

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL****WESTERN ZONAL BENCH AT PUNE****APPEAL NO. 31 OF 2020**

MACHINDRA THORVE

...APPLICANT

VERSUS

UNION OF INDIA &amp; OTHERS

...RESPONDENTS

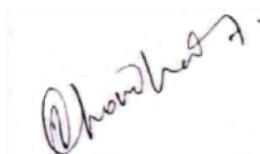
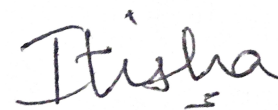
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Through


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Place:- Delhi/Pune

Dated:- 29.08.2018

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL****WESTERN ZONAL BENCH AT PUNE****APPEAL NO. 31 OF 2020**

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**REJOINDER TO REPLY OF RESPONDENT NO. 2 ON BEHALF OF THE  
APPLICANT**

1. That the present Appeal has been filed under Section 16 (h) of the National Green Tribunal Act, 2010 challenging the legality of the Environmental Clearance dated 02.03.2020 granted to Godavari Marathwada Irrigation Development Corporation (GMIDC) by State level Environment Impact Assessment Authority, Maharashtra (SEIAA) for Lift Irrigation Scheme- III (LIS-III) of Ashti Irrigation Project in Taluka Ashti, District Beed, Maharashtra.
2. That the present Appeal was filed on the following grounds:
  - (i) Krishna Water Disputes Tribunal- II has prohibited inter-basin usage of water, due to no water is available to be used for the impugned project and therefore, the project cannot be operationalized;
  - (ii) Non-compliance with mandatory Terms of Reference granted by MoEF&CC with respect to water availability for the project and other mitigation measures;
  - (iii) The public hearing was conducted in an illegal manner and was in violation of the EIA Notification, 2006;
  - (iv) There are financial discrepancies in the project cost;
  - (v) Non-application of mind by State Expert Appraisal Committee on the fact that the project proponent never submitted the

information sought from it, on water availability for the project, improper allocation of funds to the project and contrary information regarding tree felling;

(vi) Maharashtra SEIAA failed to incorporate the conditions imposed by SEAC;,

3. That Respondent No. 2 (Godavari Marathwada Irrigation Development Corporation) has filed Reply to the Appeal, to which the Applicant is filing the following Rejoinder:

#### **PRELIMINARY SUBMISSIONS**

4. That the impugned project is part of Krishna Marthwada Irrigation Project which envisages lifting of water from Ujjani Reservoir in three schemes i.e. LIS-I, LIS-II and LIS-III. The present Appeal has been filed challenging the grant of Environmental Clearance dated 02.03.2020 to LIS-III which was designed to provide water only to Beed District in Maharashtra.
5. That Krishna Marthwada Irrigation Project is part of Krishna-Bhima Stabilisation Project, which is to receive 60 TMC of water from Ujjani dam. Krishna River is divided into 5 sub-basins from K-1 to K-5. Operationalisation of Krishna-Bhima Stabilisation Project involves water transfer from K-1 sub-basin to K-5 sub-basin. The impugned project is located in K-5 sub-basin of River Krishna.

#### **A. No water is available for the operationalization of the impugned project**

**(I) Respondent No. 2 has admitted that no water is available for the said project as no water allotment has been made to Krishna-Bhima Stabilisation Project**

(a) Krishna-Bhima Stabilisation Project to receive 60 TMC water from Ujjani dam and further supply only a part of it to Krishna Marathwada Irrigation Project

6. That the Government of Maharashtra introduced the Krishna-Bhima Stabilisation Project (hereinafter referred to as "**KBSP**") with the intention of supplying water to drought-prone districts of Marathwada region including Dharashiv and Beed districts in Maharashtra. This was aimed to be achieved by interlinking of river basins by constructing several lift-irrigation projects. The KBSP project was to operate on receiving 60 TMC of water from Ujjani dam which is located near Ujjani village of Madha Taluk in Solapur district in Maharashtra. This water was to be further re-distributed by inter-basin transfer of water and 21 TMC was to be provided to Krishna Marathwada Irrigation Project (hereinafter referred to as "**KMIP**").

(b) Krishna Marathwada Irrigation Project, of which the impugned project is part of, does not receive water from KBSP due to decision of Krishna Water Dispute Tribunal- II

7. KMIP consists of three lift-irrigation schemes i.e. LIS-I, LIS-II and LIS-III. The subject of the present Appeal is only limited to the Environmental Clearance granted to LIS-III which is a part of KMIP, and is therefore dependant on the supply of water from Ujjani dam and KBSP.
8. That operation of KBSP is dependent on re-distribution of water by inter-basin transfer between K-1 sub-basin to K-5 sub-basin. However, such inter-basin transfer of water has been prohibited by Further Report of the Krishna Water Dispute Tribunal- II on the basis that any inter-basin transfer disturbs the flow and use of water.

(c) Krishna Water Dispute Tribunal- II

9. That this Tribunal was constituted by the Central Government vide Notification number S.O. 451(E) dated 02.04.2004 for adjudicating dispute between the States of Maharashtra, Karnataka and erstwhile Andhra Pradesh under Section 4 of the Inter-State River Water Dispute (ISRWD) Act, 1956 regarding allocation of Krishna River Water between

the said States. The Further Report clearly states that inter-basin transfer cannot be allowed to be undertaken:

*"We may straightaway come to pages 786/787 of our Report where allocations to the State of Maharashtra have been made. It is found that the allocations have been made out of the yield at 65% dependability for Krishna Project in K-1 Sub-basin and for Kukadi Complex in K-5 Sub-basin. The other five projects for which allocations have been made out of average flows, four of them are also in K-5 Sub-basin, namely, Nira Deogarh, Bhama Askhed, Gunjani at Velhe and Sina Nimgaon and for Revised Urmodi Project which lies in K-1 Sub-basin. So, it is clear that the allocations are for two projects in K-1 Sub-basin and for other five in K-5 Sub-basin. (Page 99)*

...

*Some projects have even been indicated in which Maharashtra intends to utilize this amount of water, namely, 35 TMC including Krishna-Bhima Stabilisation Scheme which envisages water to be taken from K-1 sub-basin to K-5 sub-basin. The two points of the project are at considerable distance. **It had been pointed out to the learned Counsel for the State of Maharashtra that this could not be permitted since this inter-basin transfer from K-1 sub-basin to K-5 sub-basin after travelling a long distance may disturb the flow and use of water in K-1 sub-basin.***

...

