

## SYNOPSIS

The State of Andhra Pradesh is constrained to move this Hon'ble Court under Article 32 of Constitution of India to protect the Fundamental Right, including Right to Life of its Citizens, [drinking /Irrigation/ water] which rights are being seriously impaired and infringed on account of unconstitutional, illegal and unjust acts on part of State of Telangana and it's officials, resulting in the citizens of the State of Andhra Pradesh are being deprived of their legitimate share of water for drinking and irrigation purposes.

The present petition is being moved because the State of Telangana is refusing to follow decisions taken in the Apex Council constituted under the Andhra Pradesh Reorganization Act, 2014 (hereinafter "**2014 Act**"), directions of Krishna River Management Board (KRMB) constituted under the 2014 Act and directions of Government of India. More significantly, State of Telangana is clearly in violation of a binding Award, popularly known as "Bachwat Award" made on 31.05.1976 and express provisions of the 2014 Act, whereby State of Andhra Pradesh was bifurcated into Telangana and Andhra Pradesh.

Part IX of the 2014 Act, deals with "Management and Development of Water Resources". Section 84 provides for constitution of Apex Council

“for supervision of the functioning of the Godavari River Management Board and Krishna River Management Board”. While Section 85 obliges the Central Government to constitute two separate boards to be called “Godavari River Management Board” and “Krishna River Management Board”, within a period of 60 days from appointed day. The purpose of these boards “ is ”.....maintenance and operation of such projects, as may be notified by the Central Government from time to time.” Amongst the functions of the Boards is: “(a) the regulation of supply of water from the projects to the successor States having regard to— (i) awards granted by the Tribunals constituted under the Inter-State River Water Disputes Act, 1956; ....”.

Section 87, deals with “Jurisdiction of Board” and stipulates that the Board shall ordinarily exercise jurisdiction on “Godavari and Krishna rivers in regard to any of the projects over headworks (barrages, dams, reservoirs, regulating structures), part of canal network and transmission lines necessary to deliver water or power to the States concerned, as may be notified by the Central Government, having regard to the awards, if any, made by the Tribunals constituted under the Inter-State River Water Disputes Act, 1956.” Sub section 2 thereof provides that in case of dispute matter has to be referred to Central Govt. for decision. Thus, in terms of

Section 87 (1) the Board can exercise jurisdiction only in respect of such aspects as are notified by the Central Government.

However, till date such a Notification has not been issued. Government of India called a meeting of the two States in this regard on 21.01.2020. Both the States were present. Amongst the issues discussed was “Item No. 4- Regulation of water supply to the successor states” and Notification for “Jurisdiction of Krishna River Management Board” was also suggested by Government of Andhra Pradesh, which was agreed to by the Secretary, Water resources, Government of India. On 06.10.2020, Apex Council had met and inter-alia resolved as under:

“1. Jurisdiction of GRMB and KRMB shall be notified by Government of India”. The Hon’ble CM of Telangana expressed his disagreement on this. Union Minister clarified that it is the Central Government’s prerogative for such notification as per APRA-2014 and thus the same will be notified as per the express mandate of APRA-2014.”

Series of meeting of KRMB held on 27.05.2016, 04.06.2020, did not bring any fruitful resolution. In fact, in the 12th meeting of the Board held on 04.06.2020, it was clearly recorded as under:

“Chairman informed that a proposal on jurisdiction of KRMB was submitted to Ministry of Jal Shakti by KRMB and this issue may be placed in the meeting of of the Apex Council for consideration.”

Meanwhile, in view of no progress on notification of the jurisdiction of KRMB, Telangana by its acts of commission is seriously affecting the water supply to Andhra Pradesh for irrigation and other purposes. The State of Andhra Pradesh has made several complaints in this regard, including on 16.11.2019, 07.03.2020 and 11.06.2021. It is the case of State of Andhra Pradesh that in Srisaillam Dam project, the reservoir's quantity has seriously depleted on account of use of water therefrom for generation of power in Telangana State and established by "daily readings" submitted by Authorities of that Dam. Telangana was requested to stop this forthwith.

Pertinently, Ministry of Jal Shakti in its communication dated 17.06.2021 to Director (Hydel), TSGENCO stated as under:

"Telangana State GENCO Authorities are requested to stop further release of water immediately through Srisaillam Left Power House and follow the water release orders issued by KRMB, except in case of extreme grid urgency."

However, instead of complying with the same, State of Telangana has issued a notification GO RT No. 34 dated 28.06.2021 notifying following decision:

"2. To tap more Hydel generation in the state, Government have taken a decision to Generate Hydel Power in the State up to 100% installed capacity.

3. Therefore, Government hereby direct the TSGENCO to generate the Hydel Power upto 100% installed capacity in the State."

This has caused immense hardship for people of State of Andhra Pradesh as availability of water has been seriously prejudiced by depletion in Srisaillam

Dam project as well as other projects such as the Nagarjuna Sagar Project and the Pulichintala Project.

The Chief Minister of Andhra Pradesh in this regard has written to Hon'ble Prime Minister on 01.07.2021 and 07.07.2021 seeking his urgent intervention in view of serious threat to Right to Life of tens of millions of citizens of Andhra Pradesh. Additionally, the Hon'ble Chief Minister has also addressed letters to the Ministry of Jal Shakti on 01.07.2021 and 05.07.2021. Despite, the Reorganization having taken place in 2014, and the Apex Council having been created in time, the jurisdiction of KRMB Board which was to be declared under Section 87 thereof 2014 Act, has not been notified as yet. This is resulting in illegal acts on part of State of Telangana and its Authorities, creating serious Constitutional issues.

Hence, the present writ petition.

