

D Chandramouleswara Reddy vs Union Of India on 29 October, 2021

Bench: K Ramakrishnan, K. Satyagopal

Item No.1:

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI
Original Application No. 148 of 2021 (SZ)
(Through Video Conference)

IN THE MATTER OF

D. Chandramouleswara Reddy & ors

Versus

Union of India & Ors.

th

Order Pronounced on: 29 October, 2021.

CORAM:

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

HON'BLE DR. K. SATYAGOPAL, EXPERT MEMBER

For Applicant(s):

Mr. P.S. Raman, Senior Adv. along with
Mr. Gautam S. Raman.

For Respondent(s):

Mr. D. Ramesh Kumar for R1 & R4.
Mr. G.M. Syed Nurullah Sheriff for R2 & R3.
Mr. J. Ramachandra Rao, Addl. Adv. General
along with Mr. Sanjeev Kumar, Spl. Govt. Pleader and
Mrs. H. Yasmeen Ali for R5.
Mr. Sriram, Adv. General along with
Mrs. Madhuri Donti Reddy and Mr. M.R. Srinivas
for R6.

ORDER

1. Preliminary objections and interim order were considered while separate order, holding that the application is maintainable and not barred by limitation and the applicants are entitled for interim injunction as prayed for.

2. The parties are directed to complete their pleadings.

3. For considering the objections, if any, to be filed by the respondents to the Joint Committee, Post on 24.11.2021.

.....J.M. (Justice K. Ramakrishnan)E.M. (Shri. Dr. K. Satyagopal)
O.A. No.148/2021(SZ) 29th October, 2021. AM.

BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE, CHENNAI Original Application
No. 148 of 2021 (SZ) (Through Video Conference) IN THE MATTER OF:

1. D. Chandramouleswara Reddy, Aged 63 years, S/o D. Shankar Reddy,
H.No.S-1-321, Singapore Township, PUTtampalli, YSR Kadapa District, Andhra
Pradesh- 516002

2. Avva Venkatasubba Reddy, Aged 43 years, S/o A. Papi Reddy, H.No.2-103-A, Jilela
Village, Banaganapalli, Kurnool District, Andhra Pradesh- 518176

3. SK. Jani Basha, Aged 47 years, S/o Saida Saheb, H.No. 2-323, Masid Bazar,
Paluvai, Rentachintala Mandal, Guntur District, Andhra Pradesh- 522421

4. Vajrala Koti Reddy, Aged 58 years, S/o V. Gali Reddy, H. No. 1-16A, Rajapalem
(V), Tripuranthakam Mandal Prakasam District, Andhra Pradesh- 523326

5. Naraboina Venkata Rao, Aged 37 years, S/o N. Venkateswarlu, H.No. 4-125, Pata
Paluvai (v), Rentachinthala Mandal, Prakasam District, Andhra Pradesh- 522421

6. Siddadapu Gandhi, Aged 49 years, S/o Rama Raghaviah, Gurazalamandal, Guntur
District, Andhra Pradesh- 522415

7. Garikapati VenkataRamanaidu, aged 41 years, S/o Garikipati Raghav Rao,
H.No.2-14 Peumalli post, Penumalli village, Pedanamandal, Krishna District, Andhra
Pradesh- 521369

8. Annem Soreddy, Aged 34 years, S/o Gali Reddy, 1-201/1, Gopireddygar Street,
Tallapalli Village, Macherla Mandal, Guntur District, Andhra Pradesh-522426

9. Pandipati Venkaiah, Aged 64 years, S/o Pandipati Yesobu, H. No. 4-206, Valiveru
(v) Tsundur Mandal, Guntur District Andhra Pradesh- 522318 ...Applicant(s)
Versus

1. Union of India, Rep. by its Secretary, Ministry of Jal Shakti, Shram Shakti Bhavan,
New Delhi- 110001

2. Union of India, Rep. by its Secretary, Union Ministry of Environment, Forests & CC
Indira Paryavaran Bhavan, Jorbagh, New Delhi- 110001

3. National Board for Wildlife, Rep by its Chairman, MoEF&CC, Indira Paryavaran
Bhavan, Jorbagh, New Delhi- 110001

4. Krishna River Management Board, Rep by its Member Secretary, Govt. of India, Ministry of Water Resources, 5th Floor, Jalasoudha, Errum Manzil, Hyderabad-500082

5. State of Telangana Rep by its Chief Secretary, Telangana Secretariat, 5th Floor, Burgula Rama Krishna Rao Bhavan, NH 44, Hill Fort, Adarsh Nagar, Hyderabad-500022

6. State of Andhra Pradesh, Rep by its Chief Secretary, Secretariat, Velagapudi, Guntur District, Andhra Pradesh- 522503 ...Respondent(s) For Applicant(s): Mr. P.S. Raman, Senior Adv. along with Mr. Gautam S. Raman.

For Respondent(s): Mr. D. Ramesh Kumar for R1 & R4.

Mr. G.M. Syed Nurullah Sheriff for R2 & R3.

Mr. J. Ramachandra Rao, Addl. Adv. General along with Mr. Sanjeev Kumar, Spl. Govt. Pleader and Mrs. H. Yasmeen Ali for R5.

Mr. Sriram, Adv. General along with Mrs. Madhuri Donti Reddy and Mr. M.R. Srinivas for R6.

Judgment Reserved on: 7th October, 2021 Judgment Pronounced on: 29th October, 2021 CORAM:

HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER HON'BLE DR. K. SATYAGOPAL, EXPERT MEMBER .

Whether the Judgement is allowed to be published on the Internet - Yes/No Whether the Judgement is to be published in the All India NGT Reporter - Yes/No ORDER

1. The grievance in this application is regarding proceeding with the Palamuru Rangareddy Lift Irrigation Scheme (hereinafter referred as PRLIS) by the 5th respondent without conducting any Environment Impact Assessment and also without obtaining prior Environment Clearance and also without getting approval from the Krishna River Management Board as it affects the interest of the people in Andhra Pradesh.

2. According to the applicant, State of Telangana was part of erstwhile Andhra Pradesh and they were depending upon the Krishna River water for their drinking as well as agricultural purposes. The neighbouring States, namely, State of Maharashtra, Karnataka and Tamil Nadu were also depending upon the water of this river for their purposes. When there was dispute arose regarding the sharing of water between the neighbouring States, the Krishna Water Dispute Tribunal was appointed by the 1st respondent invoking the power under Section 4 of the Inter-State River Water Dispute Act, 1956. On the basis of award passed by the Tribunal under KWDT-I dated 24.12.1973

and its further report dated 27.05.1976, it was determined that 75% dependable yield of River Krishna as 2060 TMC and return flows as 70 TMC and in total of 2130 TMC, 811 TMC was allocated to the erstwhile State of Andhra Pradesh.

3. The said award granting liberty to the erstwhile State of Andhra Pradesh to utilize the remaining water over and above 75% dependability but without any right over such use as per proviso to clause V(c) of final order. The erstwhile State of Andhra Pradesh had taken up several projects to use the remaining water based on the liberty granted by KWDT-I award. All the projects permitted and water allocated by KWDT-I in the erstwhile State of Andhra Pradesh are in operation. Some of the projects are more than a century old and some of them are half a century old including Minor Irrigation Schemes. The following projects were taken up by the erstwhile State of Andhra Pradesh based on the liberty granted to use remaining waters under proviso to Clause V(c) and Clause XV of final order of KWDT-I. The demands under these projects projected before KWDT-II for providing drinking and irrigation facilities are detailed below:

Sl.	Name of the Lift/	Planned Utilisation (TMC)	Planned No. project	Gravity	Ayacut
	Drinking	Irrigation	Total (Lakh water Requirement	Requiriment	Acres) Requirement
A.	Projects in the State of Telangana	1 Srisaillam	Gravity 2.65	27.35	30.00 2.7
	Bank Canal (SLBC)	2 Kalwakurthy Lift	0.74	24.26	25.00 2.5
	LIS	3 Nettempadu Lift	0.98	21.02	22.00 2.0
	LIS	Sub total	4.37	72.63	77.00 7.20
B.	Projects in State of Andhra Pradesh	1 Telugu	Gravity 0.0	29	29.00 2.75
	Ganga project	2 Handri Niva Lift	4.0	36	40.00 6.0
	Sujala Sravanti (GNSS)	3 Galeru	Gravity 2.0	36	38.00 3.25
	Sujala Sravanti (GNSS)	4 Veligonda	Gravity 1.57	41.93	43.50 4.38
	Sub Total		7.75	142.93	150.50 16.38
	Total		11.94	215.56	227.50 23.58

4. The Central Government vide notification dated 02.04.2004 constituted KWDT-II under Section 4 of the Inter-State River Water Dispute Act, 1956 and the Tribunal rendered its decision under Section 5(2) and 5(3) on 30.12.2010 and 29.11.2013 respectively. KWDT-II made allocation of 1005 TMC to the erstwhile State of Andhra Pradesh at different dependabilities.

5. The erstwhile State of Andhra Pradesh filed SLPs before the Hon ble Supreme Court against the decision rendered by KWDT-II under Section 5(2) and 5(3) on 30.12.2010 and 29.11.2013 respectively. Later the erstwhile State of Andhra Pradesh was bifurcated into two States, namely, State of Telengana and State of Andhra Pradesh as its successors under the Act 6 of 2014 w.e.f.02.06.2014. The 1st respondent constituted the 4th respondent- Krishna River Management Board under Section 85(8)(d) of Act 6 of 2014 for appraising construction of new projects connected with the development of water resources relating to river Krishna and its tributaries by the successor States.

6. Para 4 of 11th Schedule of Act 6 of 2014 specify that the allocations made by River Water Tribunals shall remain the same and further in para 7 of the same, it was specifically stated that no new projects shall be taken up without obtaining the sanction of Apex Council on river water resources, which will consider the said proposal after it was appraised by the 4 th respondent and the Central Water Commission. On the reorganization of the State, the projects of Srisaillam Left

Bank Canal (SLBC), Kalwakurthy LIS and Nettampadu LIS have gone to the 5th respondent State and Telugu Ganga Project, Handri Niva Sujala Sravanti (HNSS), Galeru Nagari Sujala Sravanti (GNSS) and Veligonda have gone to the 6th respondent State. As per para 10 of the 11th Schedule of Act 6 of 2014, only Kalwakurthy and Nettampadu projects which are under construction started by the erstwhile State of Andhra Pradesh can be completed by the 5th respondent project proponent as they were notified by the erstwhile State of Andhra Pradesh but not otherwise. 5th respondent has no right to undertake any new project without following the said procedure as stated above.

7. KWD-I allocated 811 TMC to erstwhile State of Andhra Pradesh out of 2130 TMC at 75% dependable yield and as per mutual agreement between 5th and 6th respondent dated 18/19-06-2015 agreed that 811 TMC allocated by KWD-I would be shared between them at the ratio 299 TMC:512 TMC respectively. So, as per the agreed division the 5th respondent is not entitled for more than 299 TMC out of KWD-I award allocated to erstwhile State of Andhra Pradesh which has attained force of the decree of the Hon'ble Supreme Court under Section 6 of Inter-State River Water Dispute Act, 1956.

8. A substantial quantum of 442 TMC must come from upper reaches of Maharashtra and Karnataka so as to meet the allocation of 811 TMC in River Krishna to realize projected utilizations at 75% dependability within the 5th respondent project Proponent State and the 6th respondent State. The remaining waters available after 2130 TMC as per KWD-I can be utilized for the projects mentioned in para 10 of 11th Schedule of Act 6 of 2014 and once KWD-II award is notified, beyond the average flows of 2578 TMC can be utilised to the projects mentioned in para 10 of 11th Schedule of the said Act and thereafter if any utilizable surplus water is available, then only these projects can be considered subject to entitlement of 5th respondent project proponent, if any. With this purpose, Sections 84(3)(ii), 85(8)(d) were incorporated in the Act 6 of 2014. Matters relating to award of KWD- II are sub-judice before the Hon'ble Supreme Court and there is status quo order granted by the Hon'ble Supreme Court. Surplus flows are meant for specific purpose under both the awards of KWD-I and II. 5th respondent project proponent cannot indiscriminately construct PR LIS without any allocations and without any permission from any statutory authority which would cause irreparable loss and injury to the applicants and other inhabitants of the 6th respondent State.

9. 5th respondent contrary to the provisions of the Act 6 of 2014, unilaterally proceeded to take up new scheme, namely, PR LIS, allegedly based on flood flows to an extent of 90 TMC to be withdrawn within 60 days of flood season with a cost estimate of Rs. 35,200 crores from the foreshore of Srisailem vide its G.O. Ms. No. 105 dated 10.06.2015 evidenced by Annexure-I. 10.2nd respondent issued EIA notification dated 14.09.2006 invoking powers under Section 3 of the Environment (Protection) Act, 1986. As per the schedule appended to the said notification, the River Valley Projects are shown at serial no.1 (c) and projects which have more than 10,000 ha of cultivable command area, they are classified under category A project and below 10,000 ha cultivable command area are categorized as Category B projects. Sub-para (ii) of para 4 of the said notification categorically states that " all projects or activities included as Category A in the Schedule, including expansion and modernization of existing projects or activities and change in product mix, shall require prior Environment Clearance from the Central Government in the Ministry of Environment and Forests on the recommendations of an Expert Appraisal Committee to be constituted by the

Central Government for the purposes of this notification". Para 7 of the said notification deals with the procedure to be followed.

11.5th respondent without following the said procedure has been unilaterally constructing this project contrary to the EIA Notification, 2006 which is illegal and unjust. They have no right to construct the said unauthorised project without any allocations, more particularly detrimental to the interests of the applicant farmers and other inhabitants of 6th respondent State for their irrigation, drinking water and industrial needs as per the awards passed by the Krishna Water Dispute Tribunal. EIA Notification, 2006 has been produced as Annexure-2. The construction proposed to be made by them is an unauthorised one.

