A. No. 03 of 2021 and the Learned Counsel for MoEF&CC, Krishna River Management Board and Learned Senior Counsel for State of Andhra Pradesh.

29. Learned Counsel appearing for the applicant in M.A. No. 02 of 2021 argued that under Section 26 of the National Green Tribunal Act, 2010, this Tribunal has got power to punish persons who had violated the orders or directions and Section 28 deals with officers, who can be proceeded against in case of violations committed by Government or other Government Departments. The scheme of the Act will go to show that National Green Tribunal has got its own powers to regulate the procedure and execute the orders and punish persons who are not complying with the directions. He also argued that under Section 25 of the National Green Tribunal Act, 2010, the Tribunal can send it for execution of award as if it is a Civil Court decree to any other Civil Court having jurisdiction or the Tribunal itself can execute it. Even assuming that Section 26 does not cover the procedure for initiating action for criminal violation by itself, by invoking the inherent powers which are vested with the statutory Tribunal, the Court can take action against persons who are violating the orders as neither Code of Civil Procedure nor any other procedural laws are applicable to National Green Tribunal and it can evolve its own procedure for implementing the provisions of the Act to meet the ends of justice.

30. According to the applicant, the State of Andhra Pradesh, in the guise of preparing DPR, is trying to execute the work. The report submitted by the Joint Committee will go to show that for the purpose of preparation of DPR, so much work need not be done by them. Further, they are excavating soil for the purpose of establishing the canals and channels and also providing tunnels which are also part of the execution of the work. Further, the environmental clearance application was pending with the MoEF&CC as admitted by them and as such they are not expected to proceed with the work without obtaining further orders from the MoEF&CC in this regard. Further, report of the Joint Committee will go to show that the nature of work done by them is in excess for preparation of DPR and that will also go to show that it is part of execution of the work and not for preparation of the DPR as claimed. So, according to the Learned Counsel, they have wilfully violated the orders of this Tribunal and they are liable to be proceeded against. The Learned Counsel had relied on decisions reported in Supreme Court Bar Association vs Union Of India & Anr<sup>1</sup>, Dhananjay Sharma vs State Of Haryana And Ors<sup>2</sup>, R.K. Singh vs. Union of India & Ors<sup>3</sup>, confederation of real estate developers association of India vs union of India & Ors.<sup>4</sup>, Order of NGT dated 05.08.2021 in Braj Foundation vs. Government of Uttar Pradesh & ors<sup>5</sup>, State of Karnataka vs. Vishwabharathi House Building & Ors.<sup>6</sup> and Director General Road Development, National Highway Authority of India vs. Aam Adami Lok Manch and Ors.<sup>7</sup> in support of their case.

<sup>1</sup> (1998) 4 SCC 409

<sup>2</sup> (1995) 3 SCC 757

<sup>3</sup> O.A. 45/2019 (EZB) dated 09.09.2020

<sup>4</sup> 2021 SCC Online Jharkhand 317

<sup>5</sup> M.A. No. 110 of 2014 in O.A. No. 278 of 2013

<sup>6</sup> (2003) 2 SCC 412

<sup>7</sup> 2020 SCC online sc 572

31. Learned Additional Advocate General, Mr. J. Ramachandra Rao, who represented State of Telengana, the applicant in M.A. No. 03 of 2021 also vehemently argued that the State of Andhra Pradesh in violation of the directions issued by this Tribunal that they should not proceed with the project without obtaining environmental clearance in the guise of preparing DPR, they are proceeding with the work. A perusal of the nature of the work done by them as admitted by them as well as, envisaged by the report submitted by the Joint Committee will go to show that they have executed some part of the work which they are not entitled to proceed with without obtaining environmental clearance. Further observations made by Krishna River Management Board in their reply affidavit will also go to show that whenever they wanted to have inspection of the area, the State of Andhra Pradesh is not cooperating with them and they were trying to delay the inspection so as to accomplish their unauthorised act. That will amount to contempt on part of the State of Andhra Pradesh and this Tribunal has every power to punish such persons who are wilfully disobeying the directions and committing violations of the directions deliberately so as to undermine the directions issued by this Tribunal and such an attitude of the Government should not be allowed to continue and that will make only orders of the Tribunal redundant and make the Tribunal powerless even it is brought to the notice of the Tribunal at the time of violations made. In such cases, the Tribunal has to invoke the inherent jurisdiction for the purpose of upholding its dignity and punish the persons who are violating the orders with a view to undermine the powers of the Tribunal and if the Tribunal takes the view that Tribunal has no power to punish persons who are committing offenses under the Act, then it will only encourage the

Government officials to violate the order under the feeling that even if there is violation committed, no action will be possible for the Tribunal to punish them. He relied on the decisions reported in Supreme Court Bar Association vs Union Of India & Anr<sup>8</sup>, Dhananjay Sharma vs State Of Haryana And Ors<sup>9</sup>, R.K. Singh vs. Union of India & Ors.<sup>10</sup>, confederation of real estate developers association of India vs union of India & Ors.<sup>11</sup>, Order of NGT dated 05.08.2021 in Braj Foundation vs. Government of Uttar Pradesh & ors <sup>12</sup> , State of Karnataka vs. Vishwabharathi House Building & Ors. <sup>13</sup> , Director General Road Development, National Highway Authority of India vs. Aam Adami Lok Manch and Ors.<sup>14</sup>, State of M.P vs Centre for Environment Protection Research and Development and Ors.<sup>15</sup>, Vellore Citizens Welfare Forum through its President vs Union of India and Ors.<sup>16</sup> of Hon'ble High Court of Madras dated 07.04.2016 reported in 2016 Law Weekly 11.Learned Additional Advocate General also relied on the decision reported in Braj Foundation vs. Government of Uttar Pradesh & ors<sup>17</sup> in support of their case.

32. On the other hand, Learned Senior Counsel Mr. R. Venkataramani appearing for the State of Andhra Pradesh vehemently opposed these applications on the ground that the applications are not maintainable and no punishment can be imposed by this Tribunal invoking Section 26 and 28 of the National Green Tribunal Act, 2010 in view of the specific procedure provided under Section 30 of the National Green Tribunal Act. Section 26 deals with the offence under this Act, Section 28 deals with the

<sup>8</sup> (1998) 4 SCC 409

<sup>9</sup> (1995) 3 SCC 757

<sup>10</sup> O.A. 45/2019 (EZB) dated 09.09.2020

<sup>11</sup> 2021 SCC Online Jharkhand 317

<sup>12</sup> M.A. No. 110 of 2014 in O.A. No. 278 of 2013

<sup>13</sup> (2003) 2 SCC 412

<sup>14</sup> 2020 SCC online sc 572

<sup>15</sup> (2020) 9 SCC 781

<sup>16</sup> W.P No. 13463/1996 and connected cases

<sup>17</sup> M.A. No. 110 of 2014 in O.A. No. 278 of 2013

persons against whom action can be taken in respect of violations committed by Corporations, Government and other organisations and Section 30 of the Act provide the procedure to be followed, where it has been specifically mentioned that it can be done only by way of complaint to a Magistrate Court filed by the persons authorised therein and not by any other person. When a specific provision has been provided under the statute as to how the offences mentioned there under has to dealt with, then this Court cannot take its own jurisdiction for the purpose of implementing those provisions and as such both applications are not maintainable.

33. As regards the contempt proceedings are concerned, unless the Court is satisfied that there is wilful violation on the part of the State of Andhra Pradesh in total deviation of the direction given by this Tribunal, it cannot be said that there is any scope for contempt. Further the procedure provided for contempt is entirely different and these applications cannot be converted to an application for taking action against contempt under the Contempt of Courts Act, 1971. Learned Senior Counsel also argued that this cannot be converted into Execution Application under Section 25 of the National Green Tribunal Act, 2010 for the purpose of execution as it must contain several other details and such details are lacking in these applications. Further, even assuming that it can be treated as Execution Application under Section 25, what is the nature of order can be passed is dealt with Order 21 and a perusal of that provisions will go to show that no such orders can be passed on the basis of the facts and circumstances of the case.

34. Even assuming that for the purpose of preparation of DPR, some excess work has been done by the authorities in good faith so as to prepare the

DRP in more scientific manner and if there is any error of judgement in executing that object, it cannot be said that it is a wilful violation of the orders passed by this Tribunal especially when this Tribunal had permitted State of Andhra Pradesh to proceed with the work for preparation of DPR for this project as it is required for the purpose of presenting before the authorities as well for getting their approval. Further, as regards preparation of DPR for such nature of work is concerned, there is no specific guideline provided as to how this will have to be prepared and in such cases obtaining expert's opinion and on the basis of the direction given by the technical assistants, if some work is carried out by the State, then it cannot be said to be deviation from the work for preparing DPR, calling upon any penal action to be taken against the officer who is strictly implementing the project on the basis of the policy issued and in compliance of the direction issued by this Tribunal.

35. Further, larger study was required, only on account of earlier DPR submitted to Central Water Commission was returned for submission of several other details as required under the Guidelines for Preparation of DPR, 2010 and it is on that basis further detailed study was required and that is the only work that is being done for the purpose of preparation of DPR on the basis of the details called for by the Central Water Commission in this regard. So under such circumstances, there is no wilful violation warranting any punishment or further direction, if any, to be issued by this Tribunal against the preparation of DPR and as such none of the relief claimed in the applications nor the anticipated relief in the process of execution of the award as contemplated under the law need to be passed in this case and the applications are liable to be dismissed. If any, coercive steps are taken against the officers who are bonafide

exercising their powers in good faith and in larger public interest without any intention to commit any violation or disobey the direction of this Tribunal, then it will affect the morale of the officers and they may not be able to execute any project which are required for the purpose of public interest to cater the needs of the people of the State. So, he prayed for dismissal of the applications.

36. Learned Senior Counsel also argued that the decision of the Principal Bench holding that this Tribunal can invoke Section 26 of the National Green Tribunal Act, 2010 and punish the official is not binding on this Tribunal as it is per incuriam and without considering the scheme of the Act and procedure provided therein. The dictum of Hon'ble High Court of Madras in Vellore Citizens Welfare Forum through its President vs Union of India and Ors.<sup>18</sup> dated 07.04.2016 also cannot be treated as a ratio binding this Tribunal on this aspect as there also there is no specific discussion about the procedure to be followed for filing a complaint for the offence under Section 26 of the Act and there was only a sweeping observation made without considering the scheme of the Act and as such it cannot be said to be a decision laid down the ratio for the purpose of coming to the conclusion that National Green Tribunal has power to initiate its own action for punishing the officials under Section 26 read with Section 28 of the National Green Tribunal Act, 2010 and some of the orders of the National Green Tribunal relied on by the applicants were under challenge before the Hon'ble Apex Court and as such it cannot be said that the same has become final.

37. Even for initiating proceedings under Section 195 of Code of Criminal Procedure, 1973 read with 340 of Code of Criminal Procedure, 1973 it

<sup>18</sup> W.P No. 13463/1996 and connected cases (2016-Mad-LW-11)

must be proved that the offences mentioned therein were committed by the offender during the course of the proceedings and the Court must record finding on that aspect and only thereafter the complaint can be forwarded under Section 340 of CrPC to the Magistrate. But in this case, there was no offence was committed as enumerated in Section 195 of CrPC during the course of the proceedings and after culminating of the proceedings, if any, violation was done, then it cannot be said to be an act which warrants the procedure provided under Section 195 read 340 of CrPC.

38. He had relied on the decisions reported in *Shabir Hussain Bholu vs. State of Maharashtra*<sup>19</sup>, *Som Prakash Rekhi vs. Union of India & Ors.*<sup>20</sup>, Criminal Appeal No. 631 of 1990 *K.T.M.S. Mohd and Anr vs. Union of India*<sup>21</sup>, *Director of Settlements A.P and Ors. vs. M.R. Apparao and Anr.*<sup>22</sup>, *N. Natarajan vs. B.K. Subba Rao*<sup>23</sup> *Suntibai and ors. vs. Paras Finance Company*<sup>24</sup>, *Nand Lal Misra Vs. Kanhaiya Lal Misra*<sup>25</sup>, *In Re: Mr Hayles*<sup>26</sup>, *Ballavdas Agarwala Vs. Shri J.C. Chakravarty*<sup>27</sup>, *K.M. Kanavi Vs. The State of Mysore*<sup>28</sup>, *Arjun Singh Vs. Mohindra Kumar*<sup>29</sup>, *Thummu Koti Nagaiah vs. D. Sambayya*<sup>30</sup> *Ram Nath vs. Smt Tapesara*<sup>31</sup>, *Dalip Kaur vs. Harbans Singh*<sup>32</sup>, *Rex vs. Steane*<sup>33</sup>, *State of MP Vs. Centre for environment Protection Research and Development & Ors.*<sup>34</sup>, *Union of India vs Paras*

<sup>19</sup> AIR 1963 SC 816

<sup>20</sup> (1981) 1 SCC 449

<sup>21</sup> (1992) 2 SCC 178

<sup>22</sup> (2002) 4 SCC 638

<sup>23</sup> (2003) 2 SCC 76

<sup>24</sup> (2007) 10 SCC 82

<sup>25</sup> (1960) 3 SCR 431

<sup>26</sup> AIR 1955 Mad 1

<sup>27</sup> (1960) 2 SCR 739

<sup>28</sup> (1968) 3 SCR 821

<sup>29</sup> (1964) 5 SCR 946

<sup>30</sup> AIR 1963 AP 136

<sup>31</sup> AIR 1985 ALL 26

<sup>32</sup> AIR 1989 P&H 16

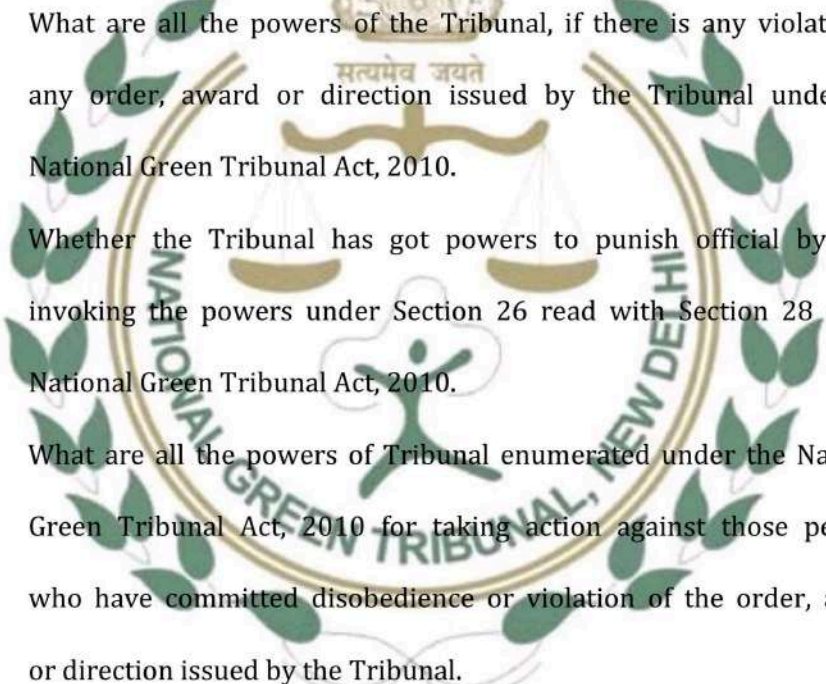
<sup>33</sup> (1947) 1 ALL ER 813

<sup>34</sup> (2020) 10 SCALE 286

Laminates (P) Ltd<sup>35</sup>, Langley vs North West Water Authority<sup>36</sup>, Municipal Corporation of Delhi vs Gurnam Kaur<sup>37</sup>, State of UP vs Synthetics and Chemical Ltd.<sup>38</sup>, Arnit Das Vs. State of Bihar<sup>39</sup>, T. Sudhakar Prasad Vs Govt of AP<sup>40</sup>, A-One Granites vs. State of UP<sup>41</sup>, Divisional Controller, KSRTC vs mahadeva Shetty<sup>42</sup>, Delhi Airtech Services Private Limited vs State of UP<sup>43</sup>, Sheel Termoplastics Limited Vs. Union of India<sup>44</sup> and H.H Maharajadhiraja Madhav Rao<sup>45</sup> in support of their case.

39. Considered the pleadings, documents produced, submissions made by both the Counsels and also the precedents relied on by them.

40. The points that arise for consideration are:

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- (i) What are all the powers of the Tribunal, if there is any violation of any order, award or direction issued by the Tribunal under the National Green Tribunal Act, 2010.
  - (ii) Whether the Tribunal has got powers to punish official by itself invoking the powers under Section 26 read with Section 28 of the National Green Tribunal Act, 2010.
  - (iii) What are all the powers of Tribunal enumerated under the National Green Tribunal Act, 2010 for taking action against those persons who have committed disobedience or violation of the order, award or direction issued by the Tribunal.

<sup>35</sup> (1990) 4 SCC 453

<sup>36</sup> (1991) 3 All ER 610

<sup>37</sup> (1989) 1 SCC 139

<sup>38</sup> (1991) 4 SCC 139

<sup>39</sup> (2000) 5 SCC 488

<sup>40</sup> (2001) 1 SCC 516

<sup>41</sup> (2001) 3 SCC 537

<sup>42</sup> (2003) 7 SCC 197

<sup>43</sup> (2011) 9 SCC 354

<sup>44</sup> 1988 (36) ELT 106 (Bom)

<sup>45</sup> 1971 (1) SCC 85

- (iv) Whether the respondent had committed any wilful violation of the direction or order or Judgement passed by this Tribunal so as to face the consequences of initiating proceedings against them.
- (v) What are all the further directions, if any, to be issued in the circumstance of the case.
- (vi) Whether the State of Telengana has got any locus standi to file independent application for proceeding against the State of Andhra Pradesh being aggrieved persons in the matter.
- (vii) Relief and costs.

Points

41. The case of the applicants in M.A. No.02/2021 and 03/2021 is that the State of Andhra Pradesh is in violation of the directions of this Tribunal and in the guise of preparing DPR, executing the project without obtaining prior environmental clearance. The Chief Secretary, State of Andhra Pradesh in M.A. No. 06 of 2020 has filed reply affidavit in the form of undertaking that they have no intention to violate the orders of this Tribunal and they are only making study and investigation for preparation of DPR and they have not started execution of the project. But according to the applicants in both the cases, the nature of tender issued and nature of work undertaken on ground will go to show that so much study is not required for the purpose of preparing DPR and their indirect intention is to execute the work without obtaining prior environment clearance in total disobedience of the direction issued by this Tribunal. On the other hand the case of the respondent, namely, the alleged violator, State of Andhra Pradesh was that they have not done anything in violation of the direction issued by this Tribunal in the final Judgement in

O.A. No. 71 of 2020 and they were only doing the work for the purpose of preparation of DPR and deeper study was required for the purpose of preparing DPR depending on the soil condition of the area where the present project is intended to be implemented and also on the basis of the direction given by the Central Water Commission in this regard.

42. We feel that before going into the merits of the case as to whether any action is required or not let us, first consider the provisions of the Act and also the powers of the Tribunal and precedent relied on by both the sides.

43. Section 19 of the National Green Tribunal, 2010 deals with the procedure and powers of the Tribunal which reads as follows:

19 Procedure and powers of Tribunal. -(1) The Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice.

(2) Subject to the provisions of this Act, the Tribunal shall have power to regulate its own procedure.

(3) The Tribunal shall also not be bound by the rules of evidence contained in the Indian Evidence Act, 1872 (1 of 1872).

(4) The Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), requisitioning any public record or document or copy of such record or document from any office;

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decision;

(g) dismissing an application for default or deciding its ex parte;

(h) setting aside any order of dismissal of any application for default or any order passed by it ex parte;

(i) pass an interim order (including granting an injunction or stay) after providing the parties concerned an opportunity to be heard, on any application made or appeal filed under this Act;

(j) pass an order requiring any person to cease and desist from committing or causing any violation of any enactment specified in Schedule I;

(k) any other matter which may be prescribed.

(5) All proceedings before the Tribunal shall be deemed to be the judicial proceedings within the meaning of sections 193, 219 and 228 for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

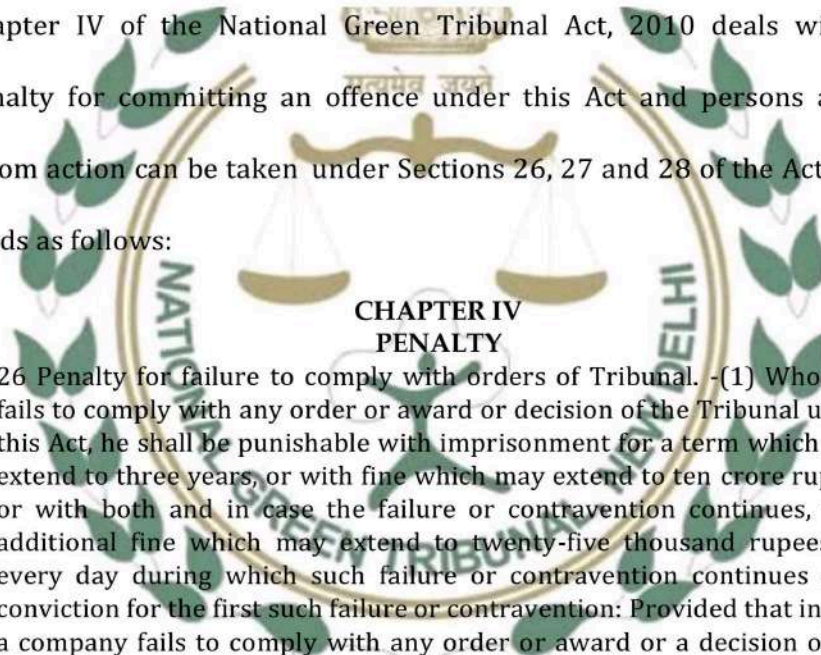
44. Section 25 of the National Green Tribunal Act, 2010 deals with execution of award or order or decision of the Tribunal which reads as follows:

25 Execution of award or order or decision of Tribunal. - (1) An award or order or decision of the Tribunal under this Act shall be executable by the Tribunal as a decree of a civil court, and for this purpose, the Tribunal shall have all the powers of a civil court.

(2) Notwithstanding anything contained in sub-section (1), the Tribunal may transmit any order or award made by it to a civil court having local jurisdiction and such civil court shall execute the order or award as if it were a decree made by that court.

(3) Where the person responsible, for death of, or injury to any person or damage to any property and environment, against whom the award or order is made by the Tribunal, fails to make the payment or deposit the amount as directed by the Tribunal within the period so specified in the award or order, such amount, without prejudice to the filing of complaint for prosecution for an offence under this Act or any other law for the time being in force, shall be recoverable from the aforesaid person as arrears of land revenue or of public demand.

45. Chapter IV of the National Green Tribunal Act, 2010 deals with the penalty for committing an offence under this Act and persons against whom action can be taken under Sections 26, 27 and 28 of the Act which reads as follows:



26 Penalty for failure to comply with orders of Tribunal. -(1) Whoever, fails to comply with any order or award or decision of the Tribunal under this Act, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten crore rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to twenty-five thousand rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention: Provided that in case a company fails to comply with any order or award or a decision of the Tribunal under this Act, such company shall be punishable with fine which may extend to twenty-five crore rupees, and in case the failure or contravention continues, with additional fine which may extend to one lakh rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence under this Act shall be deemed to be non-cognizable within the meaning of the said Code.

27 Offences by companies. -(1) Where any offence under this Act has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by the company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. -For the purposes of this section,-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

28 Offences by Government Department. -(1) Where any Department of the Government fails to comply with any order or award or decision of the Tribunal under this Act, the Head of the Department shall be deemed to be guilty of such failure and shall be liable to be proceeded against for having committed an offence under this Act and punished accordingly: Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

46. Chapter V deals with the miscellaneous provisions including bar on jurisdiction under Section 29 of the Act and cognizance offence under Section 30 of the Act which reads as follows:

#### CHAPTER V MISCELLANEOUS

29 Bar of jurisdiction. -(1) With effect from the date of establishment of the Tribunal under this Act, no civil court shall have jurisdiction to entertain any appeal in respect of any matter, which the Tribunal is empowered to determine under its appellate jurisdiction.

(2) No civil court shall have jurisdiction to settle dispute or entertain any question relating to any claim for granting any relief or compensation or restitution of property damaged or environment damaged which may be adjudicated upon by the Tribunal, and no injunction in respect of any action taken or to be taken by or before the Tribunal in respect of the settlement of such dispute or any such claim for granting any relief or compensation or restitution of property damaged or environment shall be granted by the civil court.

30 Cognizance of offences. -(1) No court shall take cognizance of any offence under this Act except on a complaint made by,-

(a) the Central Government or any authority or officer authorised in this behalf by that Government; or

(b) any person who has given notice of not less than sixty days in such manner as may be prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the authority or officer authorised as aforesaid.

(2) No court inferior to that of a Metropolitan Magistrate or, a Judicial Magistrate of the first class shall try any offence punishable under this Act.

47. As regards the execution of the award is concerned, as mentioned in

Section 25 of the Act, the Court can execute the award as though it is a

decree of the Civil Court and for this purpose, the Tribunal shall have all

the powers of Civil Court. Further, it is seen from the provision that the

Tribunal has got power to execute its decision by itself or it may transmit

any order or award made by it to a Civil Court having local jurisdiction

and that Civil Court shall execute the order or award as if it was a decree

made by that Court. So that gives power to the Tribunal to execute the

award by itself or it may transmit the same to Civil Court having

jurisdiction. Once the Tribunal decides to execute an award or decision by

itself, then principles of Code of Civil Procedure regarding mode of

execution of decree will be available to enforce the orders passed by this

Tribunal though as per Section 19 of the Act, either the provisions of Code

of Civil Procedure or Rule of evidence as provided under the Indian

Evidence Act, 1872 and the Tribunal has power to regulate its own

procedure as shall be guided by the Principle of Natural Justice.

48. During the pendency of the proceedings, if any injunction has been

granted and it is violated, then applying the Principles of Order 39 Rule

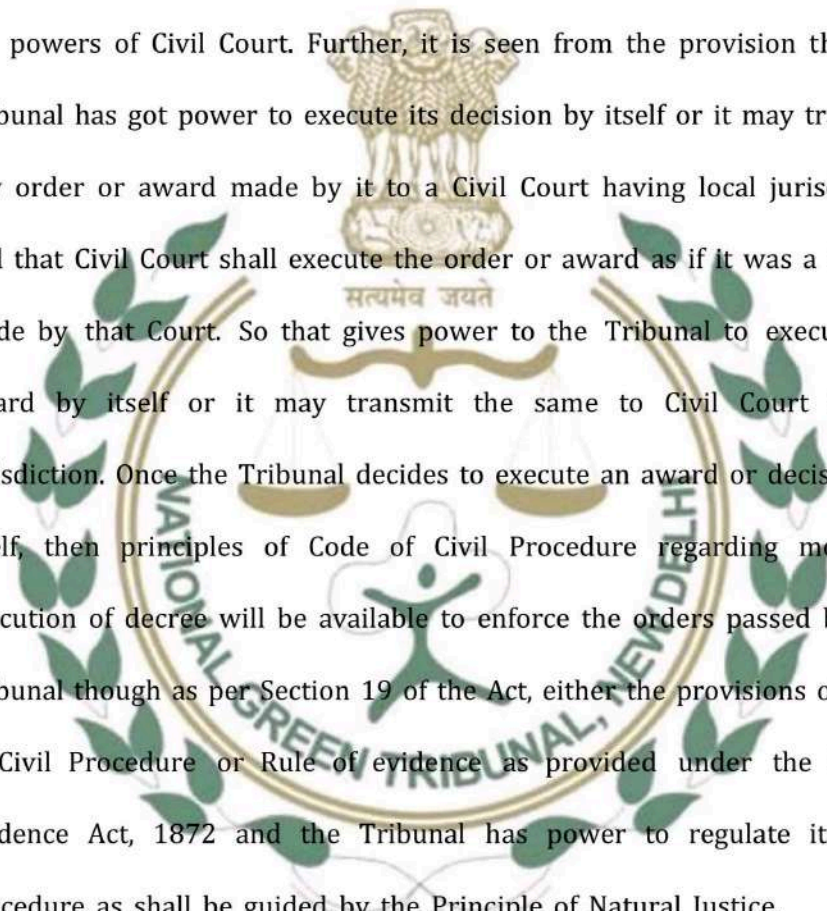
2(A), Code of Civil Procedure the Tribunal itself can take action for

violation against persons who violated the same, which include the power

to send the violator to prison and also attachment of his properties. Once,

a decree or final Judgement has been passed, then the procedure provided

under Order 39 Rule 2(A) will not be applicable and it can be executed



only as provided under Section 51 of Code of Civil Procedure read with Order 21 of Code of Civil Procedure.

49. Section 51 of the **Code of Civil Procedure** deals with the mode of execution and procedure for execution which reads as follows:

51. Powers of Court to enforce execution-Subject to such conditions and limitations as may be prescribed, the Court may, on the application of the decree-holder, order execution of the decree-

(a) by delivery of any property specifically decreed;

(b) by attachment and sale or by the sale without attachment of any property;

(c) by arrest and detention in prison 1[for such period not exceeding the period specified in section 58, where arrest and detention is permissible under that section];

(d) by appointing a receiver; or

(e) in such other manner as the nature of the relief granted may require : [Provided that, where the decree is for the payment of money, execution by detention in prison shall not be ordered unless, after giving the judgment-debtor an opportunity of showing cause why he should not be committed to prison, the Court, for reasons recorded in writing, is satisfied--

(a) that the judgment-debtor, with the object or effect of obstructing or delaying the execution of the decree,--

(i) is likely to abscond or leave the local limits of the jurisdiction of the Court, or

(ii) has, after the institution of the suit in which the decree was passed, dishonestly transferred, concealed, or removed any part of his property, or committed any other act of bad faith in relation to his property, or

(b) that the judgment-debtor has, or has had since the date of the decree, the means to pay the amount of the decree or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same, or

(c) that the decree is for a sum for which the judgment-debtor was bound in a fiduciary capacity to account.