*Therefore, it is provided that the State of Maharashtra may utilize the water allocated to the 5 projects, namely, revised Urmodi, Nira Deogarh, Bhama Askhed, Gunjani at Velhe and Sina Nimgaon in other projects **subject to the condition that the utilization shall be within the sub-basin and not inter-basin utilisation.**" (Page 104)*

Copy of relevant pages of Further Report of Krishna Water Dispute Tribunal- II of 2013 is annexed herewith as **ANNEXURE A-1**.

10. That since the operation of KBSP is dependent on inter-basin transfer of water from K-1 to K-5, therefore, it cannot be operationalized in view of

the Further Report. Since KBSP was not operationalized, no water is available for the operation of the impugned project.

11. That Respondent No. 2 has admitted (**at Page 211**) that no allocation of water to the impugned project has been done because of Krishna Water Disputes Tribunal-II:

*"Phase-I work to be executed immediately and Phase-II work will start after allocation of water by Krishna Water Disputes Tribunal-II."*

12. That Respondent No. 2 has also admitted that no-inter basin transfer of water can be undertaken, meaning thereby that no water can be made available to the impugned project by KMIP, even in the future (**at Page 219**):

*"As per KWDT-II, the inter basin water diversion is not allowed. Under the limitation of KWDT II, as per the revised water planning the KMIP is planned in 2 stages.*

*1st Stage- 7.0 TMC*

*2nd Stage- 16.66 TMC*

*Total- 23.66 TMC."*

**(II) Polavaram project is not only not operationalized yet but also only provides small quantity of the total required water for the impugned project**

13. That Respondent No. 2 claims that another source of water for the impugned project is Polavaram Irrigation Project, which is an interstate project on river Godavari which has been conceived as a part of recommendations of Godavari Water Disputes Tribunal (GWDT). GWDT finalized its award in 1980. The award identifies individual projects that can be taken up by the co-basin states of Maharashtra, Madhya Pradesh (including Chhattisgarh), Orissa, Karnataka and Andhra Pradesh on the main Godavari River as well as its tributaries.

14. That as per Respondent No. 2, Maharashtra will receive 14 TMC of water from Polavaram project as per the Award granted by GWDT, out of which 5 TMC has to be provided to Chennai city. As per this calculation, Respondent No. 2 claims that out of the remaining 9 TMC water, 7 TMC water is available for all three lift irrigation schemes of KMIP. Respondent No. 2 also states that only 1.68 TMC water is available for Beed district and the rest 5.32 TMC is for Osmanabad district. It is submitted that the impugned project is supposed to provide water to the Beed district, meaning only 1.68 TMC water can be made available to the impugned project.
15. That 1.68 TMC is inadequate volume of water for operationalisation of the project, as the project requires a total of 5.68 TMC of water.
16. That however, even this quantity of water isn't available to the impugned project since the Polavaram project has not been completed and therefore, is still not operationalised. Multiple newspaper articles have reported that the completion of Polavaram project is nowhere in sight and therefore, no start date for its operationalisation can be given.

Copy of newspaper articles showing non-operationalisation of Polavaram project are annexed herewith as **ANNEXURE A-2 (COLLY)**.

17. That the following table will provide a brief summary of the water availability for the project:

<b>Source of water</b>	<b>Quantity of water</b>	<b>Relevant pages</b>
Water requirement as per Environmental Clearance	5.68 TMC	
<u>Phase I:</u>		
Total availability of water to State of Maharashtra from Polavaram project ( <i>not operationalised yet, therefore,</i>	14 TMC	Pg 213 (Reply of R-2)

<i>all water calculations are speculations)</i>		
Supply to Chennai city	5 TMC	Pg 213 (Reply of R-2)
Water remaining for the State of Maharashtra	9 (14-5) TMC	Pg 213 (Reply of R-2)
Water available for KMIP (for all three life irrigation schemes i.e. LIS-I, LIS-II and LIS-III)	7 TMC	Pg 213 (Reply of R-2)
Water availability for LIS-III (impugned project)	1.68 TMC	Pg 214 (Reply of R-2)
<i>Phase II (includes LIS-I, LIS-II and LIS-III):</i>		
Krishna-Bhima Stabilisation Project ( <i>involves inter-basin transfer of water, which has been <u>prohibited by Krishna Water Disputes Tribunal-II</u></i> )	60 TMC	
Krishna Marathwada Irrigation Project ( <i>impugned project is part of it</i> )	21 TMC	

**The cost-benefit analysis of the impugned project is a cut-copy-paste job taken from the EIA Report of Krishna Marathwada Lift Irrigation Project I and II, leading to discrepancies in the costs of project**

18. That Respondent No. 2 has prepared the EIA Report for the impugned project in a careless and lackadaisical manner, which is clear from the fact that the cost-benefit analysis of the impugned project has not been independently conducted.
19. That the cost-benefit analysis of the project has been copied from the EIA Report of LIS-I and LIS-II of Krishna Marathwada Lift Irrigation Project, which was granted Environmental Clearance separately from the impugned project.
20. That a perusal of the EIA Report of Krishna Marathwada Lift Irrigation Scheme I and II by Science and Technology Park Pune in August 2014,

submitted to the MoEF&CC will show that the figures of costs of the project are exactly the same as the figures in the EIA Report for the impugned project.

21. That in the present Appeal, the Appellant had raised the ground of discrepancy of costs involved in the project. It is submitted that the said discrepancy is due to the fact that Respondent No. 2 has not conducted any independent study for the cost-benefit analysis of the project and has only copied this information from the EIA Report of LIS-I and LIS-II project.
22. That this will be clear from the following reproduced excerpts from the EIA Reports of the two projects:

**Relevant pages from the EIA Report of Krishna Marathwada Lift Irrigation Scheme I and II by Science and Technology Park Pune, August 2014:**

