

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH AT CHENNAI
ORIGINAL APPLICATION No. 153 of 2016

IN THE MATTER OF:

Paryavarana Parirakshana Sangham & Anr.

... Applicants

Versus

Union of India & Ors.

... Respondents

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PRELIMINARY SUBMISSIONS

1. The Present Original Application filed by the Applicants raised substantial questions related to environment which affects the community at large. The Original Application has been filed in order to protect the Sompeta Wetlands in Srikakulam District of Andhra Pradesh from the imminent destruction due to construction and consequent filling up of the wetlands in violation of the Wetland Rules 2010 and the Wetland Rules of 2017. The inaction by the State of Andhra Pradesh as well as the Ministry of Environment, Forest and Climate Change has led to a situation where an area which despite meeting all the requirements of a wetlands under both the Wetland Rules of 2010, 2017 as well as Ramsar Convention is yet to be declared as a Wetland under the Wetland Rules. The destruction of wetlands due to non identification of the area as a wetland under the Wetland Rules will result in the destruction of the Sompeta Wetland which is a source of livelihood of thousands of villagers in reside around it as well providing habitat to flora and fauna.

2. The application has been filed under Section 14 & 15 of the National Green Tribunal Act, 2010 read with Rule 6 of the Wetlands (Conservation & Management) Rules, 2010 for inclusion of Sompeta Wetlands as 'Protected Wetlands' under the Wetland Rules. **(Para 3 page no. 4 of the Original Application)**

BACKGROUND OF THE PRESENT APPLICATION

3. The issue with regard to the protection and conservation of Sompeta Wetlands was considered and dealt by this Hon'ble Tribunal as well as the erstwhile National Environment Appellate Authority (NEAA) since 2010, while considering the challenge to the Environmental Clearance granted by the

Ministry of Environment and Forest for setting up of a Coal Fired Thermal Power Plant by Nagarjuna Construction Company Limited. The NEAA by order dated 14.07.2010 in Appeal No. 4/2010 and 3/2010 set aside the Environmental Clearance granted to the project. The Ministry of Environment and Forest also vide order dated 15.07.2010 suspended the Environmental Clearance granted to the project. The project proponent filed a Review against the order of the NEAA setting aside the Environmental Clearance. The said Review Petition was however heard by the Hon'ble NGT since the NEAA ceased to operate after the coming in force of the NGT Act, 2010. The Hon'ble NGT decided to hear the Appeal afresh and the said Appeal was numbered as Appeal No. 23/2011. The NGT in its judgment dated 23.05.2012 refused to uphold the validity of the Environmental Clearance and held that the Environmental Clearance granted to the project which is kept on the suspension shall continue to remain suspended till the entire project is revisited from the stage of public hearing. The Hon'ble NGT also issued the following directions with regard to protection of wetlands.

"37. MoEF may also finalize and notify the important wetlands in the country as early as possible so that the location of developmental projects in and around such ecologically sensitive area could be avoided in future."

SUBSTANTIAL QUESTIONS RELATED TO ENVIRONMENT

4. The following substantial questions related to environment under Section 15 read with 2 (m) of the NGT Act arises in the present Application:

(A) Whether the inaction on the part of the State of Andhra Pradesh in declaring Sompeta as a wetland despite fulfilling all the parameters is a violation of the Wetland Rules, 2010 and 2017?

(B) Whether the act of allocating the Wetland for Multi Product Industry Zone is in violation of both the Wetland Rules, 2010 and 2017?

(C) Whether the act of allocating the wetlands for Multi Product Industry Zone is in violation of the Precautionary Principle as well as Principles of Sustainable Development?

(D) Whether the State and the Project Proponent can be allowed to benefit from their inaction by not declaring Sompeta as a Wetland under the Wetland Rules, 2010 despite fulfilling all the criteria?

(E) Whether, the allocation of Sompeta wetlands for Industrial purpose is in violation of the Order of the Hon'ble Supreme Court in M.K Balakrishna Versus Union of India (2017) 7 SCC 810 (2)?

4. SUBSTANTIAL GROUNDS

(A) The Allocation for Multi Product Industry Zone and Mega Food Park is deemed to have expired: The Government of Andhra Pradesh on the one hand cancelled the allotment for the Coal Fired Thermal Power Plant in view of the fact that the project proponent was required to complete the construction within a period of five years from the date of sale deed dated 06.06.2009. However, despite the passage of five years it was noted that no work was initiated with respect to the Thermal Power Plant. That in view of the above fact it was decided as follows by the Government as stated in the GOM:

"7. Government after careful examination, hereby order to cancel the allotment made for setting up of 1980 MW Thermal Power Project in the G.O. 1st read above and to permit M/s. N.C.C. Limited to use the lands admeasuring Ac. 972.69 cents in Sy. No. 152/2 etc., in Rushikonda, Gollagandi, Baruvapeta and Benkili Villages of Srikakulam District for development of "Multi Product Industry Zone", subject to following conditions and also conditions laid down in BSO-24 and G.O. Ms. No. 571, Revenue, dated 14.09.2012.

1. **The land shall be utilized for the purpose for which it is allotted within three years from the date of this orders;**
2. The alienee shall submit an annual report before 31st March on the progress of utilization to the District Collector;
3. The District Collector shall be the authority to cancel and resume the land from the allottee for violation of conditions as well as for non utilization of land."

It is pertinent to point out that the allotment for setting up of the Thermal Power Plant was cancelled on the ground that the project proponent could not complete the construction within the period of five years. The GOM dated 09.09.2015 also requires the project proponent complete the construction within a period of three years from 09.09.2015. The very fact that no construction has commenced implies that the allotment itself should stand cancelled. (**GOM No. 329 dated 09.09.2015, Annexure C page no. 35 of Original Application**)

(B) Inaction by the state in declaring Sompeta as a wetland under the wetland rules of 2010 : Ministry of Environment and Forest in response to

RTI dated 05.10.2015 has admitted that no wetland has been identified by the State. It has neither prepared a 'Brief Document' nor identified any 'Protected Wetlands' under the Wetland Rules. (**Para 9 page no. 12 of Original Application: RTI response dated 05.10.2015 of MoEF page no. 55 of Original Application**). The inaction is evident from the following:

(i) Representation before CWRA - Application by Applicant before Central Wetland Regulatory Authority for recognition and notification of Sompeta as wetlands under the Wetlands (Conservation & Management) Rules, 2010 as well as under the Ramsar Convention. (**Representation dated 24.09.2015, Annexure H page no. 57 of Original Application**)

(ii) MoEF letter to Government of Andhra Pradesh for according high priority to Sompeta wetlands. The MoEF based on the representation of the Applicant herein addressed a letter to the Special Chief Secretary, Environment, Forest, Science & Technology Department highlighting the following:

"2. It is mentioned that all the State Governments including Govt. of Andhra Pradesh have already been requested vide our letters dated 23rd December, 2013 & 19th September, 2014 to accord high priority regarding identification and notification of priority wetlands, constitution of State Wetland / Lake Authorities, development of integrated management plans, strengthening legal and regulatory regimes, and monitoring and evaluation, strengthening research-management interface, etc. and to take measures accordingly.

3. Since this subject pertains to the State Govt of AP, it is requested that the matter may be examined and appropriate action taken accordingly. The Petitioner may kindly be informed of the action taken, with a copy to the Ministry."

(Copy of the letter dated 18.01.2016 Annexure J page no. 63 of the Original Application)

(iii) State Government Order for protection of water bodies. The Government of Andhra Pradesh included land covered by water bodies in the prohibitory order book vide order dated 20.09.2003. As per the order all land covered by water bodies such as tanks, kunta, ponds, lakes, vagu, vankas, river

projects and reservoir porambokes are to be identified and ensure that encroachments are removed and water bodies protected.

(Annexure K page no. 64 of the Original Application)

(iv) **Government Memo dated 22.08.2003 addressed to Chief Commissioner of Land Administration and marked to all District Collector** in the State. The memo highlights the ecological importance of ponds, lakes and water bodies. The relevant paragraphs reads:

“The attention of Chief Commissioner of Land Administration, Hyderabad is invited to the reference cited and he is informed that Govt. in Memo No. 30307/Assn.I/2000-1, Dated 23.5.2000 have observed that the tanks, kuntas, ponds, lakes, supply channels etc., vested with Government are intended for providing irrigation facilities and drinking water to the people at large and to maintain and augment ground water potentialities. Apart from this, the water bodies are also helpful in the maintenance of ecological balance. Government have issued instructions in the above said Memo. To all the Dist. Collectors to remove the encroachments if any in the tanks etc., and also to get identified the encroachments and to protect water to get identified the encroachments and to protect water bodies on war footing under “Neeru-Meeru” Programme.

The Chief Commissioner of Land Administration is informed that the tanks, kuntas, ponds, lakes etc., are the sources of irrigation and these water bodies are helping in maintenance of ecological balance including the scare resources of ground water and are indispensable for protection and improvement of environment. The water sources includes projects, reservoirs, tanks, kuntas, stream, pond, lake, river canal etc. As such the vagu, vanka, river, porambokes comes under water bodies. The vagu, vanka, river, porambokes attracts the ban imposed by the Government.”

(Annexure K page no. 65 of the Original Application)

(C) Project Proponent has undermined the ecological significance of the Sompeta Wetlands. The project proponent has undermined the ecological significance of the wetlands by stating that “there is no ecological or

biodiversity significance to these lands” (Para 11 Reply of Respondent No. 4 dated 14.12.2016). In addition to the above, the following bald statements have been made by the proponent which shows their complete lack of understanding about wetlands and the Sompeta ecosystem:

- There are no signs of marshy land (Page no. 7).
- There are no indication of marine environment in the proposed site and the vegetative cover present in the land is dominated by weed / grass (Page no. 7).
- The area does not fall or contain in its vicinity any environmentally sensitive and important ecosystem (Page no. 7).
- The site consists of waste and barren land without any cultivation and habitation (Page no. 7).
- There are no threatened categories of plant and animal species as sited (*sic*) in the red data list (IUCN categories) (Page no. 7).
- A thorough study has been made as part of project to secure the environmental impact over these lands (Page no. 7).
- Report of wetlands of Srikakulam district: An ecological status survey by SACON cannot be relied upon as the same is without any proper authority (Page no. 7).
- These lands are poramboke lands as per revenue records and any industrial activity will not have any adverse impact on the environment (Internal Page no. 10).

(D) State Government Reply clearly states that the area is a wetland.

The State Government (Respondent No. 3) has filed its reply affidavit dated July, 2017 in which it is admitted as follows:

“14. I submit that during the verification of the above lands it was found by the Tahsildar, Sompeta that an extent of Ac. 1125-18 cents of Swamp lands locally called as Beela and these lands are Govt. lands and situated in a low lying, receiving the excess water from Mukundasagaram lies in Kanchili Mandal, Paidigam Reservoir and Mahendratanya groin and flood water during rainy season from the villages lying in western side and due to receiving and storage of heavy water which adversely affects surrounding paddy and other Agricultural Crops lies in private lands by inundation during rainy season and water stagnates throughout the year makes inaccessible to the swamp (Beela) except mid May month when water dried up and these lands are neither suitable for agriculture nor for any commercial plantations except useful for very few inland fishermen for fishing during the rainy season.

As some portions of lands which are above swamp level covered with BDR pattas, channel, CRZ area, and encroachments, the following extents were finally arrived at as detailed below:

Sl. No.	Name of the Revenue Village	Sy. No.	Classification	Net Extent arrived at (in Acs)
1	Rushikudda	152/2	Beela Gayalu (Swamp)	395.36
2	Gollagandi	23/9	Beela Tampara (Swamp)	208.75
3	Baruva peta	247	Tampara Poramboke	169.78
4	Benkili	231	Kaluva Poramboke	198.80
TOTAL				972.69

(Reply affidavit dated July, 2017 internal page no. 8)

(E) Inaction by the Central Government in implementing the Wetland Rules despite violation by the Government of Andhra Pradesh. The MoEF in its response of October, 2016 has stated as follows:

- As per the Rules all the State Government were to prepare 'Brief documents identifying and classifying wetlands within their respective territories'. (Para 7)
- Government of Andhra Pradesh has not submitted any proposal / brief document for identification and notification of Sompeta wetlands in Andhra Pradesh. (Para 9)
- All State Governments were also requested to prioritize and identify wetlands in the States as per the National Wetlands Inventory Assessment prepared by Space Application Centre (SAC) Ahmedabad on 1:50,000 scales. However, no proposal has been received from Government of Andhra Pradesh in this regard. (Para 16)
- It is submitted that in order to implement the orders of National Environment Appellate Authority (NEAA) in their judgment of 14th July, 2010, Salim Ali Centre for Ornithology and Natural History (SACON) was asked to undertake a rapid survey of all wetlands in Srikakulam district, including Sompeta Mandal for their ecological sensitiveness. SACON has submitted final technical reports highlighting major findings/achievements of the study, which was forwarded for the Government of Andhra Pradesh in March, 2014 for comments and further necessary action on the

recommendations made in the report. No response has been received from the State Government including the action taken by them. (Para 18)

(F) SACON Report highlights the ecological importance of Sompeta wetlands. SACON which is an autonomous institution under the Ministry of Environment and Forest was directed to submit a report to the Ministry on the wetlands of Srikakulam district, Andhra Pradesh. The study was funded by the Ministry of Environment and Forest. The Final Report dated July, 2012 was submitted by SACON to the MoEF (the same is annexed in the additional Reply statement of Respondent no. 4 dated 15.04.2021). The relevant paras of the Report are as follows:

- Sompeta Beela, a complex of three separate but connected water bodies of which two are brackish and the other fresh water, with its surrounding flood plains is a wetland complex with an approximate area of 800 hectares. It is an important habitat of 121 bird species and 493 plant species. Many bird species seen here fall under IUCN Red List. Around 100,000 people belonging to 30 villages around the wetland depend upon the wetland complex for various purposes, deriving ecosystem goods and services. During the dry season drained out portions of the wetland is used for grazing by thousands of cattle and wild boars. Around thousand families belonging to the traditional fisher communities fully depend upon the wetland for their sustenance. Around 2000 hectares of paddy (two crops) and 300 hectares of vegetable and horticultural crops are irrigated directly drawing water from the beela. **(Page No. 2 of the Report)**
- The wetlands and its environs of Srikakulam district provide habitats for 236 bird species and 662 plant species. Information on other taxa is scanty. As noted above several birds falling under 'Near threatened', 'Vulnerable' and 'Endangered' IUCN categories and Schedule-I of IWPA-1972 are seen in the wetlands and its environs. The Beela's as made out are not inconsequential water bodies in the coastal plains and should be protected from any violations of their integrity as they are ecologically sensitive and important, habitats for diverse biodiversity including several species under various categories of threat, and to ensure environmental, food and water security for lakhs of people. **(Page No. 7 of the Report)**

- The TPP is proposed in the Sompeta Beela, a low lying swamp with several microhabitats and several taxa of animals and plants. Three adjacent Beelas form the Sompeta wetland complex. The 'Pedda Beela' is connected to the two other Beelas; the second one known as the 'China Beela' and the third 'Tampara'. The third one eventually joins the sea. The wetland complex is nearly 4000 acres and 20 km long covering parts of Baruva in Sompeta mandal and Kapasguddi in Kaviti mandal. It is a wetland which is to be conserved under various State and Central Government policies and international treaties such as Ramsar Convention and the Wetland Rules-2010 notified by the Ministry of Environment and Forests, GoI. Of the 1882 acres handed over to NCC, 1200 acres is in the Beela. The area is highly fertile. Thirty two villages with a population of around 3 lakhs depend upon the Beela for various purposes, for water for irrigation, fisheries, fodder, thatching materials, medicinal plants and several edible plants. Apart from the direct ecosystem goods and services provided by the Beela to thousands of people, regulatory ecosystem services such as maintaining the hydrological regime of a large area which is vital for maintaining the ground water table supporting the agriculture, acting as a carbon sink and maintaining air quality, soil nutrient maintenance etc. are invaluable. The core area of the Pedda Beela is a major habitat for migratory and other birds, giving shelter to 122 bird species several of them falling under IUCN categories that require conservation actions. **(Page No. 26 & 27 of the Report)**
- 4.3 SOMPETA WETLAND COMPLEX – THE NEED FOR CONSERVATION

4.3.1 BIODIVERSITY VALUES

4.3.1.1 Important Bird Habitats

The Sompeta wetland and its environs is habitat to 122 bird species of which 11 species fall under IUCN Red List. Black Headed Ibis, Darter, Eurasian Spoon Bill, Painted Stork, Pallid Harrier, Spot Billed Pelican, Black Necked Stork and Greater Grey Headed Fish Eagle seen here belong to 'Near Threatened' categories by IUCN. Among these, Eurasian Spoon Bill and Pallid Harrier fall under Schedule – I of the Indian Wildlife Protection Act. Lesser Adjutant is a 'Vulnerable' species found here.

As mentioned in the site inspection report by the committee formed by the MoEF, GoI, in October every year thousands of

birds, locally known as 'Kondamkodi and Nathagotta' said to be coming from Siberia and Australia visit the wetland and stay there up to 5-6 months. The Beela is used as a resting and feeding habitat. This is an important migrant route and passage migrant place (Report of the site inspection committee, MoEF, 2010).

4.3.1.2 A potential habitat for Pink Headed Duck

As mentioned earlier, circumstantial evidences point to the possibility of the 'Critically Endangered' Pink Headed Duck occurring in the core area of the Pedda Beela in the Sompeta Wetland complex. As per literature stray populations of this bird were reported from Maharashtra and AP earlier. As the core area of the Pedda Beela is inundated throughout the year and with tall vegetation, extensive efforts will have to be taken in order to ascertain the presence of Pink Headed Duck during migratory season.

4.3.1.3 An area of great floristic wealth

Our three rapid surveys conducted during the months of October 2011 and February-March 2012 revealed the presence of 491 plant species in the Sompeta wetland area which indicate the floristic wealth of this area. Out of these 491 plants 206 plants are with medicinal properties, 15 plants edible and 10 plants are edible possessing medicinal properties. *Jatropha tanjorensis* reported from here is endemic to Coromandel costs of peninsular India. Apart from this, following plants viz., *Asystasia dalzelliana*, *Barleria acuminata*, *Iseilema anthephorodes* and *Phyllanthus rotundifolius* are endemic to Indian subcontinent. Further surveys during different seasons may establish the presence of many other species. **(Page No. 119 & 120 of the Report)**

(G) Sompeta wetland has been inventorised as wetlands in the National Wetland Atlas prepared by ISRO. The Wetland Atlas has clearly included Sompeta has a Wetland in its Atlas **(Annexure 2 of Final Written Submission dated 25.08.2020 filed by Applicant).**

(H) This area also attracts the direction of the Hon'ble Supreme Court in **M. K. Balakrishnan v. Union of India (2017) 7 SCC 810 (2).**

(I) Report of the District Collector Reflects Lack of Understanding of Wetlands, Wetland Rules and Ramsar Convention as well as undermining the ecological role of wetlands. The District Collector in his reports concludes as follows:

- 1) Some parts of the land on the eastern sides are not swamps and they are not perennial wet lands;
- 2) It is informed that, in rainy season, some part of these lands become water logged.
- 3) At the time of inspection, certain lands are found to be swamp in nature and water was found to be stagnated. Through these lands, a channel which carries this water was observed and it is found out that these lands are not in equal level of surrounding Sea. If the channel is regularly clear & de-silted, then there will be no water stagnation and land will not be swamp in nature.
- 4) During the physical inspection, paddy cultivation was observed. Local people informed that these are low-lying area and in rainy season, it is completely filled with water.

It is clear, that the Collector is not aware that there is no requirement of a Wetland to be 'Perennial'. The inaction on the part of the various authorities have led to lack of effective protection of an area that has immense ecological and social value.

(J) Importance of Wetlands in General

It is widely recognized that Wetlands are among the most productive ecosystems in the world, comparable to rain forests and coral reefs. An immense variety of species of microbes, plants, insects, amphibians, reptiles, birds, fish and mammals can be part of a wetland ecosystem. Climate, landscape shape (topology), geology and the movement and abundance of water help to determine the plants and animals that inhabit each wetland. The complex, dynamic relationships among the organisms inhabiting the wetland environment are called food webs¹. The future of humanity depends on wetlands. Wetlands are some of the most important biodiverse areas in the world. Many of the challenges of the future can be met through conserving and sustainably using wetlands, such as food and water security, human health, disaster risk reduction and climate change resilience. Wetlands can be thought of as "biological supermarkets." They provide great volumes of food that attract many animal species. These animals use wetlands for part of or all of their life-cycle. Dead plant leaves and stems break down in the water to form small particles of organic material called "detritus." This enriched material feeds many small aquatic insects, shellfish and small fish that are food for larger predatory fish, reptiles, amphibians, birds and mammals. The functions of a wetland and the values of these functions to humans depend on a complex set of

¹ [Why are Wetlands Important? | US EPA](#)

relationships between the wetland and the other ecosystems in the watershed. A watershed is a geographic area in which water, sediments and dissolved materials drain from higher elevations to a common low-lying outlet or basin a point on a larger stream, lake, underlying aquifer or estuary.

Role in Mitigating Climate Change : Wetlands' microbes, plants and wildlife are part of global cycles for water, nitrogen and sulfur. **Scientists now know that atmospheric maintenance may be an additional wetlands function.** Wetlands store carbon within their plant communities and soil instead of releasing it to the atmosphere as carbon dioxide. Thus wetlands help to moderate global climate conditions²

Wetlands and Sustainable Development Goals

The sustainable use of water and wetlands, by protecting the services they provide, is critical to enable society to achieve sustainable social and economic development, adapt to climate change and improve social cohesion and economic stability. The United Nations Sustainable Development Goals (SDGs) offer a universal agenda that, for the first time, recognises the need for restoration and management of water related ecosystems, including wetlands, as a basis for addressing water scarcity and water risks. Wetlands are a solution for several key challenges around the world related to water, food and climate, and key to meeting the SDGs. Most of the SDGs are relevant in some way or another to wetlands, but the following are of particular importance³:

1. Goal 2: End hunger, achieve food security and improved nutrition and promote sustainable agriculture Rice grown in wetland paddies is the staple diet of nearly three billion people Most commercial fish breed and raise their young in coastal marshes and estuaries. 70 % of all fresh water extracted globally is used for crop irrigation.
2. Goal 6: Ensure availability and sustainable management of water and sanitation for all Wetlands ensure fresh water, help replenish ground aquifers, and purify and filter harmful waste from water – such as fertilizers and pesticides, as well heavy metals and toxins from industry.
3. Goal 11: Make cities and human settlements inclusive, safe, resilient and sustainable Wetlands act as natural sponges absorbing rainfall, providing protection against coastal and river flooding to (partially) offset the need for man-made infrastructure. They also help reduce drought, protect

² [Why are Wetlands Important? | US EPA](#)

³ [wwd-2015-press-briefs-en.pdf \(cbd.int\)](#)

coastal areas for fisheries nurseries and regulate sediment transport thereby contributing to land formation and coastal zone stability.

4. Goal 13: Take urgent action to combat climate change and its impacts
Wetlands act as carbon sinks. Peatlands alone store more than twice as much as all the world's forests. Coastal wetlands reduce the impact of rising sea levels, acting as storm surge buffers and providing erosion control.

(K) The Hon'ble Tribunal has powers to direct for the Protection of the

Sompeta Wetlands: The Hon'ble Tribunal is vested with powers to direct for protection of the Sompeta Wetlands. In a recent Judgment the Hon'ble Supreme Court dealt at length with the powers of the NGT to issue directions. In

Municipal Corporation of Greater Mumbai v. Ankita Sinha, 2021 SCC

OnLine SC 897, the Hon'ble Court held as follows:

38. While on the statutory provisions, it is seen that the Central Government has framed the *National Green Tribunal (Practice & Procedure) Rules, 2011* (for short "the NGT Rules"). For our purpose, Rule 24 is important which reads thus:

"24. Order and directions in certain cases - The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its order or to prevent abuse of its process or to secure the ends of justice."

39. The said Rules make it clear that the NGT has been given wide discretionary powers to secure the ends of justice. This power is coupled with the duty to be exercised for achieving the objectives. The intention understandably being to preserve and protect the environment and the matters connected thereto.

40. By choosing to employ a phrase of wide import, i.e. *secure the ends of justice*, the legislature has nudged towards a liberal interpretation. **Securing justice is a term of wide amplitude and does not simply mean adjudicating disputes between two rival entities. It also encompasses *inter alia*, advancing causes of environmental rights, granting compensation to victims of calamities, creating schemes for giving effect to the environmental principles and even hauling up authorities for inaction, when need be.**

41. Moreover, unlike the civil courts which cannot travel beyond the relief sought by the parties, the NGT is conferred with power of moulding any relief. The provisions show that the NGT is vested with the widest power to appropriate relief as may be justified in

the facts and circumstances of the case, even though such relief may not be specifically prayed for by the parties.

On the function and role of the NGT, the Hon'ble Court held:

45. The Schedule I of the NGT Act is concerned with implementation of few environmental related enactments such as the Water Act, the Air Act, the Environment Act, the Forest Conservation Act etc. As one looks at these enactments, an expanded role for the NGT is clearly discernible. **The activities of the NGT are not only geared towards the protection of the environment but also to ensure that the developments do not cause serious and irreparable damage to the ecology and the environment. These would suggest a broad canvas for the NGT Act as also its creation.**

46. For the environmental forum, tasked with implementation of the statutes mentioned in Schedule I of the NGT Act, the concept of *lis*, would obviously be beyond the usual understanding in civil cases where there is a party (whether private or government) disturbing the environment and the other one (could be an individual, a body or the government itself), who has concern for the protection of environment. **Therefore, the NGT is primarily concerned with protection of the environment and also preservation of the natural resources. As the specialized forum, the NGT would be expected to take preventive action, besides settling and adjudicating disputes and pass orders on all environment related questions.**

47. The NGT is not just an adjudicatory body but has to perform wider functions in the nature of prevention, remedy and amelioration.

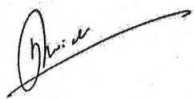
Preventive Power of the NGT

The Supreme Court highlighted the preventive powers of the NGT in Ankita Sinha case:

76. The power and jurisdiction of the NGT under [Sections 15\(1\)\(b\)](#) and (c) are not restitutionary, in the sense of restoring the environment to the position it was before the practise impugned, or before the incident occurred. The NGT's jurisdiction in one sense is a remedial one, based on a reflexive exercise of its powers. **In another sense, based on the nature of the abusive practice, its powers can also be preventive.**

The Hon'ble Tribunal may consider the above submission while deciding the Application.

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