50. Order XXI Rule 32 deals with execution of decree for specific performance, for restitution of conjugal rights or for an injunction which reads as follows:

Order XXI Rule 32

32. Decree for specific performance for restitution of conjugal rights, or for an injunction- (1) Where the party against whom a decree for the specific performance of a contract, or for restitution of conjugal rights, or for an injunction, has been passed, has had an opportunity of obeying the decree and has wilfully failed to obey it, the decree may be enforced 18[in the case of a decree for the restitution of conjugal rights by the attachment of his property or, in the case of a decree for the specific performance of a contract or for an injunction] by his detention in the civil prison, or by the attachment of his property, or by both.

(2) Where the party against whom a decree for specific performance or for an injunction has been passed is a corporation, the decree may be enforced by the attachment of the property of the corporation or, with the leave of the Court by the detention in the civil prison of the directors or other principal officers thereof, or by both attachment and detention.

(3) Where any attachment under sub-rule (1) or sub-rule (2) has remained in force for 11[six months] if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, such pro be sold; and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit, and shall pay the balance (if any) to the judgment-debtor on his application.

(4) Where the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or where, at the end of [six months] from the date of the attachment, no application to have the property-sold has been made, or if made has been refused, the attachment shall cease.

(5) Where a decree for the specific performance of a contract or for an injunction has not been obeyed, the Court may, in lieu of or in addition to all or any of the processes aforesaid, direct that the act required to be done may be done so far as practicable by the decree-holder or some other person appointed by the Court, at the cost of the judgment-debtor, and upon the act being done the expenses incurred may be ascertained in such manner as the Court may direct and may be recovered as if they were included in the decree.

51. As regards the execution of decree for injunction is concerned, it can be executed by detention of the violator in civil prison or by attachment of his property or both. So there is a provision for detention of person in civil prison in case of finding guilty of violation of decree of injunction passed apart from attachment of the property and also imposing both. Procedure also provided as to how this has to be done in the same Rule.

52. As regards, the penal provision is concerned under the Act, Section 26 defines the penalty for failure to comply with the order of the Tribunal. So this is a combined provision defining the offence under the Act and also the consequences for committing such offence, namely, Punishment.

53. Section 27 deals with who are all the persons can be punished if an offence is committed by a company and Section 28 of the Act deals with the persons against whom proceedings can be initiated for committing the offence under Section 26 if it is committed by a Government Department.

Here the offence is said to have been committed by State of Andhra Pradesh in executing the project which is under challenge according to the applicant, and as such the State can be represented by its Head, namely, the Chief Secretary and as such Chief Secretary of the State can be prosecuted or proceeded against for the offence said to have been committed under the Act.

54. Section 30 of the Act deals with the manner in which the prosecution has to be launched and persons who are entitled to launch the prosecution, where it is clearly stated that no Court shall take cognisance of the offence under this Act except on a complaint made by (a) a Central Government or any Authority or officer authorised in this regard by that Government or (b) any person who has given notice of not less than 60 days in such manner as may be prescribed for the alleged offence and of his intention to make a complaint to the Central Government or the authority or the officer authorised as aforesaid. Further, it is also mentioned in the same Section that no Court inferior to Metropolitan Magistrate or Judicial First Class Magistrate shall try an offence punishable under this Act. So, Section 26 of the Act defines the offence and penalty provided and Section 27 and 28 of the Act deals with the persons against whom prosecution can be launched and Section 30 of the Act gives the procedure and also the Court in which the complaint can be filed and the also the person entitled to file the complaint. So when a specific procedure has been provided and if any punishment will have to be imposed for committing the offence under Section 26, the procedure contemplated under Section 30 of the Act has to be adopted and the Tribunal cannot exercise the jurisdiction of the Magistrate to punish a person for the offence said to have been committed under Section 26 of the Act.

55. The decision reported in *State of M.P vs Centre for Environment Protection Research and Development and Ors.*<sup>46</sup> is not applicable to the facts of this case. That was a case where the order of the National Green Tribunal directing the State of Madhya Pradesh to issue a direction that those vehicles who are not complying with the requirement of displaying a valid Pollution under Control (PUC) certificate be de-barred from being supplied with fuel by any dealer or any outlet or petrol pump and directing to furnish a security of some amount was under challenge and the Hon'ble Supreme Court has said that National Green Tribunal has no power to issue such direction and that will not come under Section 25 or under Section 26 of the National Green Tribunal Act, 2010 but upheld the direction issued by the National Green Tribunal that those who are violating those provisions as required under Rule 115 and 116 of Central Motor Vehicle Rules are directed to be prosecuted and should not be permitted to ply vehicles as it will affect environment invoking the provisions of Environment (Protection) Act, 1986 as the norms of emissions to ply a motor vehicle is governed under the Environment Protection Rules and violation of the same can be dealt with by the National Green Tribunal as being violation of the Environment Protection Act and Rules made therein since Environment Protection Act, 1986 is also coming within the purview of the jurisdiction of National Green Tribunal in Schedule attached to National Green Tribunal Act, 2010. That decision does not say about the power of the National Green Tribunal to take cognizance of the criminal offence by itself under Section 26 and 28 of the Act.

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<sup>46</sup> (2020) 9 SCC 781

56. Vellore Citizens Welfare Forum through its President vs Union of India and Ors.<sup>47</sup> also cannot be said to be law laid down having binding nature as to the fact that National Green Tribunal has got power under Section 26 of the Act to punish a person who is violating the order. It is true, it was mentioned in the decision that from the 186<sup>th</sup> report of Law Commission and the salient feature of the Act the following could be reduced: (i) creation of the National Green Tribunal was in pursuance to the repeated direction issued by the Hon'ble Supreme Court in at least four important cases, namely, M.C. Mehta vs. Union of India<sup>48</sup>, Indian Council for Enviro Legal Action Vs. Union of India<sup>49</sup>, A.P Pollution Control Board vs. Indian Oil<sup>50</sup> and Andhra Pradesh Pollution Control Board vs. Indian Oil<sup>51</sup> (ii) the object of creation of National Green Tribunal was to provide what was called a one stop shop solution for all types of issues such as environmental clearance, settlement of issues relating to environment, relief and compensation for victim of pollution and environment damage restitution of property, restitution of environment etc., (iii) the Tribunal to have both original and appellate jurisdiction with enormous powers not only to execute its order as decree of Civil Court but also to punish those who failed to comply with its orders, (iv) the Tribunal was to collect a court fee and entertain cases within the period of limitations. It is true that there is a passing observation made that Tribunal has got power to punish those who failed to comply with the orders. But in fact it only referred to Section 26 of the Act only where the penalty for offence with definition and nature of punishment provided but did not discuss about the

<sup>47</sup> W.P No. 13463/1996 and connected cases (2016-Mad-LW-11)

<sup>48</sup> (1986) 2 SCC 176

<sup>49</sup> (1996) 3 SCC 212

<sup>50</sup> (1999) 2 SCC 718

<sup>51</sup> (2001) 2 SCC 62

procedure for filing complaint which was exclusively dealt with in Section 30 of the National Green Tribunal Act, 2010. So under such circumstances, it cannot be said that the entire scheme of National Green Tribunal was considered by Hon'ble High Court of Madras for coming to the conclusion that it has power to punish for violation to beat this as a decision decided the ratio as to whether the Tribunal can exercise the powers under Section 30 of the Act itself and punish a person without following the Procedure as provided therein. It is true this Tribunal can during the pendency of the proceedings if any order of injunction was violated, then invoking Order 39 Rule 2(A) of Code of Civil Procedure can punish such persons as provided therein. But once it has been culminated in final Judgement and injunction has been granted, then it can only invoke power of execution as provided under Section 51 and Order 21 Rule 32 of Code of Civil Procedure for violation and it cannot be equated to a criminal jurisdiction for punishing for the offence in a nature of criminal court.

57. Same is the question in respect of observations made by Principal Bench in Braj Foundation vs. Government of Uttar Pradesh & ors<sup>52</sup> where by extracting Section 26 and 28 of the Act, the Tribunal came to the conclusion that Court has got power to punish persons who are violating the order or decree passed as though, it is a criminal Court. There also the Tribunal has not considered the procedure provided for filing a complaint for initiating prosecution for the offence committed under the Act. When a finding has been arrived out without considering the provisions dealing with prosecution of an offence defined under the Act, then it cannot be said to be a decision having binding effect as it will amount to *per incuriam* as the relevant provision and scheme of the Act were not properly

<sup>52</sup> M.A. No. 110 of 2014 in O.A. No. 278 of 2013

considered by the Tribunal before coming to such conclusion. In the same decision, it was observed that Court has got power under Section 51 of the Code of Civil Procedure read with Order 21 Rule 32 of Code of Civil Procedure and the contempt proceedings is not applicable as it is not subordinate to High Court as Appeal is provided directly to the Hon'ble Supreme Court under Section 22 of the National Green Tribunal Act, 2010. But we are not able to agree with the preposition that the Contempt of Courts Act, 1971 is not applicable. Section 2(b) of the Contempt of Courts Act, 1971 defines civil contempt where it was observed that any wilful disobedience of direction, Judgement, decree or undertaking given will amount to civil contempt and it is punishable under Section 12 of the Contempt of Courts Act, 1971 .

58. A co-joint reading of the provisions of the Contempt of Courts Act, 1971 will go to show that though civil contempt is also liable for punishment under the Contempt of Courts Act, 1971 and normally it is intended for compliance with the directions or order passed and enforcement of those decrees by the person against whom such decree has been issued. It is also mentioned that if a decree for injunction is violated, then the normal remedy is to file an Execution Application under Order 21 Rule 32 of CPC and persons can be dealt with in one of the modes provided under Section 51 of the Code of Civil Procedure which includes detention of the persons in civil prison apart from attachment of his property or both. But at the same time, if Court is of the view that orders were wilfully violated by the respondent with a view to flout the orders of the Court and result in total disrespect and lower down the image of the Court so as to affect the confidence of the people in the system, then apart from executing the order the power under Section 12 of the Contempt of Courts Act, 1971 can

also be invoked. But it is not as serious as of criminal contempt as defined under the Contempt of Courts Act, 1971. This Tribunal will be subordinate to High Court for this purpose as all the order of the Court/Tribunal are amendable to supervisory jurisdiction of High Court under Article 227 and 226 of Constitution of India for a limited purpose as has been observed by the Hon'ble Apex Court in L. Chandra Kumar Vs. Union of India<sup>53</sup> and Madras Bar Association vs Union of India & Ors.<sup>54</sup>

59. In the decision reported in State of Karnataka vs. Vishwabharathi House Building & Ors.<sup>55</sup>, it has been observed that generally power of Court and Tribunal to execute its order is vested with the Tribunal and it was so held while interpreting Section 25 of the Consumer Protection Act, 1986. There also there was a provision for forwarding the orders passed by the Consumer Protection Forum under the Act to Civil Court for execution as though it is a decree passed by the Civil Court. While interpreting that provision, the Hon'ble Apex Court held that it will not de-bar the Tribunal or Forum from executing the decree by itself and if such power is not given, then the very object of enactment will be defeated. There also it was observed that the Court has got powers either under Order 39 Rule 2A of Code of Civil Procedure or provisions of Contempt of Courts Act, 1971 or Section 51 read with Order 21 Rule 37 of Code of Civil Procedure.

60. In the decision reported in V.G. Nigam and others vs Kedar Nath Gupta and another<sup>56</sup>, order of the Central Administrative Tribunal imposing fine for contempt for non-compliance of the direction of issuing appointment was challenged before the Hon'ble Supreme Court but under the given circumstances it was observed that on the facts there is no necessity to go

<sup>53</sup> (1997) 3 SCC 261

<sup>54</sup> (2014) 10 SCC 1

<sup>55</sup> (2003) 2 SCC 412

<sup>56</sup> (1992) 4 SCC 697

into the question as to whether the direction issued by the Central Administrative Tribunal if not followed by the DPC will amount to civil contempt or not. But it was observed that unless it is proved that it is wilful, deliberate, disobedience of the direction with a view to malign the orders of the Court bringing dis-reputation among the public, then it may amount to civil contempt as defined under Section 2(b) and liable to be punished under Section 12 of Contempt of Courts Act, 1971 but in that case Hon'ble Apex Court found that there was no evidence to come to the conclusion that there was wilful violation but there was on earlier occasions, the Tribunal itself had condoned the same and granted an opportunity to the authorities to implement the order. So it cannot be said that the Tribunal has no powers to invoke the provisions of Contempt of Courts Act, 1971 if there is wilful disobedience apart from executing the order as provided under Section 25 of the National Green Tribunal Act, 2010.

61. Same view has been taken by the Hon'ble Apex Court in *Chhotu Ram vs Urvashi Gulati & Anr*<sup>57</sup> where there was a direction given by the Hon'ble Apex Court directing the authorities to consider the applicant's promotion by treating him to be qualified on cut-off date, namely, 01.01.1980 but authority denying promotion on finding that the Petitioner is un-fit for the same was said to be not amount to civil contempt as there was no specific direction issued to promote the applicant but only directed to consider the promotion and pass appropriate orders taking a particular date as cut-off as qualifying date of eligibility. Since, authority has considered the application and passed a reasoned order, then it cannot be said to be civil contempt liable for punishment under the Contempt of Courts Act, 1971.

<sup>57</sup> (2001) 7 SCC 530

62. It is also mentioned therein that the introduction of Contempt of Courts Act, 1971 in the statute book has been for the purpose of securing a feeling of confidence of the people in general and for due and proper administration of justice in the country. It is a powerful weapon in the hands of the law Courts but by itself operates as a string of caution and unless thus satisfied beyond doubt, it would neither nor reasonable for law Courts to exercise jurisdiction under statute. It is further observed that it must be exercised with due care and caution and for larger interest. It is also observed in the same judgement that for punishing a person for contempt, the burden and standard of proof are as strict as in the case of proving guilt of a person in a criminal proceedings and the breach shall have to be established beyond all reasonable doubt.

63. Further in the decision reported in *Anil Ratan Sarkar & Ors vs Hirak Ghosh & Ors*<sup>58</sup> while dealing with civil contempt as defined under Section 2 (b) of the Act, the Hon'ble Apex Court held that if disobedience is of clear and unambiguous order of the Court, not capable of more than one interpretation would amount to contempt of court. It is further observed in the decision that there cannot be any laxity in such a situation because either the Court orders would become the subject of Mockery or Courts themselves rendered useless. Feeling of confidence and proper administration of justice cannot but be hallmark of Indian Jurisprudence and contra action by Courts will lose its efficacy. Tolerance of law course, there is but not without limits and only upto a certain point and not beyond the same. More so, where the interpretation is placed on the order by the contemnor would result in discrimination against a particular group of persons. It is also observed therein that Court must be satisfied

<sup>58</sup> (2002) 4 SCC 21

beyond reasonable doubt as to defiance of an accused as well as bonafide of the complainant and burden of proof and standard of proof are as required to be proved in a criminal proceedings to prove the guilt of the accused beyond reasonable doubt.

64. It is also observed therein that mere disobedience of an order may not be sufficient to attract the civil contempt within the meaning of the Section 2(b) of Act of 1971. The element of willingness is an indispensable requirement to bring home the charge within the meaning of the Act and lastly in the event of two interpretations are possible and the action of the alleged contemnor pretend to one such interpretation, then act or acts cannot be prescribed to be otherwise contemptuous in nature. A doubt in the matter as regards wilful nature of the conduct, if raised question of success in contempt petition would not arrive. Considering the facts in that case, the Court decided to invoke the contempt jurisdiction invoking Article 142 of the Constitution of India and also under Contempt of Courts Act, 1971 and directed the contemnor to appear for the purpose of answering the questions of contempt and sentence to be imposed. The same principles were reiterated by the Hon'ble Apex Court in *Ashutosh Gupta vs State Of Rajasthan & Ors*<sup>59</sup>, *Ashok Paper Kamgar Union And Ors. vs Dharam Godha And Ors*<sup>60</sup>.

65. In the decision reported in *State of State of Orissa & Ors vs Md. Illiyas*<sup>61</sup> it has been held that the expression 'Wilful' excludes casual, accidental, bona fide or unintentional acts or genuine inability. It is to be noted that a wilful act does not encompass accidental, involuntary, or negligence. It must be intentional, deliberate, calculated and conscious with full

<sup>59</sup> (2002) 4 SCC 34

<sup>60</sup> (2003) 11 SCC 1

<sup>61</sup> (2006) 1 SCC 275

knowledge of legal consequences flowing therefrom. The expression 'wilful' means an act done with a bad purpose, with an evil motive. It was so held in the decision reported in *Rakapalli Raja Rama Gopala Rao vs Naragani Govinda Sehararao & Anr*<sup>62</sup> and this was relied on in that decision.

66. Further, it was observed that wilful is a word of familiar use in very branch of law and although in some branches of law, it may have a special meaning if generally as used in courts of law, implies nothing blameable but merely that the person of whose action or default the expression is used is a free agent and that what has been done arises from the spontaneous action of his will. It amounts to nothing more than this, that he knows what he is doing and intends to do what he is doing and is a free agent. (This was so observed as per Bowen LJ in *Young and Harston's Contract*<sup>63</sup>), It does not necessarily connote blame although, the word is more commonly used for bad conduct than of good. (See *Wheeler vs New Merton Board Mills*<sup>64</sup>) whatever is intentional is wilful (as per Day.J in *Gayford Vs. Chouler*<sup>65</sup>). As observed by Russel Chief Justice in *R. Vs. Senior*<sup>66</sup> wilful means deliberate and intentionally.

67. So, it is clear from the above decision that in order to bring civil contempt under Section 2(b) of Contempt of Courts Act, 1971 to be punished under Section 12 of the Contempt of Courts Act, 1971, it must be proved that the violation was wilful and deliberate and intentional and if there is any bonafide or error of Judgement or acted in good faith, then it will not amount to civil contempt capable for punishment.

<sup>62</sup> (1989) 4 SCC 255

<sup>63</sup> Re (1885) 31 ChD 168: (1881-85) All ER Rep Ext 1239 (CA).

<sup>64</sup> (1933) 2 KB 669:1933 ALL ER Rep 28 (CA)

<sup>65</sup> (1898) 1 QB 316: 67 LJQB 404

<sup>66</sup> (1899) 1 QB 283

68. In the decision reported in *Sushila Raje Holkar Vs. Anil KAK (Rtd)*<sup>67</sup> without issuing notice in the contempt proceedings, certain orders have been passed which the Hon'ble Apex Court observed that without following the procedure, if any, order has been passed, then it is not sustainable and also observed that if the purpose of the order has not been affected but some other violation was committed, then it cannot be said that there was contempt committed by the contemnor.

69. In the decision reported in *Three Cheers Entertainment Private Limited and Ors vs. CESC Limited*<sup>68</sup> while considering the scope of civil contempt defined under Section 2 (b) of the Act, where it was defined as civil contempt means wilful disobedience to any Judgment, decree, direction, order, writ or other process of a Court or wilful breach of an undertaking given to a Court, observed that indisputably, the majesty of the court is required to be upheld. The Court must see that its orders are complied with. But for the said purpose, a roving enquiry is not permissible. Several proceedings which seek to achieve the same purpose are unknown to the process of law. If the trial was to be held on the issues framed by the Learned Single Judge, it would have been allowed to be brought to its logical conclusion. When the trial was incomplete, we fail to see any reason why contempt proceedings were heard on affidavits. Even that was done, reliance was sought to be placed on the depositions of the witnesses in the said enquiry, which was admittedly incomplete. Witnesses affirming affidavits before the Learned Single Judge were not being cross-examined so as to enable to Counsel for parties to draw their attention to the earlier statement made by them in terms of Section 145 of

<sup>67</sup> CONTEMPT PETITION (C) NO. 6 OF 2006 IN CIVIL APPEAL NO. 5807 OF 2005

<sup>68</sup> (2008) 16 SCC 592

the Evidence Act. It is also observed therein that the purpose and object of initiation of a proceeding under the provisions of the said Act is only to see that the order of the Court is complied with and not to unnecessarily proceed against the persons as if they are petty criminals.

70. It is further observed that the contempt of court is a matter of its deserves to be dealt with all seriousness. In *Mrityunjoy Das vs. Sayed Hasibur Rahaman*<sup>69</sup> it was observed that before however, proceeding with the matter any further, be it noted that exercise of powers under the Contempt of Courts Act, 1971 shall have to be rather cautious and use of it rather sparingly after addressing itself to the true effect of the contemptuous conduct. The court must otherwise come to a conclusion that the conduct complained of tantamount to obstruction of justice which if allowed, would even permeate in our society. (vide *Murray & Co. Vs. Ashok Kr. Newatia*<sup>70</sup>) It was observed that this is a special jurisdiction conferred on the law courts to punish an offender for his contemptuous conduct or obstruction to the majesty of law.

71. Further it was observed that relying on the decision reported in *Anil Ratan Sarkar Vs. Hirak Ghosh*<sup>71</sup> where it was observed that it may also be noticed at this juncture that mere disobedience of an order may not be sufficient to amount to a civil contempt within the meaning of Section 2(b) of the Act of 1971. The element of willingness is an indispensable requirement to bring home the charge within the meaning of the Act and lastly, in the event of two interpretations are possible and the action of the alleged contemnor pertains to one such interpretation, the act or acts cannot be ascribed to be otherwise contumacious in nature. A doubt in the

<sup>69</sup> (2001) 3 SCC 739; (2006) 1 SCC (Cri) 296

<sup>70</sup> (2000) 2 SCC 367; 2000 SCC (Cri) 473

<sup>71</sup> (2002) 4 SCC 21

matter as regards the wilful nature of the conduct if raised, question of success in a contempt petition would not arise.

72. Further, the Hon'ble Apex Court also held in those cases relying on several other decisions that before coming to the conclusion that there was contempt or wilful violation that amounts to contempt, proper procedure to be followed and a finding will have to be arrived at and only thereafter it has to be referred to High Court for the purpose of considering the question of contempt. Those are all cases, where the High Court itself has taken contempt proceedings on the basis of the application for violations of its order. But in the case of subordinate court, which is subordinate to the High Court, then after enquiry if the Court found that there is wilful disobedience which amount to civil contempt has to be proceeded with under Contempt of Courts Act, 1971, then a reference will have to be made to the High Court and High Court will have to consider those aspects and then consider the question as this will amount to contempt and pass appropriate orders invoking the provisions of Contempt of Courts Act, 1971.

73. In the decision reported in *Sahdeo Alias Sahdeo Singh vs. State of Uttar Pradesh and Ors.*<sup>72</sup> and connected cases, it has been observed that the proceedings of contempt are quasi-criminal in nature. In a case where order passed by the Court is not complied with by the State inadvertently or by misunderstanding of purported of the order, unless it is intentional, no charge of contempt can be brought home. There may be possibly a case where disobedience is accidental, if so there will be no contempt. This observation was made by relying on the decision of the Hon'ble Apex

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<sup>72</sup> (2010) 3 SCC 705

Court in B.K. Kar. Vs. Chief Justice and Justices of the Orissa High Court<sup>73</sup>. The court also relied on the Constitutional Bench decision of the Hon'ble Apex Court in State of Bihar vs. Sonabati Kumari<sup>74</sup> where it has been observed that provisions of Contempt of Courts Act, 1971 deals with wilful defiance of the order passed by the Court. Order of punishment may not be passed if the court is not satisfied that the party was under a misapprehension as to the scope of the order or there was unintentional wrong for reason that the order was ambiguous and reasonably capable of more than one interpretation or the party never intended to disobey the order but conducted himself in accordance with the interpretation of the order. In that decision also, it was observed that being quasi-criminal in nature, the same standard of proof is required in the same manner in other criminal cases, proper charge will have to be framed, evidence will have to produced and on that basis a finding will have to be arrived at and non-compliance of the mandatory provisions and violation of principle of natural justice will vitiate the proceedings. It was further observed therein that if the notice itself not only defective but inaccurate and totally misleading, then no proceedings on such notice is sustainable.

74. Further in the decision reported in Uniworth Textiles Limited vs Commissioner of Central Excise<sup>75</sup> it has been held that act complained of must be wilful and has mensria to wilful, deliberate, intentional commission of disobedience the order and the burden is on the person who is alleging his bondafides. It is also observed therein that if there is certain procedure provided for initiating prosecution and the same has not been followed, then it cannot be said that the offence has been proved

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<sup>73</sup> AIR 1961 SC 1367

<sup>74</sup> AIR 1961 SC 221

<sup>75</sup> (2013) 9 SCC 753

and on that ground itself it is liable to be set aside. The same view has been reiterated in *Ram Kishan vs Tarun Bajaj and Ors.*<sup>76</sup> and in *K. Arumugam vs. V. Balakrishnan and Ors.*<sup>77</sup>, in *Mohan Bhai vs. Indian Council of Basic Education*<sup>78</sup> the Hon'ble High Court of Bombay observed that when the case was based on alleged breach of undertaking, such a cause of action would not fall within the ambit of Order 39 Rule 2A. The same view has been reiterated in *H. Govind Raju vs. Shri Shankaralinge Gowda, Commissioner, Bangalore Development Authority and anr.*<sup>79</sup>. It was further held in that decision that when Code of Civil Procedure has provided opportunity and adequate remedy to the complainant under Order 39 Rule 2A and such a remedy is already involved by complainant before the Trial Court, a parallel action under Contempt of Court Act, 1971 cannot be initiated.

75. For the purpose of invoking the powers under Section 340 of Code of Criminal Procedure it has been observed in *Mahant Surinder Nathd vs. Union of India and ors.*<sup>80</sup> that false evidence or false documents has been created for the purpose of influencing the court during the pendency of the proceedings produced before the court and if the court found that it was so done and if the offences enumerated in the Section 195 of the Code of Criminal Procedure are committed, then only the proceedings under Section 340 under Code of Criminal Procedure can be initiated. But if the documents produced were manipulated prior to producing it outside the court, then it will not attract the provisions of Section 340 of Code of Criminal Procedure and it will fall outside that provisions and the same

<sup>76</sup> (2014) 16 SCC 204

<sup>77</sup> (2019) 18 SCC 150

<sup>78</sup> 2005 4 Maharashtra Law Journal 433

<sup>79</sup> ILR 2007 Karnataka 3534

<sup>80</sup> 2008 100 DRJ 195

view has been reiterated in Suo Motu proceedings against Karuppan, Advocate<sup>81</sup>.

76. Further in the decision reported in Dr. Bimal Chandra Sen Vs. Mrs. Kamla Mathur and Ors.<sup>82</sup>, it has been observed that the persons who is not party to the proceedings against whom no injunction has been granted cannot be proceeded for contempt.

77. So, it is clear from the above decisions that powers under the Contempt of Courts Act, 1971 can be invoked only sparingly and if there is a possibility of two interpretations of the Judgement or direction issued and once such interpretation adopted by the alleged contemnor is also possible, then it cannot be said that he had committed contempt. Further, in the case of civil contempt for injunction or any mandatory direction of doing something and if it is not done, than attempt must be to enforce that direction and implement the direction, then punishing him, unless court is satisfied that he had with contemptuous intention had committed the same.

78. As regards the inherent powers of the Courts are concerned, there is no dispute that even if the Act or statute does not provide any provision for exercising the inherent powers, by virtue of catena of decisions and principle of meeting of ends of justice, all Courts and Tribunals will have incidental powers of inherent powers to meet the situation within the legal frame work which was not anticipated in the statute to meet ends of justice. But if there is a provision provided in the Act or statute, then in order to achieve the purpose of that provision, even though it is difficult to enforce on certain circumstances, though Court has got another view, then in order to achieve, that inherent powers of the Court cannot be used.

<sup>81</sup> (2001) 5 SCC 289

<sup>82</sup> Crl. Contempt Petition 2 of 1982 reported in ILR 1982 11 Delhi 407.

This was so held in the decision reported in Nand Lal Misra Vs. Kanhaiya Lal Misra<sup>83</sup>, In Re: Mr Hayles<sup>84</sup>, Ballavdas Agarwala Vs. Shri J.C. Chakravarty<sup>85</sup>.

79. Further, even for invoking powers under Section 340 of Code of Criminal Procedure in order to implement power under Section 195 of Code of Criminal Procedure which was also impliedly provided under Section 19 (5) of the National Green Tribunal Act, 2010, unless any false evidence, false document are adduced or produced during the course of the proceedings and the court was satisfied that a false evidence or document which has been produced for the purpose of misrepresenting or misleading the court, then only this power can be invoked. Anything happened outside the court for preparation of false document and if it has been after the decree was passed, then the power under Section 340 of Code of Criminal Procedure cannot be invoked. This was so held in the decision reported in K.T.M.S. Mohd and Anr vs. Union of India<sup>86</sup>, K.M. Kanavi Vs. The State of Mysore<sup>87</sup>, K.M. Kanavi Vs. The State of Mysore<sup>88</sup>, Shabir Hussain Bholu vs. State of Maharashtra<sup>89</sup> and Natarajan vs. B.K. SubhaRao<sup>90</sup>.

80. The scope of Order 21 Rule 32 Code of Civil Procedure was considered by the Hon'ble Apex Court in Arjun Singh Vs. Mohindra Kumar<sup>91</sup>, Thummu

<sup>83</sup> (1960) 3 SCR 431

<sup>84</sup> AIR 1955 Mad 1

<sup>85</sup> (1960) 2 SCR 739

<sup>86</sup> (1992) 2 SCC 178

<sup>87</sup> (1968) 3 SCR 821

<sup>88</sup> (1968) 3 SCR 821


<sup>89</sup> AIR 1963 SC 816

<sup>90</sup> (2003) 2 SCC 76

<sup>91</sup> (1964) 5 SCR 946

Koti Nagaiah vs. D. Sambayya<sup>92</sup> Ram Nath vs. Smt Tapesara<sup>93</sup>, Dalip Kaur vs. Harbans Singh<sup>94</sup>.