**B.C. Ratio Calculation**

Sr. No.	Particulars		Amount in crore
1	2		3
I)	Estimated cost of the project (RSR 2008-2009)		4845.05
II)	Annual Benefits Of The Project		
	1) Net Benefits for 114731 ha at rate of Rs. 59.93 lakhs / 100Ha	687.57	
	2) Irrigation revenue @ Rs 500/h for 114731 ha	8.03	
	3) Reven.from Exc.H.R @ 95.6/cum- 3118217cum ( 95.060x40%)	1.39	
	4)Rate of Fisheries = Rs 42.50/kg (as per G.R Oct 2001 rate Rs 25.00/kg Add for 10% per year up to 2008) (719400)	3.10	
	5) Revenue from non irrigation purpose (2.366 TMC)	0.33	
	• For drinking water 25% of 2.366 TMC= 0.5915 TMC @ Rs 200/TCM	22.11	794.78
	• For industrial use 75% of 2.366 TMC=	72.25	

1.7745TMC @ Rs 4400/TCM Total 1+2+3 +4+5 Add 10% cumulative increase			
III)	<b>Annual Costs</b>		
	1) Interest on total cost at 8% on Estimated cost of project		387.60
	2) Depreciation at 1% on total cost excluding cost of pumping system & rising main i.e. on (4076.423-1141.19)		29.35
	3) Depreciation of pumping system at 8.33% on Rs. 615.52 (assuming life of machinery as 12 years)		51.27
	4) Depreciation of rising main at 3.33% on Rs. 524.02 (assuming life of rising main as 30 years)		17.45
	5) Power charges for L.L.S. As per HTP-VII 7581Lakhs units Rate = Basic rate + Demand etc( 0.90 + 0.15 (FC)= 1.05/unit)		13.32
	Add 2.63 lakh KW Rs.10.00/KW/Month 25x12+2.63		98.55
	6) Annual maintenance @1% of work ie. On 4076.42		7.89
	7) Administrative charges @ 300/ha of ICA 114731x300		40.76
	Total annual cost		3.44
	<b>Benefit Cost Ratio = Annual Net Benefit / Total annual cost = 794.78/636.31</b>		<b>636.31</b>
			<b>1.25</b>

Source: Krishna Marathwada Irrigation Project, Designs, Volume – V, May - 2009

Copy of relevant pages from the EIA Report of Krishna Marathwada Lift Irrigation Scheme I and II by Science and Technology Park Pune, August 2014 is annexed herewith as **ANNEXURE A-3**.

**Relevant except from EIA Report of the impugned project by Envirotech Environmental Consultancy and Laboratory (Incidentally approved by NABET) submitted in 2018** (annexed at Page 97 of Appeal):

Table 2.9: Details of Benefit Cost Ratio Calculation

Sr. No.	Particulars	Amount in crore	
1	2	3	
I)	Estimated cost of the project (RSR 2008-2009)		4845.05
II)	<b>Annual Benefits Of The Project</b>		
	1) Net Benefits for 114731 ha at rate of Rs. 59.93 lakhs / 100Ha	687.57	
	2) Irrigation revenue @ Rs 500/h for 114731 ha	8.03	
	3) Reven.from Exc.H.R @ 95.6/cum- 3118217cum ( 95.060x40%)	1.39	
	4)Rate of Fisheries = Rs 42.50/kg (as per G.R Oct 2001 rate Rs 25.00/kg Add for 10% per year up to 2008) (719400)	3.10	
	5) Revenue from non irrigation purpose (2.366 TMC)	0.33	
	• For drinking water 25% of 2.366 TMC= 0.5915 TMC @ Rs 200/TCM	22.11	
	• For industrial use 75% of 2.366 TMC= 1.7745TMC @ Rs 4400/TCM	722.53	
	Total 1+2+3 +4+5	72.25	<b>794.78</b>
	Add 10% cumulative increase		
III)	<b>Annual Costs</b>		
	1) Interest on total cost at 8% on Estimated cost of project		387.60
	2) Depreciation at 1% on total cost excluding cost of pumping system & rising main i.e. on (4076.423-1141.19)		29.35
	3) Depreciation of pumping system at 8.33% on Rs. 615.52 (assuming life of machinery as 12 years)		51.27
			17.45
			13.32

Sr. No.	Particulars	Amount in crore
1	2	3
	4) Depreciation of rising main at 3.33% on Rs. 524.02 (assuming life of rising main as 30 years)	98.55
	5) Power charges for L.I.S. As per HTP-VII 758 Lakhs units	7.89
	Rate = Basic rate + Demand etc { 0.90 + 0.15 (FC) - 1.05/unit}	40.76
	Add 2.63 lakh KW Rs.10.00/KW/Month	3.44
	25x12+2.63	<b>636.31</b>
	6) Annual maintenance @1% of work ie. On 4076.42	
	7) Administrative charges @ 300/ha of ICA 114731x300	
	Total annual cost	
	<b>Benefit Cost Ratio = Annual Net Benefit / Total annual cost = 794.78/636.31</b>	<b>1.25</b>

23. That due to this reason, Respondent No. 2 has also failed to provide any justification with respect to cost discrepancy in the project and has only attempted to mislead this Hon'ble Tribunal.

#### **PARA-WISE REJOINDER**

24. That the contents of Para 1 are matter of fact and require no reply.
25. That the contents of Para 2 and 3 are denied in entirety. The Appellant is a resident of Beed district and directly aggrieved by the project. The contention of Respondent No. 2 that the parents of the Appellant have gained benefit by selling their land for the project and enjoying the compensation is immaterial to the issues raised herein. However, without prejudice to grounds raised, reference made by Respondent No. 2 to the property sold by the Appellant's mother is incorrect. Respondent No. 2 has attempted to mislead this Hon'ble Tribunal by stating that Meenabai Vijay Thorve, who sold land for almost Rs. 4 lakhs is the Appellant's mother. It is submitted that Meenabai Vijay Thorve is Appellant's distant relative and the Appellant has no share in the proceeds of sale of their land. Additionally, the land which has been mentioned to have been sold by the father of the Appellant, Amrutra Dasrath Thorve is common ancestral land, the proceeds of which were shared between 6 people. This

amounted to a mere Rs.10,000 to the Appellant's father. Respondent No. 2 has tried to provide incorrect facts to mislead this Hon'ble Tribunal.

26. That the contents of Para 4 require no response.
27. That the contents of Para 5 are partly denied and partly matter of record. It is submitted that administrative approval to the impugned project does not hold any value when there is no water availability for the project. The impact and viability of the project is assessed by the SEAC and SEIAA, which has been done without proper application of mind.
28. That the contents of Para 6 are denied. It is submitted that water for Phase-I of the project is to be sourced from Polavaram project, which is far from becoming a reality on ground. Phase-II of the project is dependent on KMIP, which cannot be operationalized due to the Krishna Water Disputer Tribunal-II. Therefore, there is no water available for the impugned project.
29. That the contents of Para 7A and 7B are matter of fact and require no response. Respondent No. 2 has clearly stated in Para 7A that 7 TMC quantity of water will be provided to KMIP from Polavaram project. Notwithstanding the fact that 7 TMC of water is not enough for operationalization of KMIP, even this quantity of water is not available, as Polavaram project has not been operational on ground.
30. That the contents of Para 7C, 15, 16, 17, 18, 19, 20, 21, 46, 47 are denied as the EIA Report failed to address all the Terms of Reference issued by MoEF&CC. Respondent No. 2 has failed to provide any reply/ justification to the fact that the EIA Report was lacking on multiple aspects that were raised in the Terms of Reference by MoEF&CC. The EIA Report is bereft of any justification on non-compliance with the Terms of Reference and the Respondent No. 2 has failed in providing cogent reasons for the same. By merely stating that the EIA Report was prepared in consultation with

a NABET approved EIA consultant and accepted to MoEF&CC, Respondent No. 2 has shirked its duty to respond to the issues raised in the Appeal.

31. That the contents of Para 7D, 22, 48 and 49 are denied as the public hearing was conducted illegally and in violation of EIA Notification, 2006. The public hearing was undertaken under severe fear and intimidation created by the local politicians seeking to benefit from the impugned project.
32. That the contents of Para 7E and 7F require no response.
33. That the contents of Para 8, 9, 10, 13, 14 are matter of fact. It is submitted that in light of the Further Report of Krishna Water Disputer Tribunal-II and non-operationalization of Polavaram project, no water is available for the impugned project. For detailed response, reference may be made to Para 6 to 12 of the Rejoinder.
34. That the contents of Para 11 are partly denied and partly matter of fact. It is submitted that the Appellant has not filed any other Appeal challenging the Environmental Clearance dated 02.03.2020 granted to the impugned project. The grounds raised in the present Appeal are separate and distinct from the grounds raised in the other cases mentioned by Respondent No. 2.
35. That the contents of Para 12 do not require any response.
36. That the contents of Para 23 -27, 39, 40 are denied. It is submitted that Respondent No. 2 has failed to provide justification for the misleading information provided in the EIA Report with respect to cost. Respondent No. 2 has relied upon an administrative approval dated 27.08.2009, however, has failed to annex a copy of the same with the Reply. Even though this approval is stated to have been annexed as Annexure 3, however, wrong documents have been annexed as Annexure 3. For detailed response, reference may be made to Para 21 to 26 of the Rejoinder.

37. That in response to Para 28-30, it is submitted that Respondent No. 2 has admitted that there will be large-scale displacement of people and loss and their resettlement and rehabilitation will involve huge expenditure of public money.
38. That in response to Para 31, 37, it is submitted that the SEAC has failed to apply its mind to pertinent issues relating to water availability for the project, allocation of funds and tree felling.
39. That in response to contents of Para 32, 34, 35, 36, it is submitted that Respondent No. 2 failed to provide necessary information to SEAC regarding water availability. SEAC also failed to consider that the information sought from Respondent No. 2 has not been provided and yet recommended the project for grant of Environmental Clearance. It is submitted that the MWRRA approval dated 08.06.2022 annexed with the Reply by Respondent No. 2 only pertains to 7 TMC of water (out of which 1.68 TMC is allocated to the impugned project). Therefore, the contention that MWRRA approval has been obtained for the entire 5.68 TMC of water is false and misleading.
40. That in response to contents of Para 33, it is submitted that 1.68 TMC of water is also not available for the project, as the same was to be sourced from Polavaram project, which is yet not operationalized. For detailed response, reference may be made to Para 13 to 16 of the Rejoinder.
41. That contents of Para 38 warrant no response.
42. That in response to Para 41, 42, 43, 44, it is submitted that Respondent No. 2 has failed to provide any justification for the incorrect information given in the EIA Report regarding tree felling.
43. That in response to Para 45, it is submitted that Respondent No. 2 has failed to provide any justification for not procuring permissions from MWRRA for the entire 5.68 TMC of water.

44. That the contents of Para 50 are denied. It is submitted that the project was granted an Environmental Clearance in complete disregard to the provisions of law and the factual position at hand. Despite no water availability for the project, SEIAA granted an Environmental Clearance, without conducting proper scrutiny of the information submitted by Respondent No. 2 and improper public hearing.
45. That the contents of Para 51 are denied. Respondent No. 2 has failed to provide any justification for the misleading information given in the EIA Report with respect to allocation of funds as well as number of trees to be felled.
46. That the contents of Para 52 are denied. It is submitted that the approval dated 08.06.2022 annexed with the Reply by Respondent No. 2 only pertains to 7 TMC of water (out of which 1.68 TMC is allocated to the impugned project). Therefore, the contention that MWRRA approval has been obtained for the entire 5.68 TMC of water is false and misleading.
47. That the contents of Para 53 require no response.
48. That the contents of Para 54 are denied. For a detailed response, reference may be made to Para 29 and 38 of the Rejoinder.
49. That the contents of Para 55 are denied. It is submitted that imposition of environmental compensation for violation of environmental norms is different from the Corporate Environment Responsibilities that companies are obligated to undertake.

In light of the present facts and circumstances and in the interest of justice, the Hon'ble Tribunal may be pleased to pass appropriate orders/directions.

) Pass any other order as this Hon'ble Tribunal may deem fit in the facts and circumstances of the present case.

*Shr*  
*Shr*  
 APPELLANT

THROUGH

*Ritwick*

RITWICK DUTTA

*Rahul*

RAHUL CHOUDHARY

*Itisha*

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**VERIFICATION**

Verified by Machindra Thorve, S/O Amruta Thorve, R/O at Post Kuntephal, Taluka Ashti, District Beed, Maharashtra- 414202, do hereby verify that the contents of Paragraphs 1 to 49 are true to my personal knowledge and nothing material has been concealed therefrom.



*Shr*  
 APPELLANT

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
WESTERN ZONAL BENCH AT PUNE  
APPEAL NO. 31 OF 2020

IN THE MATTER OF:

MACHINDRA THORVE

...APPELLANT

VERSUS

STATE OF MAHARASHTRA & ORS.

...RESPONDENTS

AFFIDAVIT

I, Machindra Thorve, S/O Amruta Thorve, R/O at Post Kuntephal, Taluka Ashti, District Beed, Maharashtra- 414202, do hereby solemnly affirm and declare as under:

1. That I am the Appellant in the above titled Appeal, and hence well conversant with the facts and circumstances described in the present case and as such competent to swear this Affidavit.
2. That the contents of the accompanying Rejoinder are true and correct and nothing material has been concealed therefrom.



VERIFICATION

27 AUG 2024

*MA*  
DEPONENT

Verified on this \_\_\_\_ day of \_\_\_\_\_ 2024 that the contents of the present Affidavit are true and correct to my knowledge and belief and nothing material is concealed therefrom.

27 AUG 2024

**BEFORE ME**

*Radhika M. Padiya*  
**RADHIKA MOHANLAL PADIYA**  
**ADVOCATE & NOTARY**  
**GOVERNMENT OF INDIA**  
Pune - 411 014

**NOTED & REGISTERED**  
**AT SR. NO.:- 263-M/24**



**KRISHNA WATER DISPUTES TRIBUNAL****THE FURTHER REPORT****OF****THE KRISHNA WATER DISPUTES TRIBUNAL**

IN THE MATTER OF WATER DISPUTES REGARDING THE  
INTER- STATE RIVER KRISHNA AND THE RIVER VALLEY

THEREOF



BETWEEN

FURTHER REPORT

1. The State of Maharashtra
2. The State of Karnataka
3. The State of Andhra Pradesh

VOLUME I  
(Pages 1 to 139)

NEW DELHI  
2013

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**COMPOSITION OF  
THE KRISHNA WATER DISPUTES TRIBUNAL**

(During the hearing of the References under Section 5(3) of  
the Inter-State Water Disputes Act, 1956).

**CHAIRMAN**

**Shri Justice Brijesh Kumar,**  
(Former Judge, Supreme Court of India)



**MEMBERS**

**Late Shri Justice S.P. Srivastava,**  
(Former Judge, Allahabad High Court, Uttar Pradesh)  
(Upto 09.08.2012)

**Shri Justice D. K. Seth,**  
(Former Judge, Calcutta High Court, Kolkata)

**Shri Justice B.P. Das,**  
(Former Judge, Odisha High Court, Cuttack)  
(From 21.01.2013 to date)

KRISHNA WATER DISPUTES TRIBUNAL



सत्यमेव जयते

FURTHER REPORT

**Assessors**

1. Shri R.S. Prasad  
Former Chairman, CWC  
19.06.2006 to 01.02.2011

2. Shri Suresh Chandra  
Former Chairman, CWC  
19.06.2006 to 26.04.2011

3. Shri Indraraj  
Former Member, CWC  
10.02.2012 to date.

**Consultant**

1. Shri Suresh Chandra  
27.04.2011 to 28.09.2012  
07.08.2013 to 28.09.2013



KRISHNA WATER DISPUTES TRIBUNAL

FURTHER REPORT

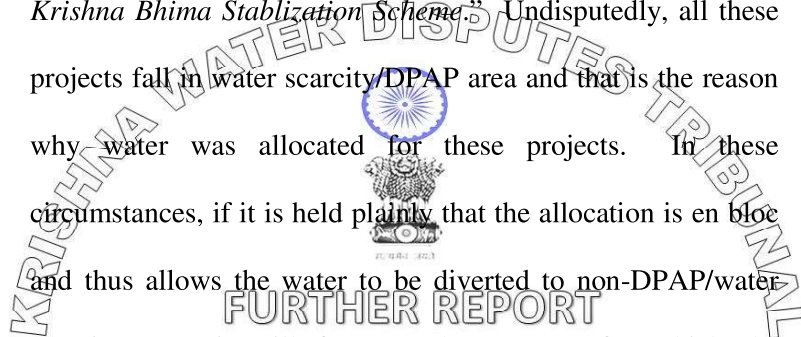
**Assisted by –**

1. Mr. V. Raghunathan (Ex. Engineer)  
20.03.2008 to 20.3.2011
2. Mr. M.R. Chakraborty (Ex. Engineer)  
16.07.2011 to date

however, remains that nothing has been said anywhere, either way as to whether allocations made by this Tribunal out of the availability at 65% dependability and on average yield are en bloc or not. It is also not mentioned that the allocation is tied to the specific projects, though allocations are against specific projects enumerated at pages 786/787 of the report of this Tribunal. The question of putting any condition to the utilization of the allocated water was also not considered and dealt with. But these aspects have now certainly to be adverted to since specific clarification is sought to the effect that the allocation is en bloc. We, therefore, proceed to consider this aspect of the matter.

We may straightaway come to pages 786/787 of our Report where allocations to the State of Maharashtra have been made. It is found that the allocations have been made out of the yield at 65% dependability for Krishna Project in K-1 Sub-basin and for Kukadi Complex in K-5 Sub-basin. The other five projects for which allocations have been made out of average flows, four of them are also in K-5 Sub-basin, namely, Nira Deogarh, Bhamra Askhed, Gunjani at Velhe and Sina Nimgaon and for Revised Urmodi Project which lies in K-1

Sub-basin. So, it is clear that the allocations are for two projects in K-1 Sub-basin and for other five in K-5 Sub-basin. It is then observed at page 787 that all the allocations are in the drought prone areas of Maharashtra. It is again observed at page 787 *“It covers the drought prone areas, and in part the area, which was proposed to be provided for by undertaking Krishna Bhima Stabilization Scheme.”* Undisputedly, all these projects fall in water scarcity/DPAP area and that is the reason why water was allocated for these projects. In these circumstances, if it is held plainly that the allocation is en bloc and thus allows the water to be diverted to non-DPAP/water scarcity area, it will frustrate the purpose for which the allocation was made and shall also betray the hopes of the people of the drought prone water scarcity/DPAP area. Therefore, question of placing restrictions becomes important so that maximum benefit must go to the people of water scarcity area and it may not be diverted to non-scarcity/DPAP areas or for the purposes of crops like sugarcane which is a high water demanding crop and the like or for power generation.



allocation may not be treated as tied to the projects but for the water starved districts.

Some projects have even been indicated in which Maharashtra intends to utilize this amount of water, namely, 35 TMC including Krishna-Bhima Stabilisation Scheme which envisages water to be taken from K-1 sub-basin to K-5 sub-basin. The two points of the project are at considerable distance. It had been pointed out to the learned Counsel for the State of Maharashtra that this could not be permitted since this inter-basin transfer from K-1 sub-basin to K-5 sub-basin after travelling a long distance may disturb the flow and use of water in K-1 sub-basin. Thus, considering all facts and circumstances

and the facts, it is provided that en bloc use is permissible subject to certain conditions, it is provided that 35 TMC as against the average yield allocated to the above mentioned 5 projects may be utilized within the respective sub-basins in which allocation has been made. It will serve the cause of the drought prone area, which is a large water starved area. It will not be utilized involving inter-basin transfer of water. Therefore, it is provided that the State of Maharashtra may utilize the water allocated to the 5 projects, namely, revised Urmodi, Nira Deogarh, Bhama Askhed, Gunjani at Velhe and

Sina Nimgaon in other projects subject to the condition that the utilization shall be within the sub-basin and not inter-basin utilisation.

Therefore, while clarifying that the allocations made to the State of Maharashtra out of the yield at 65% dependability and at average, are en bloc, but with the restrictions placed on its utilization after the Clause X(1)(d) in Clause X(1) of the Order, Clause X(1)(e) to be added to as follows :-

“**(e)** (i) Maharashtra shall not utilize the water allocated to it by this Tribunal in any non-scarcity/DPAP area, either in existing projects or in future projects.

(ii) in basin, utilization in any other project for DPAP area may be permissible with prior intimation in writing and a written no objection of the Krishna Water Decisions Implementation Board (KWD-IB). It shall not involve any inter basin transfer of water.

To the extent indicated above, the Order dated 30.12.2012 stands deemed to be modified by way of addition of sub-clause (e) to Clause X-(I) of the Order.

## Polavaram project was pushed into deep uncertainty due to inefficient planning under YSRCP govt: Chandrababu Naidu

[DH deccanherald.com/india/andhra-pradesh/polavaram-project-was-pushed-into-deep-uncertainty-due-to-inefficient-planning-under-ysrcp-govt-chandrababu-naidu-3085404](https://www.deccanherald.com/india/andhra-pradesh/polavaram-project-was-pushed-into-deep-uncertainty-due-to-inefficient-planning-under-ysrcp-govt-chandrababu-naidu-3085404)

Releasing a white paper on the status of the project, Naidu said that Rs 12,157 crore is the likely cost of the completion of the balance works of Phase I of the project.

Hyderabad: Andhra Pradesh chief minister N Chandrababu Naidu on Friday alleged that the prestigious Polavaram multipurpose project was pushed into deep uncertainty due to changes in the executing agency and improper planning by the previous Y S Jagan Mohan Reddy-led YSRCP government.

The Centre accorded Polavaram project national project status during the state bifurcation 10 years ago, and it is considered the lifeline of Andhra Pradesh.

Releasing a white paper on the status of the project, Naidu said that Rs 12,157 crore is the likely cost of the completion of the balance works of Phase I of the project.

The White Paper said that damage from the previous government's omissions and commissions stands at around Rs 4,900 crore. Delays have added 38 percent of the inflation cost, and the opportunity cost of lost crops and power was pegged at Rs 48,000 crore.

"The first three units of the Polavaram Hydroelectric Project were scheduled to be completed by November 2021. The other six units were to be commissioned within six months thereafter. Non-commissioning of these units has resulted in the non-availability of cheap power to the state and has hence resulted in a loss of more than Rs 3000 crore up to May 2024. This loss will continue to increase as the project's completion is further delayed," he said.

He observed that had the executing agency not been changed and had the project planning been proper, the project would have been completed in time to release water in Kharif 2020.

"Due to inefficient planning and unnecessary changes in the executing agency, the project was rescheduled to be completed by June 2021. Later, the completion schedule was extended to June 2022 and then again to June 2023, putting the project under deep uncertainty," Naidu added.

### **Diversion of amount reimbursed to GoAP by GOI**

Naidu also said that between 2014 and 2019 during the earlier TDP regime, an expenditure of Rs 11762.47 crore was incurred on this project by the state government, out of which an amount of Rs. 6764.16 crore was reimbursed to the state by the Government of India (GoI) during this period, and an amount of Rs. 4998.31 crore was pending for reimbursement, which was released subsequently after May 31, 2019.

Further, during the period from 2019 to 2024, in the previous YSRCP government regime, the state government incurred an expenditure of Rs. 4996.53 crore, even though the GoI reimbursed an amount of Rs. 8382.11 crore to the state government.

"Thus, an amount of Rs. 3385.58 crore was diverted instead of spending the same on the Polavaram project, thereby starving the project of funds. This has affected the progress of the works of the project and Land Acquisition (LA) and Relief and Rehabilitation (R&R) very badly, as payment of bills for an amount of Rs. 2697 crore is pending as of May 31, 2024. All the executing agencies of the project have practically stopped the work due to the non-payment of their pending bills," Naidu said.

### **Only 3.4% of civil works completed between 2019 & 2024**

Naidu also said that the progress of the civil works of the project during the period from 2019 to 2024 was only 3.84%.

"In respect of both the right main canal and the left main canal, practically no work was carried out during this period except clearing some pending payments. The works pertaining to the distributary network under the main canals have not yet commenced, and even DPR has not been finalised," Naidu said.

"Under the Land Acquisition (LA) and Rehabilitation and Resettlement (R&R) sectors also, the progress is meagre at 3.89 pc in this period. There was a drastic decrease in budgetary support for the project by the government of AP during 2019–24, when compared to 2014–19. In fact, the expenditure incurred on the project for the work done during the period from 2019–24 was Rs 4167.53 crore. There is also no tangible action regarding resolving disputes with Odisha, Chhattisgarh, and Telangana, getting approval for the 2nd revised cost estimate (at the 2017-18 price level) etc," he added.

He further said that, setting aside the advice from Polavaram Project Authority (PPA), the contracts of the executing agencies, namely M/s Navayuga Engineering Company Limited (NECL) and M/s Bekem Infra Projects Private Limited (BEKEM), were pre-closed and terminated, and later the works were awarded to Megha Engineering Infrastructure Ltd. (MEIL) by the Jagan government.

# Nothing can be said about completion of Polavaram right now: Chandrababu Naidu

Chief Minister makes first visit to Polavaram project site after assuming office, blames Jagan for delay in completion of work, says there is need for public discussion on the project

Published – June 17, 2024 07:15 pm IST – POLAVARAM



G.V.R. SUBBA RAO



Chief Minister N. Chandrababu Naidu inspecting the coffer dam and other areas of the Polavaram project, which is under construction on Godavari river, on Monday. | Photo Credit: K.V.S. GIRI

On his first visit to Polavaram Project site after assuming office, Chief Minister N. Chandrababu Naidu on Monday expressed doubts about completion of the project in the near future. “Officials say a minimum of four seasons (years) are required to complete the project, but it all depends on ifs and buts. We need to ascertain the situation,” he said.

The Chief Minister inspected the diaphragm wall, which was damaged in August 2020, coffer dam and other areas at the site on Monday. He took stock of the situation in a review meeting with the officials.

Later, addressing a press conference, Mr. Chandrababu Naidu said there were four damaged areas on the diaphragm wall. Repairing these portions by constructing D-walls alone would cost ₹447 crore. However, it has not been ascertained how damaged the diaphragm wall is. A new diaphragm wall, on the other hand, would cost ₹990 crore.

He underlined how the TDP government spent about ₹440 crore to construct the diaphragm wall and the 2019-20 floods damaged 35% of it. “All these losses and delay in the completion of the project is solely because of one person, who is unfit to be in politics,” he said.

Mr. Chandrababu Naidu squarely blamed the former chief minister Y.S. Jagan Mohan Reddy saying he was a curse on Andhra Pradesh and the Polavaram project. “His (Mr. Jagan’s) unmindful decisions pushed the project into doldrums. In fact, nothing can be said at this moment. The fate of the project hangs in balance due to his (Mr. Jagan’s) unpardonable blunders.”

Mr. Chandrababu Naidu said about 70% of the project was completed during the TDP government between 2014 and 2019. The YSRCP government not only failed to complete the remaining work but also pushed the project into limbo. Had the works not been suspended for over a year on account of reverse tendering, change of contractor, etc, the Polavaram project would have been completed by now, he observed.

The Chief Minister said international expert design consultant M/s AFRY India Pvt. Ltd., Noida, (headquartered in Sweden) has been recommended by the Central Water Commission (CWC) to study the damage and suggest a way out. Also, there is a need for public discussion on the project, and the government would take this up with the Centre, he said.

To a question on whether there would be an all-party delegation, the Chief Minister opined that it would be of no use. He also said that an inquiry committee would not take the issue

to a logical conclusion. “All we need is a discussion: how public money was wasted, how the project was affected and what the solution is,” he added.

Minister for Water Resources Nimmala Ramanaidu and others were present.

## Andhra govt seeks more time for Polavaram project completion

[hindustantimes.com/india-news/polavaram-irrigation-project-in-hyderabad-faces-further-delay-as-centre-and-state-disagree-on-deadline-101685734340503.html](https://www.hindustantimes.com/india-news/polavaram-irrigation-project-in-hyderabad-faces-further-delay-as-centre-and-state-disagree-on-deadline-101685734340503.html)

June 3, 2023

By [Srinivasa Rao Apparasu](#)

**A senior official of the irrigation department said the main reason for the delay in the project works was the delay in the restoration of the diaphragm wall.**

Hyderabad The construction of the much-anticipated major irrigation project of Polavaram on Godavari river is going to be delayed further. While the Centre insisted that the first phase of the project be completed by June, 2024, the Andhra Pradesh government sought time till June 2025.



The Andhra Pradesh government sought time till June 2025 for the completion of the project. (HT Photo)

The issue came up for discussion during a high-level meeting, chaired by Union minister for Jal Shakti Gajendra Singh Shekhawat in New Delhi on Thursday, to review the progress of Polavaram project.

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“Going by the prevailing conditions, we told the Union minister that the Polavaram project could be completed only by June 2025. But he wanted the project works to be expedited, so that it would meet the June 2024 deadline,” Andhra Pradesh Engineer-in-Chief (Water Resources) C Narayana Reddy told reporters after the meeting.

The state officials told the Centre that they would study the issue and advance the timeline accordingly.

During the phase-1 of the project, the Godavari water would be impounded up to the contour level of 41.15 metres, as against the full reservoir level of 45.72 metres. “The project will be executed for a scheduled height of 45.72 metres, but in the phase-1, water will be impounded only up to 41.15 metres for the implementation of rehabilitation and resettlement of the project evacuees,” Reddy said.

He said the state government had requested the Union Jal Sakthi ministry to release ₹17,144 crore as ad hoc amount for the first phase of Polavaram project so that works can be executed expeditiously. “The Union minister directed that the ministry process the proposal and send it to the approval of the finance ministry,” he said.

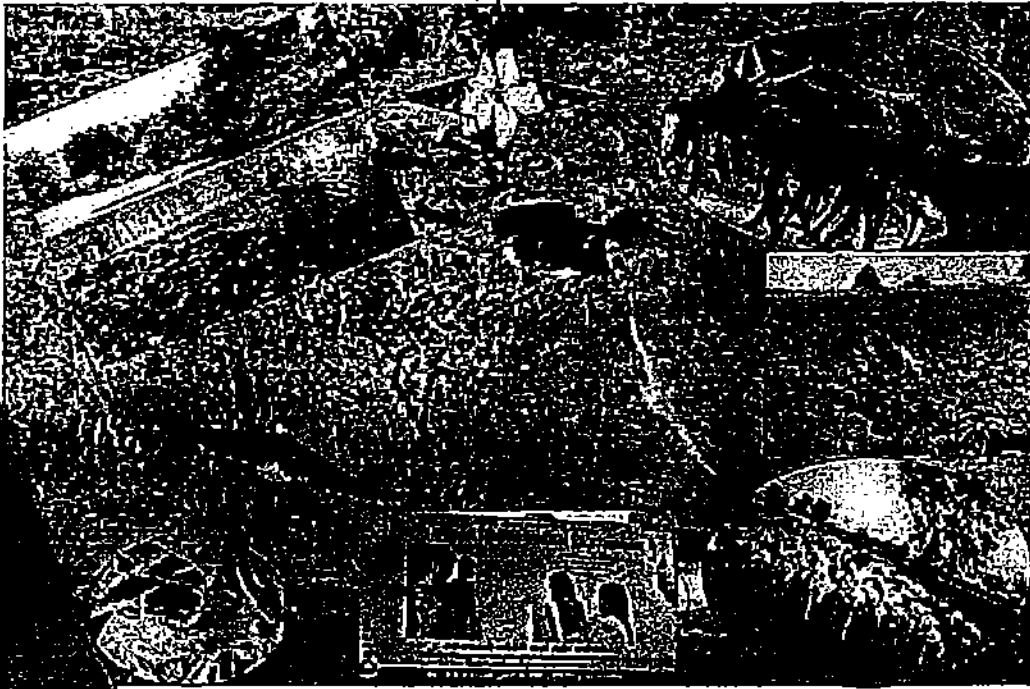
A senior official of the irrigation department said the main reason for the delay in the project works was the delay in the restoration of the diaphragm wall, which suffered severe damages during heavy floods to Godavari river in 2020. “The design for the diaphragm wall is still pending for clearance from the Central Water Commission (CWC). When we brought it to the notice of Shekhawat, he asked the CWC authorities to clear the design, so that work could be taken up,” he said.

Union Jal Shakti ministry secretary Pankaj Kumar, PPA CEO Shiv Nandan Kumar and other senior officials were present.

]

# ENVIRONMENTAL IMPACT ASSESSMENT OF KRISHNA MARATHWADA LIFT IRRIGATION SCHEME

Final Report  
Volume - I



Executive Engineer,  
Krishna Marathwada Lift Irrigation Scheme,  
Osmanabad.

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UNIVERSITY OF PUNE



SCITECH PARK

b) Energy charges of LI schemes are taken as follows

H.T.P. No.	Demand Charges	Unit Charges
VII	Rs 25/- per KVA	Rs 1.30 per unit

c) Depreciation charges are considered at 1% of head works and same for pumping system and rising main are considered at 8.33% and 3.33% respectively

d) Depreciation of pumping system is taken as 8.33% of pumping cost considering life of pumping system as 12 years.

e) Depreciation of rising main is considered at 3.33% of rising main cost considering life of rising main system as 30 years.

f) Annual operation and maintenance i.e. administrative charges are taken at Rs 300 per ha of ICA.

g) Maintenance charges are taken at 1% of head works cost.

h) Annual cost of the project is Rs 636.31 crores

IV. The B C ratio of the scheme works out to 1.25. The cost per ha of irrigation are works out to 4.22 lakhs per ha.

#### B.C. Ratio Calculation

Sr. No.	Particulars		Amount in crore
1	2		3
I)	Estimated cost of the project (RSR 2008-2009)		4845.05
II)	Annual Benefits Of The Project		
	1) Net Benefits for 114731 ha at rate of Rs. 59.93 lakhs / 100Ha	687.57	
	2) Irrigation revenue @ Rs 500/h for 114731 ha	8.03	
	3) Reven.from Exc.H.R @ 95.6/cum- 3118217cum ( 95.060x40%)	1.39	
	4)Rate of Fisheries = Rs 42.50/kg (as per G.R Oct 2001 rate Rs 25.00/kg Add for 10% per year up to 2008) (719400)	3.10	
	5) Revenue from non irrigation purpose (2.366 TMC)	0.33	
	• For drinking water 25% of 2.366 TMC= 0.5915 TMC @ Rs 200/TCM	22.11	794.78
	• For industrial use 75% of 2.366 TMC=	722.53	
		72.25	

	1.7745TMC @ Rs 4400/TCM Total 1+2+3 +4+5 Add 10% cumulative increase		
III)	<b>Annual Costs</b> 1) Interest on total cost at 8% on Estimated cost of project 2) Depreciation at 1% on total cost excluding cost of pumping system & rising main i.e. on (4076.423-1141.19) 3) Depreciation of pumping system at 8.33% on Rs. 615.52 (assuming life of machinery as 12 years) 4) Depreciation of rising main at 3.33% on Rs. 524.02 (assuming life of rising main as 30 years) 5) Power charges for L.I.S. As per HTP-VII 7581Lakhs units Rate = Basic rate + Demand etc{ 0.90 + 0.15 (FC)= 1.05/unit} Add 2.63 lakh KW Rs.10.00/KW/Month 25x12+2.63 6) Annual maintenance @1% of work ie. On 4076.42 7) Administrative charges @ 300/ha of ICA 114731x300 Total annual cost		387.60 29.35 51.27 17.45 13.32 98.55 7.89 40.76 3.44 636.31
	<b>Benefit Cost Ratio = Annual Net Benefit / Total annual cost = 794.78/636.31</b>		<b>1.25</b>

Source: Krishna Marathwada Irrigation Project, Designs, Volume – V, May - 2009

### 1.9 Power

Krishna Marathwada Irrigation Scheme is planned to lift water in 11 stages and supply it to the drought prone areas of Bhoom, Paranda, Vashi, Kalamb, Osmanabad, Lohara, Tuljapur, & Omarga Taluka of Osmanabad District of Maharashtra. 248 MW (185MW for LIS-I and LIS-II of electricity will be made available at the time of commencement of the scheme. (Source: Maharashtra State Electricity Distribution Corporation Limited (MSEDCL)).

### 1.10 Submergence and Rehabilitation

In a lift Irrigation scheme I and II, there is no independent catchment and submergence area for the project and acquisition of land is only for various components of the project such as, pump houses, rising main and distribution network.

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DC Law Chambers &lt;dclaw160@gmail.com&gt;

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**Copy of Rejoinder on behalf of the Appellant in Appeal No. 31 of 2020 Machindra Thorve Vs. State of Maharashtra & Ors.**

1 message

**DC Law Chambers** <dclaw160@gmail.com>

Thu, Aug 29, 2024 at 12:48 PM

To: Aniruddha Kulkarni &lt;aniruddha1488@gmail.com&gt;, Manasi Joshi &lt;adv.manasi.joshi@outlook.com&gt;, Vivek Solshe &lt;vcsolshe@gmail.com&gt;

Dear Sir/Madam,

Please find attached-Copy of Rejoinder on behalf of the Appellant in Appeal No. 31 of 2020 Machindra Thorve Vs. State of Maharashtra &amp; Ors.

Thanks &amp; Regards

Counsel for the Appellant

**Rejoinder on behalf of the Appellant.pdf**

4793K