12. The FRL of Srisailem Reservoir is at +885 feet and 5th respondent project proponent would be lifting dependable water at a level of +800 feet much below the MDDL from the dead storage of the reservoir and such massive illegal drawl would deplete the reservoir rigorously causing severe harm to the interest of the applicant farmers and inhabitants of the 6th respondent State. Further it may also adversely affect the existing projects under awards of KWDT-I and II and projects mentioned in para 10 of 11th Schedule of Act 6 of 2014 and also other projects affecting the drinking and irrigation water requirements of the population depending upon these projects in Andhra Pradesh and Rayalaseema Regions in 6th respondent State. 13. 6th respondent filed W.P No.116 of 2016 before the Hon'ble Supreme Court seeking to restrain 5th respondent project proponent from proceeding with the construction of this project PR LIS and to direct the respondent nos. 1 to 4 and Central Water Commission to conduct the appraisal of the projects as contemplated by Section 84(3)(ii) and 85(8)(d) read with 11th Schedule of Act 6 of 2014. When the said Writ Petition came up for hearing on 20.07.2016, the Hon'ble Supreme Court after hearing all the parties while disposing of the Writ Petition passed the following order:

"The petitioners have approached this Court by invoking writ jurisdiction under Article 32 of the Constitution of India, seeking directions with reference to the construction of two projects, namely, Palamuru - Ranga Reddy LIS and Dindi LIS, contemplated in the Government Order No. 105 dated 10.06.2015, and Government Order No. 107 dated 11.06.2015. Since the issue raised by the petitioners, was not being dealt with, this Court called upon the respondents to tender their response. In the counter affidavit filed by the State of Andhra Pradesh, it has been asserted in paragraph 27, that the State of Andhra Pradesh vide its letter dated 5.5.2016, has already requested the Union of India, to convene a meeting of the Apex Council, as early as possible, for discussing the issues pending with regard to the new projects being undertaken by respondent no.4 - the State of Telangana. During the course of hearing, learned counsel for the rival parties have invited our attention to Section 84 of the Andhra Pradesh Reorganisation Act, 2014, so as to contend, that the jurisdiction in the matter vests with the Apex Council. Learned counsel for the rival parties accordingly commend us to convening of a meeting of the Apex Council, constituted under Section 84 of the Andhra Pradesh Reorganisation Act, 2014, to take into consideration, the issues with reference to the two projects raised by the petitioners. It has also been brought to our notice, that the Apex Council came to be

constituted through a notification in the Gazette of India, Extraordinary, dated 29.05.2014, and that, the Krishna River Management Board was likewise constituted, through a notification in the Gazette of India, Extraordinary, dated 28.5.2014.

In the above view of the matter, we are satisfied in directing the convening of the meeting of the Apex Council, as expeditiously as possible. The Apex Council shall examine the issues with reference to the construction of two projects, referred hereinabove, after affording an opportunity of hearing, to the concerned State parties.

All issues including the issue of jurisdiction raised by the learned counsel representing the State of Telangana, are kept open."

14. Copy of the order dated 20.07.2016 passed by the Hon ble Apex Court in W.P. No. 116 of 2016 was produced as Annexure-3.

15. Pursuant to the orders of the Hon ble Supreme Court, 1st respondent convened a meeting of Apex Council on 21.09.2016 wherein the OSD of Ministry of Water Resources stated that the PR LIS and Dindi LIS are not among the six projects mentioned in 11th Schedule of the Act 6 of 2014 and had not been appraised and recommended by the Krishna River Management Board as per Section 84(3)(ii) of the Act 6 of 2014. 5th respondent undertook to the following effect "Telengana will restrict itself within the allocation made by KWDT-II and will go ahead with the above two projects PR LIS and Dindi LIS" and the said meeting of the Apex Counsel held on 21.09.2016 is produced as Annexure-4

16. According to the applicant, a misleading undertaking was given by the 5th respondent in this regard. The proposed utilization under PR LIS without any allocation by KWDT-I or II and without any right of the 5th respondent project proponent unauthorized construction of PR LIS by the 5th respondent is contrary to the procedure contemplated under Act 6 of 2014 and they are not entitled to proceed with the project.

17. One Mr. B. Harsha vardhan filed an O.A. No. 273 of 2016 before National Green Tribunal (SZ) on 02.12.2016, for an order of permanent injunction restraining the 5th respondent and its officers from carrying out any work or activity related to PR LIS without mandatory clearances or permission under law. National Green Tribunal (SZ) during the hearing on application issued an order on 13.12.2016, directing the 5th respondent not to proceed with the construction work of PR LIS in violation of the provisions of Forest (Conservation) Act, 1980 and without taking the mandatory clearance and permission under the EIA Notification, 2006 notified under the Environmental (Protection) Act, 1986 till 17.01.2017 evidenced by Annexure-5 order.

18. A Writ Petition no. 104 of 2017 was filed by the 5th respondent project proponent on 02.01.2017 before the Hon ble High Court of Judicature at Hyderabad for State of Andhra Pradesh and State of Telengana against the said order of the National Green Tribunal dated 13.12.2016 and the Hon ble High Court allowed the Writ Petition relying upon Section 19(4)(i) of National Green Tribunal Act,

2010 and the Hon ble High Court set aside the order of this Bench dated 13.12.2016 and directed the Tribunal to consider the matter afresh evidenced by Annexure-6 Judgement.

19.By order dated 30.05.2017, this Tribunal constituted a Committee to submit a report whether PR LIS consisting of the components of irrigation and drinking water supply could be proceed with. The Committee was also directed to inspect the portion of the site, which is allegedly within the forest area and the said order was evidenced by Annexure-7 order.

20.The Hon ble High Court of Judicature at Hyderabad for the State of Andhra Pradesh and State of Telangana in its order dated 28.06.2017 in W.P. No. 18236 of 2017 filed by the State of Telangana granted interim stay of the impugned order issued by the single Judicial member of the National Green Tribunal (SZ) in M.A. No. 40 of 2017 in application no. 273 of 2016 dated 30.05.2017 evidenced by Annexure-8 order.

21.During the pendency of the above original application, 5th respondent project proponent gave an undertaking which was recorded by the Tribunal noting that the 5th respondent project proponent would proceed with disputed project only with regard to supply of drinking water and not for irrigation but 5th respondent is going ahead with the construction of huge canals for irrigation component also evidenced by Annexure-9 photographs. The order of the Tribunal dated 17.02.2017 is produced as Annexure-10.

22.Recently, the Chief Minister of 5th respondent State has directed the project authorities of PR LIS to complete the project by the end of 2021 and release the water for drinking and irrigation needs and this was published in newspaper, namely Times of India dated 24.01.2021 evidenced by Annexure-11.

23. The Original Application no. 273 of 2016 was later transferred to the Principal Bench, New Delhi and the same was dismissed as not pressed as the applicant did not want to proceed with the matter and the same is evidenced by Annexure-12 order dated 22.07.2019. Subsequent to the undertaking recorded on 17.02.2017, 5th respondent project proponent made an application to 2nd respondent on 28.08.2017 under EIA Notification, 2006 for grant of Environment Clearance and also to issue Terms of Reference and 2nd respondent accorded clearance to the 5th respondent for pre-construction activities along with the Terms of Reference as per para 7 under EIA Notification, 2006 vide proceedings No. J-12011/31/2017IAI (R) dated 11.10.2017 for preparation of Environment Impact Assessment report evidenced by Annexure-13. On the basis of the Terms of Reference issued, no public hearing was conducted so far. 5th respondent made an application to the 2nd respondent on 26.05.2017 under Forest (Conservation) Act, 1980 and based on the recommendations of the Forest Advisory Committee, the 2nd respondent issued in-principle approval/stage-I clearance under Forest (Conservation) Act, 1980 vide proceedings No. GoI/MoEF/F.No.8-43/2017- FC dated 03.04.2018 for diversion of 205.4811 ha of forest land only in Achampet division of Nagarkurnool district for proposed works of Lift-I Pump house (package-I) and formation of Anganagiri Reservoir (Package-

2), Earth work excavation and construction of Tunnel in between Anganagiri Reservoir at Narlapur (V) and Veeranjanya Reservoir at Yedula (V) (Package 4) of PR LIS project subject to certain conditions. This permission is meant for Forest Clearance and it has nothing to do with the construction of the project. Copy of the clearance granted is evidenced by Annexure-14.

24.Final approval/Stage-II clearance was granted by the 2nd respondent under Section 2 of the Forest (Conservation) Act, 1980 for the above said purpose, subject to certain conditions by proceedings no. F. No. 8-43/2017-FC dated 25.01.2019 evidenced by Annexure-15.

25.6th respondent repeatedly pleaded with 1st respondent for convening the 2nd meeting of the Apex Council as there was no relief granted to it in the 1st meeting of the Apex Council by their letters dated 11.02.2017, 01.07.2017, 16.03.2018 and 02.04.2018 evidenced by Annexure-16. Subsequently, in response to the letter from 6th respondent dated 14.05.2020, 4th respondent through its letter dated 30.05.2020 has conveyed to the 5th respondent project proponent on the direction of 1st respondent not to go ahead with the new projects as objected by the 6th respondent till the projects are appraised by 4th respondent and Central Water Commission and sanction of Apex Council is obtained evidenced by Annexure-17.

26.In the 12th meeting of Krishna River Management Board held on 04.06.2020, the Special Chief Secretary, Water Resource Department of 6th respondent State inter alia mentioned the objections raised on PR LIS and other projects by the 5th respondent on several occasions including in the first meeting of the Apex Council that these unauthorised projects are not among the six projects mentioned in the 11 th Schedule of Act 6 of 2014 and as per the provisions of the said Act, the unauthorised projects by the 5th respondent project proponent have not been appraised and recommended by the 4th respondent as well. The 4th respondent concluded reiterating the directions of 1st respondent to the 5th respondent not to go ahead with the new projects till the DPRs are submitted and appraised by the 4th respondent and Central Water Commission and sanctioned by the Apex Council and further directed that the DPRs of new projects should be submitted to 4 th respondent within a week s time evidenced by Annexure-18.

27.According to the applicant, DPR has not been submitted to the 4th respondent by the 5th respondent so far. 2nd meeting of the Apex Council was convened by the 1st respondent on 06.10.2020 and in the said meeting, it was decided that DPRs of new projects to be submitted immediately for appraisal and subsequent action by Apex Council and the copy of the minutes of meeting of Apex Council dated 06.10.2020 is evidenced by Annexure-19. According to the applicant, the same has not been submitted so far.

28.The Engineer-in-Chief (Irrigation), Water Resource Department of the 6th respondent State addressed to 4th respondent on 29.12.2020 requesting to restrain the 5th respondent from proceeding with the construction activities of PR LIS, till it is appraised by the 4th respondent, Central Water Commission and sanctioned by the Apex Council . The 5th respondent had not submitted the required DRP for this project so far and the letter sent by the 6th respondent to the 4th respondent mentioned above is produced as Annexure-20.

29. In spite of the above developments, the 5th respondent proceeded with the unauthorised activity against the provisions of EIA Notification, 2006 and also against the provisions of the Act 6 of 2014. The undertaking given by the 5th respondent before this Tribunal and also before the Krishna River Management Board were violated by them and they are proceeding with the construction of the impugned project, which is detrimental to the environment and also to the interest of the citizens of 6th respondent State including the applicants, who are farmers affected by this project.

30. It is also mentioned in the application that they cannot construct PR LIS as there are sensitive wildlife sanctuary areas like core Amrabad Tiger Reserve, which is rich in wildlife such as Tigers, Leopards, Bears, Deers, Peacocks etc, and even 2nd respondent while granting in-principle approval dated 03.04.2018 and final/Stage-II approval dated 25.01.2019 did not consider the sensitive wildlife sanctuary areas which made a note while sanctioning the Environment Clearance to SLBC on 22.04.1994 vide proceedings no. GoI/MoEF/J.11016/13/8 5-I.A.1 dated 22.04.1994. The map showing the location of Amrabad Tiger Reserve in project area of PR LIS is produced and a line diagram showing the stages-I to V under PR LIS is annexed as Annexure-21 and proceedings of the GoI/MoEF/J.11016/13/8 5-I.A.1 dated 22.04.2014 is produced as Annexure-22.

31. Further, they are not entitled to construct the project as there are Chenchu Tribals in the sensitive areas under this project and the 2nd respondent while granting the in-principle and Final/Stage-II approval also had not considered these aspects and in fact they should not have granted the Forest Clearance. They have even not applied under the Wildlife (Protection) Act, 1972 for Wildlife Management Plan as a portion of the construction, namely, the pump house will be in the core area of Tiger Reserve mentioned above.

32. The Principal Bench in O.A. No. 48 of 2019 held that Environment Clearance is required for Pattiseema LIS, by order dated 30.05.2019 and permissions need to be obtained under the Environment (Protection) Act, 1986, Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 and in O.A No. 175 of 2018, Principal Bench by order dated 15.07.2019 held that Environment Clearance is required for Purushothapatnam LIS and as per EIA Notification, 2006 prior Environment Clearance is required and proceeding with the construction is a violation of notification dated 14.03.2017. The National Green Tribunal orders dated 30.05.2019 and 15.07.2019 are annexed as Annexure-23.

33. According to the applicant, the cause of action arose for the applicant to file this application after the direction issued by the 4th respondent on 04.06.2020 and Apex Council on 06.10.2020 and in violation of the same the 5th respondent is proceeding with the same and as such the application was filed within limitation. Since, the official respondents did not take any action against the 5th respondent for proceeding with the project in spite of their directions issued mentioned above the applicant has no other remedy except to approach this Tribunal seeking the following reliefs:

Interim Prayer It is further prayed that this Hon ble Tribunal may be pleased to pass the interim order to stop the construction of the PR LIS by the 5th respondent project proponent pending disposal of the above application.

Main Prayer Hence it is prayed that this Hon ble Tribunal may be pleased to pass an order or orders

(i) To declare the unilateral, indiscriminate, unauthorized construction of PR LIS without any allocation as per the awards of KWDT-I and II, contrary to the provisions of Sections 84(3)(ii), 85(8)(d) and para 10 of Eleventh Schedule fo the Act 6 of 2014 and without final permissions under EIA Notification, 2006 dated 14.09.2006 and its subsequent amendments by the 5th respondent project proponent casing serious prejudice to the applicant farmer and other inhabitants of the 6th respondent State affecting the rights guaranteed under Article 21 of Constitution of India, as illegal, arbitrary and unjust.

(ii) And to declare the inaction of the respondents 1, 2, 3 and 4 herein to take action against the 5th respondent project proponent against its unauthorized project i.e. PR LIS without any appraisal by 4th respondent and CWC and sanction by Apex Council and contrary to the procedure envisaged under Sections 84(3)(ii), 85(8)(d) and para 10 of Eleventh Schedule of the Act 6 of 2014 and EIA notification, 2006 dated 14.09.2006 and its subsequent amendment, prejudicial impact on the applicant farmes and other inhabitatnats of the 6th respondent depending on water of river Krishna as illegal, arbitrary and unjust and to direct the respondents 1, 2, 3 and 4 to take immediate appropriate action against the 5th respondent project proponent for constructing PR LIS contrary to the awards of KWDT-I and II and provisions of Act 6 of 2014.

(iii) Directing the respondents to pay the cost of proceedings.

(iv) To pass any order or orders as this Hon ble Tribunal may deem fit, proper and necessary in the interest of Justice.

34.5th respondent filed reply affidavit contending that the application is not maintainable and it is barred by limitation. The applicant alleged in para 45 of the application that the original application is not barred by limitation and that assertion is not correct in view of the documents produced by the applicants themselves. The application was filed under Section 14 of the National Green Tribunal Act, 2010 and under Section 14, the application has to be filed within six months from the date when the "cause of action first arose" and further period of not exceeding 60 days was given to condone the delay beyond six months under proviso to Section 14(3) of the Act. The Palamuru-Ranga Reddy Lift Irrigation Scheme (PR LIS) was planned and the subsequent land acquisition process for this purpose was started in the year 2015. The scheme was approved by the Government vide GoMs No. 105 (Irrigation and CAR (Projects-I) Department) on 10.06.2015 almost six years back, after which a Land Acquisition Notification was published on 25.08.2015 for acquisition of necessary land for works in relation to PR LIS. In the notification it was specifically mentioned that the land was acquired for the above said purpose and also called for objections, if any, about the acquisition. Later the project got widespread media coverage as Government was enforcing stricter quality measures and saving public money, while speeding up land acquisition,

offering satisfactory price to the farmers. They have invited bids for tenders for construction in the newspaper during 2016 and tenders were received and the same was ordered. The newspaper by that time reported that land was being acquired for PR LIS and to what extent and the tender notification issued in this regard are produced as Annexure R-

1. A newspaper article published in „The Hindu titled "Mission Kaktiya:

Contractors in a bind" dated 22.01.2016 was produced as Annexure R-2.

35. So, it is not possible to conceive the applicants claims to be inhabitants of Rayalaseema region were not aware of the scheme. A reading of the pleading will go to show that they were aware of the proceedings initiated by the 6th respondent regarding this project since 2015 but in spite of that they have raised objection regarding the same only on 05.07.2021 which is absolutely barred by limitation. They have also not mentioned that the application was filed based on recurring cause of action and the National Green Tribunal Act does not provide for an recurring cause of action rather states that in the series of events, limitation would specifically be counted from when the cause of action first arose. So, the present application is beyond limitation and on that preliminary ground itself the application has to be dismissed.

36. The application is nothing but an abuse of process of law and they have not approached this Tribunal with clean hands. Even the Hon ble Apex Court has not passed any restrained order against the project. The present application was filed by the applicants at the instigation of some people or organization, who does not want the people of State of Telengana and the citizens of Hyderabad to get the benefit of water that would be provided under the scheme. The erstwhile Mahabubnagar District (now Mahabubnagar, Nagarkurnool, Gadwal, Narayampet and Wanaparthy Districts) was one of the worst drought prone and distressed areas in the country. There is tremendous shortage of drinking and farm water as they are fluoride affected area. A study conducted by researchers in June, 2016 concluded that fluoride in water found in Nalgonda district was more than twice the permissible limit for drinking water. As a result, a large part of population of these districts were being forced to migrate to other parts of the country. The drought conditions are also causing social problems in the affected districts. In order to redress this situation, 5th respondent have taken up PR LIS for alleviating the misery of these drought prone areas which will benefit 1226 villages where about 50 lakh people will get drinking water in addition to 12.30 lakh acres agricultural land will also be supplied water. As Such, PR LIS being extremely important for the concerned districts, it is also critically important scheme for the State of Telengana. The application has been filed purely for the purpose of stalling such a welfare scheme, which has been initiated for providing basic amenities of water to the people of State of Telengana. A research article titled "Assessment of Fluoride in Ground water for Drinking and Agricultural Purposes in Ramannapet Mandal of Nalgonda District, Telengana, India" by the

Department of Soil Science and Agricultural Chemistry, College of Agriculture, Hyderabad published in Journal of Pharmaceutical, Chemical and Biological Sciences during July- August, 2016 is produced as Annexure R-3. The press report titled as "Drought Causing distress migration for Telengana" dated 07.08.2015 in Deccan Chronicle is annexed as Annexure R-4.

37.The work in relation to PR LIS had been awarded in the month of April-

May, 2016 after following a transparent and widely advertised tender process and work on the same had been going on since then to the knowledge of all concerned, particularly when it comes to interested persons like the applicants. PR LIS has had strong support from the public given the objective and the purpose it was seeking to achieve, not only for the present, but also future generations. By the scheme, much needed water is intended to be supplied to the upland areas of Telengana by utilizing flood water during the 60 days period of the flood season which otherwise would put human life and property to harm. PR LIS therefore envisages lifting of 90 TMC of flood water in 60 days during the flood season from the foreshore of the Srisailem Reservoir on Krishna River at Yellur (V), Kollapur (M) in erstwhile Mahabubnagar District through five separate stages ending at K.P Laxmidevipally (V), Kondurg (M) near Shadnagar town at the highest elevation. These five stages each comprise of a reservoir and canals/tunnels between each reservoir for taking the water forward. Copy of the schematic diagram of PR LIS depicting its five stages is annexed as Annexure R-5. The proposed five stages of pumping water to the uplands are:

- a. 1st Lift: An approach channel commences from the existing Srisailem Reservoir and leads to a Pumping Station with tunnel which lifts the water to the proposed Anjanagiri Reservoir at Narlapur Village.
- b. 2nd Lift: A similar approach channel connected to a canal and pumping station with tunnel further lifts the water from the proposed Anjanagiri Reservoir to the proposed Sri Veera Anjaneya Reservoir at Yedula.
- c. 3rd Lift: Water is then lifted from the Sri Veera Anjaneya Reservoir through pumping station with tunnels and canals to fill the proposed Venkatadri Reservoir at Vattam Village and Kurumurthyra Reservoir at Karvena Village with gravity canal linking both these reservoirs.
- d. 4th Lift: A further canal and pumping station with tunnel take water from the Kurumurthyra Reservoir to the proposed Udandapur Reservoir.
- e. 5th Lift: Water is further lifted from the proposed udandapur Reservoir through canals and pumping station with tunnel to the final proposed KP Lakshmidivally Reservoir.

38.The immediate purpose of PR LIS is to provide water for drinking and industrial purposes and later for irrigation as well. For the present, however, the reservoirs and

the connecting canals/tunnels are meant for drinking and industrial use of the water and the scheme is being presently implemented accordingly. In relation to the work already awarded, consisting of a total 18 packages upto Udandapur, the 5th respondent have already committed themselves to substantial expenditure and any stoppage will result in mounting time overruns and cost escalations, besides depriving the people of the State of Telengana, particularly the dry erstwhile districts of Mahabubnagar, Rangareddy, Nalgonda and the city of Hyderabad, the benefit of drinking water being provisioned under the scheme.

39. The allegation that the present project requires Environment Clearance as per EIA Notification, 2006 is not correct as they are only confining to drinking water process and not for irrigation purpose at present. By way abundant caution, the Environment Clearance under EIA Notification, 2006 has been applied on 28.08.2017 well in advance in anticipation for the stage when the scheme would also be extended to irrigation. The MoEF&CC has issued TOR for PR LIS vide proceedings no. J-12011/314/2017-IA-I(R) dated 11.10.2017 annexed as Annexure R-6 and the project will be implemented in two phases.

Phase-I Drinking water component-

i. The scheme in its first phase envisages lifting of 90 TMC of flood water in 60 days during the flood season from the foreshore of the Srisailem Reservoir on Krishna River at Yellur (V), Kollapur (M) in erstwhile Mahabubnagar (Dist) through 5 separate stages to provide drinking water facilities to enroute 1226 villages in 70 mandals of erstwhile Mahabubnagar, Rangareddy and Nalgonda Districts, Hyderabad city and so envisages to provide water for industrial use in erstwhile Mahabubnagar, Rangareddy and Nalgonda Districts. Phase-II Irrigation Component:

ii. In 2nd phase, canal network will be developed from the reservoirs to create irrigation to upland areas of erstwhile Mahabubnagar, Rangareddy and Nalgonda districts for an ayacut of 4,97,976 ha. Later on this stored water shall be used for irrigation purposes in various districts through a network of canals. In addition to the drinking water facility, it is proposed to irrigate in 4,97,976 ha CCA in the districts of erstwhile Mahabubnagar, Rangareddy and Nalgonda. A total of 15,790 ha land will be acquired for construction various canals network, reservoir, temporary labour colonies etc. No forestland is involved in the proposed present.

A) Phase-I Under drinking water component, the main conduit works from the foreshore of Srisailem Reservoir to K.P. Laxmidevipally Reservoir were divided into 21 packages. The estimates were technically sanctioned upto Udandapur Reservoir for 18 packages.

Tenders have been called for packages 1 to 18 i.e. upto Udandapur Reservoir and entrusted to the agencies and the works are in progress. The balance works of main conduit for packages 19 to 21 are ready for inviting tenders. B) Phase-II The MoEF&CC (GOI) have issued the terms of references

(ToR) vide No. J- 12011/31/2017-IA-I (R) dated 11.10.2017 to this scheme valid till 10.10.2021. The project proponent of PR LIS, I & CAD Department, GoTs, awarded the work to EIA-EMP studies to M/s Voyants Solutions pvt. Ltd. Gurugram for conducting the studies. The EIA/EMP studies were conducted in six districts of project command area. Baseline monitoring process was conducted during monsoon and post monsoon 2019 and pre monsoon 2020. Public hearing process has been conducted on 10.08.2021 in six districts simultaneously. Soon after obtaining clearance for phase-II, irrigation component works will be taken up.

40.The allegation of the applicant that PR LIS will cater to irrigation but they cannot give any explanation as to how Environment Clearance will be required if there is no cultivable command area involved. PR LIS as proposed presently i.e. Phase-I does not contemplate irrigation in any area since, it is merely consists of reservoirs and pipelines in between those reservoirs and without any provision for a network of canals which are needed for irrigation. The present intention of PR LIS under Phase-I is to provide drinking water and water for industrial use only. Distributory Network facilities for irrigation are planned under Phase-II to be commenced after the plan for the present stage has been completed. As on the present stage of construction i.e. lifting water between the reservoirs, transporting and storing infrastructure can only be utilised for drinking water and industrial purposes only under phase-I and separate further plan under phase-II in regard to irrigation related infrastructure would be implemented before providing irrigation facilities.

41.The allegations that as per EIA Notification, 2006 this project being a river valley project is not true and the entry 1(c) of the EIA Notification would not apply to PR LIS, as it is presently implemented. A river valley project is one which is built in a river valley and where a project interrupts the free flow of river water. There is already an existing reservoir from which water will be drawn out. This water would be flood water, (collected during flood season) and therefore it will not interrupt the flow of the water of the Krishna River. PR LIS also does not involve construction of dams nor are there any proposed works for production of electricity. As far as irrigation is concerned in phase-II, it is to be carried out at a later stage.

42.The process of getting Environment Clearance to the project is under way and completed three stages up to public hearing or consultation. The project proponent is following all statutory procedures for getting approvals to the irrigation component under phase-II as per EIA Notification, 2006. The ultimate object of PR LIS is to implement an irrigation infrastructure in phase-II on foundation of the presently envisaged drinking water components under phase-I. PR LIS as presently planned has no provision for irrigation. Irrigation requires planning and construction of a network of canals originating from each proposed reservoir to take water to the surrounding villages. The schematic diagram of PR LIS clearly establishes that there are no such distributor ayacut branch canals envisaged nor proposed to be constructed. PR LIS therefore does not presently and as of now, fall under category of Entry 1(c) of the Schedule to the EIA Notification because the cultivable command area which is involved is nil, rather the immediate and planned aim of PR LIS is provision of drinking water and water for industrial uses. Since, they have to obtain Environment Clearance for the later stage of the project, they have applied in advance for this purpose. The Hon ble Apex Court in Narmada Bachavo Andolan vs. Union of India¹ which allowed the construction of river valley project for supply of drinking water, despite severe environmental

detriment. The right to water is a fundamental right of the citizens which cannot be denied. In that decision it was observed as follows:

"248. Water is the basic need for the survival of human beings and is part of the right to life and human rights as enshrined in Article 21 of the Constitution of India and can be served only by providing source of water where there is none. The resolution of UNO in 1977 to which India is a signatory, during the United Nations Water Conference resolved unanimously inter alia as under:

"All people, whatever their stage of development and their social and economic conditions, have the right to have access to drinking water in quantum and of a quality equal to their basic needs."

43. This was intended only for the purpose of mitigating the misery of drought prone area which will benefit 1226 villages where about 50 lakh people will get drinking water. The State of Telengana is very much committed to protect environment and they were aware of Amrabad Tiger Reserve (Formerly the Rajiv Gandhi Tiger Reserve) is located in the vicinity and planned the PR LIS in such a manner that it does not involve any area either in the core zone or buffer zone of the Amrabad Tiger Reserve. As per information available, in addition to the core and Buffer zone of the Amrabad Tiger Reserve, the PCCF, Telengana has proposed to notify, by way of abundant caution, one km zone outside the buffer zone of Amrabad Tiger Reserve as an Eco-sensitive zone and this is pending. No part of PR LIS is located in the Amrabad Tiger Reserve or even in the proposed Eco- Sensitive Zone. The Chief Engineer, PR LIS has written to the PCCF, AIR 2000 SC3751 Telengana on 17.12.2016 seeking this very clarification and the PCCF, Telengana clearly and categorically affirmed this position through their letter dated 20.12.2016. It is clear from the letter dated 20.12.2016 of PCCF, Telengana that PR LIS is neither within the 10 km radius of the core of the Rajiv Tiger Reserves Forests nor is it falling in the proposed Eco-Sensitive Zone around it. There is no necessity to obtain any clearances or permission or approval under the Wildlife (Protection) Act or from the Ministry of Environment or the National Board of Wildlife. They already obtained the Forest Clearance under the Forest (Conservation) Act, 1980 both Stage-I and Stage-II in the year 2018 and 2019 respectively which were admitted by the applicant in their application itself. The letter of PCCF, Hyderabad, Telengana dated 20.12.2016 stating that it is not falling within the core or buffer zone or the proposed eco-sensitive zone of Amrabad Tiger Reserve and it is located at a distance of 11.95 kms from the core or Amrabad Tiger Reserve and 2.56 kms from the buffer and 1.56 km from the proposed Eco- Sensitive Zone of Amrabad Tiger Reserve is produced as Annexure R-7.

44. Further in O.A. No. 273 of 2016 filed by Mr. B Harshvardhan had mentioned in the application that construction work of PR LIS does not fall in the core or buffer area of Amrabad Tiger Reserve and it is also falling outside the proposed eco-sensitive zone around Amrabad Tiger Reserve. The PCCF in that case had mentioned that there was no violation of Forest (Conservation) Act, 1980 in respect of this project. The applicants are not entitled to indirectly challenge the Forest Clearances granted under Forest (Conservation) Act, 1980 and also the dispute of water sharing before this Tribunal by way of filing this application as they are outside the purview of this provision and they have not challenged the same before this Tribunal by filing an appeal earlier.

45.The Hon ble Apex Court has also only directed the Apex Council to consider the project and the Hon ble Apex Court did not interfere with the project as such. There is no bonafide on the part of the applicants in filing the application and same is barred by limitation and there is no substantial question of environment arises which requires interference of this Tribunal and most of the reliefs claimed in the application will not fall within the purview of section 14 and 15 of National Green Tribunal Act, 2010. So, they prayed for dismissal of the application with exemplary cost. 46.6th respondent filed counter affidavit contending that they have more or less reiterated the contentions raised by the applicants regarding sharing the water and also the awards passed by the Krishna Water Dispute Tribunal under award number 1 and 2 and the proceedings pending before the Hon ble Supreme Court as enumerated by the applicants in the application as such we are not reiterating the same. They have also reiterated the contentions that as per the agreement between the State of Telengana and Andhra Pradesh after its separation as per Act 6 of 2014 only new project can be envisaged by both the States only with prior approval of the Krishna River Management Board and also from the Apex Council and Central Water Commission.

47.They have also more or less reiterated the contentions raised by the applicants regarding the applicability of EIA Notification, 2006 for this project and also the disposal of the writ petition W.P 116 of 2016 by the Hon ble Apex Court. Even before the Hon ble Apex Court in that writ petition, State of Andhra Pradesh had filed counter stating that 5 th respondent has no right to construct PR LIS and Dindi LIS as they are new projects under the provisions of Act of 6 of 2014 and it has to be appraised by Central Water Commission and Krishna River Management Board and to be sanctioned by Apex Council. The 5th respondent was making undertaking before this statutory Tribunal that they are limiting this project only for drinking water purpose with a view to avoid the rigor of obtaining Environment Clearance under EIA Notification, 2006.

48.In O.A. No.273 of 2016 before this Tribunal, the 5th respondent had noticed orders passed by the Hon ble Tribunal on 17.02.2017 and have changed its stand to evade scrutiny and submission of papers as required under EIA Notification and provisions of the Act of 2014 and made an undertaking that they will confine the same to drinking water purpose alone for which no Environment Clearance is required. Recording that submission, this Tribunal had permitted the 5th respondent to proceed with the project only for drinking water purpose and not for irrigation purpose and violating that undertaking that the present project is undertaken by them.

49.Even as per order dated 20.07.2016 in W.P. No. 116 of 2016 the Hon ble Apex Court directed the Union of India to convene a meeting of the Apex Council as per Section 84 of the Act 6 of 2014 to examine the issue of construction of PR LIS and Dindi LIS by 5th respondent State of Telengana and the 1st respondent convened the 1st meeting of Apex Council on 21.09.2016 and the 5th respondent contended that it would not stop the construction of the project however it would restrict its utilization to 299 TMC. The Apex Council could not resolve the dispute and recorded the contention of the 5th respondent that it would restrict its utilization to its allocation. 5th respondent filed an application for Environment Clearance on 11.01.2017 for the entire PR LIS both for drinking and irrigation project for lifting 90 TMC of flood water from Srisailem Reservoir by constructing canals and storage reservoirs. The 5th respondent filed project notes before KWDT-II wherein, it has stated that out of 90 TMC, 83.90 TMC is for irrigation and 6.10 TMC is towards evaporation losses and

drinking water requirements evidenced by Annexure-5 produced along with counter.

50. In O.A. No. 273 of 2016 filed by Mr. Harshavardhan against the unilateral action of proceedings with the project by the 5th respondent without obtaining necessary prior Environment Clearance, they filed an undertaking on 17.02.2017 that they will execute the project only to the extent of drinking water component and it will withdraw its application for Environment Clearance submitted to MoEF on 11.01.2017. The order dated 17.02.2017 reads as follows:

" On behalf of respondent nos. 2 and 3, the Chief Engineer, Palamuru Rangareddy Lift Irrigation Scheme filed an affidavit stating that the Government of Telengana would be withdrawing the application submitted for Environment Clearance before the Ministry of Environment, Forest and Climate Change on 11.01.2017. The affidavit also asserts that the State of Telengana would be implementing the disputed project only with regard to the supply of drinking water and not for irrigation..."

51. Thereafter, the matter has been transferred to Principal Bench of Tribunal wherein it was re-numbered as O.A. No. 2 of 2018 and on 22.07.2019, the case was dismissed as not pressed by the applicant. According to the 6th respondent such a dismissal ought not have been permitted by the Hon'ble Tribunal without verifying the nature of PR LIS and the infrastructure being created which requires several mandatory clearances to protect environment in the State of Telengana. Such an order would not operate as resjudicata as there is no adjudication on merits by the Tribunal.

52. Thereafter, 5th respondent submitted a fresh proposal for Environment Clearance on 04.09.2017 which was accepted by the MoEF on 30.09.2017 and was considered in 8th meeting of EAC held on 22.09.2017 vide item no. 8.4. In the fresh proposal, the 5th respondent bifurcated PR LIS into two phases. Phase-I for drinking water and phase-II for irrigation. The 2nd respondent issued ToR on 11.10.2017 and additional ToR was also issued for phase-I. The minutes of 8th EAC meeting and standard ToR and additional ToR issued by the 2nd respondent to the 5th respondent are produced as Annexure 6 and 7 along with the counter.

53. During July, 2021, the 5th respondent submitted Executive Summary in respect of PR LIS to the 2nd respondent where it was specifically mentioned that in the phase-I of PR LIS, it is proposed to construct approach channels, open canals (50.490 km), tunnels (61.577 km), pump houses (5), reservoirs (6) with total storage capacity of 67.97 TMC to conduct water through various stages of lift and storing it for beneficial uses i.e. drinking water, industrial use and irrigation. The reservoirs proposed in phase-I are at Anjanagir, Veeranjanya, Venkatadri, Kurumurthiya, Uddandapur, K.P. Lakshmidhevipalli. The total length of the bund in respect of these reservoirs is about 64.223 km, which requires large quantity of soil excavated from several lakes, tanks and other agricultural fields offending several water bodies causing several environmental concerns besides causing water, noise and air pollution and phase-II of PR LIS involves construction of 13 main canals totalling to a length of 915 km and distribution network to serve an ayacut of 4,97,976 ha providing water for kharif and rabi irrigation season as follows:

Proposal submitted on 10.01.2017 Proposal submitted on 13.09.2017 Presented as an integrated project Presented the proposal in two phases i.e. Phase-I for drinking Phase-II for irrigation 90 TMC in 60 days 90 TMC in 60 days 4,04,858 Ha (10.00 L. Acres) 4,97,976 (12.30 L. Acres) Submergence: Submergence:

3 villages Not Mentioned 24 M households 11025 population Proposal submitted on 10.01.2017 Proposal submitted on 13.09.2017 Land Acquisition Land Acquisition Non-Forest LA-23778.96 Ha Forrest LA-229.04 Ha.

Under Reservoirs-9664 Ha	Canals-15,790 Ha.
Conduit- 2198	
Canals-12146 Ha	
Amarabad Tiger Reserve-11.95 km from	
Forest cover area	Not mentioned
Buffer area-2.56 km	
Eco sensitive zone is 1.56 km away from	
Anjanagiri reservoir	
Break up of 90 TMC	
8.00 Drinking	Not mentioned
2.00 Industries	
80.00 Irrigation	

54. It is clear from above that under the guise of drinking water, 5 th respondent is executing major part of irrigation project, misleading the MoEF and also this Tribunal. The infrastructure sought to be created under the guise of drinking water project, involves substantial environmental issues for which this Tribunal has originally stayed the execution of the project in O.A. No. 273 of 2016. The execution of the project is contemptuous as it is in violation of undertaking given before this Tribunal dated 17.02.2017 and same was recorded by this Tribunal on the even date. This is clear from the Executive summary submitted by the 5th respondent for obtaining Environment Clearance for this project during July, 2021.

55.A perusal of pre-feasibility report of PR LIS shows that phase-I involves construction of six major reservoirs, canals, tunnels and lift disproportionate to limited drinking water requirement, which can be carried in a pipeline and the phase-I works involve the following:

S.No.	Name of the Location	Length	F.R.L.	Capacity (TMC)	Reservoir (village) of bund (m)	(Km)
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1. Anjanagiri Narlapur 6.647 345 8.51 7.95

2. Veeranjaneeya Yedula 7.716 445 6.55 5.91

3. Venkatadri Vattam 14.75 542 16.74 16.4

4. Kurumurthiraya Karivena 13.185 531 17.34 16.83

5. Udandapur Udandapur 15.875 629 16.03 15.76

6. K.P. Lakshmi- 6.05 670 2.8 2.49 Lakshmidhevipally devepally Total 64.22 67.97 65.33

56.The possibility of submergence of several villages due to this project and the details thereof were purposely suppressed in the proposal dated 13.09.2017.

5th respondent called for common tenders for phase-I and II for the entire scheme. However, with an intention to mislead, entered into an agreement excluding the distributor canals meant for irrigation purpose. This is nothing but ingenious way of executing PR LIS without disclosing the nature and scope of the entire work. The attempt of the 5th respondent is to avoid rigor of scrutiny of EIA Notification, 2006 and was making misleading statements before the authorities including the Tribunal. Annexure-9 produced along with the counter is the pre-feasibility report of the PR LIS submitted by the 5th respondent to the 2nd respondent.

57.The drinking water project is not intended to meet the meagre demand of 6.10 TMC for drinking water needs as per the project notes filed before the KWDT-II on 28.06.2019. However, under the guise of constructing a drinking water project, their attempt is to complete the entire project including irrigation demands without obtaining Environment Clearance as required under EIA Notification, 2006 dated 14.09.2006.

58.Further the minutes of 8th meeting of EAC categorically observed that "

after deliberations and considering all the facts of the project as presented by the project proponent, the committee had the concerns about techno-economic viability of the project. However, the EAC recommended for grant of scoping clearance/ToR for the proposed project with the following additional conditions along with standards ToR. i. The scheme in its first phase envisages lifting of 90 TMC of flood water in 60 days during the flood seasons from the foreshore of the Srisailem project on Krishna River at Yellur village through five separate stages, ending at K.P. Lakshmidhevipally village. Therefore, water availability analysis at Yelluru village (point of drawl) during monsoon season is to be submitted to ascertain sufficiency of water available." By this it is clear that the ToR issued by the MoEF is for both phase-I and II not just for phase-II, which is the own assumption of the 5th respondent state.

59.Most of the drinking water needs of 5th respondent are met through Mission Bhagiratha, utilizing a quantity 23.4 TMC of water in Krishna basin. The present ingenious attempt by 5th respondent State of Telangana is with an oblique motive to complete the construction of entire PR LIS under the guise of meeting the drinking water necessity without obtaining prior Environment Clearance. They were well aware of the fact that they are not entitled for such clearance as it cannot fulfil all compliances legally required to be contemplated under environmental laws.

60.They have not submitted the detailed DPR as required before the Krishna River Water Management Board. Another petition was filed by a resident of Telengana, namely, Mr Kosigi Venkataiah as O.A. No. 147 of 2021 before this Tribunal with respect to environmental violations by the 5 th respondent in respect to procuring minerals/soils for the construction of PR LIS. Which was detailed below:

i. The project proponent has been changing the scope of the project and allowing the contractors to indulge illegally to procure mineral/soil for the project earthen bund without taking basic safeguards and approval of SEIAA/DEIAA.

ii. The TOR specifies that there is no displacement under the project. But the project authorities directed about 3000 inhabitants residing in Udandapur and Vallur villages to vacate in order to store the water under Udandapur Reservoir.

iii. To verify the environmental violations and damage caused due to soil mining for construction of PR LIS from the lakes such as Nasarullabad Cheruvu, Polepally Cheruvu in Jedcherla Mandal, Edgonpally Cheruvu, Boorguchervuv of Rajapur, Nallacheruvu of Kucherla village, Roppukunta lake, Tungakunta lake, Kothakunta lake of Chennavelli village in Rajapurmandal, Kuchurcheruvu, Yenmangala Cheruvu, Lokirevu cheruvu, Lenkela cheruvu in Chennaredypalli village, Ippatur Cheruvu in Nawabpet mandal of Mahabubunagar District in the 5th respondent State of Telengana.

61. This Tribunal had appointed a joint Committee and directed the Committee to ascertain the following:

i) whether there were any violations of environmental laws committed by respondents 2 and 4 in carrying out the project in question,

ii) whether they were doing illegal mining without obtaining necessary permission, if so, what is the quantum of minerals that had been extracted by doing such alleged illegal act and assess the value of the same and also assess damage caused to the environment on account of such alleged illegal activity and assess environmental compensation as well,

iii)The Committee is also directed to suggest the remediation, if any required,

iv) whether in executing the projects, any displacement of persons have taken place as against the undertaking given by them that they are limiting the scope of the project for drinking water purpose alone and

v) Violations of the Terms of Reference issued when they applied for Environment Clearance which was later withdrawn.

The Committee was directed to submit the report on or before 27.08.2021.

62.They obtained Forest Clearance by proceedings dated 25.01.2019 and it is only a permission to deforest the proposed land for pre-construction works but not for actual construction of the project. But the 5th respondent is proceeding with the project without obtaining prior Environment Clearance. The baseline data in ToR does not depict the complete picture of the quality of air, water and soil and land pollution concerned with the entire project.

63.The 2nd respondent while granting the in-principle approval on 03.04.2018 and final approval on 25.01.2019 did not consider the sensitive wildlife areas which was recognised while sanctioning the Forest Clearance to SLBC on 22.04.1994 vide proceedings no. GoI/MoEF/J.11.16/13/8 5-I.A.1 dated 22.04.1994. The Ministry has to relook into the clearances granted in view of the allegations made in the counter statement as well as allegations made in the application regarding the sensitive area through which the project is likely to be established. They cannot take advantage under the State amendment of Act 30 of 2013. The Krishna River Management Board vide letter dated 30.05.2020 directed the 5th respondent as instructed by 1st respondent not to proceed with all the new projects which include PR LIS. In fact in the 12th meeting of KRMB held on 04.10.2020 and in the 2nd meeting of the Apex Council held on 06.10.2020 the 5 th respondent was directed to submit the DPR of PR LIS and to get the appraisal from Central Water Commission and KRMB. But 5th respondent never care to submit the DPR either before the Central Water Commission or KRMB. But they were proceeding with the project clouded with secrecy at every stage. They cannot be permitted to proceed with the project without obtaining prior Environment Clearance under EIA Notification, 2006 and being a new project as per the provisions of Act 6 of 2014 without obtaining necessary permission from the Krishna River Management Board, Central Water Commission and Apex Council. If they are allowed to continue with the project and the Environment Clearance is granted later for the entire project, then it will amount to ex-post facto clearance and it will be a violation project as per EIA Notification, 2006 dated 14.03.2017 and that notification is also limited in respect of projects in existence then, that is as on 24.07.2016 and not for new projects and this will not apply to PR LIS. It is against the undertaking and also the allocated water provided that the present scheme is established.

64.A public hearing was conducted in the close proximity of the project and the affected area and if no public hearing was conducted the regulatory authority shall engage another public agency/authority to complete the process of public hearing. It has to be comprehensively assessed in respect of all affected districts and the impact on environment degradations. No public hearing is conducted for phase-I as 5th respondent State fancifully assumed that no such public hearing need to be conducted for phase-I. The public hearing was announced by 5th respondent- State of Telengana on 08.7.2021 in respect of phase-II only and it was scheduled to be held on 10.08.2021 which is not legal and there was no public hearing in respect of phase-I as the Environment Clearance application was made for both the phases and it is against the ToR issued by the Ministry.

65.They do not require 90 TMC of water for drinking water purpose and phase- II is only minor component of execution of distributary canals from the reservoir and if phase-I is permitted without proper study, it will amount to violation of EIA Notification especially when it is a comprehensive

project. The photograph produced as Annexure-10 will go to show the nature of construction being done by the 5th respondent.

66. The following aspects will have to be considered by the 2nd respondent while granting or rejecting the application for Environment Clearance submitted by the 5th respondent for their PR LIS project which reads as follows:

i) Air Environment Changes in ambient and ground level concentration due to total emissions from point, line and area sources.

Effect on soils, material, vegetation and human health. Impact of emissions from DG sets used for power during the construction Pollution due to fuel combustion in equipment s and vehicles. Fugitive emissions from various sources.

Impact on microclimate.

ii) Water Environment Changes in surface and ground water quality.

Step to develop pisci-culture and recreational facilities. Changes in hydraulic regime and downstream flow.

Water pollution due to disposal of sewage.

Water pollution from labor colony and washing equipment

iii) Land Environment Adverse impact on land stability (a) due to considerable road construction/widening activity (b) blasting for excavation. Changes in land use/land cover and drainage pattern.

Immigration of labor population.

Changes in land quality including effects of waste disposal. River bank and their stability.

iv) Biological Environment Impact on forests, flora fauna including wildlife, migratory avi-fauna, rare and endangered species, medicinal plants etc. Pressure on existing natural resources.

Deforestation and Disturbance to wildlife, habitat, fragmentation and wild animal s migratory corridors.

Compensatory afforestation-Identification of suitable native tree species for compensatory afforestation and green belt development. Impact on fish migration and habitat degradation due to decreased flow of water.

Impact on breeding and nesting grounds of animals and fish.

v) Socio Economic Environment Impact on Locals community including demographic profile
Impact on socio-economic status.

Impact on human health due to water/vector borne disease. Impacts of blasting activity during project construction which generally destabilize the land mass and lead landslides, damage to properties and drying up of natural springs and cause noise pollution will be studied. Proper record shall be maintained of the base line information in the post project period.

Positive as well as negative impacts likely to be occurred due to the project are to be listed.

67.They must have a comprehensive study in respect of both the phases and they cannot isolate phase-II alone for this purpose. So according to the 6th respondent, the 5th respondent is not entitled to proceed with the project without obtaining Environment Clearance and they prayed for allowing O.A. No. 148 of 2021 and pass such orders as deemed fit to be proper in the circumstances of the case.

68.The applicant filed rejoinder in the form of reply affidavit to the counter affidavit filed by the 5th respondent contending that the Joint report has found that there are violations of EIA Notification, 2006 and they have started the work without obtaining Environment Clearance especially when it was only at the stage of issuing ToR and conduct of public hearing. Further the total drinking water requirement is only 7.15 TMC for the enroute villages and the remaining quantity is reserved for irrigation purpose. The construction is being done contrary to the Terms of Reference dated 10.11.2017 which is only for pre-construction activities. They are not confining to drinking water purpose alone and dumping is done in an unscientific manner. So there is damage caused to ecology and environment and as such the right of the applicant to include further prayers for compensation etc are yet to come. It is a continuing cause of action and every day, they are getting fresh cause of action for the damage caused to environment.

69.When O.A. No. 273 of 2016 was filed, they have given an undertaking that it is only for drinking water purpose and they are not undertaking the irrigation part but now contrary to the same, they have proceeded with both the phases together and they have also applied for Environment Clearance for the combined project. The application filed by Mr. B. Harshavardhan was dismissed only in the year 2019 by order dated 22.07.2019 and only thereafter the right of the applicants to challenge the act of the 5th respondent will arise. Even as per the requirement of drinking water, they require only 8 TMC as claimed by them in their feasibility report and now they are proceeding with the work of both irrigation as well as drinking water purpose which is clear from the nature of work that is being done by them.

70.Further, the Ministry of Jal Shakti has issued direction through Krishna River Management Board directing the 5th respondent not to proceed with this PR LIS till a detailed project report is submitted as set out in the minutes of the meeting held on 16.06.2020 and 22.10.2020. But they are still continuing with the work and thereby the violation can be said to be continuing from the date of restraining them from proceeding with the work and since the officials did not take any action, they have no other remedy except to approach this Tribunal and as such it cannot be said to be barred by

limitation as claimed. Further, when a substantial question of environment is raised, it is for this Tribunal to consider this aspect and the allegations that there is no Environment Clearance is required for this project cannot be accepted. The nature of the project report submitted by the 5th respondent for the purpose of application of Environment Clearance is not for irrigation purpose alone but a combined project of both drinking and irrigation and as such they are not entitled to bifurcate the same to avoid the environmental law of obtaining prior Environment Clearance. Major portion of the work will be completed, if the contention of the 5th respondent is accepted in respect of lift irrigation scheme itself and what is left is only to provide canals for supply of water and that is only a minor work. This Tribunal had in O.A. No. 71 f 2020 directed the Rayalaseema lift irrigation scheme is put in suspension until detailed project report is furnished and also observed that on going through the project report, it is a combination of drinking water as well as irrigation purpose and as such Environment Clearance is required as it will fall under item 1(c) of Schedule to EIA Notification, 2006

71. The decision relied on by the 5th respondent are not applicable to the facts of this case. So according to the applicant the contentions of the 5th respondent are not correct and the application is maintainable and within limitation and prayed for allowing the application.

72. This Tribunal had appointed a joint Committee consisting of 1) a Senior Officer from Ministry of Environment, Forests and Climate Change (MoEF&CC), Integrated Regional Office, Chennai or its subsidiary office at Hyderabad, if any, 2) a Senior Scientist from Central Pollution Control Board (CPCB), Integrated Regional Office, Chennai, 3) The District Collector, Mahaboob Nagar, 4) The Director, Geology and Mining Department or a Senior Officer having sufficient knowledge and experience in Soil Technology deputed by the Director and 5) a Senior Scientist from National Environmental Engineering Research Institute (NEERI) to inspect the areas in question and submit a factual as well as action taken report, if there is any violations found and a Senior Officer from the Central Water Commission is also added as additional member in the committee to ascertain this allegation made in the application. In O.A. No. 147 of 2021 filed in respect of this project for ascertaining the alleged violations and as per order dated 15.07.2021 directed the same Committee with an addition of Senior Officer from the Central Water Commission was constituted for the purpose of this case and in order to avoid the unnecessary expenses and delay, this Tribunal had adopted this method of directing the same committee with an additional member from Central Water Commission was constituted for this purpose. The Committee was directed to ascertain the following:

- i) Whether there were any violations of environmental laws on committed by the State of Telangana in carrying out the project in question.
- ii) Whether there is any violation committed violating the provisions of the EIA Notification, 2006 and without conducting any Environment Impact Assessment Study and preparing Environmental Management Plan and damage has been caused to the environment on account of the same.

iii) The committee is also directed to ascertain as to whether the project was launched contrary to the undertaking given by them that they are confining to drinking water project alone, but expanded the scope for Irrigation project as well.

iv) Whether the present project under challenge requires prior Environmental Clearance and if not obtained, what is the nature of damage caused and if so, assess the environmental compensation,

v) Whether people have been displaced due to the project in violation of the undertaking given that the project will not result in displacement of people.

16. If the inspection will have to be conducted in several Districts, if the project is spread over to the several Districts, than the District of Mahaboob Nagar alone, then this committee is at liberty to co-opt those respective District Collectors as well when they were conducting inspection in respect of those areas. The committee appointed in this case also report any further aspect which they feel necessary on the basis of the allegations made in the application confining to the environment issues falling within the jurisdiction of this Tribunal alone and not in respect of any other issues pending in any other forum including the Hon ble Supreme Court.

73. The Director, Geology and Mining Department will be the nodal agency in this case also for providing necessary logistics and also for coordination for this purpose.

74. As per order dated 24.08.2021, this Tribunal had considered I.A. No. 122 of 2021 filed by 6th respondent for issuing direction to Joint Committee appointed by this Tribunal to consider their contentions raised in the counter statement along with the annexure produced as well, so that they can give comprehensive report regarding stand of Andhra Pradesh against the allegations made by the 5th respondent and this Tribunal had allowed the application and directed the Committee to consider those points as well while submitting the report as well.

75. This Tribunal had modified the constitution of the committee by including a Senior officer from Krishna River Management Board as well in O.A. No. 147 of 2021 and designated them as nodal agency instead of Director, Mines and Geology Department and the same change was also adopted for this case as well in the constitution of the Committee which was mentioned in order dated 27.08.2021.

76. The joint Committee has filed a report dated 30.09.2021, e-filed on 02.10.2021, though hard copy was produced on 01.10.2021 which reads as follows:

77. 6th respondent has filed objections to the Joint Committee which reads as follows:

78. 5th respondent also filed their objections to the Joint Committee report which reads as follows:

Objections filed by the State of Telangana to the report of the Joint Committee dated 30.09.2021 I, Rajat Kumar, IAS, S/o B.K. Sinha, aged about 58 years, working as Special Chief Secretary, I and CAD Department, Government of Telangana, do hereby solemnly affirm and state as follows:

I am the Special Chief Secretary, I and CAD Department, Government of Telangana herein and I am filing these objections on behalf of the 5th respondent herein in the above mentioned case and I am conversant with the facts and circumstances of the present case. I am competent to affirm this objections. I have various objections regarding the report filed by the Joint Committee on 30.09.2021.

It is respectfully submitted that, I have perused the Report of the Joint Committee dated 30.09.2021; I submit that the finding of the Joint Committee and the recommendations there are factually incorrect and the said report is misconceived one.

The following are the objections for each of the finding given by the Joint Committee:

1. At the outset, the finding of the Committee that it is of the view that Palamuru Ranga Reddy Project is conceived as an irrigation scheme to lift 90 TMC of flood water in (60) days from foreshore of the Srisailem reservoir situated on Krishna River is absolutely incorrect. In fact, the Palamuru Rangareddy Lift Irrigation Scheme (PR LIS) is originally conceived for dual purpose i.e. for the purpose of providing drinking water to Mahabubnagar, Nagarkurnool, Narayanpet, Vikarabad, Nalgonda, Ranga Reddy and Hyderabad city; the proposed project also serves the supply of water to industrial purpose. Although, the project has an irrigation component, at present Palamuru Rangareddy Lift Irrigation Scheme (PR LIS) is implemented to transport and store water for drinking and human consumption in its first phase; Irrigation require planning and a construction of a network of canals originating from the proposed reservoir;

infrastructural enhancement, such as construction of canals, would be required for the purpose of irrigation requiring prior environmental clearance; the same would be carried out only after obtaining prior environmental clearance which is at present conducting of public hearings and submission of proposal for EC is under process; A perusal of G.O. Ms. No. 105 irrigation and CAD Department dated 10.06.2015 substantiate the above statement. A copy of the said G.O is enclosed herewith as Annexure R-1 The above facts were placed on record before this Hon ble Tribunal in O.A. No. 273 of 2016 (SZ) filed by Mr. Harshavardhan and on perusal of the same the Hon ble Tribunal not inclined to stop the work of the project and permitted to carry on the work of the project with regard to supply of drinking water. A copy of the short affidavit dated 17.02.2017 and NGT (SZ) order copy dated 17.02.2017 are enclosed as Annexure R-2 and Annexure R-3 respectively.

2. It is respectfully submitted that Muck excavated from the proposed excavation of tunnels is being dumped within the project site and the same will be utilized for manufacturing sand, revetment and concrete purposes therefore there is no need for having an environment management plan to deal with Muck, as stated by the Joint Committee in its report. The situation prevailing with regard to Muck, in all reservoirs is also used for the said purpose and nothing will be left on ground once the execution of the works is completed. Therefore, there is no damage to the environment as stated by the Joint Committee.

3. Further, the finding of the Joint Committee that Terms of Reference (ToR) accorded by the Ministry of Environment, Forests and Climate Change (MoEF&CC) under the EIA notification, 2006 is completely misunderstood by the Joint Committee, while giving its findings, the finding of the Joint Committee is that the Terms of Reference accorded vide letter dated 11.10.2017 are carrying out pre construction activities only and whereas the project proponent is undertaking full scale construction on ground. Therefore, they gave a finding that the project proponent has violated the environmental laws. In fact, the Terms of Reference accorded vide letter dated 11.10.2017 is with regard to irrigation component of the project/for the purpose of canal network; the said ToR has nothing to do with the works being executed at present and which are relating to phase-I works/drinking water purposes; the said fact has been mentioned in the ToR and the perusal of the same would make it crystal clear.

4. The finding of the Joint Committee that the project proponent has not confined themselves to drinking water project alone is factually incorrect. Firstly, the Palamuru Rangareddy Lift Irrigation Scheme (PR LIS) is not conceived only for the purpose of drinking water, also for the purpose of supply of water for irrigation purposes. The works at present being executed are exclusively meant for drinking water purposes; may be as per the present plan 7.15 TMC is proposed for drinking water purpose but projects are not proposed frequently to cater to the need of the people, the States have to keep in mind the requirements of at least for 30 to 40 years future requirements. It is further respectfully submitted that occurrence of the high fluoride concentrations in ground water is a problem faced by the majority of the mandals in erstwhile Mahabubnagar and Nalgonda Districts. The people living in these areas are facing the problem with fluorosis as ground water in this area aquifers varies from 1.0 to 25.0 ppm. The people in this area are facing major problem with polluted ground water used as drinking and an irrigation source. Mahabubnagar and Nalgonda Districts are poorest and most drought prone district of Telangana. In spite of continuous efforts by the Government, external support agencies, NGOs and private enterprises the problem still remains unsolved. Therefore, the Government conceived the Palamuru Rangareddy Lift Irrigation Scheme (PR LIS) as dual purpose, i.e. for the purpose of providing drinking and irrigation to tackle the major problem of fluoride by supplying potable water from river Krishna. Copy of assessment of Fluoride in ground water is enclosed as Annexure R-4. In so far as, displacements on account of construction of project is concerned, the land has been acquiring in Thandas and villages which are coming under submergence and the project displacement families/project affected families are being compensated as per the provisions of the Right to fair Compensation and Transparency in Land Acquisition Act, 2013.

5. The displacement being caused is only with regard to the construction of reservoirs which are meant for drinking water purpose and in so far as irrigation component of the project is concerned there is no displacement.

6. In so far as, the remedial measures and recommendations suggested by the Committee are concerned, they are without any substance, in light of the above objections and the factual background that were now placed before this Hon ble Tribunal for its consideration.

7. It is submitted albeit the reservoirs are built for 64.87 TMC, water cannot be used for irrigation purposes, since canal network is under planning stage only.

8. The drinking water requirement as per DPR is 7.15 TMC, however, the water stored will be utilised for drinking water purpose in drought periods in as much as flood is the rare phenomenon therefore, the drawl of water and storing in these reservoirs may be once in (04) years.

9. In a matter of this nature, it is respectfully submitted that the committee should have been given sufficient time to apply its mind to the facts and also the relevant laws and the documents submitted by the project proponent to submit a proper report.

10. Since, the Joint Committee inspected the project site on 15.09.2021 and 16.09.2021 and also filed an interim report on 21.09.2021 seeking (08) weeks time and the same was not accorded, in hurry without applying its mind as to the facts and circumstances and the documentation, the Joint Committee was forced to file its report on 30.09.2021 in as much as, the Original Application were sought to be advanced, by way of an application from its original date of hearing, i.e. 22.10.2021 to 01.10.2021.

11. It is respectfully submitted that in view of the dissenting opining expressed by the two members of the Joint Committee, the report submitted by the Joint Committee is not final and the same may not be relied upon by the Hon ble Tribunal for consideration of original application. It is therefore, prayed that this Hon ble Court to consider the objection and reject the findings made in the Joint Committee report against 5th respondent in the interest of justice, equity and good conscience and thus render justice.

79. Heard Mr. P.S. Raman, Senior Advocate along with Mr. Gautam S. Raman appearing for the applicants. Mr. D. Ramesh Kumar for respondents 1 and 4, Mr. G. M. Syed Nurullah Sheriff for respondents 2 and 3, Mr. J. Ramachandra Rao, Additional Advocate General for State of Telengana along with Mr. Sanjeev Kumar, Special Government Pleader and Mrs. H. Yasmeen Ali for 5th respondent and Mr. Sriram, Advocate General for State of Andhra Pradesh along with Mrs. Madhuri Donti Reddy and Mr. M.R. Srinivas for 6th respondent.

80. Learned Additional Advocate General for State of Telengana insisted for a preliminary hearing on the question of maintainability of the application on the ground of limitation and at the same time Learned Senior Counsel appearing for the applicant as well and Learned Advocate General for State of Andhra Pradesh insisted for passing an interim order in view of joint committee report

submitted and they have further contended that the question of limitation cannot be treated as a preliminary point as it is a mixed question of fact and law and the environment issue cannot be defeated on the technical ground of limitation. That is how this Tribunal was compelled to hear the question of maintainability, limitation and consideration of passing interim order, if any, at an early stage before even completion of pleadings by other respondents, considering the nature of urgency projected by the Learned Counsel for both the parties.

81.The Learned Senior Counsel appearing for the applicant argued that being public affected by the project, they were under the impression that already pending application, namely, O.A. No. 273 of 2016 will take care of the same and also they were relying on the undertaking given by the State of Telengana in that case that they will not proceed with the irrigation project but they will confine to drinking water project alone. But later they came to understand on the basis of the objections raised by the State of Andhra Pradesh regarding this project alleging that it is a new project and without obtaining approval from the Krishna River Management Board and Central Water Commission and the Apex Council as required under the provisions of Andhra Pradesh Reorganisation Act 6 of 2014, they are proceeding with the project. There was a direction issued by Ministry of Jal Shakti as well as Krishna River Management Board to the 5th respondent not to proceed with the same by their communicate dated 04.06.2020 and 06.10.2020 respectively and since they are continuing with the construction in violation of those directions and without obtaining Environment Clearance, it is well within the limitation period that the application is filed. Further since, the applicants have raised the question of violation of environmental law which is a continuing cause of action and recurring action and whenever some act is done in violation of the same, then each violation will be deemed to be a cause of action first arose for the purpose of maintaining the application and the limitation is also saved by virtue of the extension granted by the Hon ble Apex Court in *Suo Motu writ (Civil) No. 3 of 2020* dated 23.06.2020 and 06.05.2020 and subsequent order passed by the Hon ble Apex Court in the same proceedings on 10.07.2020 and also on 27.04.2021 and this was filed within limitation and the application is maintainable and is not barred by limitation.

82.Learned Senior Counsel had relied on the decision of this Tribunal in *Wilfred J. Vs. Ministry of Environment and Forests 2*, *Amit Maru Vs. Secretary, Ministry of Environment and Forests 3*, *Mantri Techzone (P) Ltd. Vs. Forward Foundation 4* and *Tamil Nadu Pollution Control Board vs. Sterlite Industries (India) Ltd 5*, in support of their case. The Learned Senior Counsel appearing for the applicants also submitted that in the pleadings, they have raised the question of damage caused to the environment on account of non-compliance of the provisions of the environmental laws by the 5th respondent in proceeding with the project and as such, if any, damage is noted by the Committee, then the Tribunal will be getting jurisdiction to pass appropriate orders under Section 15 of the National Green Tribunal Act, 2010 and thereby, larger period of limitation is provided and even without a prayer to that extent, on environmental issues, Tribunal can mould the reliefs in appropriate cases in order to protect environment as such it cannot be said that it was filed beyond limitation. Further the report of the Committee will go to show that there are violations and they are entitled for an interim relief as prayed for as well.

83.Learned Advocate General appearing for State of Andhra Pradesh also reiterated the same contentions raised by the Learned Senior Counsel appearing for the applicant and supported their

case on the question of maintainability of the case. The Learned Advocate General also argued that in the case of environmental violations, each violation, will give rise to a separate cause of action and there will not be any stopping of limitation and 2014 SCC Online NGT 6860 2014 SCC Online NGT 6972 (2019) 8 SCC 494 (2019) 19 SCC 479 it will be recurring cause of action and each recurring act will give rise fresh cause of action which can be deemed to be first cause of action arose for the purpose of maintaining the application.

84. Further the Learned Advocate General also argued that after the undertaking given by State of Telangana is O.A. No. 273 of 2016, they applied for Environment Clearance for the integrated project of drinking water as well as irrigation project which is known as PR LIS for getting Environment Clearance and the MoEF&CC had issued ToR for non-construction purpose only and as such they are not entitled to proceed with the construction part. Further, it will be seen from the allegations that they are proposed to have six reservoirs having capacity of 90 TMC water which they are going to collect as an excess flood water from the Srisailem project for 60 days in a year and that will be utilised for catering the needs of drinking water purposes of certain districts mentioned by them apart from catering the need of irrigation for more than four lakh acres of land. So having submitted to the jurisdiction of the EIA Notification, 2006 and applied for Environment Clearance for a combined project of both drinking water and irrigation, they cannot carve out the drinking water purpose alone and proceed with the project as it cannot be treated as a drinking water project simpliciter and in such cases there is a violation of undertaking given and date of starting of work in violation of the undertaking will give a fresh cause of action for the affected party to approach this Tribunal.

85. Learned Advocate General also argued that Tribunal should not have dismissed the application filed by Mr. B. Harshavardhan as O.A. No. 273 of 2016 dismissed as not pressed and the Tribunal ought to have proceeded with the matter, even in the absence of the applicant as serious question of environment was raised and if a public interested litigation is dismissed as not pressed then, public will be getting a fresh cause of action for filing an application to redress their grievance against causing environmental degradation as well.

86. On the other hand, Learned Additional Advocate General appearing for State of Telangana vehemently opposed the submissions made by the Learned Senior Counsel for the applicant as well as Learned Advocate General appearing for the State of Andhra Pradesh regarding the maintainability of the application on the question of limitation and also granting interim order.

87. According to the Learned Additional Advocate General appearing for State of Telangana, without considering the preliminary issue, no interim order can be passed especially when the application is not maintainable on the account of limitation and as such this Tribunal will not be getting jurisdiction to pass any order as well. Learned Additional Advocate General also argued that a reading of the application will go to show that the pleadings are lacking on the substantial question of environment and mainly the allegations are regarding sharing of water between State of Andhra Pradesh and State of Telangana against the award passed by the Inter-State water Dispute Tribunal and also against the provisions of Andhra Pradesh Reorganisation Act 6 of 2014 which will not fall within the jurisdiction of this Tribunal.

88.The case of the applicants was that the 5th respondent is proceeding with the drinking water project along with the irrigation project. The notification of PR LIS was issued in the year 2015 and when the work was started one Mr. B. Harshavardhan filed O.A. No. 273 of 2016 before this Tribunal on the basis of first cause of action arose and in that an interim order was passed. When the State Telengana appeared and submitted that they are only confining to drinking water purpose for which no Environment Clearance was required the Tribunal had permitted them to proceed with the project and thereafter the matter was transferred to the Principal Bench and the applicant had submitted that he is not pressing the application and it was dismissed a not pressed in the year 2019. It cannot be said that applicants were not aware of that proceedings as they are relying on those proceedings in this application as well and as such it cannot be said that they came to know about the project later so as to save limitation and such exclusion was not pleaded in the application as well.

89.Learned Additional Advocate General also argued that even now they are only proceeding with the drinking water purpose for providing drinking water to people of Nalgonda, Mehabubnagar and other areas, where the ground water is affected by fluoride which is not fit for drinking and they will have to meet the necessity of people in that locality as providing drinking water is the constitutional obligation as protection of right to life as enshrined in Article 21 of Constitution of India and such obligation of the State cannot be stalled at the instance of the certain interested parties.

90.Since, there is no substantial question of environment arises on the basis of the allegations made in the application and it cannot be treated as application under Section 15 of the National Green Tribunal Act as there is no prayer to that effect was made, the application under Section 14 is absolutely barred by limitation as it was filed beyond limitation six months plus sixty days provided under Section 14(3) of the Act from the date cause of action first arose and the application is liable to be dismissed in limine on the preliminary ground itself. If that contention is accepted, then there is no question of interim order being passed by the Tribunal also arises. Learned Additional Advocate General had relied on the decisions reported in Meenava Thanthai K. R. Selvaraja Kumar Meenavar Nala Sangam vs. Chairman and Ors., 6, Mantri Techzone Private Limited vs. Forward Foundation and Ors.7, Forward Foundation vs. State of Karnataka and Ors.8, State of Telangana vs. Md. Hayath Uddin and Ors.9 Orders of the Hon ble Supreme Court in Special Leave to Appeals nos. 4813 of 2018 and Atma Linga Reddy and Ors. vs. Union of India & ors.10 in support of their case.

91.Learned Additional Advocate General also submitted that the report submitted by the Joint Committee cannot be treated as a final one as directed by this Tribunal, they have submitted the report within two days of inspection without properly appreciating the facts and the dissenting opinion given by the two members of the Committee also will have to be taken note of by this Tribunal if at all this Tribunal wants to rely on the same. If ultimately this Tribunal found that the application is maintainable to consider the question of interim relief, the Learned Additional Advocate General also submitted that if any interim order is passed stalling the project, the interest of the people of Telengana will be affected, who are affected by drought due to non-availability of water and also due to non-availability of potable water in that area and the prima facie case, balance of convenience and irreparable damage that is going to be caused is in favour of 5th respondent if injunction is granted and not in favour of the applicants, who are not at all affected by the project.

92.Considered the pleadings and also submissions made by the Learned Counsels appearing for both parties and perused the pleadings and documents produced and the precedents relied on and also considered the oral submissions.

93.The preliminary points that arise for consideration are:

2020 SCC Online NGT 763 (O.A. No. 2 of 2017 (2019) 18 SCC 494 2015 SCC Online NGT 5 (O.A. No. 220/2014) (2008) 7 SCC 788 (1) Whether the application is maintainable?

(2) Whether the application is barred by limitation?

(3) Whether the applicant is entitled to get any interim relief during the pendency of the proceedings?

Point nos. 1 and 2

94. The averment in the application is regarding the proceeding with the PR LIS project having both components of drinking water and irrigation purpose by 5th respondent without obtaining Environment Clearance and also against the direction issued by Krishna River Management Board as well as Ministry of Jal Shakti to the 5th respondent not to proceed with the project without obtaining approval from the Krishna River Management Board, Central Water Commission and the Apex Council as required under the provisions of Andhra Pradesh State Reorganisation Act 6 of 2014. It was also alleged that though clearances under the Forest Conservation Act, 1980 was obtained, certain important aspects were not considered by them and while considering the impact of the project, certain detailed study will have to be conducted and it may have some impact on the environment and if it is done in violation of EIA Notification, 2006 without conducting such study will result in degradation of the environment causing damage to ecology and environment.

95.It is true that in the prayer portion, they have restricted the prayer for the time being for the injunction restraining the 5th respondent from proceeding with the project without complying with the provisions of the Andhra Pradesh Reorganisation Act 6 of 2014 and EIA Notification, 2006 with a further prayer of passing such order which this Tribunal feel fit to grant. There is no dispute regarding the prior litigations between State of Andhra Pradesh and State of Telengana regarding sharing of water and also regarding the applicability of Andhra Pradesh Reorganisation Act 6 of 2014 between the parties.

96.It is also an admitted fact that erstwhile Andhra Pradesh was not the only State which was depending upon the water from the Krishna river which is flowing through erstwhile State of Andhra Pradesh but also the neighbouring States, namely, State of Maharashtra, Karnataka and Tamil Nadu as well and there was a dispute arose between State of Maharashtra, Karnataka and State of Tamil Nadu in respect of sharing of water from Krishna River and applying provisions of Inter-State Water Dispute Act, 1956 a Tribunal was appointed and the Tribunal had passed KWDT-I award and also passed KWDT-II award regarding the allocation of water between the three States

and ultimately the erstwhile State of Andhra Pradesh was permitted to take 811 TMC water with certain reservations.

97. It is also an admitted fact that there were certain projects launched by the erstwhile State of Andhra Pradesh regarding the usage of Krishna River water within the permissible quantity under the said award and when the State was divided into State of Andhra Pradesh and State of Telangana in the year 2014, as per the provisions of Andhra Pradesh Reorganisation Act 6 of 2014, certain projects already envisaged and started were included in the Schedule attached to that Act and respective States were permitted to proceed with those projects without any obstructions from each States. There is no dispute regarding the provisions made in the said Act that in case new projects are to be launched or any dispute regarding sharing of Krishna River water or Godavari River water arises, then they will have to get prior approval from the respective Management Board, namely, Krishna River Management Board and Godavari Management Board and also from the Central Water Commission and the Apex Council and only thereafter they can proceed with the new projects as well.

98. Admittedly the present project PR LIS is not falling in the permitted category of projects included in the Schedule attached to the said Act. The question regarding the sharing of water or permission to be obtained from Krishna River Management Board as provided under the Andhra Pradesh Reorganisation Act 6 of 2014 will not fall within the jurisdiction of this Tribunal under Section 14, 15 and 18 of the National Green Tribunal Act, 2010. But as regards the environmental issues regarding establishment of the project and its impact on environment and violation of any environmental law in proceeding with the project, no doubt, will fall within the jurisdiction of this Tribunal under the above said provisions.

99. The applicant had raised the substantial question that PR LIS being an integrated project for drinking water as well as irrigation and proceedings of issuance of Environment Clearance is pending with the MoEF&CC in this regard and proceeding with the project without obtaining prior Environment Clearance will be violation of environmental law and it will result in degradation of ecology and damage to environment and consideration of this aspect will certainly fall within the jurisdiction of this Tribunal under Section 14 and 15 of the National Green Tribunal Act.

100. Section 14 and 15 of the National Green Tribunal Act, 2010 reads as follows:

14 Tribunal to settle disputes. -

(1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I. (2) The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settle such disputes and pass order thereon. (3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose:

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days. 15 Relief, compensation and restitution. -(1) The Tribunal may, by an order, provide,-

(a) relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I (including accident occurring while handling any hazardous substance);

(b) for restitution of property damaged;

(c) for restitution of the environment for such area or areas, as the Tribunal may think fit.

(2) The relief and compensation and restitution of property and environment referred to in clauses (a), (b) and (c) of sub-section (1) shall be in addition to the relief paid or payable under the Public Liability Insurance Act, 1991 (6 of 1991).

(3) No application for grant of any compensation or relief or restitution of property or environment under this section shall be entertained by the Tribunal unless it is made within a period of five years from the date on which the cause for such compensation or relief first arose: Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

(4) The Tribunal may, having regard to the damage to public health, property and environment, divide the compensation or relief payable under separate heads specified in Schedule II so as to provide compensation or relief to the claimants and for restitution of the damaged property or environment, as it may think fit.

(5) Every claimant of the compensation or relief under this Act shall intimate to the Tribunal about the application filed to, or, as the case may be, compensation or relief received from, any other court or authority.

101. Whenever a substantial question of environment is raised by the party in the proceeding and if the Tribunal is satisfied that there arises a substantial question of environment, then Tribunal can entertain the application irrespective of the fact that there are lack of pleadings in the proceedings as it is clear from section 19 of the Act that the Tribunal shall not be bound by the procedure laid down by Code of Civil Procedure, 1908 but shall be guided by the principle of natural justice and also the Tribunal shall not be bound by the rules of evidence contained in the Indian Evidence Act, 1872. But at the same time, by virtue of Section 19(4) of the Act certain provisions of Code of Civil Procedure has been made applicable for trying suit or any dispute arising before this Tribunal.

102. Section 20 of the Act says that the Tribunal has to apply certain principles which include Principle of Sustainable Development, Precautionary Principle and Polluters Pay Principle. Section 29 of the Act bars jurisdiction of civil court regarding any matter which has to be considered by this Tribunal under this Act. Further Section 33 of the Act says that the provisions of this Act shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act. By virtue of Section 19(2) of the Act, the Tribunal shall have the powers to regulate its own procedure for deciding the matters pending before the Tribunal as well. So, it is clear from the above provisions and the scheme of the Act that whenever a substantial question of environment arises, then the Tribunal has got the wider powers to entertain those matters and they are not bound by the pedantic restrictions pleadings under Code of Civil Procedure and admission of evidence under the Indian Evidence Act etc. The Tribunal has to consider the overall pleadings and also the allegations made and the relief claimed for the purpose of considering the question as to whether there was any substantial question of environment arises or not and once such satisfaction being arrived at by the Tribunal, then the Tribunal can proceed with the matter as provided under the provisions of the National Green Tribunal Act.

103. It is true that Section 14(3) of the Act says that no application for adjudicating of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which "the cause of action for such dispute first arose" provided that the Tribunal may if it is satisfied that applicant was prevented by sufficient cause from filing the application within the said period allowed it to be filed within the further period not exceeding 60 days. Section 15(3) of the Act says that no application for grant of compensation or relief of restitution of property or damage cause to environment under this Section shall be entertained by the Tribunal unless it is made within a period of five years from the date on which cause of action for such compensation or relief first arose provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period allow it to be filed within a further period not exceeding 60 days. So, different set of limitation has been provided for filing under Section 14 and 15 of the Act depending upon the nature of relief claimed. If, nature of relief or the allegations made in the application requires a relief of imposing compensation or ordering restitution of damage caused to environment, though the provision was not correctly quoted or even a prayer was not made to that effect in the application, the Tribunal has got power to consider the application under Section 15 of the Act and thereby larger period of limitation will be available in such cases. In all other matters period provided under Section 14(3) for dispute arose in that section will prevail.

104. The question as to what amounts to cause of action first arose was considered by this Tribunal in Forward Foundation vs. State of Karnataka and Ors. 11 after considering the decisions reported in Udhav Singh vs Madhav Rao Scindia¹², A.B.C. Laminart Pvt. Ltd. & Anr vs A.P. Agencies, Salem¹³ observed that it must satisfy all the legal requirements, that is, there must be a dispute, there should be substantial question relating to environment or enforcement of any legal right relating to environment and such question should arise out of the implementation of enactments specified in Schedule 1. Action must be taken within the prescribed period triggering from the date when all such ingredients are satisfied along with other legal requirements, accrual of cause of action as first

arose aforesaid would have to be 2015 SCC Online NGT 5 (O.A.No. 220/2014) 1977(1) SCC 511 AIR 1989 SCC 1239 considered as to when it first arose. It is further observed in that decisions that in contradiction to cause of action first arose, there would be continuing cause of action, recurring cause of action or successive cause of action. These diverse concentrations with reference to cause of action are not synonyms, they certainly have a distinct and different meaning in law. The cause of action first arose would refer to a definite point of time, when requisite ingredients constituting that cause of action would complete providing applicant right to invoke the jurisdiction of the Court or Tribunal. The right to sue or right to take action could be subsequent to the accrual of such right. The concept of continuing wrong which would be foundation of continuous cause of action was accepted by the Hon ble Supreme Court in case of Balkrishna Savalram Pujari and ors. vs Shree Dnyaneshwar¹⁴ Further, these aspects has been considered in detailed in paras 28 to 31 of the said Judgement which reads as follows:

28. The settled position of law is that in law of limitation, it is only the injury alone that is relevant and not the consequences of the injury. If the wrongful act causes the injury which is complete, there is no continuing wrong even though the damage resulting from the act may continue. In other words distinction must be made between continuance of legal injury and the continuance of its injurious effects.

Where a wrongful act produces a state of affairs, every moment continuance of which is a new tort, a fresh cause of action for continuance lies. Wherever a suit is based on multiple cause of action, period of limitation will began to run from the date when the right to sue first accrues and successive violation of the right may not give rise to a fresh cause of action. [Ref: Khatri Hotels Private Limited and Anr. v. Union of India (UOI) and Anr., (2011) 9 SCC 126, Bal Krishna Savalram Pujari & Ors. v. Sh. 40 Dayaneshwar Maharaj Sansthan & Ors, AIR 1959 SC 798, G.C. Sharma v. Municipal Corporation of Delhi, (1979) ILR 2 Delhi 771, Kuchibotha Kanakamma and Anr. v Tadepalli Ptanga Rao and Ors., AIR 1957 AP 419].

29. A cause of action which is complete in all respects gives the applicant a right to sue. An applicant has a right to bring an action upon a single cause of action while claiming different reliefs. Rule 14 of the National Green Tribunal (Practise and Procedure) Rules, 2011, shows the clear intent of the framers of the Rules that multiple reliefs can be claimed in an application provided they are consequential to one another and are based upon a single cause of action. Different causes of action, thus, may result in institution of different applications and therefore, there is exclusion of the concept of the „joinder of causes of action under the Rules of 2011. The multiple cause of action again would be of two kinds. One, which arise simultaneously and other, which arise at a different or successive point of time. In first kind, cause of action accrues at the time of completion of the wrong or injury. In latter, it may give rise to cause of action or if the statutes so provide when the „cause of action first arose even if the wrong was repeated. Where the injury or wrong is complete at different times and may be of similar and different nature, then every AIR 1959 SCC 798 subsequent wrong depending upon the facts of the case may gives rise to a fresh cause of action.

To this general rule, there could be exceptions. In particular such exceptions could be carved out by the legislature itself. In a statute, where framers of law use the phraseology like „cause of 41 action

first arose in contradistinction to „cause of action simplicitor. Accrual of right to sue means accrual of cause of action for suit. The expressions „when right to sue first arose or „cause of action first arose connotes date when right to sue first accrued, although cause of action may have arisen even on subsequent occasions. Such expressions are noticed in Articles 58 of the Limitation Act, 1963. We may illustrate this by giving an example with regard to the laws that we are dealing here. When an order granting or refusing Environmental Clearance is passed, right to bring an action accrues in favour of an aggrieved person. An aggrieved person may not challenge the order granting Environmental Clearance, however, if on subsequent event there is a breach or non-implementation of the terms and conditions of the Environmental Clearance order, it would give right to bring a fresh action and would be a complete and composite recurring cause of action providing a fresh period of limitation. It is also for the reason that the cause of action accruing from the breach of the conditions of the consent order is no way dependent upon the initial grant or refusal of the consent. Such an event would be a complete cause of action in itself giving rise to fresh right to sue. Thus, where the legislature specifically requires the action to be brought within the prescribed period of limitation computed from the date when the cause of action „first arose , it would by necessary implication exclude the extension of limitation or fresh limitation being counted from every continuing wrong, so far, it relates to the same wrong or breach and necessarily not a recurring cause of action.

30. Now, we would deal with the concept of recurring cause of action. The word „recurring means, something happening again and again and not that which occurs only once. Such reoccurrence could be frequent or periodical. The recurring wrong could have new elements in addition to or in substitution of the first wrong or when „cause of action first arose . It could even have the same features but its reoccurrence is complete and composite. The recurring cause of action would not stand excluded by the expression „cause of action first arose . In some situation, it could even be a complete, distinct cause of action hardly having nexus to the first breach or wrong, thus, not inviting the implicit consequences of the expression „cause of action first arose . The Supreme Court clarified the distinction between continuing and recurring cause of action with some finesse in the case of *M. R. Gupta v. Union of India and others*, (1995) 5 SCC 628, the Court held that:

"The appellant's grievance that his pay fixation was not in accordance with the rules, was the assertion of a continuing wrong against him which gave rise to a recurring cause of action each time he was paid a salary which was not computed in accordance with the rules. So long as the appellant is in service, a fresh cause of action arises every month when he is paid his monthly salary on the basis of a wrong computation made contrary to rules. It is no doubt true that if the appellant's claim is found correct on merits. He would be entitled to be paid according to the properly fixed pay scale in the future and the question of limitation would arise for recovery of the arrears for the past period. In other words, the appellant's claim, if any, for recovery of arrears calculated on the basis of difference in the pay which has become time barred would not be recoverable, but he would be entitled to proper fixation of his pay in accordance with rules and to cessation of a continuing wrong if on merits his claim is justified. Similarly, any other consequential relief claimed by him, such as, promotion etc. would also be subject to the defence of laches etc. to disentitle him to

those reliefs. The pay fixation can be made only on the basis of the situation existing on 1.8.1978 without taking into account any other consequential relief which may be barred by his laches and the bar of limitation. It is to this limited extent of proper pay fixation the application cannot be treated as time barred since it is based on a recurring cause of action. The Tribunal misdirected itself when it treated the appellant's claim as 'one time action' meaning thereby that it was not a continuing wrong based on a recurring cause of action. The claim to be paid the correct salary computed on the basis of proper pay fixation, is a right which subsists during the entire tenure of service and can be exercised at the time of each payment of the salary when the employee is entitled to salary computed correctly in accordance with the rules. This right of a Government servant to be paid the correct salary throughout his tenure according to computation made in accordance with rules, is akin to the right of redemption which is an incident of a subsisting mortgage and subsists so long as the mortgage itself subsists, unless the equity of redemption is extinguished. It is settled that the right of redemption is of this kind. (See *Thota China Subba Rao and Ors. v. Mattapalli, Raju and Ors.* AIR (1950) F C1."

31. The Continuing cause of action would refer to the same act or transaction or series of such acts or transactions. The recurring cause of action would have an element of fresh cause which by itself would provide the applicant the right to sue. It may have even be de hors the first cause of action or the first wrong by which the right to sue accrues. Commission of breach or infringement may give recurring and fresh cause of action with each of such infringement like infringement of a trademark. Every rejection of a right in law could be termed as a recurring cause of action. [Ref: Ex. Sep. Roop Singh v. Union of India and Ors., 2006 (91) DRJ 324, 44 M/s. Bengal Waterproof Limited v. M/s. Bombay Waterproof Manufacturing Company and Another, (1997) 1 SCC 99].

105. A cumulative reading of this judgement will go to show that in the case of recurring cause of action or in respect of an violation of environmental laws which is being repeatedly done, then for each violation it will be deemed to be a cause of action for such dispute first arose give rise to right of action for the applicant to approach the Tribunal. The view taken by the Tribunal in this case was approved by the Hon ble Apex Court in *Mantri Techzone (p) ltd. vs. Forward Foundation & Ors.*¹⁵

106. A similar view has been reiterated by the Principal Bench of this Tribunal in *Wilfred J. Ministry of Environment and Forests & Ors.*¹⁶ and *Amit Maru Vs. Secretary, Ministry of Environment and Forest & ors.*¹⁷ In *Amit Maru* case this aspect has been considered by this Tribunal in para 26 and 27 of the judgement which read as follows:

26. The term „cause of action“ is a bundle of facts. There cannot be two opinion about legal position that once the „cause of action“ starts running, then it cannot be stopped. In case of violation of Law, particularly, like CRZ Notification, violation continues, when the construction activity goes on without hindrance. As stated before, the competent authority directed the Respondent No.9, to stop construction activity and therefore, the construction work now has come to halt. It appears prima facie that the question regarding alleged violation of CRZ, Notification, is yet to be

determined by MCZMA. Under the circumstances, the Application cannot be held as totally barred by limitation, inasmuch as the „cause of action“ is continuous and still remains unabated. In our opinion, question of locus as well as question of limitation ought to be decided on case to case basis.

27. What is meaning of expression „such disputes“ in relation to Section 14 (2) of the NGT Act, 2010, would depend upon facts of a particular case. One cannot be oblivious of the fact that the Legislature has purposefully used the expression (2019) 18 SCC 494 2014 SCC Online NGT 6860 2014 SCC Online NGT 6972 „such disputes“ which imply plurality of nature of dispute, which may be raised in various kind of environmental litigations. Needless to say, it will not be possible to accept straight jacket formula for applicability of sub-section (3) of Section 14.

Unless it can be clearly gathered that the dispute has origin, which could be referable to a fixed time of period due to its nature itself, counting of time will not begin from the day one of fixed staring point. Nobody will deny that once limitation period commences, then it will not be arrested in the midst thereof. Close scrutiny of sub-clause (3) of Section 14, will make it amply clear that period of limitation will commence from the „date of cause of action“ for such dispute when it „first arose“. If this sub-clause, is properly bisected, the legal position which emerges, may be stated in following way:

- a) Filing of Application can be allowed within six months from the date of „commencement of cause of action“ for "such dispute" and,
- b) From "first date of arising of cause" of action.

107. The decisions relied on by the 5th respondent, namely Meenava Thanthai K. R. Selvaraja Kumar Meenavar Nala Sangam vs. Chairman and Ors.,¹⁸ is not applicable to the facts of this case as that was a case where the applicant wanted to challenge the CRZ clearance granted by way of filing an application under Section 14 of the Act without filing an appeal under Section 16 of the Act after the period was over and in such circumstances, the Tribunal came to the conclusion that such an application is not maintainable and the same is liable to be dismissed as barred by limitation. That was not the case before this Tribunal in this case. The decision relied on by the 5th respondent in State of Telangana vs. Md. Hayath Uddin and Ors.¹⁹ cannot be said to be a decision laying down a precedent having binding nature. In that decision, the Hon'ble High Court of Andhra Pradesh and Telengana only held that when a preliminary issue regarding limitation or maintainability is raised, without considering that issue, the Tribunal cannot go into further issues of providing any interim relief without hearing the other side as there is bar under Section 19(4) of the National Green Tribunal Act, 2010 and in that case after discussing the legal position, the Hon'ble High Court as only remanded the matter to the Tribunal to consider the question afresh regarding the question of limitation and also the maintainability under Section 14(3) of the 2020 SCC Online NGT 763 (O.A. No. 2 of 2017 Act and then pass the appropriate orders. There was no final decision arrived at by the Hon'ble High Court as to whether the application is barred and not maintainable and did not dismiss the application on that ground. It is true that the order of remand was confirmed by the

Hon ble Supreme Court when the same was challenged by the 1st respondent in the Writ Petition, who was the applicant before the National Green Tribunal by filing Special Leave to Appeals nos. 4813 of 2018. So, it cannot be treated as a binding precedent that the application is not maintainable at all as that question was directed to be considered by the Tribunal afresh and for that purpose the matter was remanded. Further the dictum laid down in *Atma Linga Reddy and Ors. vs. Union of India & ors.*²⁰ is also not applicable to the facts of this case as that was a case relating to locus standi and also jurisdiction issue of the Hon ble High Court to consider the Inter-State water dispute in view of the bar under Article 262 of Constitution of India. This Tribunal already observed that as regard sharing of water as provided under the Andhra Pradesh Reorganisation Act 6 of 2014 is concerned, this Tribunal has no jurisdiction and it is for them to approach the appropriate forum for that purpose.

108. The dictum laid down in *Narmada Bachao Andolan v. Union of India*²¹ is also not applicable to the facts of this case and that was a decision where the Hon ble Supreme Court held that in respect of policy decision of construction of dams cannot be gone into by the Court and that is not applicable to the facts of this case. It is true that if it is only in respect of drinking water purpose alone, then there is no question of any Environment Clearance arises. It cannot be said that the cause of action arose for the applicant to challenge the project in 2015 itself when the notification was issued by the State of Telengana for launching PR LIS scheme. A member of the public by name (2008) 7 SCC 788 2000 (10) SCC 664 Mr. B. Harshavardhan has filed O.A. No. 273 of 2016 before this Tribunal against this project being proceeded with without obtaining Environment Clearance and the Tribunal had earlier granted injunction against proceeding with the project by order dated 13.12.2016 and the same was challenged before the Hon ble High Court of Andhra Pradesh by filing writ petition no. 104 of 2017 by State of Telengana and the Hon ble High Court set aside the order on the ground that no interim order ought to have been granted without hearing the other side in view of the bar under Section 19(4) of the Act and then remanded the matter to this Tribunal for fresh consideration by order dated 03.01.2017. Thereafter, when the matter came up before the Tribunal by order dated 20.05.2017, this Tribunal had appointed a Committee to go into the question without an Expert Member by the Judicial Member alone and that was again challenged before the Hon ble High Court Judicature at Hyderabad for State of Telengana and State of Andhra Pradesh by State of Telengana by filing W.P. No. 18236 of 2017 and the Hon ble High Court allowed the writ petition and set aside the order stating that the Tribunal has no power to pass an order without the presence of Expert Member as that alone will constitute the quorum for the Bench and a single member is not entitled to pass such an order by order dated 28.06.2017.

109. In the meantime, the matter was taken up on 17.02.2017 before the Bench and at time, the Chief Engineer, PR LIS filed an affidavit stating that Government of Telengana would be withdrawing the application submitted for Environment Clearance before the MoEF&CC on 11.01.2017 as they are only confining to the project for supply of drinking water and not for irrigation and this undertaking was recorded and the Tribunal observed that they do not want to stop the work with regard to supply of drinking water but made it clear that no part of the project with regard to irrigation shall be initiated with without prior Environment Clearance. The Submission made by the Learned Additional Advocate General for State of Telengana to the effect that tender invited for irrigation part of the project will not be proceed with was also recorded. Later

the matter was transferred to the Principal Bench where it was re-numbered as O.A. No. 2 of 2018 and on 22.07.2019 when the matter came up for consideration, the Learned Counsel appearing for the applicant in that case submitted that he has instruction from the applicant that he does not want to proceed with the original application and accordingly the said application was dismissed as not pressed. So, there was no final adjudication in the matter. Further whether, there was any violation committed or not was not considered by the Tribunal as well in that case. So, people may be under impression that the party to that proceedings will be proceeding with that matter which protect the interest of the general public as it was filed as a Public Interest Litigation representing the local people, who are affected by the alleged project and that application was abandoned as not pressed by the said applicant on 22.07.2019. So the public will be getting an opportunity to re-agitate the issue only after that date as they might be under bonafide belief that the applicant who has filed O.A. NO. 273 of 2016 which was later re-numbered as O.A. No. 2 of 2018 before the Principal Bench will be protecting the interest of the parties. Further, the parties may be under the impression that they are only proceeding with the drinking water project and not otherwise and that the Government of Telengana is abiding by the order of the National Green Tribunal and no part of the irrigation project should be commenced.

110. It may be mentioned here, that after the submission was made on 17.02.2017 the State of Telengana has filed an application dated 28.08.2017 before the MoEF&CC for grant of issuance of ToR for the combined project of drinking water as well as irrigation, namely, PR LIS and the MoEF&CC has issued ToR by their proceedings no. J-112011/31/2017IAI (R) dated 11.10.2017 accorded fresh clearance for pre-construction activities at the proposed site as per the provisions of the EIA Notification, 2006 and subsequent amendment 2009 and ToR were also issued for that purpose. There is nothing mentioned in the proposal that it is only for irrigation purpose or it is for phase-II but it consists of two phases, phase-I and phase-II, namely, drinking water purpose and irrigation purpose. In fact it is a combined application for grant of Environment Clearance for the integrated project of PR LIS which consist of drinking water as well as irrigation components which is clear from the feasibility report submitted by them along with the application. In such cases, when they were proceeding with the project in violation of the environmental laws after submitting their project under EIA Notification, 2006 without getting prior Environment Clearance, then the affected parties will be getting a fresh cause of action for challenging the act of proceeding with the project by the project proponent without obtaining Environment Clearance.

111. Further a reading of the allegations made in the application will go to show that they are proceeding with the project without obtaining prior Environment Clearance, though they have submitted to the jurisdiction of EIA Notification, 2006 and applied for prior Environment Clearance and obtained ToR and the 4th respondent on 04.06.2020 directed the 5th respondent not to proceed with the project and the Apex Counsel on 06.10.2020 informed the decision of the Ministry of Jal Shakti to the 5th respondent not to proceed with the project without obtaining approval from the Krishna River Management Board and Central Water Commission and the Apex Council and they are proceeding in spite of such directions the applicant will be getting the fresh cause of action which shall be deemed to be a cause of action for such dispute first arose on 04.06.2020 and 06.10.2020 and they are entitled to file the application within six months from that date. In this case the application was filed before the Tribunal on 09.07.2021 but in view of the extension of limitation

granted by the Hon ble Supreme Court during the pandemic period vide orders passed by the Hon ble Apex Court in Suo Motu Writ (Civi) No. 3 of 2020 and by orders dated 23.03.2020, 06.05.2020 and 06.07.2020 whereby the period from 15.03.2020 till 14.03.2021 was excluded and the balance period available was permitted to be reckoned from 15.03.2021. Further this order was further modified in the same proceedings by the Hon ble Apex Court vide order dated 27.04.2021 restoring the order passed by the Tribunal dated 23.03.2020 and 08.03.2021 and period from 14.03.2021 till further orders also stands excluded till further orders. The present application was filed within the time provided by the Hon ble Apex Court and as such it cannot be said to be barred by limitation as contended by the Learned Additional Advocate General appearing for 5th respondent. So, we hold that the application is within limitation and it is maintainable under Section 14 of the Act and the preliminary objection was answered accordingly.

112. Further even going through the allegations made in the application, they have alleged that on account of proceeding without Environment Clearance, there is a possibility of degradation being caused to the ecology and that also will have to be assessed. Though there was no prayer made for compensation to be paid or seeking restoration of the proposal to its original position that can be assessed at a later stage after getting a report from the Committee appointed by this Tribunal. So, under such circumstances, the cause of action for claiming compensation for damage caused to ecology or restitution or restoration is still open to the party after obtaining the report from the Joint Committee appointed by this Tribunal and at that time the relief under Section 15 of the Act can be considered by this Tribunal even though there is no prayer to that effect on the basis of the allegations made in the application and also on the basis of the substantial question of environment raised failure of which results in damage to environment which requires restoration or restitution and as such Section 15 of the Act will also be applicable and if Section 15 is taken, then it is well within the period of limitation as well. So the preliminary objection regarding maintainability on the question of limitation is rejected and it is answered against the 5 th respondent and in favour of the applicant. The point nos. 1 and 2 are answered accordingly. Point no.3

113. As regards the interim order is concerned, the grievance of the applicants was that the 5th respondent is proceeding with irrigation part of the project as well without obtaining necessary clearances, though they have applied for the same and ToR issued as mentioned above. The main contention of the 5th respondent was that they are only proceeding with the drinking water project for which permission has been granted by this Tribunal in O.A. No. 273 of 2016. It may be mentioned here that the Tribunal at that time only accepted the undertaking given by them but did not go into the merits of the case as what is the quantity of water required for drinking water purpose and whether the project is only confined to that portion alone and did not make any observation regarding that aspect as well. In order to ascertain this aspect, this Tribunal had appointed a Joint Committee and the Committee had gone into the question and submitted a report which was extracted above where it has been mentioned that for drinking water purpose, the requirement is only 7.5 TMC and the project now conceives six reservoirs having a capacity of 90 TMC which includes the requirement for irrigation purpose as well. Further, the application for Environment Clearance was submitted for the entire PR LIS scheme which consists of drinking water as well as irrigation project and it was not confined to drinking water alone. Further, if it is an integrated scheme consists of both drinking water purpose and irrigation purpose and part of the

project cannot be severed so as to avoid obtaining Environment Clearance, then the entire project has to be looked into for the purpose of considering as to whether it is a separate project or not. If the present project as such accepting the contention of the 5th respondent as drinking water alone and allowed to proceed with the project as it is for construction of reservoirs having a capacity of 90 TMC then what is to be left out for irrigation purpose is only drawing of canals for supply and nothing more. If it is only a drinking water project, there would be no need for six reservoirs with storage capacity of 67.8 TMC, when the drinking water requirement is only 7.15 TMC. In the said Lift Irrigation Project, reservoirs are an integral and most important part of the Irrigation project, without which irrigation purpose cannot be served at all. Moreover, work is being carried out for installation of pumps with a capacity for pumping 90 TMC plus 30 TMC of water totalling 120 TMC as reported by the Joint Committee. So greater damage will be caused unless if this integrated project is considered together and impact assessment is done before proceeding with the project.

114. It may also be mentioned that the State of Telengana had already implemented Kaleshwaram Lift Irrigation Project which was also found in violation of the environmental laws by this Tribunal and compensation was imposed. It is true that the documents produced by the 5th respondent will go to show that the area to which the project is intended to benefit are drought prone areas and the water quality in that area is fluoride affected which cannot be used for drinking water purpose and the State has got a responsibility to provide drinking water but that will not outway the overlooking of environmental laws when an integrated project of drinking water as well as irrigation is contemplated and Environment Clearance is applied for. Once they have submitted to the jurisdiction of MoEF&CC under EIA Notification, 2006 for the combined project which was envisaged as per the notification issued in 2016, they cannot now fall back and say that Environment Clearance is not required for such project and it will not fall under 1 (c) Schedule to EIA Notification, 2006 as amended in 2009.

115. The report of the Joint Committee, though with dissent note by two of the members of State of Telengana, by majority categorically states that it is a combined project, Environment Clearance was applied for the combined project and proceeding with the project without obtaining prior Environment Clearance will amount violation of EIA Notification, 2006 and this prima facie satisfies the Tribunal that there is prima facie violation of environmental laws, which requires interference of this Tribunal. The objection raised by the 5th respondent that the Committee report cannot be considered as it was filed within two days of inspection has no basis on the fact that they are proceeding with project of construction of reservoirs etc. is admitted by them.

116. Further, the 6th respondent in their counter have contended that there are other projects which can be utilised for the purpose of meeting the drinking water purpose. Once the environment degradation has caused, it is very difficult to restore the same. Sustainable Development also will have to give way for protection of environment. When there is infraction of environmental laws enumerated under Schedule 1 of National Green Tribunal Act, 2010, then the Tribunal has got powers under Section 19(4) of the Act to grant interim relief to the party to the proceedings, restraining the violating party from proceeding with the project without obtaining Environment Clearance.

117. So, under such circumstances, we are satisfied that there is prima facie case and balance of convenience in favour of the applicant and if the relief is not granted, there will be irreparable and irreversible injury will be caused to the environment and as such in order to protect the environment, the 5 th respondent has to be restrained by an interim order of injunction from proceeding with the project without completing the process of obtaining Environment Clearance as required under EIA Notification, 2006. So, 5 th respondent is restrained by an interim order of injunction from proceeding with the Palamuru Rangareddy Lift Irrigation Scheme (PRLIS) as it stands now pending before the MoEF&CC for Environment Clearance as a combined project without getting Environment Clearance as required under EIA Notification, 2016. The point is answered accordingly.

118. In the result, we hold that the preliminary objection raised by the 5 th respondent is not sustainable and the same is rejected and hold that the application is maintainable and not barred by limitation.

119. The 5th respondent is restrained by an interim order of injunction from proceeding with the Palamuru Rangareddy Lift Irrigation Scheme (PRLIS) without obtaining Environment Clearance for which they have already applied for and pending consideration by MoEF&CC.

120. With the above directions and observations, the preliminary objection and the relief for interim order are answered accordingly.

.....J.M. (Justice K. Ramakrishnan)E.M. (Shri. Dr. K. Satyagopal) 29th October, 2021. AM