81. From the above discussions and the decisions mentioned supra, the following things can be deduced:

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- (i) When certain procedure has been provided for initiating prosecution for punishing an offence provided under the statute, then Court/Tribunal cannot suo motu initiate proceedings for punishing such persons under the Act invoking inherent powers and the procedure provided therein will have to be followed for that purpose.
- (ii) Apart from enforcing decree for permanent injunction invoking the provisions of Section 25 of National Green Tribunal Act, 2010 read with Section 51, Order 21 Rule 32 of Code of Civil Procedure, if the Court is satisfied that the violations was wilful, deliberate, intentional with a view to bring dis-reputation to the judicial system or court, then it will amount to civil contempt and Court can initiate proceedings for contempt as provided under Section 12 of Contempt of Courts Act, 1971. If there are two views possible and there is some ambiguity in the direction issued, then Courts will be slow in punishing the person for contempt.
- (iii) The procedure for initiating proceedings under Section 195 read with Section 340 of Code of Criminal Procedure, can be invoked only if the Court is satisfied that false evidence was adduced and fake documents produced for the purpose of misleading the Court

<sup>92</sup> AIR 1963 AP 136

<sup>93</sup> AIR 1985 ALL 26

<sup>94</sup> AIR 1989 P&H 16

during the course of the proceedings to procure favourable order in their favour and not otherwise.

(iv) If there are provisions dealing with certain aspects provided under the statute itself in order to achieve that purpose instead of following that procedure, the Court cannot invoke the inherent powers for that purpose. If there is no provision under the Act but the circumstances brought out if not dealt with, merely on the ground that there is no provision in the Act, then for the purpose of meeting the ends of justice to achieve the purpose of enactment, then Court can invoke its inherent powers, though it was not specifically provided under the statute as for every Tribunal and Court, inherent powers are incidental in nature and that can be used for that purpose.

(v) Merely because wrong section was quoted and wrong prayer was made is not a ground to reject the application, if on the basis of the allegations it can be converted into some other form to grant appropriate relief under some of the relevant provisions, then Court has got powers to convert the application for the purpose for which it was intended and proceed with the matter.

(vi) With these principles in mind, the case in hand has to be considered on facts.

82. The allegations in both these applications are that State of Andhra Pradesh, in violation of the direction given by this Tribunal in O.A. No. 71 of 2020 by its final Judgement dated 29.10.2020, was proceeding with the work. When similar application was filed earlier as M.A. No. 6 of 2020, on the basis of the undertaking given by the Chief Secretary, this Tribunal had disposed of the matter stating that there is no necessity to take any

action and if there is any excess work done and it is found to be so by MoEF&CC and Krishna River Management Board, then they are at liberty to take appropriate action against them. But in spite of that, they are proceeding with the work and tenders have been floated and they are carrying out the work of implementation of the project without getting environmental clearance.

83. The case of the State of Andhra Pradesh was that they have not violated any of the decree or direction of this Tribunal. In fact as directed by this Tribunal they have applied for environmental clearance and the authorities wanted certain clarifications and they have given their clarification and the matter is pending with them. As per the modified interim order in O.A. No. 71 of 2020, this Tribunal had permitted the State of Andhra Pradesh to do the investigation for the purpose of preparation of DPR to be submitted before the authorities as per the directions of the Krishna River Management Board, Central Water Commission and Apex Council to ascertain whether it is a new project and whether appraisal will have to be done by them and in view of the direction issued by Ministry of Jal Shakti that this project should not be proceeded with without getting appraisal by the Krishna River Management Board and Central Water Commission and approved by Apex Council.

84. Further in order to avoid acquisition of land, they wanted to shift the place to another location and that study was conducted by the contractor in whose favour tender was conferred and they have also obtained details regarding its location from the Principal Chief Conservator of Forest to ascertain as to whether any of the forest area or eco-sensitive zones were falling within this area and received a communication that no such eco-sensitive zones are situated within the prohibited distance and it is

beyond that distance that the location has been selected. Further, when the DPR was submitted but Central Water Commission wanted certain clarification and in order to ascertain the same further study was required, so as to ascertain the stability of the area. Though, they have mentioned that this will have to be done as per the Central Water Commission guidelines for preparation of DRP, 2010, there was no specific guideline provided in this regard. So a technical Committee was constituted with Expert Members, it is on the basis of their opinion that further excavation work for the purpose of ascertaining the soil quality where the pumping house will have to be constructed and also the discharge pumps with tunnels will have to be established has to be done. Except that they have not done any work with an intention to execute the project. So, they have under the bonafide intention of implementing the project for the purpose of preparation of the work in good faith had undertaken this work in order to avoid calamity being caused on account of poor preparation of estimation and the feasibility study for this project and to avoid unnecessary expenditure being caused to the exchequer to prepare a proper detailed project report, this exercise was undertaken.

85. They have also relied on the guideline for submission of Appraisal and Acceptance of Irrigation and Multipurpose Project, 2017 issued by Central Water Commission, Ministry of Water Resources, River Development and Ganga Rejuvenation, New Delhi. Where in para 4 of the guidelines deals with procedure to be followed for Detailed Project Report which reads as follows:

#### **4. DETAILED PROJECT REPORT**

4.1 Detailed Project Report (DPR) preparation by the Project Authority has to be undertaken in a consultative mode with CWC. For this, the Project Authority may make a presentation to the specialised Directorates of CWC. Project Authority needs to furnish a certificate indicating that the DPR has been prepared in a consultative mode with the specialised Directorates of CWC i.e. Hydrology,

Irrigation Planning, Inter-State Matters and Project Planning from concerned design unit while uploading the DPR in e-PAMS. The certificate needs to be countersigned by the concerned Directorates dealing with the above matters in CWC. The certificate will however not be treated as acceptance by these Directorates of the DPR. CWC would carry out field inspection on need basis.

- 4.2 CWC will primarily examine hydrology, inter-State aspects, irrigation planning, and economic viability in the DPR. Examination of these aspects by CWC is crucial from the point of view of holistic and unbiased examination of the project. As regards design and safety aspects, States having Central Design Organisation (CDO) accredited\* by CWC need to furnish a certificate in the prescribed proforma indicating that the planning & design / safety aspects have been examined by the CDO under State Water Resources Department incorporating the list of BIS codes followed therein. States which don't have CDO/accredited CDO can take the help of accredited CDO of other States. CWC will necessarily examine design aspects in case of those States which don't furnish certificate from accredited CDO with regard to planning and design / safety aspects.
- 4.3 Online Project Appraisal Management System (e-PAMS) necessitates submission of certificates by various Central agencies / State agencies / or their Accredited agencies (like GSI, CSMRS, CGWB, State Agriculture Department, Accredited agencies of CSMRS / GSI etc.) with respect to various aspects such as Geological exploration, rock and soil testing for various engineering parameters, ground water planning, crop yield and market rate, cropping pattern etc., at the time of submitting the DPR so that the appraisal process can be carried out unhindered within a stipulated time frame. The check list as a part of the e-PAMS for facilitating the Project Authorities to upload the DPR as per the prescribed norms is enclosed as Annexure - 6. सत्यमेव जयते
- \*Accreditation of CDOs and other agencies would be carried out by a Committee headed by Member(D&R), CWC after receipt of requisite information from the concerned State Governments and the list of accredited CDOs of various States will be communicated separately.
- 4.4 Detailed Project Report (DPR) shall be prepared in accordance with applicable Indian Standards and as per the latest "Guidelines for preparation of Detailed Project Reports of Irrigation and Multipurpose Projects" issued by Govt. of India, MoWR, RD & GR (2010), after detailed surveys and investigations. It must be ensured that duly completed check-list, salient features and all relevant details as well as location map, Index map showing command area and canal network, annexures etc. as required by the aforesaid MoWR, RD & GR Guidelines are contained in the report and estimates are comprehensive as well as up-to-date in accordance with the existing Guidelines.
- 4.5 The clearances obtained in respect of Environment Impact Assessment, Forest, R&R Plans, etc. shall also be appended with DPRs and implied costs shall be duly accounted in the estimate.
- 4.6 DPR of ERM scheme shall be accepted by CWC for appraisal, only if the original project was accorded investment clearance by the then Planning Commission (now NITI Ayog) / MoWR, RD & GR. However, the ERM of the projects which were completed before 1976 will be accepted by CWC for appraisal.
- 4.7 Copy of DPR of any project proposed in the river basin for which no tribunal award or inter-State agreement exists, will be circulated to the co-basin States by the Project Authority. CWC will send a copy of the DPR to Resident Commissioner of the party States in New Delhi.
- 4.8 After circulation of the project report, the co-basin States have to furnish views/observations on the project proposal / report within 45 days of receipt of the report failing which it will be treated that the State has nothing to say.
- 4.9 In case of Major irrigation and Multi-purpose project, soft copy of the Detailed Project Report shall be submitted only by e-PAMS system and sufficient sets of hard copies of DPR (refer Para 4.15) alongwith relevant certificates from various accredited agencies and clearances as per check-list shall be submitted to the Chief Engineer, PAO, CWC for Annexure- 6 shall be submitted to the Chief Engineer, PAO, CWC for examination.
- 4.10 In case of medium projects, soft copy of the Detailed Project Report shall be submitted only by e-PAMS system and sufficient sets of hard copies of DPR (refer Para 4.15) alongwith relevant clearances as per check-list shall be submitted

to Chief Engineer of Annexure-6 respective Regional Offices of CWC for examination under intimation to the Chief Engineer, PAO, CWC.

- 4.11 In case of Major, Medium irrigation & Multipurpose projects proposed to be funded under external assistance, soft copy shall be submitted through e - PAMS and sufficient sets of hard copies of DPR (refer Para 4.15) alongwith relevant clearances as per check-list shall be submitted to the Chief Engineer, PPO, CWC. Annexure-6
- 4.12 In case of National Projects, soft copy shall be submitted through e - PAMS and sufficient sets of hard copies of DPR (refer Para 4.15) alongwith relevant clearances as per check-list Annexure-6 shall be submitted to the Chief Engineer, PPO, CWC.
- 4.13 DPRs, not containing details as per check list will not be accepted by the System.
- 4.14 In case where Design & Planning Organizations are existing in the concerned State and CWC certifies through accreditation process that it has sufficient competency to design such projects and a certificate is furnished by the accredited CDO in prescribed proforma Appendix-J of Annexure - 6 in respect of their detailed examination/clearance of the project proposal and appraisal/clearance of the State level Project Appraisal/Technical Advisory and Environmental Appraisal committees, examination of the project by CWC will be generally restricted to inter State aspects, basic planning, hydrology and economic viability.
- 4.15 **4.15 The number of hard copies of DPR to be submitted to CWC is as follows:**

|    |   |         |
|----|---|---------|
| a. | New Major, Medium Irrigation Project without CDO certificate    | 12 sets |
| b. | New Major, Medium Irrigation Project with CDO certificate       | 8 sets  |
| c. | New Multipurpose Project without CDO certificate                | 14 sets |
| d. | New Multipurpose Project with CDO certificate                   | 10 sets |
| e. | ERM of Major, Medium Irrigation Project without CDO certificate | 8 sets  |
| f. | ERM of Major, Medium Irrigation Project with CDO certificate    | 7 sets  |
| g. | ERM of Multipurpose Project without CDO certificate             | 10 sets |
| h. | ERM of Multipurpose Project with CDO certificate                | 9 sets  |

Note:

- In addition to above, complete set of DPR consisting of all volumes may be sent by Project Authority to each co-basin States.
  - Project Authority may submit additional sets of DPR to CWC on request for examination of special analysis etc., as per the requirement.
- 4.16 In case certificates by accredited CDO are not appended with DPRs, design aspects shall also be scrutinized in detail. DPR of Major project proposals shall be examined in concerned Directorates of CWC, Ministry of Water Resources, River Development and Ganga Rejuvenation (MoWR,RD&GR) and other Central agencies in respect of items pertaining to their area of specialization/area of concern. During techno-economic appraisal, State Govt.'s compliance to CWC observations will be required to be submitted by an officer not below the rank of Chief Engineer/Equivalent Competent Authority.
- 4.17 In case of Medium projects, the concerned Monitoring & Appraisal Directorates of Field Units of CWC / Nodal directorates in CWC (HQ) may take assistance of concerned specialised units at CWC (HQ) on a case to case basis.
- 4.18 All projects in the Ganga-Brahmaputra-Meghna and Indus basins would be examined from international angle in the MoWR,RD&GR. The State Governments which have borders with neighbouring countries should in particular keep this in view while considering any project close to International borders right from the initial stage of investigation and planning. This applies to major as well as medium projects irrespective of the fact that a Central Design and Planning

Organization exists in that State or not. Similarly inter-State aspects and implications shall be duly verified in ISM Dte., of CWC even in case of medium projects.

- 4.19 The final estimate shall be based on finalized designs and details of civil and hydraulic structures and economic analysis will be carried out by the Project Authorities/CWC adopting standard/accepted procedures. The project authorities will also submit concurrence of the State Finance Department for the finalized cost.
- 4.20 The time line for the appraisal of DPR is as follows: Refer Annexure - 7&8 I. For Major, Medium and Multipurpose projects with certificate of accredited CDO - four (4) months ii. For Major, Medium and Multipurpose projects without certificate of accredited CDO -six (6) months
- 4.21 If the deficiencies communicated by CWC/Other Central Agency are not attended and the DPR is not upgraded by the Project Authority, within three(3) months from the date of communication of deficiencies, the DPR / RCE shall be treated as sent back / returned to Project Authority and the project will be deleted from the list of projects under appraisal.
- 4.22 Once techno-economic viability of a Project Proposal is established, a comprehensive note and check-list, duly finalized by PAO / PPO / Regional office of CWC and approved by Member(WP&P), CWC, shall be circulated among Members of Advisory Committee of MoWR, RD&GR for consideration and acceptance of Irrigation, Composition at Annexure Flood Control and Multipurpose Project Proposals
- 4.23 The officers of the State Govt. of the level of Principal Secretary, Engineer-in-Chief alongwith other State Engineers associated with the project formulation/design will be invited to attend the Advisory Committee meeting so as to furnish information/ clarifications, if any, sought by the Members of the Advisory Committee.
- 4.24 On the basis of the note prepared by CWC and deliberations during the meeting of the Advisory Committee, decision on the acceptance of the projects will be taken in the meeting of this Committee.
- 4.25 Ordinarily, a project will be accepted by the Advisory Committee only when all the clearances including statutory clearances have been obtained by the Project Authority. However, in case the statutory clearances / concurrences such as Environment, Forest and Wild life clearances from MoEF&CC, clearance of R&R plan of tribal population from MoTA, the State Finance Concurrence (SFC) etc. are pending; the Advisory Committee may accord conditional acceptance to the project.
- 4.26 In case of projects deferred by the Advisory Committee, the concerned State Govt. needs to submit satisfactory compliances to the observations within a period of three (3) months. If not submitted within three (3) months, the project will be treated as returned back.
- 4.27 The projects found acceptable by the Advisory Committee shall be submitted by the State Government in prescribed format for Investment Clearance as per MoWR, RD&GR Guidelines issued vide Lr. No.P.15011/3/2015-SPR dated 17.12.2015 with due compliances of the observations made during the meeting of the Advisory Committee.
- 4.28 If any new project has already been started by the Project Authority before acceptance by the Advisory Committee then the said project will only be processed for inter-state aspect and will not be further considered for acceptance by the Advisory Committee and all such projects will be termed as unapproved projects.
- 4.29 The State Government shall submit updated DPR of the project incorporating all the improvements done during the course of appraisal of the project and acceptance by the Advisory Committee while submitting Investment Clearance proposal to CWC. The Investment Clearance proposals submitted without updated DPR will be returned forthwith.

86. Further, they have also received a communication from Geological Survey of India by their letter dated 04.12.2020 with inspection note on

“Feasibility Stage Geotechnical Investigation” with conclusions and Recommendations as follows:

**Conclusion & Recommendations:**

- Based on the geological set up of the area and borehole core logging, it is opined that the proposed location of the pump house is prima-facie feasible.
- Suggested to remove the disposed muck and to intimate for further geological mapping before start of concrete.
- Based on the core logging, it is expected to encounter a slightly fresh to fresh rock below a depth of about 8 to 10m from the ground level.
- Suggested to drill 3 boreholes along the center line of the proposed pump house location to ascertain the nature of bed rock and also to estimate the stability of the slopes during the construction of the proposed pump house.

87. It is seen from this that they have suggested to drill three boreholes along the center line of the proposed pump house location to ascertain the nature of bed rock and also to estimate the stability of the slopes during the construction of the proposed pump house. They have not suggested for any excavation work as such. They have also relied on the Technical Expert Committee appointed by the Government consist of Sri K. Srinivas, Chief Engineer Central Designs Organisation, Vijaywada, Sri M. Giridha Reddy, Chief Engineer (Retd), Central Designs Organisation, Vijaywada and Sri R. Muralinadha Reddy, M.Tech, Chief Engineer, Kurnool and Co-ordinator which reads as follows:

Joint Inspection Notes of Technical Expert Committee consisting of Sri K. Srinivas, Chief Engineer Central Designs Organisation, Vijayawada, Sri. M. Giridhar Reddy, Chief Engineer (Retd.), Central Designs Organisation, Vijayawada and Sri.R.Muralinadha Reddy, M.Tech, Chief Engineer, Kurnool and Co-ordinator.

Date of Inspection- 23-01-2021

Officers Present :

- |  |   |
|--|---|
| 1. Sri. Sk.Kabeer Basha<br>Superintending Engineer,<br>SRBC circle No.1, Nandyal       | 2. Sri M.L.N. Varaprasad<br>Executive Engineer<br>SRBC Division No.2, Panyam. |
| 2. Sri. P.Subhukumar,<br>Executive Engineer,<br>SRBC Division No.4, Gorakallu@Nandyal. |   |

Name of Work: **Rayalaseema Lift Scheme to supplement 3 TMC per day from Sangameshwaram to SRMC on D/s of Pothireddypadu Head Regulator, Kurnool District, Andhra Pradesh.**

**Preamble**

The government of Andhra Pradesh has accorded Administrative Approval for Rayalaseema Lift Scheme to supplement 3TMC per day from Sangameswaram to SRMC downstream of Pothireddypadu Head Regulator for an amount of Rs.3825 crores vide G.O Rt.No.203 Dt05.05.2020. It's main-objective is to lift the Water from Srisalilam fore shore when the reservoir level is below 854.000ft and to supplement to the existing systems of TGP, SRBC, GNSS and Chennai drinking water supply. The work is entrusted to M/S SPML-NCC-MEIL (JV) for an amount of Rs 33070663247/- on EPC turn key basis. The time period for completion is 30 months. As per the agreement conditions the agency has to conduct Detailed Investigations for the preparation of Detailed Project Report (DPR) and to conclude second stage agreement. The Ministry of Jal Shakti also instructed to submit the Detailed Project Report (DPR).

Methodology and Parameters of the scheme:

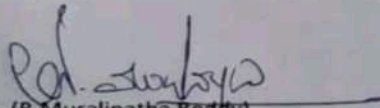
The water shall be drawn from the location just u/s of gorge near Sangameswaram temple (confluence of Bhavanasi with Krishna) and drawn through an approach channel up to pump house which shall be located above Reservoir FRL line and water lifted shall be delivered into a cistern and carried through a link canal to SRMC D/s of Pothireddypadu Head Regulator.

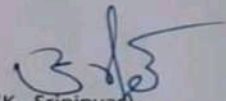
The location of the Pump House and alignment of Approach Channel were finalized during the joint inspection conducted on 12-11-2020. In this proposal, the Pump House is located adjacent to the existing Pothireddypadu Head Regulator.

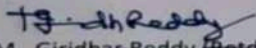
Detailed investigations and excavation for the suitability of foundation strata are under progress. The General Electro Mechanical Drawing approved by the APGENCO, Vijayawada and preparation of Detailed Designs and Drawings are under progress. During investigations it is found that the Strata below ground level mostly consists of Nandyal Shales of Kurnool super group variety of Rock Strata. The Geologist team from GSI also inspected the site and examined the Bore Hole core logging data and given its prima facie feasibility report.

The tentative sectional drawings of Pump House proposed by the agency shown the deepest foundation level around elevation +216.76 M, where as the ground level is around + 271.00 M. After observing the partially excavated strata it is difficult to assess the suitability of the strata for foundation of such a huge structure without seeing the actual strata at required foundation level and conducting the mandatory tests like Plate Load Test for assessing the bearing capacity of the strata. Hence it is recommended to excavate the pump house foundations up to the required foundation level and conduct the mandatory test viz Plate Load test to assess the exact nature of the strata and its bearing capacity for locating the huge structure like Pump House. The necessary civil design and drawings which are very much necessary for preparation of DPR can be approved only after assessing the exact nature of the strata and its characteristics.

**Conclusion :** It is advised to excavate up to the tentative foundation level of the Pump House and observe the strength characteristics of the strata and conduct the mandatory tests at foundation level (viz) Plate Load Test and submit to the committee for further course of action.

  
(R. Muralinatha Reddy)  
Chief Engineer & DWRO  
Kurnool  
Co-ordinator, Expert Committee.

  
(K. Srinivas)  
Chief Engineer  
Central Designs Organisation  
Vijayawada  
Member, Expert Committee.

  
(M. Giridhar Reddy)  
Chief Engineer (Retd.)  
Central Designs Organisation  
Vijayawada  
Member, Expert Committee.

88. It is seen from the report that the Committee had advised to excavate upto the tentative foundation level of the pump house and observe the strength characteristics of the strata and conduct the mandatory test at foundation level plate and load test and submit to the committee for further course of action. So it is on that basis according to the Learned Senior Counsel appearing for the State of Andhra Pradesh that the nature of work will have to be undertaken as complained of by the parties.

89. We have also perused the photographs produced by both sides. It shows that there was large excavation to the extent of a portion of the foundation

for the pump house and also for establishing tunnels a portion of work for the tunnel work was also carried out. It is true that Tribunal had permitted them to do the investigation for the purpose of preparation of DPR which is required for the purpose of production before the authorities for appraisal. The Tribunal never expected or being appraised by the extent or nature of procedure to be followed for the purpose of preparation of DPR and to what extent excavation will have to be done to make the study report in this regard. So, that is the reason why this Tribunal had granted permission to carry out the investigation for preparation of DPR. If that was taken as a shield and work was carried on subsequent Technical Committee opinion obtained by the State Government for this purpose, it cannot be said that they have wilfully violated the order for injunction which requires any coercive action to be taken against the person who are involved in carrying out the project.

90. The Joint Committee appointed by this Tribunal had come to the conclusion that nature of work undertaken by the State of Andhra Pradesh is excess of what is required for preparation of DPR. They have not conclusively said that it is not necessary, especially when a technical expert opinion is required on these aspects. So, under such circumstances, it cannot be said that the act committed by the State of Andhra Pradesh is in total disobedience of the order passed. Further, when the final Judgement was passed, this Tribunal has not modified the interim order granted as well while injuncting them from proceeding with the project without obtaining environmental clearance.

91. So under such circumstances, we feel that no coercive steps need be taken for violation but ultimately if it is found that it is in excess of what is required to be done for preparation of DPR and it will amount to part of

execution of the work, then State of Andhra Pradesh may be liable to pay compensation for the damage caused to the environment. So, in order to ascertain as to whether so much work is required for the purpose of DPR for such projects and if it is done in excess of what is required or what is intended as per the guidelines issued by the Centre Water Commission for this purpose we constitute a Joint Committee consist of 1) a Senior Officer from MoEF&CC, Regional Office, Vijaywada, 2) a Senior Officer from Geological Survey of India and 3) Senior Officer from Design and Planning of Irrigation and Multipurpose Projects, Centre Water Commission, New Delhi (if there is any office at Regional level at Andhra Pradesh, a officer deputed by Centre Water Commission for this purpose) to inspect the area in question and ascertain as to 1) whether the work undertaken by the State of Andhra Pradesh for the purpose of preparation of DPR is in tune with the guidelines given and whether, it is really required for that purpose and if it is excess of the guidelines provided, if so, to what extent it exceeded and assess the damage caused to the environment on account of the same and assess environmental compensation to be recovered from the State of Andhra Pradesh, 2) since the nature of work undertaken by the project proponent, namely, the State of Andhra Pradesh is in nature of execution of part of the work itself, namely, excavation for foundation, whether it will amount to preparation for the project which can be carried out only after obtaining prior environmental clearance as preparation as per EIA Notification, 2006 does not include such activities.

92. MoEF, Regional Office, Vijayawada will be the nodal agency for for coordination as well as for providing necessary logistic for the purpose.

93. So, we feel that till the MoEF&CC take a decision on the application filed by the State of Andhra Pradesh in respect of environmental clearance, we feel that it is necessary to restrain the State of Andhra Pradesh to do any further work even in respect of preparation of DPR and accordingly we direct the State of Andhra Pradesh not to proceed with any further work even in respect of preparation of DPR till MoEF&CC takes a decision on the question of environmental clearance for the project for which they have already applied for and is pending.

94. MoEF&CC is also directed to consider all the aspects which this Tribunal raised for the purpose of coming to the conclusion that the project requires environmental clearance while considering the scope of application for environmental clearance submitted by State of Andhra Pradesh.

95. In cases where deeper technical study is required for the purpose of preparation of DPR, then it is always better for MoEF&CC to incorporate and amend the EIA notification that for preparation of DPR if any excavation is required, then that also can be done only after obtaining prior environmental clearance in cases where that is mandated under EIA Notification, 2006 so as to avoid any misuse of that provision by the project proponents and proceed with the work in the nature of execution in the guise of preparation of DPP.

96. So under such circumstances, we feel that there is no necessity to proceed against the Chief Secretary for the alleged violation for the reasons mentioned above and we feel the applications can be disposed of as follows:

- i) In the view of the discussions made above, we feel that there is no necessity to initiate any action either for Civil contempt under Contempt of Courts Act, 1971 or for punishing him for violations of

injunction decree under Section 25 of National Green Tribunal Act, 2010 read with Section 51 Order 21 Rule 32, Code of Civil Procedure.

- ii) We constitute the Joint Committee consist of 1) a Senior Officer from MoEF&CC, Integrated Regional Office, Vijaywada, 2) a Senior Officer from Geological Survey of India and 3) Senior Officer from Design and Planning of Irrigation and Multipurpose Projects, Centre Water Commission, New Delhi (if there is any office at Regional level at Andhra Pradesh, an officer deputed by Centre Water Commission for this purpose) to go into the question whether the work undertaken by the State of Andhra Pradesh for the purpose of DPR is strictly in compliance with the guidelines issued by the Centre Water Commission and Geological Survey of India which is required for the purpose of preparation of DPR as per the guidelines issued by them in this regard and if unnecessary excess work has been done whether it will amount to part of execution of the work, if so found, assess the compensation for the excess work done and consider the damage caused to the environment.
- iii) Till the report is submitted and application for environmental clearance pending with MoEF&CC is disposed of by them, the State of Andhra Pradesh is directed not to proceed with any work on ground in the guise of preparation of DPR for this Rayalaseema Lift Irrigation Scheme.
- iv) While considering the application filed by State of Andhra Pradesh for issuance of environmental clearance, the MoEF&CC is directed to consider the observation made by this Tribunal in the final

Judgement in O.A. No. 71 of 2020 which resulted in coming to the conclusion that the project requires prior environment clearance and without getting environment clearance project work should not be started has to be considered by them and then take appropriate decision in accordance with law.

- v) The MoEF&CC is also directed to take a call in cases where for preparation of DPR any extensive study regarding the feasibility and its impact on soil features has to be conducted in respect of project where prior environmental clearance is required this may be made clear by amending the EIA Notification that no DPR can be prepared for with extensive study for that purpose without obtaining prior environmental clearance and that will not cover the exemption granted for preparation as provided under the EIA Notification, 2006 so, that the misconception regarding this can be avoided.
- vi) Considering the circumstances, parties are directed to bear their respective costs in the applications.
- vii) Committee is directed to conduct the inspection and make the study and submit the report through MoEF&CC and if MoEF&CC found that it is in violation of the EIA Notification, 2006 and also the guidelines provided for preparation of DPR, then they are directed to take appropriate steps against the State of Andhra Pradesh for doing such alleged violations in accordance with law.
- viii) MoEF&CC and Joint Committee are directed to submit their respective reports to this Tribunal within a period of four months for consideration.



- ix) The office is directed to place the reports as and when received for consideration.
- x) Registry is directed to communicate this order to MoEF&CC, New Delhi, MoEF&CC, Integrated Regional Office, Vijaywada, Centre Water Commission, New Delhi, Geological Survey of India, New Delhi for their information and compliance with the directions.

97. With above directions and observations, the applications are disposed of.



..... J.M.  
(Justice K. Ramakrishnan)

..... E.M  
(Dr. Satyagopal Korlapati)

M.A. No.02/2021 & 03/2021 in  
O.A. No.71/2020 (SZ)  
17<sup>th</sup> December, 2021.AM.







सत्यमेव जयते

**भारत सरकार / Government of India**  
**पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय**  
**Ministry of Environment, Forest and Climate Change**  
**विजयवाड़ा में उप कार्यालय / Sub Office at Vijayawada**  
**श्रीन हाउस, गोपालारेड्डी रोड, विजयवाड़ा, आंध्र प्रदेश - 520010**  
**Green House, Gopalareddy Road, Vijayawada, Andhra Pradesh - 520010.**



**Tel: +91 866 - 2419787, +91 866 - 2419788, E-mail: [iro.vijayawada-mefcc@gov.in](mailto:iro.vijayawada-mefcc@gov.in), [suresh.pasupuleti@gov.in](mailto:suresh.pasupuleti@gov.in)**

File No. IRO/VIJ/EPA/NGT/106-22/2021

Date: 07.03.2024

To

**Shri Shailendra Kumar Singh,**  
Director (G),  
Engineering Geology Division,  
Geological Survey of India,  
Southern Region, PO: Bandlaguda,  
Hyderabad 500068  
E-mail: [shailendra.singh1@gsi.gov.in](mailto:shailendra.singh1@gsi.gov.in)

**Shri M Ramesh Kumar,**  
Director, M&A (TS) Dte.  
KGBO, Central Water Commission,  
Ministry of Jal Shakti,  
Krishna Godavari Bhawan,  
11-4-648, A.C. Guards,  
Hyderabad - 500004  
E-mail: [cekgbo-cwc@nic.in](mailto:cekgbo-cwc@nic.in), [pasdte-cwc@gov.in](mailto:pasdte-cwc@gov.in)

Sub: M.A. No. 02 of 2021 (SZ) & M.A. No. 03 of 2021 (SZ) in Original Application No. 71 of 2020 (SZ) in the matter of Gavinolla Srinivas, Damargidda Manda Vs Union of India & Ors. - reg

Ref: 1. Hon'ble NGT, SZ Order dated 17.12.2021.  
2. This Office Letter of even no. dated 27.02.2024.  
3. Ministry of Jal Shakti, Central Water Commission Letter No. C-18015/1/2022-PA(S) DTE dated 01.03.2024.  
4. Geological Survey of India, SR, Hyderabad E-mail Letter dated 28.02.2024.

Sir,

I am directed to draw your kind attention to the subject and reference letters cited above and to state that the Hon'ble NGT, SZ vide Order dated 17.12.2021 in M.A. No. 02 of 2021 (SZ) & M.A. No. 03 of 2021 (SZ) in Original Application No. 71 of 2020 (SZ) in the matter of Gavinolla Srinivas, Damargidda Manda Vs Union of India & Ors has constituted a Joint Committee consist of 1) a Senior Officer from MoEF&CC, Integrated Regional Office, Vijayawada, 2) a Senior Officer from Geological Survey of India and 3) Senior Officer from Design and Planning of Irrigation and Multipurpose Projects, Centre Water Commission, New Delhi (if there is any office at Regional level at Andhra Pradesh, an officer deputed by Centre Water Commission for this purpose).

Based on the nominations received by this Office, the following committee has been constituted:

1. Dr. Suresh Babu Pasupuleti, Scientist 'D', Ministry of Environment, Forest and Climate Change, Sub Office at Vijayawada.

2. Shri Shailendra Kumar Singh, Director (G), Engineering Geology Division, GSI, SR, Hyderabad.
3. Shri M Ramesh Kumar, Director, M&A (TS) Dte. KGBO, CWC, Hyderabad.

As per the discussions held, it is proposed to inspect the project site on 12.03.2024 (Tuesday) and 13.03.2024 (Thursday).

In view of above, it is requested to kindly make it convenient to visit the site along with other members of the Joint Committee to fulfil the mandate of the Hon'ble NGT, SZ Orders

This may be treated as "**Most Urgent**".

□□□□ / Yours faithfully,

Encl: as above

Signed by  
Dr. Suresh Babu Pasupuleti  
Date: 18-03-2024 15:02:04

(Dr. Suresh Babu Pasupuleti)

Joint Director (S) / Scientist 'D'

Copy to:

1. **The Director (S)**, Compliance and Monitoring Division, Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, Jor Bagh Road, Aliganj, NewDelhi-110 003. E-mail: [moefcc-monitoring@gov.in](mailto:moefcc-monitoring@gov.in) for kind information and further necessary action.
2. **The Director (S)**, Policy and Law Division, Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, Jor Bagh Road, Aliganj, NewDelhi-110 003. E-mail: [lmc.moefcc@gov.in](mailto:lmc.moefcc@gov.in) for kind information and further necessary action.
3. **The Member Secretary**, River Valley and Hydroelectric Projects, Ministry of Environment, Forest & Climate Change, Indira Paryavaran Bhawan, Jor Bagh Road, New Delhi - 110 003. E-mail: [munna.shah@gov.in](mailto:munna.shah@gov.in), [saurabh.upadhyay85@gov.in](mailto:saurabh.upadhyay85@gov.in), [ishanvi.m@nic.in](mailto:ishanvi.m@nic.in) for kind information and further necessary action.
4. Guard File

□□□□ □□

GOVERNMENT OF ANDHRA PRADESH  
ABSTRACT

Water Resources Department –Irrigation schemes to draw and utilize 6 TMC to 8 TMC per day from Srisailem Reservoir - Administrative approval - Accorded – Orders - Issued.

WATER RESOURCES (PROJECTS.III) DEPARTMENT

G.O.RT.No. 203

Dated: 05-05-2020.

Read the following:-

- 1) From the Chief Engineer (P), Kurnool Lr.No.CE/KNL/DEE4/AEE2/ Rayalaseema Projects/2019, Dt:31-12-2019.
- 2) From the Chief Engineer (P), Kurnool Lr.No.CE/KNL/DEE4/AEE2/ Rayalaseema Projects/2020/02 Govt, Dt:10-01-2020.
- 3) From the Chief Engineer (P), Kurnool Lr.No.CE/KNL/DEE4/AEE2/ Rayalaseema Projects/2020/ Dt:16 & 18.04.2020.

&&&&

**ORDER:**

In the letters 1<sup>st</sup> to 3<sup>rd</sup> read above, the Chief Engineer (P), Kurnool has requested the Government to accord administrative approval for the following works for an amount of Rs.7045.06 Crores:

| S.No. | Name of the Project  | Estimate cost in Rs. Crores |
|-------|--|-----------------------------|
| I     | Rayalaseema Pumping system (3 TMC per day) from Sangameswaram to SRMC at km 4 from Pothireddypadu Head Regulator   | 3889.00                     |
| II    | Upgradation of Pothireddypadu Head Regulator and BCR Complex to Draw 80,000 C/S of Water From Foreshore of Srisailem Reservoir                                       | 570.55                      |
| III   | i)Lining of Existing SRBC/GNSS Canal Upto Berm Level to Draw 30000 c/s (upto Gorukallu Balancing Reservoir)  | 981.93                      |
|       | ii) Construction of additional Infall Regulator with 03 vents to accommodate 10000 c/s capacity including Excavation of approach channel and leading channel for GBR | 38.70                       |
|       | iii) Lining of Existing SRBC/GNSS Canal Upto Berm Level to Draw 30000 c/s (in between Gorukallu Reservoir to Owk Reservoir)  | 1564.88                     |
|       | Total  | 7045.06                     |

2. Government after careful examination of the proposal of Chief Engineer (P), Kurnool, hereby accorded administrative sanction for an amount of Rs.6829,15,00,000/- (Rupees Six Thousand Eight hundred Twenty nine Crores and Fifteen Lakhs only) for the following works as detailed below:

| S.No | Name of the work   | Cost (Rs. in Crores) | Comprising components of work  |
|------|--|----------------------|--|
| I    | Rayalaseema Lift Scheme to draw and utilize 3 TMC per day from Sangameswaram to SRMC at Km 4 from Pothireddypadu Head Regulator. | 3825.00              | Approach channel, Lift systems, Infrastructure for pump stations   |
| II   | Upgradation of canal system from Pothireddypadu Head Regulator and BCR Complex from Foreshore of Srisailem Reservoir.            | 570.45               | Widening of approach channel, improvements to old Pothireddypadu head regulator, lining to SRMC, SLB@0.600 of SRMC, pool pond @ BCR complex, imp. To gates for TGP, escape channel and SRBC at BCR complex, loop canal to connect SRBC to escape channel |
| III  | i) Lining of Existing SRBC / GNSS Canal upto Berm Level to draw 30,000 c/s (up to Gorakallu Balancing Reservoir)                 | 939.65               | Construction of balance structures from Km 0.10 to Km 25.067 & 25.067 to 56.775, lining/shortcreting of SRBC canal from Km 0.10 to Km  |

|  |   |                           |
|--|---|---------------------------|
|  |   | 25.067 & 25.067 to 56.775 |
|  | ii) Construction of additional In fall regulator with 3 vents to accommodate 10,000 c/s capacity including approach channel and leading channel for GBR | 36.95                     |
|  | iii) Lining of Existing SRBC / GNSS Canal upto Berm Level to draw 30,000 c/s (in between Gorukallu Reservoir to Owk Reservoir)                          | 1457.10                   |
|  | TOTAL:  | 6,829.15                  |

(Rupees Six Thousand Eight hundred Twenty nine Crores and Fifteen Lakhs only)

3. The Chief Engineer (P), Kurnool shall take further action in the matter accordingly and directed to speed up the land acquisition process and also to ensure the following before according technical sanction for the above works:

|   |  |
|---|--|
| 1 | The correctness of provisions, quantities and rates proposed in the estimates. |
| 2 | The design/drawings have to be approved by the competent authority             |
| 3 | As per the revised Sand Policy of the Govt. the Sand rate has to be adopted.   |
| 4 | Detailed estimates/quotations have to be supported for the LS provisions.      |
| 5 | All the works proposed now should not overlap in any other works/packages.     |

4. The above expenditure is debitable to the HOA: 4700-Capital Outlay on Major Irrigation -01- Major Irrigation - Commercial - MH - 133-GNSS – GH 11 State Development Schemes - SH 27 C&D - 530 Major Works - 531 – Major Works.

5. This order issues with the concurrence of the Finance (FMU.WR.II) Department vide their UO No. FMU0MRAS(WR2)/128/2020-FMU-WR-II, dt:01.05.2020.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

ADITYA NATH DAS  
SPECIAL CHIEF SECRETARY TO GOVT

To  
The Chief Engineer (Projects), Kurnool.  
Copy to:  
The Director of Works & Accounts, Vijayawada.  
The Finance (FMU.WR.II) Department  
The Accountant General, AP, Hyderabad  
PS to Hon'ble Minister for WRD;  
PS to Special Chief Secy (WRD)  
File No. ICD01/MJIR/17/2020-PROJECTS-III(Comp No.1076666)  
SF/SC

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SECTION OFFICER

GOVERNMENT OF ANDHRA PRADESH  
ABSTRACT

Water Resources Department - Rayalaseema Lift Scheme- Work components required for drinking water for Chennai Water Supply and Chronically drought prone areas of Rayalaseema region – Execution on Priority under Phase-I - Approval Accorded- Orders- Issued.

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WATER RESOURCES (PROJECTS.III) DEPARTMENT

G.O.Rt.No.364

Dated:11.08.2023.  
Read the following:

1. G.ORT.No.203, Water Resources (Projects III) Department, Dt 05.05.2020.
2. From Chief Engineer (P), Kurnool Lr.No.CE/KNL/ICD32-TW/293/2023 (2172033)/DEE2/ AEE1/RLI/Drinking Water, Dt:09/08/2023  
&&&&

ORDER:

In the G.O. 1<sup>st</sup> read above, Government have accorded administrative sanction for Rayalaseema Lift Scheme (RLS) to draw and utilise 3TMC per day from fore shore of Srisaillam reservoir at Sangameswaram to drop into SRMC at Km 4 D/s of Pothireddipadu Head Regulator (PHR) at a cost of Rs.3825CrS as part of Rayalaseema Drought Mitigation Project to ensure timely & assured supply of water for drinking purpose in Rayalaseema Region including 15 TMC for Chennai water supply and to serve the contemplated ayacut under Telugu Ganga Project (TGP), Srisaillam Right Branch Canal (SRBC) & Galeru Nagari Sujala Shravanthi (GNSS) which is about 9.6 lakh acres.

2. In the reference 2<sup>nd</sup> read above, the Chief Engineer (P), Kurnool reported that the quantum of water required for various schemes in Rayalaseema region through PHR from foreshore of Srisaillam Reservoir is 101 TMC viz. Chennai Water Supply:15TMC, Telugu Ganga Project (T.G.P.): 29 TMC, Srisaillam Right Branch Canal (S.R.B.C.): 19TMC, Galeru Nagari Sujala Shravanthi (G.N.S.S.) :38 TMC.

3. The Chief Engineer(P), Kurnool further reported that, as per interstate agreement entered in the year 1976/77 between the erstwhile state of Andhra Pradesh and Tamil Nadu, 15 TMC of water is to be drawn from Srisaillam reservoir during July to October for Chennai water supply and further it is agreed in the year 1983 vide bilateral agreement that, it is the responsibility of Andhra Pradesh to deliver 12 TMC of water i.e; 8 TMC during July to October and 4 TMC during January to April at Tamil Nadu border.

4. The advisory committee of CWC in its 58th meeting communicated approval vide Lr.no.16/27/94-PA(N) Dt:04.07.1994 to take up Srisaillam Right Branch Canal with the return flow of 11 TMC allocated by Bachawat Tribunal and 8 TMC by way of savings due to modernization of K.C. Canal System.

5. A.P. Re-organization Act – 2014 vide Schedule XI , Para 10 mandated to complete the ongoing projects namely Telugu Ganga and Galeru Nagari Sujala Shravanthi planned for utilization of 29TMC and 38TMC of flood waters, respectively.

6. The Chief Engineer (P), Kurnool further reported that, the water by gravity through Pothireddypadu can only be drawn to its designed capacity when the water level in the Srisaillam Reservoir is +880ft and above although the sill level of PHR is +841 ft. The flood days available at Srisaillam are diminishing year after year making it impossible to draw allocated waters by Andhra Pradesh within the short period and even the barest minimum requirements to meet Chennai water supply and drinking water needs of Rayalaseema region.

7. The Chief Engineer (P), Kurnool reported that, indiscriminate usage of water by the upper riparian states and unilateral usage of water for power generation and other needs by the neighbouring state from a level below +800 ft, is not allowing to impound the reservoir to the required level to draw water by gravity even for the drinking purpose against its allocations by the lower riparian state of AP.

8. In this context, the GoAP vide reference 1st read above, accorded administrative approval to take up the work of RLS to supplement 3 TMC of water per day duly lifting from a level of +800ft to drop into SRMC at Km 4 D/s of PHR to meet Chennai water supply and drinking water needs of Rayalaseema region.

9. The Chief Engineer(P), Kurnool further reported that, during execution of the RLS, O.A No.71of 2020 was filed before NGT, South Zonal Council, Chennai against taking up the work without prior Environmental Clearance (EC) and interim orders Dt.20.05.2020 were pronounced to stop the work and constituted a Joint Committee comprising members of Expert Appraisal Committee (EAC) of MoEF&CC of Irrigation Project, CPCB regional office, Bangalore, IIT Hyderabad, and a senior officer from KRMB to submit a report. The Committee submitted its report to Hon'ble NGT stating that on prima facie prior EC is not required for RLS as it is proposed to supplement to the schemes which are having approved ECs and no additional water is proposed to be drawn other than allocations and neither additional ayacut nor additional storage is contemplated. The Hon'ble NGT, South Zonal Council, Chennai, on the request of the GoAP modified the orders on 13.7.2020 to allow the work to the extent required for preparing the DPR.

10. The Hon'ble NGT in its judgement Dt.29.10.2020 stated that "prima facie found that there is a component of irrigation envisaged in the project which requires prior EC and without getting prior EC, the Govt of AP is restrained from proceeding with the work"

11. In pursuance of the orders of the Hon'ble NGT, the GoAP have applied for amendment to ECs of existing schemes viz. TGP, SRBC, GNSS duly inserting RLS Head Works in the system, as RLS is not a new project envisaging any new ayacut and as such fresh EC is not required as per existing procedures/guidelines of MoEF&CC. The project proponent has submitted the proposal before Expert Appraisal Committee (EAC) and the EAC in its 13th meeting after detailed discussions requested for certain information which was furnished by GoAP. Further EAC in its 14<sup>th</sup> meeting after elaborate discussions requested for further details which are being updated.

12. As per the Hon'ble NGT directions, as it is leading to delay in obtaining EC from the MoEF&CC for full scope of the scheme as proposed vide reference 1st cited, it is requested by the Chief Engineer(P),Kurnool that there is immediate need to take up the scheme under Phase-I to meet the drinking water requirements of 23.6 TMC (Telugu Ganga Project:2.9 TMC, SRBC:1.9TMC, GNSS:3.8TMC, Chennai water supply:15 TMC as per interstate agreement in the year 1983)

13. The Chennai water supply runs through SRMC, Banakacherla, Velugodu reservoir, Somasila reservoir, Kandaleru reservoir and through Poondi canal to the border of Andhra and Tamil Nadu states, which start in June with water year, by which time the storage in the above system of reservoirs will be generally at dead storage level and as such to facilitate the flow of required discharge in canals, these on line reservoirs need to be impounded to a minimum threshold level with 35.23 TMC of water (i.e. Velugodu Reservoir - 9.5 TMC, Somasila Reservoir-17.33 TMC, Kandaleru Reservoir - 8.4 TMC).

14. The Chief Engineer(P), Kurnool concluded that 35.23 TMC of water is to be stored in the enroute reservoirs to facilitate to supply 15 TMC of water to the Chennai water supply and 8.6 TMC for drinking needs of Rayalaseema region totals to 58.83 TMC (or say 59 TMC) which need to be drawn from the Srisaillam Reservoir. Accordingly, it is informed that, 6 Nos of pumps of capacity 32 MW with a discharge of 2913 Cusecs each are required to lift 59 TMC during critical period from mid-June to mid-July and requested the Government for according necessary permission to take up the Phase -I of RLS for Drinking water requirements.

15. Government after careful examination of the proposals of Chief Engineer(P), Kurnool hereby accord approval to take up the Rayalaseema Lift Scheme to meet the Chennai water supply and drinking water needs of

Rayalaseema region in the first instance under Phase-I as part of ultimate RLS as approved vide reference 1st read above.

16. The Chief Engineer(P), Kurnool shall take further necessary action accordingly.

17. Copy of this order is available in the **ap Gazette.cgg.gov.in** website.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

SHASHI BHUSHAN KUMAR  
PRINCIPAL SECRETARY TO GOVERNMENT

To

The Chief Engineer (Projects), Kurnool.  
Copy to: The Engineer-in-Chief(I), WRD, Vijayawada.  
The Director of Works & Account, Vijayawada  
The Finance(FMU.WR.II) Department  
The PS to Minister(WRD)  
The PS to Principal Secretary (WRD)

//FORWARDED :: BY ORDER//

  
SECTION OFFICER



**MINUTES OF THE 13<sup>TH</sup> MEETING OF THE EXPERT APPRAISAL COMMITTEE FOR RIVER VALLEY AND HYDROELECTRIC PROJECTS HELD ON 13<sup>TH</sup> AUGUST, 2024 AT MOEF&CC, INDIRA PARYAVARAN BHAWAN, NEW DELHI.**

The 13<sup>th</sup> meeting of the EAC for River Valley & Hydroelectric Projects organized by the Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, Jor Bagh Road, New Delhi, was held on 13<sup>th</sup> August, 2024 through Physical mode, under the Chairmanship of Prof. G. J. Chakrapani. The list of Members present in the meeting is at **Annexure**.

**Confirmation of the Minutes of the 12<sup>th</sup> EAC meeting:**

**The EAC confirmed the Minutes of the 12<sup>th</sup> EAC meeting held on 18/07/2024 to 19/07/2024 with following corrections:**

[A] Correction in the Minutes of Agenda Item No. 12.8 regarding Discussion on the Report of the Site visit undertaken by EAC(Sub-Committee), River Valley & Hydro-electric during 21.06.2023 to 25.06.2023 at Shongtong-Karcham (402 MW) Hydroelectric Power Project in District Kinnaur of Himachal Pradesh by M/s Shongtong Karchham Hydro Electric Project, HPPCL

The Member Secretary informed the EAC that site visit report of the EAC sub-Committee for the Shongtong-Karcham (402 MW) Hydroelectric Power Project in District Kinnaur of Himachal Pradesh by M/s Shongtong Karchham Hydro Electric Project, HPPCL was discussed by the EAC (RVHEP) during its 12<sup>th</sup> meeting held on 18/07/2024 to 19/07/2024. The EAC after acceptance of the report recommended following:

1. The PP will submit the information on following points as recommended by the EAC subcommittee after conducting site visit:
  - a. The revised EMP along with status of implementation of the present EMP. Steps taken to mitigate the impacts of additional muck generation.
  - b. Status of implementation of Catchment Area Treatment Plan, R&R and other Management Measures.
  - c. Action Plan for maintaining the E-Flow.
2. The Ministry may take suitable action for observed non-compliance of safeguard condition mentioned in the Environmental Clearance issued by the Ministry vide letter dated 19.05.2011, which states that *“Any change in the scope of the project shall be intimated to the Ministry and fresh approval if required, shall be taken from the Ministry”*.

The EAC observed that above recommendations of the EAC after perusal of the site visit report of the EAC Sub Committee could not be mentioned in the minutes of the 12<sup>th</sup> EAC meeting held on 18/07/2024 to 19/07/2024. Accordingly, EAC decided to incorporate the aforesaid recommendations in the Minutes.

[B] The proposal for grant of Terms of Reference (ToR) for conducting EIA study for proposed construction of Naying Hydro Electric Project of 1000 MW (4x250 MW) run-of-river project on river

- i. Land acquired for the project shall be suitably compensated in accordance with the prevailing guidelines of the state government and provisions under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.
- ii. RO plant shall be installed in the nearby 5 villages and the maintenance shall be done by the project Authorities.
- iii. Solar panel be provided to the families living in rural areas within 10 km radius of project.
- iv. School up to 12<sup>th</sup> Standard shall be established to provide quality education for children from project affected villages/Tribal villages.
- v. The compliance of above conditions shall be monitored by IRO, MoEF&CC and regularly site visit once in year. The compliance report of IRO shall be regularly submitted to MoEF&CC.
- vi. 50 bed multi-speciality hospital shall be established to cater the need of tribal population/locals. The tribal population within 10 km radius of the project shall be given free of cost medical facility.
- vii. Skill development Centre shall be established within 10 km radius of the project and regular training programmes for development and promotion of traditional art/products of tribal/local population.
- viii. The area is ecologically fragile therefore Project Proponent shall ensure that safety measures as mentioned in the EMP shall be fully implemented.

**[D] Miscellaneous:**

- i. After 5 years of the commissioning of the project, a study shall be undertaken regarding impact of the project on the environment. The study shall be undertaken by an independent agency.
- ii. Bio-Gas plant shall be installed in the Project affected area for Utilizing Cattle waste (Cow Dung) into renewable source of fuel.
- iii. PP should establish in house (at project site) environment laboratory for measurement of environment parameter with respect to air quality and water (surface and ground). A dedicated team to oversee environment management shall be setup which should comprise of Environment Engineers, Laboratory chemist and staff for monitoring of air, water quality parameters on routine basis.
- iv. PP shall procure construction material only from those Organizations having all valid legal/statutory clearances/permissions or necessary permission to be obtained for quarrying construction materials for the project as per the EIA Notification, 2006 and as amended thereof.
- v. An institutional mechanism to be developed to ensure the preference of jobs to PAFs and also a policy for preferential treatment for award of sundry works to the PAFs and their dependents.

**Agenda Item No. 13.5 Directions of the Hon'ble National Green Tribunal, Southern Bench at Chennai in MA No 3 of 2024 in OA No 71 of 2020 in the matter of Gavinolla Srinivas and others vs Union of India and others.**

**13.5.1** The Member Secretary informed that the Hon'ble National Green Tribunal (South Zone), Chennai vide order dated 17.12.2021 passed directions for constituting the Joint Committee comprising of Senior Officer from MoEF&CC, Regional Office, Vijayawada, a Senior Officer from Geological Survey of India and Senior Officer from Design and Planning of Irrigation and Multipurpose Projects, Centre Water Commission, New Delhi to investigate whether the work done in the project is beyond the scope of preparation of DPR related to construction of Rayalaseema Lift Irrigation Scheme of State of Andhra Pradesh..

The Hon'ble Tribunal also inter-alia directed to take a call in cases where for preparation of DPR any extensive study regarding the feasibility and its impact on soil features has to be conducted in respect of project where prior environmental clearance is required this may be made clear by amending the EIA Notification that no DPR can be prepared for with extensive study for that purpose without obtaining prior environmental clearance and that will not cover the exemption granted for preparation as provided under the EIA Notification, 2006 so, that the misconception regarding this can be avoided.

In compliance of the said order, the Joint Committee inspected the project site on 13<sup>th</sup> and 14<sup>th</sup> March, 2024. The said report was submitted to the MoEF&CC vide letter dated 22<sup>nd</sup> March, 2024 with the following observations:

- a) The Project Proponent has commenced excavation works and completed around 14.14% for approach channel and around 87.03% for pump house and its appurtenant works which in total around 18.18% proposed excavation.
- b) The Project Proponent has conducted excess work beyond the purpose of preparation of DPR, amounting to be the part of execution of the construction work and it can be concluded as violation of the EIA Notification, 2006.
- c) Further, the Environmental Compensation of Rs. 2, 65, 31,250/- was also assessed as per the Central Pollution Control Board (CPCB) Guidelines.

Subsequently, a Show Cause Notice dated 24<sup>th</sup> April, 2024 was issued under Section 5 of the EP Act, 1986 to the Project Proponent. In response, the Project Proponent has communicated its reply vide letter dated 21<sup>st</sup> May, 2024 stating that the Project Proponent has not performed anything in excess beyond required for the purpose of preparation of DPR in execution of the construction work of Rayalaseema Lift Irrigation Scheme.

In light of the aforesaid observations made in the Joint Committee Report and Show Cause reply submitted by the project proponent, the Ministry decided to examine the matter in consultation with EAC so as to ensure the compliance of the directions passed by the Hon'ble NGT.

**13.5.2** The EAC then perused the directions passed by the Hon'ble Tribunal and Show Cause Reply submitted by the Project Proponent in detail and after thorough deliberation, made the following observations:

- a) The Joint Committee has already established that the Project Proponent has commenced excavation works and completed a considerable amount of construction work. It was also concluded that the work done for the purpose of preparation of DPR amounts to violation of

the EIA Notification, 2006, as amended. The EAC also viewed that the said amount of construction work of the project has been done to an extent which violates the provisions of the Office Memorandum dated 29<sup>th</sup> March, 2022 leading to violation of the EIA Notification, 2006.

- b) The Expert Member of the EAC from the Central Water Commission (CWC) informed the EAC that CWC has issued guidelines in 2010 for preparation of Detailed Project Report (DPR) for irrigation and multipurpose projects. The guidelines cover the aspects viz. availability of water for the benefits envisaged, determination of design flood for the various structures (spillway, weir, barrage etc.), sediments storage, soil investigation for deciding the foundation stability of barrage, energy dissipation arrangements, likely desirable and undesirable changes in the hydrologic regime due to the project, damage areas in pre-project & post project situations, flood intensities and finalization of rehabilitation measures, amenities and facilities to be provided to the Project Affected Persons etc.
- c) The EAC was of the view that the aspects mentioned in the DPR guidelines of the CWC are critical for examining the environmental sustainability of the irrigation project; hence needs detailed deliberation at the time of appraisal of project for grant of Environmental Clearance by the Expert Appraisal committee. Moreover, the MoEF&CC has issued an Office Memorandum dated 29<sup>th</sup> March, 2022 which explicitly clarifies that the following activities can be undertaken at project site prior to grant of Environmental Clearance:

- (ii) Fencing of the project site by boundary wall using civil construction, barbed wire or precast/prefabricated components.

- (iii) Construction of temporary sheds using pre-fabricated /modular structure, for site office/guards and storing material and machinery.

- (iv) Provision of temporary electricity and water supply for site office/guards only

- d) Further, it is also worthwhile to note that vide Order dated 20<sup>th</sup> August, 2024, the MoEF&CC has extended the provisions of clause (2) of the Notification No. 5075(E) dated 29<sup>th</sup> November, 2023 relating to surveys in the forest areas for mining projects to other development projects including Hydel/Pump Storage Projects subject to the condition that the sample collected from the site after drilling shall be used exclusively for research purpose and in no way it shall be used for any commercial purpose.

In light of the above, the Committee unanimously recommended that the finalized DPR is an essential document for assessment of the anticipatory environmental impacts of irrigation projects at the time of appraisal of proposal for grant of Environmental Clearance.

### **Agenda item No. 13.6 Harmonization and Optimization of Environmental Clearance Conditions**

The Member Secretary informed the EAC that the Ministry has decided for harmonization and optimization of Environmental Clearance Conditions for River Valley and Hydro-electric Projects in

consultation with the sectoral EAC. In this regard a document showing harmonized and optimised Environmental Clearance conditions was presented before the EAC. After perusal of the document the EAC observed that many conditioned mentioned in the document are not applicable to the River Valley and Hydro-electric Sector. Accordingly, it was recommended that Member Secretary may prepare a comparative chart showing existing environmental conditions and the conditions which have been optimised for the River Valley and Hydro-electric sector. The comparative chart may be shared with the EAC members so that after thorough examination, the same can be finalised in the next meeting of the EAC.

**The meeting ended with vote of thanks to the Chair.**


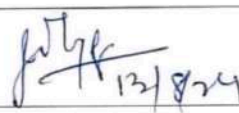



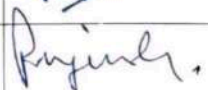


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## ANNEXURE

## ATTENDANCE

**13<sup>th</sup> MEETING OF EXPERT APPRAISAL COMMITTEE (EAC)  
RIVER VALLEY AND HYDROELECTRIC PROJECTS**

**DATE** : 13<sup>th</sup> August 2024  
**TIME** : 10.30 AM onwards  
**VENUE** : Narmada Hall, Jal Block, Indira Paryavaran Bhawan, New Delhi.

| Sl.No. | Name of Member          | Role   | Signature  |
|--------|-------------------------|--|--|
| 1.     | Prof. G. J. Chakrapani  | Chairman   |               |
| 2.     | Dr. Udaykumar R. Y.     | Member   | - VC -   |
| 3.     | Dr. Mukesh Sharma       | Member   | - VC -   |
| 4.     | Dr. J V Tyagi           | Member   | <br>13/8/24 |
| 5.     | Shri Kartik Sapre       | Member   |             |
| 6.     | Shri Ajay Kumar Lal     | Member   |             |
| 7.     | Shri Rajeev Varshney    | Member<br>Representative of Central Electricity<br>Authority (CEA)                 |             |
| 8.     | Shri Piyush Ranjan      | Member<br>Representative of Central Water<br>Commission (CWC)                      |             |
| 9.     | Dr. J.A. Johnson        | Member<br>Representative of Wildlife Institute of<br>India (WII)                   |  |
| 10.    | Dr. A.K. Sahoo          | Member<br>Representative of Central Inland<br>Fisheries Research Institute (CIFRI) | - VC -   |
| 11.    | Shri Yogendra Pal Singh | Member Secretary<br>(River Valley and Hydroelectric<br>Projects), MoEF&CC          |             |
| 12.    | Dr Krishnendu Mondal    | Scientist - D<br>(River Valley and Hydroelectric<br>Projects), MoEF&CC             |             |


**APPROVAL OF THE CHAIRMAN**

**GO** govind.chakrapani@es.iitr.ac.in  Mon, 26 Aug 2024 11:59:53 AM +0530 INBOX

To "Yogendra Pal Singh" <yogendra78@nic.in>

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Approved.  
Chakrapani

On 26-Aug-2024 11:16, Yogendra Pal Singh <yogendra78@nic.in> wrote: