

BEFORE THE NATIONAL GREEN TRIBUNAL (SOUTH ZONE) AT
CHENNAI

O.A. No. 186/2024

BETWEEN

Narasimha Devadiga

... Applicant

AND

Karnataka State Coastal Zone Management

Authority & Others

... Respondents

MEMO

The Respondent Karnataka State Coastal Zone Management Authority is herewith furnishing the following documents for the kind perusal of this Hon'ble Tribunal.

Sl. No.	Description of Document	Page No.
1	Copy of CRZ Clearance issued by MoEF & CC dated 23/01/2024	1-6
2	Copy of Recommendation letter issued by KSCZMA dated 28/11/2023	7-10
3	Google map showing the ongoing construction sites	11
4	Photographs (14 Nos.)	12-18
5	Copy of the Writ Petition No. 20153/2023 filed by Sri. Ananda Kharvi & another before Hon'ble High Court of Karnataka	19-42



(H.K. VASANTH)

Advocate for KSCZMA

Place: Bangalore

Date: 05/08/2024



सत्यमेव जयते

File No: 11/54/2023-IA.III
Government of India
Ministry of Environment, Forest and Climate Change
IA-III Section (CRZ)
Centralized Processing Centre - Green



Dated 23/01/2024



To,

The Executive Engineer,
Minor Irrigation and Ground Water
Development Division,
P.M.RAO Road,
Mangalore, Udipi-574001
Karnataka.
E-mail: misubdivisionudupi@gmail.com

Subject:

Proposal for CRZ Clearance – Construction of connecting Bridge cum gated Barrage between Moodhadu-Pandeshwara to Bennekudru across Sita River in Brahmavara Taluk, Udipi District and Construction of Salt Water Exclusion Dam across Sita River between Handady - Kumbrugod to Bennekudru in Brahmavara Taluk, Udipi District, Karnataka by Minor Irrigation and Ground Water Development Division, Government of Karnataka –regarding

Sir/Madam,

This has reference to your online proposal no. IA/KA/CRZ/445047/2023 dated 20/09/2023 on the above-mentioned project proposal for CRZ Clearance, in accordance with the provisions of the Coastal Regulation Zone (CRZ) Notification, 2019 and as amended thereof issued under the Environment (Protection) Act, 1986.

2. The Ministry of Environment, Forest and Climate Change has examined the proposal for CRZ Clearance for 'Construction of connecting Bridge cum gated Barrage between Moodhadu-Pandeshwara to Bennekudru across Sita River in Brahmavara Taluk, Udipi District and Construction of Salt Water Exclusion Dam across Sita River between Handady - Kumbrugod to Bennekudru in Brahmavara Taluk, Udipi District, Karnataka' by Minor Irrigation and Ground Water Development Division, Government of Karnataka.

3. The proposal was considered by the Expert Appraisal Committee (EAC) for Infrastructure Development, Coastal Regulation Zone, Building/Construction and Miscellaneous projects, in its 350th meeting held on 18/12/2023. The Project Proponent by Minor Irrigation and Ground Water Development Division, Government of Karnataka) along with his EIA consultant have made a detailed presentation and informed the followings:

i. The proposal is for seeking CRZ Clearance under CRZ Notification, 2019 for connecting Bridge cum gated Barrage between Moodhadu-Pandeshwara to Bennekudru across Sita River in Brahmavara

Taluk, Udupi District and Construction of Salt Water Exclusion Dam (SWED) across Sita-River between Handady-Kumbrugod to Bennekudru in Brahmavara Taluk, Udupi District, Karnataka.

ii. The geo-coordinates of SWED are 470582.52 m E, 1488450.37 m N; Geo-coordinates of Bridge cum gated Barrage are 470562.00 m E, 1488965.00 m N.

iii. The project activity includes Bridge cum gated Barrage (Permissible as per Para 5.1.2 (a) and 5.4 (ii) (a) of CRZ notification 2019), SWED (Permissible as per Para 5.1.2 (f) and 5.4 (ii) (e) of CRZ notification 2019), Protection Works (Permissible as per Para 5.1.2 (i) (d) of CRZ notification 2019) and Approach Roads (Permissible as per Para 5.3 (ii) (c) of CRZ notification 2019).

iv. The proposal of Bridge cum Gated Barrage activity falls in CRZ-I B and CRZ-IV B. Proposed Length is 196.66m. As per CRZ notification 2019, the proposal is permissible as per 5.1.2 (a) and 5.4 (ii)(a) which states that "Land reclamation, bunding, etc. to be permitted only for activities such as foreshore facilities like ports, harbours, Jetties, wharves, quays, slipway, bridges, sea links and hover ports for coast guard, etc."

v. The proposal of saltwater exclusion dam activity falls in CRZ-I B and CRZ-IV B. Proposed Length is 348.84 m; Depth of Water Stored is 4.05 m. As per CRZ notification 2019, the proposal is permissible as per 5.1.2 (f) and 5.4 (ii)(e) which states that "activities shall be regulated or permissible in the CRZ-I B and CRZ-IV areas as under prevention of salinity ingress and freshwater recharge".

vi. The proposed river protection activity falls in CRZ-I B and CRZ-I A. As per CRZ notification 2019, the activity is permissible as per 5.1.2 (i) (d) which states that "Land reclamation, bunding, etc. to be permitted only for activities such as measures for control of erosion. Proposed length of river protection work at Handady-Kumbrugodu, Moddahadu-Pandeshwara is 10.97 km and 5.905 km respectively.

vii. The proposed approached road falls in CRZ-III NDZ and CRZ-I A. As per CRZ notification 2019, the proposal is permissible as per 5.3 (ii) (c) and 5.1.1 (iii) which states that "Construction of roads which are required for the local inhabitants may be permitted on a case-to-case basis by Coastal Zone Management Authority (CZMA). Proposed length of Construction of Approach Roads at Handady-Kumbrugodu and Moddahadu-Pandeshwara is 3.87 km and 2.605 km, respectively.

viii. As per the approved CZMP of Karnataka, along the alignment of the proposed Site for Salt Water Exclusion Dams near Handady – Kumbrugod to Bennekudru in Brahmavara Taluka, Udupi District does not include mangroves. As per the approved CZMP of Karnataka, along the alignment of the proposed site for connecting bridge cum gated barrage between Moodhadu-Pandeshwara to Bennekudru in Brahmavara Taluka, Udupi District, Karnataka does not include mangroves. But isolated sparse mangroves found on the northern bank of Sita River between Moodhadu-Pandeshwara.

ix. Total cost of the project is 311.25 Crores.

x. Benefits of the project: Employment, Water supply, transport, Agriculture.

xi. Employment: Permanent employment 50 Nos.

xii. CRZ Report has been prepared by CSIR-NIO, Goa.

xiii. Karnataka State Coastal Zone Management Authority (KSCZMA) has recommended the proposal for CRZ Clearance *vide* letter No. FEE 298 CRZ 2023 dated 28/11/2023.

4. The Committee deliberated the proposal based on the information provided/presented by the proponent. The Committee has noted that project activity is permissible as per CRZ Notification, 2019 and KSCZMA has recommended the proposal. The Committee, after detailed deliberations and considering the submissions made by the project proponent and additional information submitted *vide* letter dated 19/12/2023, has recommended the proposal for CRZ Clearance, subject to certain Specific conditions, as stipulated during its 350th meeting held on 18/12/2023.

5. Based on the recommendation of the Karnataka State Coastal Zone Management Authority and considering the submissions made by the project proponent, the Ministry of Environment, Forest and Climate Change, in acceptance of the recommendations of the Expert Appraisal Committee (CRZ), hereby accords CRZ Clearance to the project for "Construction of connecting Bridge cum gated Barrage between Moodhadu-Pandeshwara to Bennekudru across Sita River in Brahmavara Taluk, Udupi District and Construction of Salt Water Exclusion Dam across Sita River between

Handady - Kumbrugod to Bennekudru in Brahmavara Taluk, Udupi District, Karnataka by M/ s Minor Irrigation and Ground Water Development Division, Govt. of Karnataka,” under the provisions of the CRZ Notification, 2019 and amendments thereto, subject to the compliance of terms and conditions as under:-

Specific Conditions

S. No	Specific Conditions
1	All construction shall be strictly in accordance with the provisions of the CRZ Notification, 2019, as amended from time to time.
2	No groundwater shall be extracted within the CRZ area to meet the water requirements during the construction and/or operation phase of the project.
3	The Fish Ladder Plan should be prepared by PP along with financial allocation and submit report to IRO of the Ministry for further compliance and implementation.
4	The flow conditions at upstream and downstream of Bridge/ Barrage should be monitored after construction of Barrage/ Bridge through reputed national institutes having expertise in tidal and fresh water studies and submits report to IRO of the Ministry for further compliance and implementation.
5	PP should ensure that no villages should be inundated on upstream and downstream of the barrage.
6	Topsoil excavated during construction activities shall be stored for use in horticulture /landscape development etc. within the project site.
7	Water quality of the entire creek should be monitored regularly to see the impact of construction and reclamation activities and submit the report to IRO of the Ministry.
8	Construction material and structures/scaffoldings erected for construction at site shall be cleared immediately after finishing construction and it shall be ensured that no construction waste, garbage and machinery or equipment are left post construction.
9	The Project Proponent should comply order/direction, if any, issued by Hon'ble Court / tribunal on the project.
10	All the conditions stipulated by the Karnataka State Coastal Zone Management Authority for CRZ clearance under CRZ Notification, 2019 vide its letter no FEE 298 CRZ 2023 dated 28/11/2023 and commitments made by the PP before the KSCZMA and EAC shall be followed in letter and spirit.
11	All necessary clearance from the concerned authority, as may be applicable should be obtained prior to commencement of project or activity.

GENERAL CONDITIONS:

1. Management of solid waste in accordance with the Solid Waste Management Rules, 2016 shall be

strictly implemented.

2. 'Consent to Establish' and/or 'Consent to Operate' shall be obtained from State Pollution Control Board under the provisions of Air (Prevention and Control of Pollution) Act, 1981 and/or the Water (Prevention and Control of Pollution) Act, 1974, as may be applicable.
3. Disposal of muck during construction phase should not create any adverse effect on the neighbouring communities and be disposed taking the necessary precautions for general safety and health aspects of people, only in approved sites with the approval of Competent Authority.
4. All liquid waste arising from the proposed development will be disposed of as per the norms prescribed by Central/State Pollution Control Board. There shall not be any disposal of untreated effluent into the sea/coastal water bodies. It shall be ensured that the wastewater generated is treated in the STP as committed by the project proponent. The treated waste water shall be reused for landscaping, flushing and/or HVAC cooling purposes etc. within the development. The project proponent should also make alternate arrangement for situation arising due to malfunctioning of STP. There shall be regular monitoring of standard parameters of the effluent discharge from STP under intimation to the SPCB.
5. Any hazardous waste generated during construction phase, shall be disposed off as per applicable rules and norms with necessary approvals of the State Pollution Control Board.
6. A copy of the clearance letter shall be uploaded on the website of the concerned State Coastal Zone Management Authority/State Pollution Control Board. The Clearance letter shall also be displayed at the Regional Office, District Industries Centre and Collector's Office/Tehsildar's office for 30 days.
7. A six-monthly monitoring report shall need to be submitted by the project proponent to the concerned Regional Office of this Ministry regarding the implementation of the stipulated conditions.
8. The Ministry of Environment, Forest & Climate Change or any other Competent Authority may stipulate any additional conditions or modify the existing ones, if necessary in the interest of environment and the same shall be complied with.
9. Full co-operation shall be extended to the officials from the Regional Office of MoEF&CC, during monitoring of implementation of environmental safeguards stipulated. It shall be ensured that documents/data sought pertinent is made available to the monitoring team. A complete set of all the documents submitted to MoEF&CC shall be forwarded to the concerned Regional Office of MoEF&CC.
10. In the case of any change(s) in the scope of the project, the project would require a fresh appraisal by this Ministry.
11. The Ministry reserves the right to add additional safeguard measures subsequently, if considered necessary, and to take action to ensure effective implementation of the suggested safeguard measures in a time bound and satisfactory manner, including revoking of the environment clearance under the provisions of the Environmental (Protection) Act, 1986, for non-compliance.
12. All other statutory clearances such as the approvals for storage of diesel from Chief Controller of Explosives, Fire Department, Civil Aviation Department, Forest Conservation Act, 1980 and Wildlife (Protection) Act, 1972 etc. shall be obtained, as applicable by project proponent from the respective Competent Authorities.
13. The project proponent should advertise in at least two local Newspapers widely circulated in the region, one of which shall be in the vernacular language informing that the project has been accorded CRZ Clearance and copies of clearance letters are available with the State Pollution Control Board (SPCB) and may also be seen on the website of the Ministry of Environment, Forest and Climate Change at <https://parivesh.nic.in/>. The advertisement should be made within Seven days from the date of receipt of the Clearance letter and a copy of the same should be forwarded to the concerned Regional Office of this Ministry.
14. A copy of the clearance letter shall be sent by the proponent to concerned Panchayat, Zilla

Parisad/Municipal Corporation, Urban Local Body and the Local NGO, if any, from whom suggestions/representations, if any, were received while processing the proposal.

15. The proponent shall upload the status of compliance of the stipulated conditions, including results of monitored data on their website and shall update the same periodically. It shall simultaneously be sent to the Regional Office of MoEF&CC, the respective Zonal Office of CPCB and the SPCB.
16. The environmental statement for each financial year ending 31st March in Form-V as is mandated to be submitted by the project proponent to the concerned State Pollution Control Board as prescribed under the Environment (Protection) Rules, 1986, as amended subsequently, shall also be put on the website of the project proponent along with the status of compliance of clearance conditions and shall also be sent to the respective Regional Office of the Ministry by e-mail.

6. This Clearance is subject to final order of the Hon'ble Supreme Court of India in the matter of Goa Foundation Vs Union of India in Writ Petition (Civil) No.460 of 2004 as may be applicable to this project.

7. The Ministry reserves the right to stipulate additional conditions, if found necessary at subsequent stages and the project proponent shall implement all the said conditions in a time bound manner. The Ministry may revoke or suspend the CRZ clearance, if implementation of any of the above conditions is not found satisfactory.

8. Concealing factual data or submission of false/fabricated data and failure to comply with any of the conditions mentioned above may result in withdrawal of this clearance and attract action under the provisions of the Environment (Protection) Act, 1986.

9. Any appeal against this CRZ clearance shall lie with the National Green Tribunal, if preferred, within a period of 30 days as prescribed under Section 16 of the National Green Tribunal Act, 2010.

10. The above conditions shall be enforced, *inter-alia* under the provisions of the Water (Prevention & Control of Pollution) Act, 1974, the Air (Prevention & Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986, Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 and the Public Liability Insurance Act, 1991 along with their amendments and Rules and any other orders passed by the Hon'ble Supreme Court of India/High Courts and any other Court of Law relating to the subject matter.

11. This issues with approval of the Competent Authority.

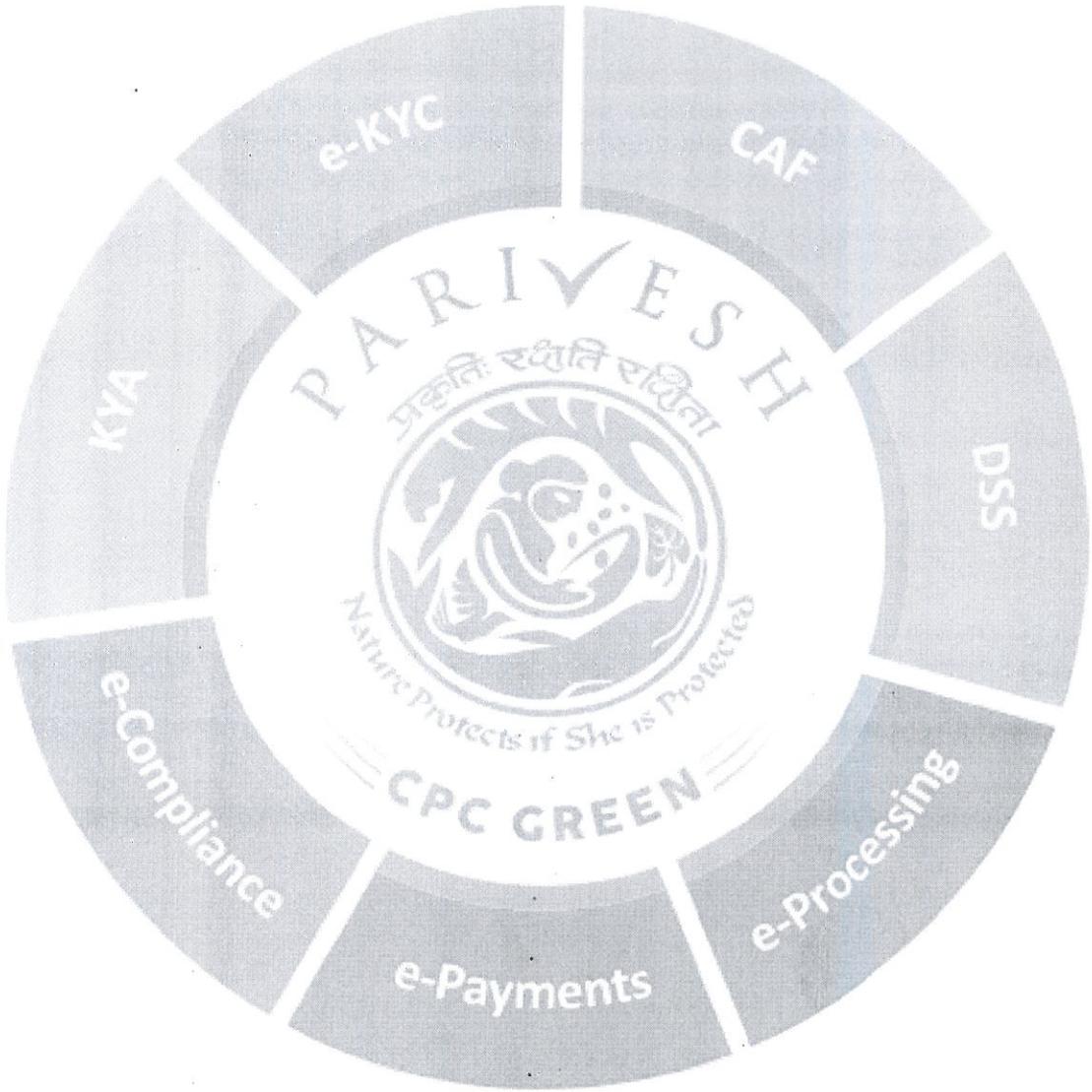
(Dr. H. Kharkwal)
Scientist 'E' (CRZ)

Copy To

1. The Additional Chief Secretary to Government, Forest, Environment & Ecology Department, Karnataka Government Secretariat, Room No. 448, 4th Floor, Gate No. 2, M. S. Building, Bangalore-560001, Karnataka.
2. The Regional officer, Ministry of Environment, Forest and Climate Change, Integrated Regional Office Kendriya Sadan, 4th Floor, E&F Wings, 17th Main Road, Koramangala II Block, Bangalore - 560034, Karnataka.
3. The Member Secretary, Karnataka State Coastal Zone Management Authority, Room No.710, 7th Floor, IV Gate, M. S. Building, Bangalore - 560 001, Karnataka.
4. The Member Secretary, Central Pollution Control Board, Parivesh Bhawan, CBD-cum-Office Complex, East Arjun Nagar, Delhi - 110032
5. The Member Secretary, Karnataka State Pollution Control Board, "Parisara Bhavana", No #49, Church Street, Bengaluru - 560001, Karnataka.

6. Guard File/Monitoring File/Website/Record File.

(Dr. H. Kharkwal)
Scientist 'E' (CRZ)



Signed by
Harendra Kharkwal
Date: 23-01-2024 17:17:15
Reason: Verified and
signed



KARNATAKA STATE COASTAL ZONE MANAGEMENT AUTHORITY

(Constituted by MoEF & C.C Government of India, under Sub-Section (1) & (3) of E(P) Act 1986)

No. FEE 298 CRZ 2023

Date: 28.11.2023.

Sub:- Request for CRZ Clearance for Construction of connecting Bridge cum gated barrage between Moodhadu-Pandeshwara to Bennekudru across Sita river in Brahmavara Taluk, Udupi district and Construction of salt water Exclusion Dam across sita river between Handady-Kumbrugod to Bennekudru in Brahmavara Taluk, Udupi District - reg.

- Ref:-**
1. Application received from Executive Engineer, Minor Irrigation and Ground Water Development Division, Mangalore dated 20/09/2023.
 2. Letter No. PraNiPa/NiPa/24/2023-24/336, dated 08.09.2023 of Regional Director (Environment), Udupi.
 3. Proceedings of the 43rd Karnataka State Coastal Zone Management Authority (KSCZMA) meeting held on 18.11.2023.

With reference to the above subject, the Executive Engineer, Minor Irrigation and Ground Water Development Division, Mangalore has submitted an application requesting for CRZ Clearance for Construction of connecting Bridge cum gated barrage between Moodhadu-Pandeshwara to Bennekudru across Sita river in Brahmavara Taluk, Udupi district and Construction of salt water Exclusion Dam across Sita river between Handady-Kumbrugod to Bennekudru in Brahmavara Taluk, Udupi District. The DCZMC in its meeting held on 23.08.2023 has recommended the proposal to KSCZMA. The proposed area falls in CRZ IA, CRZ IB, CRZ III (NDZ) & CRZ IV B. The National Institute of Technology Karnataka(NITK) has prepared the EIA report for the said project. CRZ map of 1:4000 scale and project layout superimposed on the CRZ map and CRZ map covering 7KM radius around the project site has been prepared by IRS Anna University and has been submitted by the proponent.

The proposed activities are as follows:

1. Construction of Vented Dam and Connecting bridge cum gated barrage:

<p>Construction of main Vented Dam activity falls in CRZ IB and CRZ IV B. Proposed length of construction: 348.84 Mtr GPS Co-ordinates: N 13°27'43.16" E 74°43'43.56" N 13°27'54.19" E 74°43'46.25"</p>	<p>Permissible as per Para 5.1.2(f) & 5.4 (ii) (e) of CRZ notification 2019</p>
<p>Construction of Vented Dam activity falls in CRZ IB and CRZ IV B. Proposed length of construction: 55 Mtr GPS Co-ordinates: N 13°27'52.93" E 74°44'26.72" N 13°27'53.55" E 74°44'28.47"</p>	<p>Permissible as per Para 5.1.2(f) & 5.4 (ii) (e) of CRZ notification 2019</p>
<p>Construction of Connecting bridge cum gated barrage falls in CRZ IB, CRZ IV B. Proposed length of construction: 196.66 Mtr GPS Co-ordinates: N 13°28'3.61" E 74°43'42.50" N 13°28'9.96" E 74°43'41.66"</p>	<p>Permissible as per Para 5.1.2(a) & 5.4 (ii) (a) of CRZ notification 2019</p>

2. River Protection work at Handady-Kumbragodu

<p>River Protection work in Bennekudru island falls in CRZ IB Length of river bank: 1870 Mtr</p>	<p>Permissible as per Para 5.1.2 (i) (d) of CRZ notification 2019</p>
<p>River Protection work in Island 2 falls in CRZ IB Length of river bank: 2500 Mtr</p>	<p>Permissible as per Para 5.1.2 (i) (d) of CRZ notification 2019</p>
<p>River Protection work in Left Flank U/S side falls in CRZ IB Length of river bank: 6100 Mtr</p>	<p>Permissible as per Para 5.1.2 (i) (d) of CRZ notification 2019</p>
<p>River Protection work in Left Flank D/S side falls in CRZ IB & CRZ I A Mangrove Buffer Length of river bank: 500 Mtr</p>	<p>Permissible as per Para 5.1.2 (i) (d) of CRZ notification 2019</p>

3. River Protection work at Moddahadu-Pandeshwara

River Protection work in Bennekudru island falls in CRZ IB, CRZ IA Mangrove Buffer Length of river bank: 1870 Mtr	Permissible as per Para 5.1.2 (i) (d) of CRZ notification 2019
River Protection work in Island 3 falls in CRZ IB & CRZ IA Mangrove Buffer Length of river bank: 2500 Mtr	Permissible as per Para 5.1.2 (i) (d) of CRZ notification 2019
River Protection work in Right Flank U/S side falls in CRZ IB Length of river bank: 3000 Mtr	Permissible as per Para 5.1.2 (i) (d) of CRZ notification 2019
River Protection work in Left Flank D/S side falls in CRZ IB Length of river bank: 500 Mtr	Permissible as per Para 5.1.2 (i) (d) of CRZ notification 2019
River Protection work in Bennekudru island nose area falls in CRZ IB Length of river bank: 735 Mtr	Permissible as per Para 5.1.2 (i) (d) of CRZ notification 2019

4. Construction of Approach Roads at Handady-Kumbragodu

Construction of Approach Road in Bennekudru island nose area fall in CRZ III NDZ. Length of road: 1870 mtr	Permissible as per Para 5.3 (ii)(c) of CRZ notification 2019
Construction of Approach Road in Left Flank U/S side area fall in CRZ III NDZ. Length of road: 2000 mtr	Permissible as per Para 5.3 (ii)(c) of CRZ notification 2019

5. Construction of Approach Roads at Moodahadu-Pandeshwara

Construction of Approach Road in Bennekudru island nose area fall in CRZ III NDZ & falls in CRZ IA Mangrove Length of road: 735 mtr	Permissible as per Para 5.3 (ii)(c) of CRZ notification 2019 Para 5.1.1 (iii)
Construction of Approach Road in Bennekudru island area fall in CRZ III NDZ Length of road: 1870 mtr	Permissible as per Para 5.3 (ii)(c) of CRZ notification 2019
Construction of Approach Road in right Flank U/S side falls in CRZ III NDZ	Permissible as per Para 5.3 (ii)(c) of CRZ notification 2019

It is further submitted that the said proposal is for construction of salt water exclusion dam and river protection work with the main objective of providing water for drinking and irrigation purposes.

Para 7 (ii) of CRZ Notification, 2019, reads as:

“(ii) All development activities or projects in CRZ-I and CRZ-IV areas, which are regulated or permissible as per this notification, shall be dealt with by Ministry of Environment, Forest and Climate Change for CRZ clearance, based on the recommendation of the concerned Coastal Zone Management Authority.”

The subject was placed in the KSCZMA meeting held on 18.11.2023. The Authority after discussion and deliberation decided to recommend the proposal which is located in CRZ IA, CRZ IB, CRZ III NDZ, CRZ IV B to MOEF & CC, New Delhi, (NCZMA) as per Para 5.1.2 (i) (a) 5.1.2 (i) (d), 5.1.1 (i) (f), 5.3 (ii) (c), 5.4 (ii)(a) of 2019 CRZ Notification for issue of CRZ Clearance for construction of connecting Bridge Cum gated barrage between Moodhadu-Pandeshwara to Bennekudru across sita river in Brahmavara Taluk, Udupi District and Construction of salt water Exclusion dam across sita river between Handady-Kumbrugod to Bennekudru in Brahmavara Taluk, Udupi District.

Accordingly, as per the recommendation KSCZMA, the proposal is herewith submitted for issuing CRZ clearance by MOEF & CC, Government of India.

With regards,

Yours faithfully,



(R.Gokul)

Member Secretary, KSCZMA,
Forest, Ecology and Environment Department.

To;

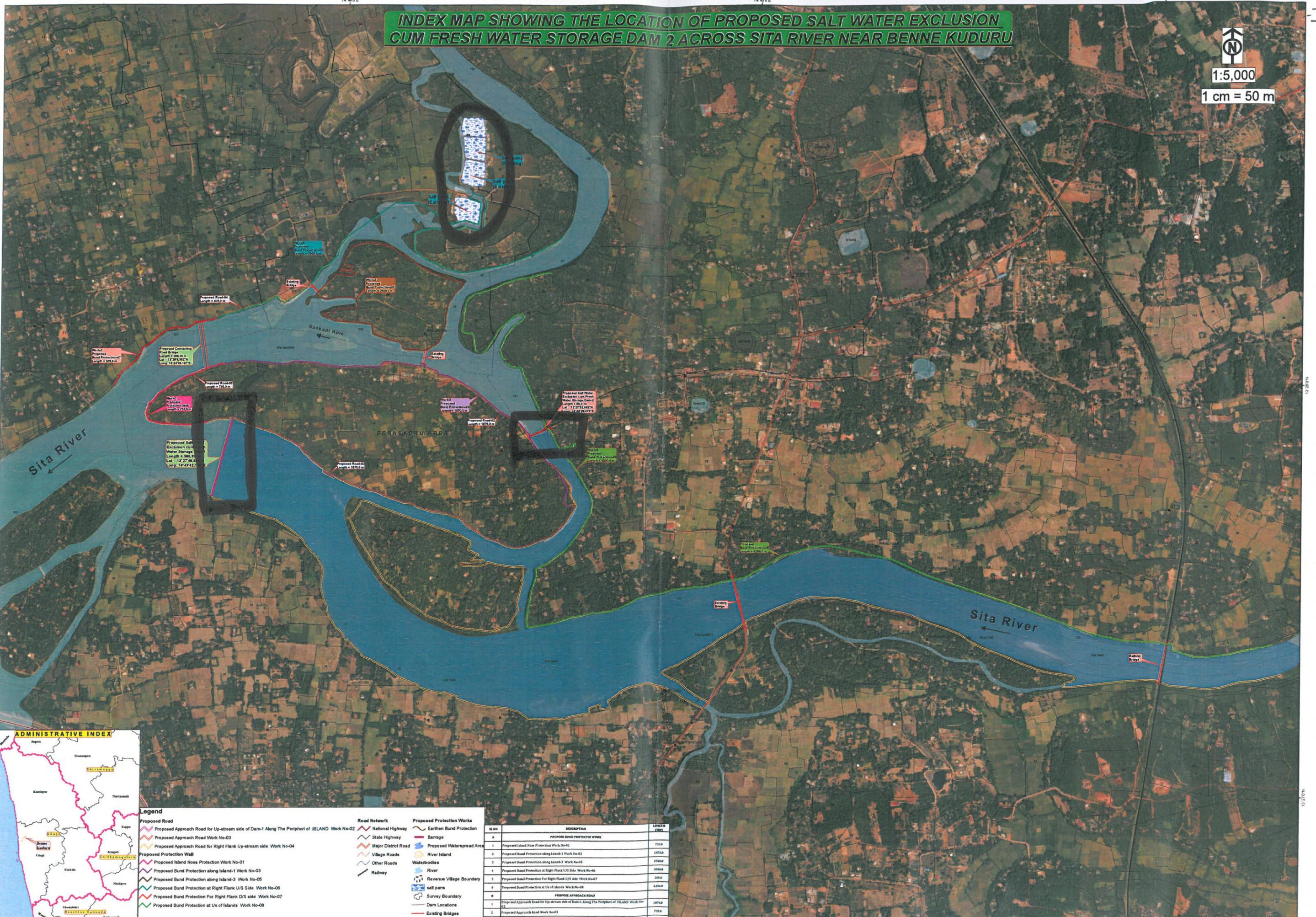
Dr. H. Karkawal,
Member Secretary, NCZMA,
Ministry of Environment, Forest and Climate Change,
Indira Paryavarn Bhavan,
Jor Bagh, New Delhi - 110 003.

INDEX MAP SHOWING THE LOCATION OF PROPOSED SALT WATER EXCLUSION CUM FRESH WATER STORAGE DAM 2 ACROSS SITA RIVER NEAR BENNE KUDURU



1:5,000

1 cm = 50 m



Legend

Proposed Road	National Highway	Earthen Bund Protection
Proposed Approach Road for Up-stream side of Dam-1 Along The Peripheri of ISLAND Work No-02	State Highway	Barrage
Proposed Approach Road for Right Flank Up-stream side Work No-04	Major District Road	Proposed Waterspread Area
Proposed Protection Wall	Village Roads	River Island
Proposed Island Nose Protection Work No-01	Other Roads	River
Proposed Bund Protection along Island-1 Work No-03	Railway	Revenue Village Boundary
Proposed Bund Protection along Island-3 Work No-05	Salt pans	Survey Boundary
Proposed Bund Protection at Right Flank U/S Side Work No-06	Dam Locations	Existing Bridges
Proposed Bund Protection for Right Flank D/S side Work No-07	Existing Bridges	Village
Proposed Bund Protection at Us of Islands Work No-08		

SL NO	DESCRIPTION	LENGTH (M)
PROPOSE BUND PROTECTION WORK		
1	Proposed Island Nose Protection Work No-01	200.00
2	Proposed Bund Protection along Island-1 Work No-03	1500.00
3	Proposed Bund Protection along Island-3 Work No-05	1500.00
4	Proposed Bund Protection at Right Flank U/S Side Work No-06	1875.00
5	Proposed Bund Protection for Right Flank D/S side Work No-07	1875.00
6	Proposed Bund Protection at Us of Islands Work No-08	1875.00
PROPOSE APPROACH ROAD		
1	Proposed Approach Road for Up-stream side of Dam-1 Along The Peripheri of ISLAND Work No-02	1875.00
2	Proposed Approach Road Work No-03	735.00
3	Proposed Approach Road for Right Flank Up-stream side Work No-04	1500.00

















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O/C.

C/W-RH-5/09/23

IN THE HIGH COURT OF KARNATAKA AT BENGALURU PRESENTATION FORM

W. P. No. 20153/2023[GM-RES] F.R. NO 20075. /2023

ADDRESS FOR SERVICE

AKASH B SHETTY ADVOCATE #24/2, 7TH CROSS, 9TH MAIN ROAD, SWIMMING POOL EXTENTION, MALLESHWARAM, BANGALORE-560003 MOB:-9844634201

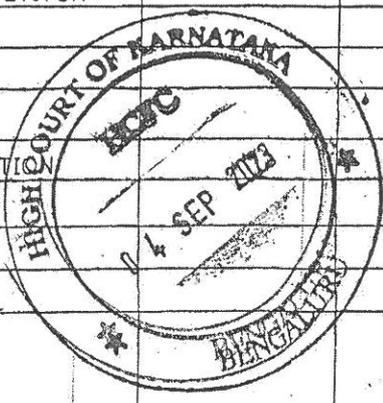
BETWEEN:

SRI ANDANDA KHARVI & ANOTHER

AND:

THE STATE OF KARNATAKA & OTHERS

Table with 3 columns: Sl.No., DESCRIPTION OF PAPER PRESENTED, COURT FEE AFFIXED ON THE PAPER. Rows include: 1 ON THE MEMORANDUM OF WRIT PETITON, 2 ON THE MEMO, 3 ON VAKALATH, 4 ON CERTIFIED COPIES, 5 ON I.A. NO. FOR DISPENSATION, 6 ON PROCESS FEE, 7 ON COPY APPLICATION, 8, TOTAL



[Signature]

ADVOCATE FOR APPELLANT

OTHER SIDE SERVES

RECEIVED PAPER WITH COURT-FEE AS ABOVE

ADVOCATE'S CLERK

BANGALORE DATE:01/09/2023

RECEIVING CLERK

IN THE HIGH COURT OF KARNATAKA
AT BANGALORE

W. P. No. 20153 /2023[GM-RES]

BETWEEN:

Sri ANANDA KHARVI AND ANOTHER ...PETITIONERS

AND:

THE STATE OF KARNATAKA AND OTHER ...RESPONDENTS

I N D E X

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9.	ANNEXURE-D:- A Certified Copy of the	

[Handwritten signature]

	application filed by the Petitioner No.1 dated 18/05/2023.	29-31
10.	ANNEXURE-E:- A Certified Copy of the application filed by the Petitioner No.2 dated 18/05/2023.	32-34
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12.	ANNEXURE-G, G-1, G-2:- A Copy of Registered Sale Deed of land bearing Sy. NO 71 hissa A4V measuring 5.46 acre, Sy. No 71 Hissa A4B measuring 0.40 acre, Sy. No. 71 Hissa A4A1 measuring 1.81 acres in Mooduhadu Village, Bramhavara Taluk, Udupi district.	36-50.
13.	ANNEXURE-H,H-1, H-2:- A Copy of the RTC land bearing Sy. NO 71 hissa A4V measuring 5.46 acre, Sy. No 71 Hissa A4B measuring 0.40 acre, Sy. No. 71 Hissa A4A1 measuring 1.81 acres in Mooduhadu Village, Bramhavara Taluk, Udupi district.	57-60
14.	ANNEXURE-J,J-1,J-2,J-3,J-4,J-5,J-6, J-7,J-8,J-9: A Copy of Registered Sale Deed of land bearing Sy. NO 71 hissa A5 measuring 1.43 acre, Sy. No 71 Hissa A6 measuring 1.34 acre, Sy. No. 77 Hissa 14 measuring 0.55 acres, Sy. No. 77 Hissa 15 measuring 0.65 acres, Sy. No. 77 Hissa 16 measuring 0.67 acres, Sy. No. 77 Hissa 17 measuring 0.75 acres, Sy. No. 77 Hissa 18 measuring 1.00 acres, Sy. No. 77 Hissa 19 measuring 0.37.50 acres, Sy. No. 77 Hissa 20 measuring 0.37.50 acres, Sy. No. 77 Hissa 21 measuring 0.50 acres in Mooduhadu Village, Bramhavara Taluk, Udupi district.	61-132

15.	<u>ANNEXURE-K,K-1,K-2,K-3,K-4,K-5,K-6, K-7,K-8,K-9:-</u> A Copy of the RTC land bearing Sy. NO 71 hissa A5 measuring 1.43 acre, Sy. No 71 Hissa A6 measuring 1.34 acre, Sy. No. 77 Hissa 14 measuring 0.55 acres, Sy. No. 77 Hissa 15 measuring 0.65 acres, Sy. No. 77 Hissa 16 measuring 0.67 acres, Sy. No. 77 Hissa 17 measuring 0.75 acres, Sy. No. 77 Hissa 18 measuring 1.00 acres, Sy. No. 77 Hissa19 measuring 0.37.50 acres, Sy. No. 77 Hissa 20 measuring 0.37.50 acres, Sy. No. 77 Hissa 21 measuring 0.50 acres in Mooduhadu Village, Bramhavara Taluk, Udupi district.	123-142
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Akash B Shetty

Place: Bengaluru
Date: 01.09.2023

ADVOCATE FOR PETITIONER
(Akash B Shetty)

IN THE HIGH COURT OF KARNATAKA
AT BANGALORE

W. P. No. 20153 /2023[GM-RES]

BETWEEN:

Sri ANANDA KHARVI AND ANOTHER ...PETITIONERS

AND:

THE STATE OF KARNATAKA AND OTHER ...RESPONDENTS

LIST OF DATES AND SYNOPSIS

03/10/2008	The Certificate of Registration of coastal aquaculture farm issued by the /Coastal Aquaculture authority ministry of agriculture to the Scheduled Properties belongs to the Petitioners.
28/10/2016	Scheduled Properties purchased by the 1 st Petitioner and the same are Registered by the Sub Registrar of Bramhavana.
30/10/2017 02/01/2020 10/01/2020	Scheduled Properties purchased by the 2 nd Petitioner and the same are Registered by the Sub Registrar of Bramhavana
24/08/2022	Notifications MID/179/BCB/2021 for the Proposed value of around Rs. 160 Crores and MID/180/BCB/2021 for proposed value of around 151 Crores towards construction of the barrier dam (Kindi Dam) project issued by the 2 nd Respondent.
20/03/2023	The Respondent No.4 has issued the work order to the Respondent No.7 for the project of construction of a salt water barrier dam with a bridge across Sita river between Handadi-Kumragodi, Barkur-Bennekudru and between

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	Pandeshwar-Mudahaduand BarkurButterkudru in Brahmavar taluk, Udupi district.
03/05/2023	The License of the petitioners for conduct a shrimp farming was renewed by the 3 rd Pandeshwara Gram Panchayath.
18/05/2023	The Petitioners sent a representation to the Deputy Commissioner, the Executive Engineer and the Assistant Executive Engineer by claiming compensation to their lands.
15/07/2023	The respondent No.4 has sent a letter to the Assltant Director of fisheries by seeking the opinion regarding the advantages and disadvantages of the said project.
18/08/2023	Under RTI Act, the application has filed for get the Certified Copy of Notifications MID/179/BCB/2021 and MID/180/BCB/2021 dated 24/08/2022.

1)It is submitted that, the Petitioners herein being agriculturists are doing shrimp farming since from the last several years for their livelihoods.

2)The 1st Petitioner herein is the owner of the land bearing Sy. NO 71 hissa A4V measuring 5.46 acre, Sy. No 71 Hissa A4B measuring 0.40 acre, Sy. No. 71 Hissa A4A1 measuring 1.81 acres in Mooduhadu Village, Bramhavara Taluk, Udupi district and The 2nd Petitioner herein is the owner of the land bearing Sy. NO 71 hissa A5 measuring 1.43 acre, Sy. No 71 Hissa A6 measuring 1.34 acre, Sy. No. 77 Hissa 14 measuring 0.55 acres, Sy. No. 77 Hissa

+

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15 measuring 0.65 acres, Sy. No. 77 Hissa 16 measuring 0.67 acres, Sy. No. 77 Hissa 17 measuring 0.75 acres, Sy. No. 77 Hissa 18 measuring 1.00 acres, Sy. No. 77 Hissa 19 measuring 0.37.50 acres, Sy. No. 77 Hissa 20 measuring 0.37.50 acres, Sy. No. 77 Hissa 21 measuring 0.50 acres.

3) The Petitioners herein for the purpose to do the shrimp farming purchased the above lands and borrowed a lot of money from banks, financial institutions and invested the money in the said lands and acquired the said properties. And the land which was purchased by the petitioners herein only useful for shrimp farming which attached to the River Sita. The Petitioners herein has spent a lot of money and started shrimp farming in the shrimp ponds that were built in the properties after a lot of effort and converted into pits.

4) It is further submitted that, the Prawn farming is an industry that can harvest 2 crops annually, which cannot be done in rainy season. Apart from this, it is very essential for shrimp farming is salt water. Hence the properties purchased by the petitioners herein which is the salt water backwater area of River Sita and the said properties that can only be used for shrimp farming. At

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present, the petitioners herein are cultivating shrimp in their properties by releasing the salt water of River Sita into the shrimp ponds.

5) The petitioners herein also obtained sufficient license from the local Government i.e. 3rd Pandeshwara Village Panchayath, Pandeshwara Village, Shastana Post, Bramhavara Taluk, Udupi district, to conduct the shrimp farming in the above mentioned Sy. Numbers.

6) This being the situation The Respondent No.4 has issued the work order to the Respondent No.7 for the project of construction of a salt water barrier dam with a bridge across Sita River between Handadi-Kumragodi, Barkur-Bennekudru and between Pandeshwar-Mudahadu and BarkurButterkudru in Brahmavar taluk, Udupi district.

7) The Petitioners herein got information that the said contractor company has already started the work at the site which was sanctioned by the Respondent No.2 and tender executed by Respondent No.4 for the construction of Kindi dam on the salt water side of River Sita at a distance of about 300 meters to the west of the properties which belongs to the petitioners herein, where the shrimp farming ponds are located.

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8) Further submitted that, due to the said project, the sufficient salt water is not available for the petitioners for their shrimp farms and the petitioners are unable to continue their livelihoods if they occurs huge loss from the shrimp farming. The petitioners herein has already borrowed millions of money from many financial institutions and carried out the shrimp farming industry in the suit scheduled properties.

9) It is submitted that, if the Kindi Dam is constructed, it will be impossible for the petitioners to cultivate shrimp in the shrimp ponds of their rightful properties, as all their capital investment will be wasted and the petitioners will incur irreparable financial loss. Petitioners herein have no other such sources to repay the loan of lakhs of rupees and the interest on it to the lending institution.

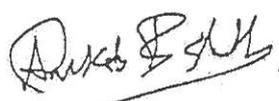
10) It is further submitted that, about the said project the petitioners herein filed an application to the Respondent No.3 to 5 seeking compensation for the loss occurs to shrimp farming due to the construction of a salt water barrier dam with a bridge across Sita river between Handadikumragodi, Barkur-Bennekudru and between Pandeshwar-Mudahadu and BarkurButterkudru in Brahmavar taluk, Udupi district. Also the petitioners herein with their full consent ready to give up their



properties if the Respondents set the maximum value for the properties of petitioners.

11) It is further submitted that, this being the facts and circumstances the Respondents Not considered the Representation made by the petitioners. Hence, there is no alternative and efficacious remedy, the Petitioner herein knocking the door of this Hon'ble Court.

12) It is submitted that, after the objections raised by the petitioner's The Respondent No.4 sent a letter to the Assistant director of fisheries seeking their opinion about advantages and disadvantages of the above said project, which is unsustainable, illegal and arbitrary. Hence the petitioners are constrained to file this Writ Petition before this Hon'ble Court.



**ADVOCATE FOR PETITIONER
(Akash B Shetty)**

**Place: Bengaluru
Date: 01.09.2023**

IN THE HIGH COURT OF KARNATAKA
AT BANGALORE
(ORIGINAL JURISDICTION)

WRIT PETITION. No. 20153 / 2023 [GM-RES]

BETWEEN:

- 1) Sri Ananda Kharvi
S/o Lakshmana Kharvi
- 2) Smt Mookambika Kharvi
W/o Ananda Kharvi
Both R/@
Chithra Nilaya, Kharvikeri,
Kundapura Taluk,
Udupi-576201

... PETITIONERS

AND:

- 1. The State of Karnataka,
Represented by its Chief Secretary,
Government of Karnataka,
Vidhana Soudha,
Bengaluru-560001
- 2. Minor Irrigation and Groundwater Development
Department,
Represented by its Secretary,
Government of Karnataka,
Vidhana Soudha,
Bengaluru-560001
- 3. The Deputy Commissioner,
Office of the Deputy Commissioner and
District Magistrate,
Rajatadri, Manipal,
Udupi-576101
- 4. The Executive Engineer
Minor Irrigation and Groundwater development
Department, P.M Rao Road,
Mangalore-575001
- 5. The Assistant Executive Engineer
Minor Irrigation and Groundwater development
Department,
Udupi District-576101.

6. The Assistant Director,
Fisheries Department,
District Panchayat Complex,
3rd floor, Bannanje,
Udupi - 576101.

7. M/s. G.S Shamily Infrastructure Private Ltd
Represented by its Proprietor
Sri G. Shankar
Class I-Contractor,
Shayamilygyani Colony,
Station Road,
Bijapura-586101

... RESPONDENTS

**MEMORANDUM OF WRIT PETITION UNDER ARTICLES
226 & 227 OF THE CONSTITUTION OF INDIA**

The Petitioner above-named begs to submit as follows:-

- 1) The address of the petitioner for service of court notice, process etc. is correctly furnished in the cause title above. The petitioner may also be served through his counsels Akash B Shetty & Pavan Kumar holding office at #24/2, 7th Cross, 9th Main Road Swimming Pool Extension, Malleshwaram.
- 2) The addresses of the respondents for the aforesaid purpose are as shown in the cause title above.
- 3) It is submitted that the Petitioner herein seeking Writ in the nature of Certiorari for quashing the Notifications Issued by the 2nd Respondent Numbered as MID/179/BCB/2021 dated 24/08/2022 (Proposed value of around Rs. 160 Crores) and MID/180/BCB/2021 dated 24/08/2022 (Proposed value of around 151 Crores) towards construction of the barrier dam (Kindi Dam) project, Copy of the same is produced herewith and marked as **ANNEXURE-A** and **ANNEXURE-B**. (Both Annexure A and B are not available with the Petitioner and filed separate application for Dispensation of the said

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Annexures), for Certified Copy of the said Annexures applied through RTI Act. A Copy of the acknowledgement through E-Mail for RTI Application is produced herewith and marked as **ANNEXURE-A-1** and A Copy of the RTI request Application through Online is produced herewith and marked as **ANNEXURE-A-2**, And seeking Writ in the nature of Certiorari for quashing the Work Order issued by the 4th Respondent bearing Application Number KASAMAM/TA.SHA/SA.E/38802/2023/1465 Work Order No:626/2022-23 dated 20/03/2023, Copy of the same is produced herewith and marked as **ANNEXURE-C**, And seeking Writ In the nature of Mandamus directing the Respondents to consider the representation dated 18/05/2023 submitted by the Petitioners herein that there by seeking of compensation for their land. Copy of the representation by Petitioners herein dated 18/05/2023 submitted before the Respondent No. 3 to 5 is produced herewith and marked as **ANNEXURE -D** and **ANNEXURE-E**.

BRIEFACTS OF THE CASE

- 4) It is submitted that, the Petitioners herein being agriculturists are doing shrimp farming since from the last several years for their livelihoods. A copy of the Certificate of Registration of coastal aquaculture farm issued by the /Coastal Aquaculture authority ministry of agriculture dated 03/10/2008 is produced herewith and marked as **ANNEXURE-F**.

- 5) The 1st Petitioner herein is the owner of the land bearing Sy. NO 71 Hissa A4V measuring 5.46 acre, Sy. No 71 Hissa A4B measuring 0.40 acre, Sy. No. 71 Hissa A4A1 measuring 1.81 acres in Mooduhadu Village, Bramhavara Taluk, Udupi district. The Copy of registered Sale Deed of the above

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-32-

Survey numbers are produced herewith and marked as **ANNEXURE-G, G1 and G2**, the copy of the RTC belongs to the following Sy. NO's Produced hear with and marked as **ANNEXURE-H, H1 and H2**.

- 6) The 2nd Petitioner herein is the owner of the land bearing Sy. NO 71 hissa A5 measuring 1.43 acre, Sy. No 71 Hissa A6 measuring 1.34 acre, Sy. No. 77 Hissa 14 measuring 0.55 acres, Sy. No. 77 Hissa 15 measuring 0.65 acres, Sy. No. 77 Hissa 16 measuring 0.67 acres, Sy. No. 77 Hissa 17 measuring 0.75 acres, Sy. No. 77 Hissa 18 measuring 1.00 acres, Sy. No. 77 Hissa 19 measuring 0.37.50 acres, Sy. No. 77 Hissa 20 measuring 0.37.50 acres, Sy. No. 77 Hissa 21 measuring 0.50 acres in Mooduhadu Village, Bramhavara Taluk, Udipi district. The copy of registered Sale Deed of the above Survey numbers are produced herewith and marked as **ANNEXURE-J, J-1, J- 2, J-3, J-4, J-5, J-6, J-7, J-8 and J-9**, the copy of the RTC belongs to the following Sy. NO's Produced hear with and marked as **ANNEXURE-K, K-1, K-2, K-3, K-4, K-5, K-6, K-7, K-8 and K-9**. A copy of the FMB Map of Sy.71 and Sy.77 is produced herewith and marked as **ANNEXURE-L and ANNEXURE-M** respectively.
- 7) The Petitioners herein for the purpose to do the shrimp farming purchased the above lands and borrowed a lot of money from banks, financial institutions and invested the money in the said lands and acquired the said properties. And the land which was purchased by the petitioners herein only useful for shrimp farming which attached to the River Seetha. The Petitioners herein has spent a lot of money and started shrimp farming in the shrimp ponds that were built in the properties after a lot of effort and converted into pits.
- 

- 8) It is further submitted that, the Prawn farming is an industry that can harvest 2 crops annually, which cannot be done in rainy season. Apart from this, it is very essential for shrimp farming is salt water. Hence the properties purchased by the petitioners herein which is the salt water backwater area of River Sita and the said properties that can only be used for shrimp farming. At present, the petitioners herein are cultivating shrimp in their properties by releasing the salt water of River Sita into the shrimp ponds.
- 9) The petitioners herein also obtained sufficient license from the local Government i.e. 3rd Pandeshwara Village Panchayath, Pandeshwara Village, Shastana Post, Bramhavara Taluk, Udupi district, to conduct the shrimp farming in the above mentioned Sy. Numbers. The copy of the Renewal of license in the name of 1st Petitioner and 2nd Petitioner Issued by the 3rd Pandeshwara Village Panchayath is produced herewith and marked as **ANNEXURE-N** and **ANNEXURE-P** respectively.
- 10) This being the situation The Respondent No.4 has issued the work order to the Respondent No.7 for the project of construction of a salt water barrier dam with a bridge across Sita river between Handadi-Kumragodi, Barkur-Bennekudru and between Pandeshwar-Mudahadu and BarkurButterkudru In Brahmavar taluk, Udupi district vide **ANNEXURE-C**.
- 11) The Petitioners herein got information that the said contractor company has already started the work at the site which was sanctioned by the Respondent No.2 and tender executed by Respondent No.4 for the construction of Kindi dam on the salt water side of River Sita at a distance of

about 300 meters to the west of the properties which belongs to the petitioners herein, where the shrimp farming ponds are located. The Photocopies of the said project works is Produced herewith and marked as **ANNEXURE-Q, Q1, Q2, Q3**. Further submitted that, due to the said project, the sufficient salt water is not available for the petitioners for their shrimp farms and the petitioners are unable to continue their livelihoods if they occurs huge loss from the shrimp farming. The petitioners herein has already borrowed millions of money from many financial institutions and carried out the shrimp farming industry in the properties shown vide Annexure-G to G2 and ANNEXURE-J to J9.

- 12) It is submitted that, if the Kindi Dam is constructed, it will be impossible for the petitioners to cultivate shrimp in the shrimp ponds of their rightful properties, as all their capital investment will be wasted and the petitioners will incur irreparable financial loss. Petitioners herein have no other such sources to repay the loan of lakhs of rupees and the interest on it to the lending institution.
- 13) It is further submitted that, about the said project the petitioners herein filed an application to the Respondent No.3 to 5 seeking compensation for the loss occurs to shrimp farming due to the construction of a salt water barrier dam with a bridge across Sita river between HandadiKumragodi, Barkur-Bennekudru and between Pandeshwar-Mudahadu and BarkurButterkudru in Brahmavar taluk, Udupi district. Also the petitioners herein with their full consent ready to give up their properties if the Respondents set the maximum value for the properties of petitioners.



14) It is further submitted that, this being the facts and circumstances the Respondent No.4 Not considered the Representation made by the petitioners herein. Hence, there is no alternative and efficacious remedy, the Petitioner herein knocking the door of this Hon'ble Court.

15) It is submitted that, after the objections raised by the petitioner's The Respondent No.4 sent a letter to the Assistant director of fisheries seeking their opinion about advantages and disadvantages of the above said project. The said opinion was asked only after Notification was passed, work order was issued and subsequently the Petitioners being aggrieved by the said project raised an objection that is when the Respondent No. 4 sought for opinion from Respondent No. 6. Hence the petitioners are constrained to file this Writ Petition before this Hon'ble Court. A copy of the letter Dt: 15/07/2023 sent by the Respondent No.4 to the Assistant director of Fisheries Respondent No. 6 is produced herewith and marked as **ANNEXURE-R.**

16) The Petitioner has not filed any other Writ Petition or any other case before any other forum on the same cause of action.

GROUND

17) The petitioner herein submits that, he has borrowed huge loans to invest in the said lands from various financial institutions. The petitioner further submits that the said dam, that is been proposed to be constructed across river Sita will obstruct the inflow of the salt water into the petitioner's land wherein he is cultivating shrimps. The cultivation of shrimps will require continuous inflow of salt

water into the said pond wherein the shrimps is being cultivated.

- 18) The Petitioner submits that, the proposed dam which is to be constructed across river Sita is a Place where the river joins Arabian Sea and the area is backwater. So the said area has enough inflow of salt water. Hence there are lot of shrlmp's cultivation/farming that is been done in the bank of the said river Sita.

- 19) The Petitioner submits that there is a similar dam that was constructed across the same river just about 250 mts from the present dam which is the subject issue. Two identical dams within the distance of 250 meters will not serve the purpose and there is no benefit to the localites from the said dam.

- 20) It is pertinent to mention that, if the proposed dam is allowed to be constructed, then it will be a huge loss not just to the petitioners herein but also to all the other farmers who are into shrimp's farming in the said area.

- 21) The petitioner submits that, the Respondents herein when passing the said Notification ordering to construct the said dam has not sought for the opinion of the localities residing in the said area and they have failed to discuss in so far as the purpose and need of the said dam across the river Sita in the area where the river joins the Sea (backwater). Hence the proposed construction of the said dam is of the absolutely no use to the localities and local farmers but it is causing trouble and creating major loss to the farmers. The construction of the proposed dam without their being any use is also a great loss to the exacter of the Government.

Ⓟ

22) The petitioner further submits that, before construction of any dam it is bounden duty of the respondents to seek expert's opinion and the report from the necessary government department/institutions which has the scientific expertise and acumen in so far as the construction of the said dam and the impact of the same on the entire area due to a construction of the said dam. It is also pertinent to mention that, due to the construction of the said dam there will be a major impact on Flora and Fauna in the said area and thereby creating a major imbalance of the ecology in the area wherein the dam is constructed.

23) The Petitioner further submits that, the coastal belt of Karnataka consisting of 3 Districts i.e. Uttara Kannada, Udupi and Dakshina Kannada is famous for mangrove forest which is majorly located and seen in the backwater of various rivers which flows from the Western Ghats and joins Arabian Sea. The said mangrove forest is design by the nature in such a way that the roots of the mangrove trees are capable of obstructing the soil erosion, due to which thousands of Islands is been formed because of the mangrove forest and the backwater of the different rivers in the coastal belt of Karnataka. If the said proposed dam is allowed to be constructed, It will not just harm the local farmers but will also hamper the mangrove forest which is situated at the backwater area of river Sita.

24) The Petitioner submits that, the proposed dam which is been ordered by the Government and the tender is already been called for and the same is handed over to the Respondent No.6.



- 25) It is submitted that, non-consideration of the Application sent to the Respondent No.4 vide ANNEXURE-D and ANNEXURE-E dated 18/05/2023 filed by the petitioners which is arbitrary, illegal and absolute violations of principles of natural justice.
- 26) The petitioner humbly submits that the right to life and right to practice any profession or to carry on any occupation, trade or business guaranteed under Article 21 and Article 19(1)(G) embraces within its sweep not only physical existence but also the quality of the life as well. Hence in the instance case the petitioners are being deprived of their constitutionally guaranteed fundamental rights including right to property.
- 27) The petitioner humbly submits the petitioners are in peaceful and undisturbed position of the said lands and they are also the lawful title holders and they are also carrying out their occupation in the said lands by cultivating prawns. Therefore the petitioners are being deprived of their right to livelihood and the right to constitutional right to property and thus creating adverse physical conditions and psychological stress on the person should be deprecated.
- 28) The petitioners humbly submit that, the respondents are not justified in not considering the representation of the petitioners. The inaction of respondents is manifestly arbitrary unreasonable and ultra-virus of Article 14 of the constitution of India. Further the requirement of principle of natural justice is applicable even for the administrative actions. Hence the respondents are duty bound to observe principles of natural justice and consider the representation.



given by the petitioners and by the Asst executive engineers and pass appropriate orders in the interest of justice.

29) It is submitted by the petitioners that without following due process of law the petitioners cannot be disposed and the respondents have not followed the due process of law.

30) It is further submitted that as per Article 330A of the constitution of India right to property is a constitutional right, therefore state instrument mentalities ought to have considered the same. Without this being considered the state cannot dispose the petitioners. Therefore, petitioners are approaching this Hon'ble Court.

GROUND FOR INTERIM RELIEF

31) The Petitioner submits, he has made representation vide ANNEXURE - D & E to the Respondent No. 3, 4 and 5 seeking to stop the construction of the said dam as the Petitioner will face huge loss and sought for compensation and also sought for an alternative arrangement of acquiring the said land by the competent authority. Same was not considered inspite of regular follow-ups.

32) The Petitioner submits that the Respondent No. 4 made communication vide ANNEXURE - R, seeking for the expert opinion on the advantages and disadvantages of the said Kindi Dam from Respondent No. 6 Assistant Director of Fisheries. The said expert opinion that was sought for is still pending and in the meanwhile the Respondent No. 7 has started the construction of the said dam.

33) Hence Kind indulgence of this Hon'ble Court is solicited directing the Respondent No. 7 to stop further construction of the said Kindi Dam.

PRAYER

WHEREFORE, the Petitioner most respectfully prays that this Hon'ble Court may be pleased to:

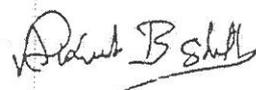
- I. ISSUE** a Writ in the nature of Certiorari for quashing the Notifications Issued by the 2nd Respondent Numbered as MID/179/BCB/2021 dated 24/08/2022 and MID/180/BCB/2021 dated 24/08/2022 vide **ANNEXURE-A** and **ANNEXURE-B**.
- II. ISSUE** a Writ in the nature of Certiorari for quashing the Work Order issued by the 4th Respondent bearing Application Number KASAMAM/TA.SHA/SA.E/38802/2023/1465 Work Order No: 626/2022-23 dated 20/03/2023 vide **ANNEXURE-C**.
- III. ISSUE** a Writ in the nature of Mandamus directing the Respondents to consider the representation dated 18/05/2023 submitted by the Petitioners herein that there by seeking of compensation for their land or Acquire the said land vide **ANNEXURE -D** and **ANNEXURE-E**.
- IV. ISSUE** any other Writ, order or direction as this Hon'ble Court may deem fit to grant in the facts and circumstances of the case including an order as to costs.

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INTERIM PRAYER

WHEREFORE, the Petitioner most respectfully prays that this Hon'ble Court may be pleased to:

THE Petitioner submits that for the reason stated supra this Hon'ble court may kindly grant an interim order directing the Respondent No. 7 to stop the construction activity of the said project vide work order issued by the Respondent No. 4 Dt: 20/03/2023 vide ANNEXURE - C pending disposal of this Writ Petition.



Place: Bengaluru
Date: 01.09.2023

ADVOCATE FOR PETITIONER
(Akash B Shetty)

ADDRESS FOR SERVICE:
AKASH B SHETTY
Advocate,
#24/2, 7TH Cross, 9th Main,
Swimming pool Extn.,
Malleshwaram,
Bengaluru -560003.
Ph:-9844634201

AKASH B SHETTY
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Bengaluru -560003 | Mob: 9844634201
E: akash.shetty2023@gmail.com

22 20

IN THE HIGH COURT OF KARNATAKA
AT BANGALORE

W. P. No. /2023 [GM-RES]

BETWEEN:

Sri ANANDA KHARVI AND ANOTHER...PETITIONERS

AND:

THE STATE OF KARNATAKA AND OTHER
...RESPONDENTS

AFFIDAVIT

I, Ananda Kharvi, S/o. Lakshmana Kharvi, R/@ ChithraNilaya, Kharvikeri, Kundapura Taluk, Udupi-576201, today at Bangalore do hereby solemnly affirm and state on oath as follows:-

1. I am the Petitioner No.1 in the above Writ Petition and I am conversant with the facts of this Petition. I am swearing to this affidavit on my behalf and also on behalf of the Petitioner No.2 since common interest involved between us.
2. I state that the Statements made in Paragraphs- 1 to 33 in the writ Petition accompanying to this affidavit are true to the best of my knowledge, information and belief.
3. I state that Annexure-A to Annexure-R are the true copies of the originals.

Identified by me,


Advocate

 (ANANDA KHARVI)
Deponent

Place: Bengaluru,
Date: 01/09/2023

No. of corrections: