

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)**

Original Application No. 175/2018
(Earlier O.A. No. 125/2017) (SZ)
With
Original Application No. 350/2018
(M.A. No. 830/2018)

Jammula Choudharaiah & Anr Applicant(s)

Versus

Union of India & Ors Respondent(s)

With

Madicharla Satyanarayana & Anr. Applicant (s)

Versus

Union of India & Ors. Respondent (s)

Date of hearing: 15.07.2019

**CORAM : HON'BLE. MR. S. P. WANGDI, JUDICIAL MEMBER
HON'BLE. MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s): Mr. Sai Sathya Jith
Mr. Sravan Kumar

For Respondent (s): Mr. Vinayak Gupta, with Mr. S. Kerketta, Director for MoEF
& CC
Mr. Sarashwathy, Adv for R-1
Mr. G N Reddy, Adv and Mr. Sujatha Bagadh and Mr. T
Vijaya Bhasuar Reddy, Advs for R-6, 10 and 11

1. This case essentially had been filed in respect of Purushothapatnam Lift Irrigation Scheme undertaken by the State of Andhra Pradesh for Drawl and Lifting of water from River Godavari near Purushothapatnam Village in Seethanagaram (M), E.G. District, Andhra Pradesh seeking appropriate action against the respondents for having failed to obtain EC for the project. It is stated that the procedure prescribed under the EIA Notification, 2006 has not been followed before commencing with the project.
2. We have perused the affidavit filed on behalf of the MoEF & CC, State of Andhra Pradesh and the Ministry of Water Resources and Ganga

- Rejuvenation which is financing another project, namely, Polavaram project.
3. The categorical stand of the MoEF & CC is that no proposal for Purushothapatnam Lift Irrigation project has been received from the State Government for consideration under the EIA Notification, 2006.
 4. State of Andhra Pradesh in its affidavit has taken a stand that Purushothapatnam Lift Irrigation Scheme is only a Drinking Water Scheme for which no Environment Clearance is necessary. It is stated that irrigation and use by industries is only incidental to be primary project of drinking water.
 5. The Ministry of Water Resources as the financier of the project has stated in most categorical terms that Purushothapatnam Lift Irrigation Scheme is not connected in any manner with the Polavaram scheme. According to the Ministry, the cost of the Purushothapatnam Lift Irrigation Scheme has not been included in the DPR of Polavaram Irrigation Project and the Purushothapatnam Lift Irrigation Scheme has never been accepted by the Advisory Committee of the Ministry of Water Resources, River Development and Ganga Rejuvenation on irrigation, flood control and Multi-purpose project. In substance it is stated that the Purushothapatnam Lift Irrigation Scheme is not a part of Polavaram Irrigation Scheme as will appear from Paragraph 4 of the affidavit.
 6. Vide order dated 21.01.2019 upon taking note of Entry No. 1(c) (ii) *“irrigation project of more than 10,000 ha. of culturable command area”*, and the fact that the allegation was violation of EIA Notification, 2006, the MoEF & CC had been directed to take a decision in the matter and if it was found that the project was in violation of Section 5 of the Environment Protection Act, 1996, to take further appropriate action in accordance with law within one month. Action taken report was thus called for to be submitted by 10.04.2019.

7. The case was taken up again on 10.04.2019, but no action taken report was forth coming from the MoEF & CC. Infact there was no representative from the MoEF & CC on that day. We had thus directed the office in-charge in the Ministry to appear before us on the next date with the details and to report as to whether Environment Clearance was required for projects of the kind in question.
8. Today Dr. S. Kerketta, Director (IA) (River Valley and Thermal Sectors), MoEF & CC, appears before us and submits that, as per report received by him, Purushothapatnam Lift Irrigation Scheme is an expansion of the Polavaram Project Scheme and reiterated what had been stated by the Andhra Pradesh in its affidavit filed earlier to the extent that the object of the Purushothapatnam Lift Irrigation Scheme is to carry access water during monsoon from the River Godavari to the left main canal. No affidavit has been filed thus far to this effect. In any case, even if it is considered as a part of the Polavaram Scheme, DPR subsequently prepared in the year 2016 for the Purushothapatnam Lift Irrigation Scheme clearly reflects that it is a distinct project.
9. If it is an expansion of the Polavaram Project which appears to be the contention of Dr. Kerketta, even then under the EIA Notification, 2016, prior EC is necessary to be obtained following the entire procedure prescribed under the said notification. In this case obviously it has not been done which thus brings it clearly within the mischief of the violation notification dated 14th March, 2017.
10. We find that violation has undoubtedly taken place of which the MoEF & CC, the State Government and the State Pollution Control Board were aware. Original Application No. 175/2018 was initially filed on 27th May, 2018. After transfer to the present Bench, it has been renumbered as O.A. No. 175/2018. For all this period, the MoEF & CC and the State Pollution Control Board have remained silent. The state respondent's contention that the project is not an irrigation

Scheme but a Drinking Water Project in our view, is an attempt to mislead the Tribunal. Quite to the contrary the DPR filed by the applicant clearly mentions the name of the scheme as the “*construction of Lift Irrigation Scheme for Drawl and Lifting of water from River Godavari*” and the purpose is for providing irrigation facilities, domestic and for industrial needs of Vizag city as a part of Uttarandhra Sujala Sravanthi scheme. Even the stand of the Ministry of Water Resources River Development and Ganga Rejuvenation referred to earlier is very clear and substantiates the fact that the project is not a part of Polavaram Scheme.

11. Therefore, there can be no doubt that project would require prior Environment Clearance which has not been obtained in view of which appropriate orders were to follow today but Dr. S. Kerketta, Director (IA) (River Valley and Thermal Sectors), MoEF & CC, prays for short time to file an affidavit to set out the fact and circumstances which the MoEF & CC after verification has been able to gather.
12. In the interest of justice, we grant one week’s time as prayed for by Dr. S. Kerketta making it clear that the case shall be heard and disposed of on the next date even if such an affidavit is not filed.
13. List this matter on 07th August, 2019.

S. P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

July 15, 2019