**List of Dates and Events**

<b>Date</b>	<b>Event</b>
31.05.1976	<p>The decision of Krishna Water Disputes Tribunal (herein after referred to as KWDT I) rendered under section 5(2) and modified by the Further Report u/s 5(3) of the Inter-State River Water Disputes Act, 1956 (Act, 1956) which was published in terms of Section 6 of the said Act 1956.</p> <p>KWDT I determined the yield at 75% dependability as 2060 TMC. Clause V (C) of the award granted liberty to the erstwhile State of A.P. to utilize the surplus flows over and above 75% dependable flows but without any right over such use. The allocation made to the erstwhile State of AP was 800 TMC and also the return flows which totaled to 811 TMC.</p> <p>The erstwhile State of Andhra Pradesh took up several Projects to use the remaining water based on the liberty granted by KWDT I</p>
15.06.1996	<p>The erstwhile State of AP issued a G.O.Ms 69 specifying operation rules for Srisaillam and Nagarjunasagar reservoirs incorporating the priorities to be followed for Drinking and</p>

Date	Event
	<p>Irrigation (out of both dependable and remaining waters). While ensuring flows to meet the requirements of Krishna delta and NagarjunaSagar command under both left and Right canal, projects of Srisailam Right Bank Canal (SRBC) and Chennai Water Supply Scheme are contemplated to utilize dependable flows whereas the projects of Srisailam Right Bank Canal (SLBC), and Telugu Ganga Project (TGP) are contemplated to utilize surplus flows.</p>
31.5.2000	<p>The award of KWDT I (Clause XIV (B)) provided for a review after 25 years and the riparian States of Maharashtra, Karnataka and Andhra Pradesh filed complaint under Section 3 of Act 1956 to the Central Government.</p>
02.04.2004	<p>Krishna Water Disputes Tribunal II (KWDT II) was constituted under Section 4 of Act, 1956.</p>
28.9.2004	<p>G.O.Ms.No.107, dated 28.9.2004 was issued restoring the MDDL of Srisailam Reservoir to +854 ft.</p>

<b>Date</b>	<b>Event</b>
30.12.2010	KWDT-II rendered its decision under section 5(2) of Act 1956. In clause IV of the decision, it held that the allocations made by KWDT I at 75% dependability which was determined as 2060 TMC plus the return flows assessed as 70TMC in all totaling to 2130 TMC be maintained and shall not be disturbed. The remaining waters were also allocated by KWDT II on various dependabilities viz 65% and average flows. It made allocation of 1005 TMC to the erstwhile State of Andhra Pradesh.
2011	The party States and the Central Government filed applications under section 5(3) of Act 1956 seeking clarification on the decision of the KWDT II.
16.9.2011	The erstwhile State of Andhra Pradesh filed a special leave petition against the above decision being SLP ( C) 10498 of 2011. This Hon'ble Court interalia directed that till further orders, the decision which may be taken by the Tribunal on the reference petitions filed by the party States and the



<b>Date</b>	<b>Event</b>
	Central Government shall not be published in the official gazette.
29.11.2013	KWDT II rendered its further report under Sec. 5(3) of Act,1956. The erstwhile State of Andhra Pradesh filed Special leave petitions before this Hon'ble Court against the decision rendered under Section 5(3) of Act, 1956.
02.06.2014	The erstwhile State of A.P. was bifurcated into two states by Andhra Pradesh Reorganisation Act 2014 ( Act 2014) and the successor States of Andhra Pradesh and Telangana came into existence on the appointed date. Section 84 of Act 2014 stipulates that planning of new projects in both the successor States has to be appraised and recommended by the Krishna River Management Board and by CWC and thereafter to be sanctioned by the Apex Council.
15.5.2014	The Central Government made a reference under Sec.89 of Act, 2014 to KWDT-II, directing it to make project wise specific allocations if not made by earlier Tribunal and also to determine operational protocol for project-wise releases

<b>Date</b>	<b>Event</b>
	of water in the event of deficit flows. The said reference under Sec.89 of Act 2014 is pending adjudication.
28.05.2014	The Central Government constituted Krishna River Management Board (KRMB) as per Section 85 of Act, 2014.
22.10.2014	Petitioner State requested the 2 <sup>nd</sup> Respondent to ensure that its instructions are complied with by the 3 <sup>rd</sup> Respondent and further operation of Power House on the left bank is stopped forthwith in order to protect the vital interest and legal right of water of SRBC and KC Canal
12.02.2015	Petitioner State requested 1 <sup>st</sup> Respondent to take over the dams of Srisailam and Nagarjunasagar along with all its regulators both power and canals and fulfil its obligation under Sec.87(1) of Act, 2014.
01.12.2015	The petitioner State submitted its views to KRMB
27.05.2016	In the 4 <sup>th</sup> Board meeting of the KRMB, it directed both the States to submit their respective views by 10.06.2016 as regard the nature of Jurisdiction to be conferred on KRMB to oversee operation of the common projects and development of new projects and power related issues

<b>Date</b>	<b>Event</b>
31-05-2016	The Chief Minister of Telangana vide his letter to Union Water Resources Minister, GoI, requesting not to issue the Draft Notification on the Jurisdiction of the KRMB citing amongst other reasons that the Draft Notification is not in accordance with provisions of Act, 2014.
June 2016	The Chief Minister of Andhra Pradesh vide his letter to Minister for Water Resources, GoI, informing that timely notification of jurisdiction of KRMB would not only enable provision of water to farmers whose livelihood depends on this resources but also ensure proper water management between the two States which is one of the cardinal principles adopted by GoI while dividing the erstwhile Andhra Pradesh.
04.05.2018	KRMB vide proceeding No. F.No.2/13/2015/KRMB/1379-81 requested the Ministry of Jal Shakti (MoJS) to notify the jurisdiction of KRMB as per the draft notification annexed to it.
16.11.2019	The Petitioner State vide its letter to TS GENCO requested to stop the water drawls through SLBC Power House till the

Date	Event
	release orders from KRMB is received for effective utilisation of available waters in the reservoir
21-01-2020	The Secretary, Water Resources during the meeting opined that there is no need to link the issue of notification of jurisdiction to the final award of KWDT-II. After detailed discussions it was decided to place this issue before the Apex Council.
07.03.2020	The Petitioner State vide letter to TS GENCO requested to stop the water draws through Srisailam Left Bank Power House for effective utilisation of available water in the reservoir.
04.06.2020	12 <sup>th</sup> Board meeting of KRMB was convened
20.07.2020	The Petitioner State vide its letter requested KRMB to advise the State of Telangana to ensure that the instructions of the KRMB are complied with and further operation of power house on left bank is stopped immediately to improve the reservoir level.
30.07.2020	The Petitioner State vide its letter requested KRMB to advise State of Telangana to ensure that the instructions of

Date	Event
	the KRMB are compiled by and further operation of power house on left bank is stopped immediately to improve the reservoir level.
03.08.2020	KRMB vide its letter to State of Telangana requested it to issue necessary directions to TS GENCO to stop the water releases through the Srisailam Left Power House immediately and action taken may be informed.
06.08.2020	KRMB vide its letter to the MoJS stated that Power Generation being incidental while drawing water for irrigation and drinking purposes, the downstream requirements from Nagarjunasagar may be kept in view and requested MoJS to issue necessary instructions to the State of Telangana to stop further draws of water from Srisailam Left Bank Power House and follow the water release order of KRMB for generation of power in future.
05.09.2020	The State of Telangana admitted in its letter to KRMB interalia stating that:  “4. As such, in terms of KWDT-I, it is evident that the power generation at Srisailam is incidental to meet the irrigation requirements of Nagarjunasagar”

Date	Event
06.10.2020	In the 2 <sup>nd</sup> meeting of the Apex Council after detailed discussion it was decided that the Jurisdiction of KRMB shall be notified by the Central Government as mandated by Act, 2014
26.10.2020	The petitioner State furnished modified draft notification to Jurisdiction of the KRMB.
08.11.2020	The State of Telangana while sharing its views on the notification of Jurisdiction of KRMB expressed that notification shall only be taken up after the allocations are made by KWDT-II.
24.11.2020	The petitioner State requested KRMB to advise State of Telangana to restrict TS GENCO to limit draws of water from the Srisaillam Left Bank Power House as per operation protocol for power generation as there is no downstream irrigation demands
15.04.2021	The Petitioner State while requesting Central Government for notifying the Jurisdiction of KRMB stated that unauthorized projects which do not have any water

Date	Event
	allocations and which are not included in Act, 2014 should not be brought under the jurisdiction of KRMB.
11.06.2021	The Petitioner State informed KRMB that TS Genco is resorting for power generation at Srisailam since 02.06.2021 though there is no immediate requirement of water at Nagarjunasagar Project and without any release order of KRMB. It was also requested to advise TS Genco authorities for stoppage of water drawls through power house of Telangana State with immediate effect.
17.06.2021	The 2 <sup>nd</sup> respondent requested TS Genco to stop further release of water immediately through Srisailam Left Power House and follow the water release orders issued by KRMB.
23.06.2021	The Petitioner State vide its letter to KRMB stated that the water level at Srisailam is +808.40 ft as on 01.06.2021 and is below MDDL of +834 ft and that till date 8.98 TMC of water is received as inflows into Srisailam, out of this 3.09 TMC of water was drawn for power generation by Telangana though sufficient water is available at

Date	Event
	<p>Nagarjunasagar for initial khariff operation and that there is no immediate requirement of irrigation water under Nagajunasagar. Further, it was stated that drawl of water depletes water level at Srisailam reservoir and would take time for filling up resulting in delayed releases through Pothireddypadu for Chennai water supply, TGP, SRBC, KC Canal and GNSS.</p>
28.06.2021	<p>The State of Telangana issued G.O.Rt.No.34, Energy (Power-II) Department, to generate Hydel Power in the State upto 100% installed capacity.</p>
29.06.2021	<p>The Petitioner State vide its letter to KRMB stated that in spite of repeated requests, State of Telangana is continuously drawing larger quantity of water for power generation.</p>
30.06.2021	<p>The State of Andhra Pradesh requested KRMB to take stringent action to restrain Telangana for further drawls from Pulichintala Reservoir for the purpose of power generation without indents for the KDS. It was also requested that the releases made by Telangana for power</p>



Date	Event
	generation shall be accounted against the share of Telangana.
01.07.2021	The Chief Minister of the Petitioner State vide its letter to the Prime Minister brought to his notice about the unilateral and irrational acts of State of Telangana which is indiscriminately drawing water for power uses contrary to the rules of the integrated operation of the Reservoirs and contrary to provisions of the agreement dated.18/19.06.2015 under Act, 2014 and the injury caused to the Petitioner State and its inhabitants and also requested to notify the Jurisdiction of KRMB forthwith under Sec.87 of Act, 2014.
05.07.2021	The Chief Minister of State of Andhra Pradesh vide another letter to Ministry of Jal Shakti to take appropriate action in stopping the State of Telangana from unilateral release of water for exclusively for power to achieve 100% installed capacity, which has an catastrophic impact on the Petitioner State and its inhabitants besides being illegal.

<b>Date</b>	<b>Event</b>
07.07.2021	The Chief Minister of Petitioner State vide another letter to the Prime Minister requesting to advise the Central Government to notify the Jurisdiction of KRMB forthwith and take strict action against the State of Telangana for unauthorised drawl of water exclusively for power and against its unauthorised projects.
13.07.2021	The Chief Secretary of the petitioner State vide his letter to the Secretary, Ministry of Jal Shakti informed the Ministry of the State's decision to approach this Hon'ble Court in view of the recalcitrant attitude of the State of Telangana.
	Hence the present writ petition

IN THE SUPREME COURT OF INDIA

CIVIL WRIT JURISDICTION

WRIT PETITION (CIVIL) NO. of 2021

(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

**IN THE MATTER OF:**

1. The State of Andhra Pradesh Petitioner  
Represented by its Secretary,  
Water Resources Department,  
A.P. Secretariat, Velagapudi,  
Guntur, Andhra Pradesh.

Versus

1. Union of India Respondent No.1  
Ministry of JalSakthi,  
Represented by its Secretary,  
Shram Shakti Bhavan, New  
Delhi.
2. Krishna River Management Respondent No.2  
Board, Represented by its  
Chairman, 5<sup>th</sup> floor,  
Jalasoudha, Erramazil,  
Hyderabad..
3. The State of Telangana Respondent No.3  
Represented by its Chief  
Secretary, Telangana  
Secretariat, Hyderabad.
4. TS GENCO, Represented by Respondent No.4  
Chairman and Managing  
Director, State of Telangana,  
VidyutSoudha, Somajiguda,  
Hyderabad

**A WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA AGAINST SEEKING A MANDAMUS ON THE UNION OF INDIA TO PERFORM ITS OBLIGATION TO NOTIFY THE JURISDICTION OF THE KRISHNA RIVER MANAGEMENT BOARD UNDER SECTION 87 OF ANDHRA PRADESH REORGANISATION ACT 2014**

**To**

**The Hon'ble Chief Justice of India and  
His Companion Justices of the Supreme Court of India**

**This humble petition of the Petitioner above  
named:**

1. The petitioner State of Andhra Pradesh is constrained to file the present Writ Petition under Article 32 of the Constitution of India seeking a mandamus to the 1<sup>st</sup> respondent Union of India to discharge its statutory functions as mandated under Sec.87 of the Andhra Pradesh Reorganisation Act, 2014 (Act 6 of 2014) forthwith by notifying the Jurisdiction of the 2<sup>nd</sup> Respondent Krishna River Management Board (KRMB) and pending such notification, direct the 3<sup>rd</sup> Respondent to abide by the Award of KWDT-I published on 31.05.1976 and follow the order preference of beneficial uses mentioned in the Award of KWDT-I and Agreements reached under the provisions of Act, 2014 and to ensure compliance by the 3<sup>rd</sup> Respondent without resorting to any unilateral actions, i.e., issuance of G.O. Rt No. 34, Energy (Power II) Department dated 28.06.2021 directing the 4<sup>th</sup> Respondent to produce hydro power to its 100% installed capacity and in default, to take control of all the outlets of the common Reservoirs of Srisailem and Nagarjunasagar and also Pulichintala Reservoir to regulate the releases from these Reservoirs as per the binding protocol between the States.

2. The brief facts and circumstances leading to the filing of the present Writ Petition are as follows:

- i. It is stated that there are several inter-State Rivers in India flowing through various riparian States catering to their respective needs. Since most of the States are agrarian States depending on rain water and River waters for cultivating respective command areas, by the passage of time, water requirements have increased from time to time and due to vagaries of nature, the riparian States are developing their irrigation facilities to their respective command areas by constructing various projects. The construction of new projects and the pattern of utilisation by one riparian State is causing some kind of impact on the another riparian State which resulted in serious disputes between riparian States.
- ii. It is relevant to submit that water is a National asset and water is required for several beneficiary uses like Drinking & Domestic, Municipal and Irrigation, Power. River Water is a moving resource which implies that changes in quality or quantity of water in one place may directly affect uses of water somewhere else. A River is an indivisible physical unit and the riparian States are in a State of permanent dependence upon each other. The utilisation of water of a river within the territory of one riparian State influences the conditions of water utilisation in other riparian State. The conflict of interest of riparian States must be resolved by agreement, Judicial Decree, Legislation or Administrative Control, so as to secure a fair and just distribution of water resources among the riparian States.

iii. It is relevant to refer to the constitutional provisions relevant to inter-State River Water. As per the entry 56 of List I (Union List) of the VII<sup>th</sup> Schedule of Constitution of India, which relates to Regulation and development of Inter-State rivers and river valleys, to the extent to such regulation and development under the control of Union is declared by the Parliament by Law to be expedient in the Public Interest. In exercise of its Power under entry 56 of List, Parliament has enacted River Boards Act, 1956. Under entry 17 of List II, the Legislation of a State has exclusive power over water i.e., water supplies, irrigation and canals, drainage and embankments, Water storage and Water Power subject to the provisions of Entry 56 of List I. Thus, subject to competent Legislation by Parliament, the State has plenary Legislative and Executive Powers over all waters within its jurisdiction. However unregulated use, control and distribution of the waters of Inter-State River and River Valley, within the boundary of one State may prejudicially effect the interest of another State or States, which may result into a water dispute. Article 262 of Constitution enables Parliament to make laws for adjudication of disputes relating to Inter-State River or River valley. By exercising the power under Article 262 of the Constitution, Parliament enacted the Inter-State Water Disputes Act, 1956 (hereinafter referred to as Act 1956) and a detailed mechanism was envisaged for resolution of the water disputes among the riparian states. The disputes relating to Inter-State rivers Krishna, Narmada, Godavari, Cauvery, Vamsadhara, Ravi Beas, Mahanadi and Mahadayi were

referred to various Tribunals constituted under Section 4 of Act, 1956 and those Tribunals have rendered their decision under Sec.5(2) and Sec.5(3) of Act, 1956. The following Tribunals have rendered their respective decisions.

- a. Krishna Water Disputes Tribunal – I (KWDT-I) and Krishna Water Disputes Tribunal –II (KWDT-II)
  - b. Godavari Water Disputes Tribunal (GWDT)
  - c. Narmada Water Disputes Tribunal
  - d. Ravi Beas Water Disputes Tribunal
  - e. Cauvery Water Disputes Tribunal (CWDT)
  - f. Vamsadhara Water Disputes Tribunal (VWDT)
  - g. Mahadayi Water Disputes Tribunal
- iv. It is submitted that some of the Awards passed by the Tribunals were accepted by the riparian States and were smoothly implemented. Some Awards were challenged before this Hon'ble Court and were confirmed by this Hon'ble Court with certain modifications.
- v. The salient features of the Award of KWDT-I dated. 31.05.1976 are as follows:

**Clause III:**

*“The Tribunal hereby determines that, for the purpose of this case, the 75 per cent dependable flow of the river Krishna up to Vijayawada is 2060 T.M.C. The Tribunal considers that the entire 2060 T.M.C. is available for distribution between the States of Maharashtra, Karnataka and Andhra Pradesh. The Tribunal further considers that additional quantities of water as mentioned in sub-Clauses A(ii), A(iii), A(iv), B(ii), B(iii), B(iv), C(ii), C(iii) and C(iv) of Clause V will be added to the 75 per cent dependable flow of the river Krishna up to Vijayawada on account of return*

*flows and will be available for distribution between the States of Maharashtra, Karnataka and Andhra Pradesh.”*

**Clause IV**

*“The Tribunal hereby orders that the waters of the river Krishna be allocated to the three States of Maharashtra, Karnataka and Andhra Pradesh for their beneficial use to the extent provided in Clause V and subject to such conditions and restrictions as are mentioned hereinafter.”*

**Clause:V(C)**

*“The State of Andhra Pradesh will be at liberty to use in any water year the remaining water that may be flowing in the river Krishna but thereby it shall not acquire any right whatsoever to use in any water year nor be deemed to have been allocated in any water year water of the river Krishna in excess of the quantity specified hereunder :—*

*(i) as from the water year commencing on the 1st June next after the date of the publication of the decision of the Tribunal in the Official Gazette up to the water year 1982-83.*

*800 T.M.C.*

*(ii) as from the water year 1983-84 up to the water year 1989-90*

*800 T.M.C. plus a quantity of water equivalent to 10 per cent of the excess of the average of the annual utilisations for irrigation in the Krishna river basin during the water years 1975-76, 1976-77 and 1977-78 from its own projects using 3 T.M.C. or more annually over the utilisations for such irrigation in the water year 1968-69 from such projects.*

*(iii) as from the water year 1990-91 up to the water year 1997-98*

*800 T.M.C. plus a quantity of water equivalent to 10 per cent of the excess of the average of the annual utilisations for irrigation in the Krishna river basin during the water years 1982.83, 1983-84 and 1984-85 from its own projects using 3 T.M.C. or*



*more annually over the utilisations for such irrigation in the water year 1968-69 from such projects.*

*(iv) as from the water year 1998-99 onwards*

*800 T.M.C. plus a quantity of water equivalent to 10 per cent of the excess of the average of the annual utilisation for irrigation in the Krishna river basin during the water years 1990-91, 1991-92 and 1992-93 from its own projects using 3 T.M.C. or more annually over the utilisations for such irrigation in the water year 1968-69 from such projects.”*

**Clause VI**

*“Beneficial use shall include any use made by any State of the waters of the river Krishna for domestic, municipal, irrigation, industrial, production of power, navigation, pisciculture, wild life protection and recreation purposes.”*

It is submitted that KWDT-I allocated 800 TMC to the erstwhile State of Andhra Pradesh out of 75% dependable flows of 2060 TMC and 11 TMC out of return flows of 70 TMC KWDT-I Categorically held that the order of beneficially uses is

- a. Domestic and municipal uses.
  - b. Irrigation.
  - c. Industrial
  - d. Production of power etc.,
- vi. It is submitted that Act, 1956 was amended in 2002 introducing certain amendments viz., adding proviso to Sec.4(1) of the Act and also introducing sub-Sec.2 to Sec.6 of the Act stating that the Awards passed by the Water Tribunals prior to the year 2002 deemed to become final and cannot be reopened. Similarly the Awards which were published in the Central Government Gazette would attain the force of the decree of this Hon'ble Court. The Award passed by KWDT-I and including the order of preferences

of beneficial uses and the Award passed by GWDT are governed by the amended Act, 1956 and they became final. KWDT-II has rendered its decision under Sec.5(2) & (3) of Act,1956 on 30.12.2010 and 29.11.2013 respectively. KWDT-II by confirming the award of KWDT-I up to the allocations made at 75% dependability including return flows and also maintain the order of preference of beneficial uses and operation protocols. Further distributed the flows up to average flows (2578 TMC) at different dependabilities. The decisions of KWDT-II are sub-judice before this Hon'ble Court in SLP Nos. 10498 of 2011, 3076-79 of 2014 and batch.

- vii. It is submitted that in the disputes referred to the Cauvery Water Disputes Tribunal (CWDT), there were serious disobedience, right from the interim order passed by the Tribunal. The State of Karnataka passed a legislation nullifying the interim order passed by the Tribunal which was set aside by this Hon'ble Court in the judgment reported in 1993 Supp (1) SCC 96 and set aside the legislation made by the State of Karnataka. A three member committee headed by Prime Minister was constituted for implementation of the interim order passed by the Tribunal. Even after, passing the final award under Section 5 (2) of Act 1956, which was affirmed by this Hon'ble Court, still there are complaints about non-compliance, because of the recalcitrant attitude of the riparian States. Similarly, the State of Kerala enacted Kerala Irrigation and Water Conservation (Amendment)

Act, 2006 to nullify the decision of this Hon'ble Court reported in 2006 (3) SCC 643 in respect of Mullaperiar Dam. The said enactment was set aside by this Hon'ble Court by a Constitution Bench Judgment reported in 2014 (12) SCC 696. The award passed by CWDT was affirmed by this Court in Judgment reported in (2018 4 SCC 1) wherein this Hon'ble Court held that the water is a National asset and water uses by upper riparian States need to be regulated, so as to not to cause any prejudice or loss to a lower riparian State.

- viii. It is submitted that this Hon'ble Court has ample jurisdiction under Article 32 of the Constitution of India. A State is a "*parens patriae*" as an obligation to protect the interests of its citizen when upper riparian State/3<sup>rd</sup> Respondent acting prejudicially to the interest of its inhabitants whose right to life guaranteed under Article 21 of Constitution of India is being prejudicially affected which includes drinking water needs and right to seek out their livelihood by cultivating through an assured irrigation within in the allocations made to it. The issues raised in the present Writ Petition is not a water dispute and it is for the enforcement of protection of rights under of the Petitioner State and its inhabitants under the provisions of Act, 2014 and also enforcement of rights under an adjudicated decision of KWDT-I as held by a constitutional bench of this Hon'ble Court in State of Karnataka Vs State of Andhra Pradesh and ors reported in (2000) 9 SCC 572. Further, even otherwise this Hon'ble Court has ample jurisdiction

to entertain the present writ petition at the instance of a State in the light of the ratio laid down in (2009) 5 SCC 492 as well as (2002) 2 SCC 507. Further, in the relief sort in the Writ Petition is based on enforcement of rights under the provisions of Act 6 of 2014. The bar under Sec.11 of Act, 1956 does not apply. The 3<sup>rd</sup> Respondent filed Writ Petition No.545 of 2015 under Article 32 of the Constitution seeking direction against 1<sup>st</sup> Respondent to constitute a Tribunal under the provisions of Act, 1956.

- ix. It is submitted that Krishna Water Disputes Tribunal-I (KWDT-I) distributed flows up to 2130 TMC and allocated 811 TMC to the erstwhile State of Andhra Pradesh. KWDT-I categorically held in clause VI of the Award that the order of preference of beneficial uses drinking water, irrigation and hydro-power etc. It also granted liberty to the erstwhile State of Andhra Pradesh to utilise flows over and above 2130 TMC without getting any right till its decision is reviewed. A copy of the relevant extracts from the Award of KWDT-I dated 31.5.1976 is annexed herewith and marked as **ANNEXURE-P-1(Pg.....to.....)**
- x. It is relevant to bring to the notice of this Hon'ble Court, the findings of KWDT-I that irrigation needs prevail over Power uses.

*“The sanctioned utilisations of the existing irrigation projects and westward diversion schemes for generation of hydro-electric energy can be met from the available supply in the basin. But the States have proposed numerous new projects and extensions of existing projects both for irrigation and westward diversion of water. The available river supplies in the Krishna basin are insufficient to satisfy the demands of all the existing uses and the projected additional uses as well.*

The river Krishna commands extensive irrigation potential along the natural course of the river. The demands for the pressing needs of irrigation alone are so large that they cannot be wholly satisfied from the river supplies. Until irrigation from the new projects is fully developed, it may be possible to allow westward diversion of some additional water for purposes of power production. But upon full development of such irrigation, it will be impossible to satisfy the demands of the irrigation projects as well as the additional demands for the westward diversion schemes. There is a clear conflict of interest between claims of downstream irrigation and power development by westward diversion of water. The question is whether, in allocating the waters of the river Krishna, the claims of power production by westward diversion of water should be allowed at the expense of irrigation.” (page. 137 of KWDT-I) (emphasis supplied)

“For irrigation use, there is no substitute for water, but power may be generated from coal, oil, nuclear energy and other sources. In general, whenever production of hydro-electric power interferes with irrigation and the two uses cannot be reconciled, increasing priority may have to be given to irrigation. Rapid growth in population calls for increased food production which in turn calls for intensified irrigation.” (page.139 of Report of KWDT-I) (emphasis supplied)

“For irrigation use water is a priceless treasure, since without water there can be no irrigation and without irrigation successful crop production is not possible in the arid and semi-arid regions of the Krishna basin. These regions depend for survival on agriculture which provides the basis of living for more than 75 per cent of their people. The economic efficiency of this agrarian society clearly depends on proper diet standards which alone can ensure happy living, healthy children and economic efficiency.”(page.145 of Report of KWDT-I) (emphasis supplied)

“The Irrigation Commission pertinently observed:<sup>(112)</sup>

*"Multipurpose river valley projects offer the best use of surface water resources; but apart from situations where both power generation and irrigation may be possible, there may be other cases in which a choice has to be made between the use of water either for irrigation or power generation.*

*The Western Ghats offer sites with high heads for the generation of cheap hydroelectric power by diverting westwards the waters of east flowing streams. In Maharashtra, part of the waters of the Koyna, a tributary of the Krishna, has already been partly diverted westwards to generate hydroelectric power at the Koyna power-station, which has an installed capacity of 560MW. In such cases, where a choice is involved, the priority has to be determined not only by economic considerations, but by recognition of the fact that irrigation is possible only by the use of water, whereas power can be generated from alternative sources such as coal, gas, oil and atomic fuels. In view of the overall scarcity of water resources, we recommend that wherever a choice has to be made between irrigation and power generation, preferences should be given to irrigation. The east flowing rivers rising in the Western Ghats traverse areas which have low rainfall and suffer from water scarcity. The needs of these areas should receive priority."*

*We hold that irrigation use of the waters of river Krishna should prevail over hydro-electric use requiring diversion of the water across the Western Ghats and that westward diversion of water beyond what is allowed for the Koyna Hydro-electric Project and the Tata Hydrel Works should not be permitted in the Krishna basin. We have protected the annual westward diversion of 67.5 T.M.C. by the Koyna Hydrel Project and 42.6 T.M.C. of water by the Tata Hydrel Works. This water represents more than 5per cent of the 75 percent dependable flow of the Krishna river."(page.148 of Report of KWDT-I) (emphasis supplied)*

It is thus very clear from the above findings that irrigation needs shall prevail over hydro-power needs. Clause.VI of the Gazetted order categorically states the order of preference of various beneficial uses and irrigation prevails over hydro-power.

- xi. It is humbly submitted that pursuant to the liberty clause in the Award of the decision of KWDT I, the party States filed complaint before KWDT II which rendered its decision under section 5(2)

and 5(3) of Act 1956 on 30.12.2010 & 29.11.2013 respectively. KWDT-II protected the allocations made by KWDT-I up to 2130 TMC and distributed the flows over and above 2130 and up to average i.e., 2578 TMC at different dependabilities. It made an allocation of 1005 TMC to the erstwhile State of A.P. The erstwhile State of AP filed Special leave petitions before this Hon'ble Court against the decision rendered under Section 5(2) and 5(3) of Act, 1956. This Hon'ble Court by order dated 16.9.2011 granted an order of status quo as regards publication of the Award of KWDT-II made under Section 5(2) and 5(3) of Act, 1956 on 30.12.2010 and 29.11.2013 respectively. A. copy of the order dated 16.09.2011 passed by this Hon'ble Court in SLP (C)No. 10498 of 2011 is herewith filed as **Annexure- P-2(Pg.....to.....)**

- xii. It is humbly submitted that the Petitioner State of Andhra Pradesh is dependent on Krishna Waters which is its lifeline. All the beneficial uses including drinking, domestic needs and irrigation are to be met out of the allocation made by KWDT-I. The Projects in the Petitioner State which are dependent on waters of River Krishna are affected by unilateral drawls of water for Power uses from Srisailam, Nagarjunasagar and Pulichintala Reservoirs by the 3<sup>rd</sup> Respondent State of Telangana, the details of which are as under:-

Sl. No.	Name of the Project	Allocation (TMC)	Ayacut (Acres)
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<b>I. Projects dependent on assured waters</b>			
1.	Srisailam Right Branch Canal	19.00	1,90,000
2.	Nagarjunasagar Right Bank Canal	132.00	11,70,000
3.	Nagarjunasagar Left Bank Canal	32.25	3,78,000
4.	Krishna Delta System	152.20	10,78,000
5.	Guntur Channel	4.00	27,000
6.	Vaikuntapuram Pumping Scheme (Drinking Water Supply)	2.00	-
7.	Drinking water Supply to Chennai City	15.00	-
	<b>Sub Total:</b>	<b>356.45</b>	<b>28,43,000</b>
<b>II. Projects dependent on surplus waters included in the Eleventh Schedule of Act 6 of 2014</b>			
1.	Telugu Ganga Project	29.00	2,75,000
2.	HandriNivaSujalaSravanti	40.00	6,02,500
3.	GaleruNagariSujalaSravanti	38.00	3,25,000
4.	Veligonda	43.5	4,33,000
	<b>Sub Total:</b>	<b>150.5</b>	<b>16,35,500</b>
	<b>Grand Total:</b>	<b>560.95</b>	<b>44,78,500</b>

It is stated that SRBC, Telugu Ganga Project and Galeru Nagari Sujala Sravanti (GNSS) would receive water only when the water level at the Srisailam Reservoir is above +854 ft. These serve the drought prone areas of Rayalaseema region of the Petitioner State. About 9 million people are dependent on these waters for meeting drinking and irrigation water requirement in Rayalaseema Region and about 23 million population in the Petitioner State including Rayalaseema Region, and Prakasam and Nellore Districts. The



Population dependent on River Krishna as per the 2001 census is shown below:

**Statement showing the urban and rural population of Andhra Pradesh in Krishna basin**

**I. Population with in Krishna basin:**

Sl. No.	District	Total district Area, sq.km.	District Area lying in Krishna Basin, sq.km	Population 2001				
				Total of district		Lying in the basin		
				Urban	Rural	Urban	Rural	Total
1	2	3	4	5	6	7	8	9=(7+8)
1	Kurnool	1760	10258	817464	2712030	476444	1580658	2057102
2	Guntur	11328	5210	1285760	3179384	591400	1462393	2053793
3	Prakasham	17140	782	467368	2592055	21329	118293	139622
4	Krishna	8796	3838	1343447	2844394	586235	1241198	1827434
5	Anantapur	19134	4348	919563	2720915	208951	618270	827221
	<b>Sub Total</b>	<b>58161</b>	<b>24440</b>	<b>4833607</b>	<b>14048784</b>	<b>1884366</b>	<b>5020820</b>	<b>6905172</b>

Figures in column 5 & 6 are obtained from Census of India, 2001

**II. Population outside Krishna basin dependent on Krishna water:**

Sl. No.	Name of the district	Total district area in sq.km	District area lying Outside basin but dependant on Krishna waters in sq.km	Population (Numbers) as per Census of India, 2001					
				Entire district			Service Area outside Krishna basin but dependant on Krishna water		
				Urban	Rural	Total	Urban	Rural	Total
1	2	3	4	5	6	7=(5+6)	8	9	10
1	Cuddapah	15378	12821	587753	2014044	2601797	490029	1679175	2169204
2	Chittor	14987	11252	811030	2934845	3745875	608892	2203377	2812269
3	Kurnool	17600	6576	817464	2712030	3529494	305453	1013374	1318826
4	Prakasam	17140	13038	467368	2592055	3059423	355505	1971654	2327159
5	Guntur	11328	5671	1285760	3179384	4465144	643739	1591817	2235556
6	Krishna	8796	41212	1343447	2844394	4187841	629444	1332681	1962124
7	Anantapur	19134	14183	919563	2720915	3640478	681609	2016827	2698436
8	West Godavari	7795	1047	750887	3052630	3803517	100862	410043	510905
9	Nellore	13160	637	599043	2069521	2668564	29013	100232	129245
	<b>Sub Total</b>	<b>125321</b>	<b>106441</b>	<b>7582320</b>	<b>2411982</b>	<b>3170213</b>	<b>384455</b>	<b>1231918</b>	<b>1616373</b>

Figures in column 5 & 6 are obtained from Census of India, 2001

In addition to above, supply of drinking water to Chennai City through Telugu Ganga Canal can be done only when water level in Srisailam Reservoir is above +854 ft. which would cater to needs of 9.7 million population. All these projects are being affected prejudicially if the levels are not maintained in Srisailam Reservoir. However, the 3<sup>rd</sup> Respondent unauthorisedly drawing water from Srisailam Reservoir exclusively for Power uses taking advantage of the fact that the jurisdiction of 2<sup>nd</sup> Respondent has not been notified by the 1<sup>st</sup> Respondent.

- xiii. It is stated that as per the Project Report of Srisailam Project, 1962 the FRL is at +885 ft. and MDDL is at +854 ft. At page 170 of report of KWDT-I it was noted that

*“In 1962 Project Report of Srisailam Hydro-Electric Project (Parts I to III) it is stated at page 10 that : —*

*' The M.D.D.L. of 854 has been fixed to ensure minimum cutting of the leading channel from the irrigation sluices, when undertaken at a future date. The C.O.P.P. Committee in their report on Nagarjunasagar Project have recommended lowering the M.D.D.L. to 830 as in their opinion the firm power potential could be increased to 377 M.W. at 60 per cent L.F. The working table for the reduced M.D.D.L. as proposed by Committee is appended. ”*

In the said report, it was also envisaged for irrigation supply to the Rayalaseema area which was proposed to be irrigated under Siddeswaram dam. Even the working table also envisages an irrigation demand of 41.00 TMC. The Srisailam Project was sanctioned by Planning commission in the year 1964 as a Hydro Electric Project with Power with an installed capacity of 770 MW.

- xiv. It is submitted that subsequently, irrigation component was also added due to pressing needs of the people for irrigation and drinking water requirements and became a Multipurpose Project. Presently, it caters to all beneficial uses of Rayalaseema region including drinking and irrigation and to supply drinking water to Chennai City of the State of Tamil Nadu and also supply water to SRBC, Telugu Ganga Project, (GNSS) & HNSS), and Veligonda in the Petitioner State on its right side and Kalwakurthy LIS of the State of Telangana on its left side.
- xv. It is submitted that the Power House at Srisailam on the left side of the Project was started around the year 2002 with an installed capacity of 900 MW. It is clear from KWDT-I Award and the Project Report that the Power generation can be made when the MDDL is maintained at +854 ft.
- xvi. It is stated that the erstwhile State of Andhra Pradesh issued G.O.Ms.No.69, dated 15.6.1996 by fixing the operation protocols to be followed for the integrated operation of Srisailam and Nagarjuna Sagar Reservoirs, besides catering to the needs of various Projects, dependent on these two Reservoirs. It is pertinent to mention that as per the integrated operation mentioned therein MDDL is at +834 ft at Srisailam reservoir and MDDL of Nagarjunasagar reservoir is at +510 ft. However, in the G.O.Ms.No.107, dated 28.9.2004 the MDDL of Srisailam Reservoir was restored to +854 ft. Thus, no Power generation can be there from Srisailam Reservoir when the water level is below

+854 ft. A copy of the gazette notification of the KWDT-I dated.31.05.1976 are annexed herewith and filed as **Annexures-P-3(Pg....to.....)**

A copy of the G.O.Ms.No.69, dated 15.6.1996 is annexed is herewith as **Annexure P-4(Pg.. .....to.....)**

A copy of the G.O.Ms.No.107, dated 28.9.2004 is annexed herewith and filed as **Annexures- P-5(Pg....to.....)**

- xvii. It is submitted that the erstwhile State of Andhra Pradesh was bifurcated into two successor States Telangana and Andhra Pradesh under the provisions of the Act 2014. As per Sec.3 and 4 of the said Act, the successor States were formed on territory basis as specified therein. The successor States are bound by previous treaties and Awards and other binding agreements to which the erstwhile State of Andhra Pradesh is a party. Thus, the 3<sup>rd</sup> Respondent State of Telangana is bound by KWDT-I Award which is holding the field as regard distribution of waters of River Krishna. Award of KWDT-I also became final by virtue of proviso to Sec.4(1) of Act, 1956 and by virtue of Sec. 6(2) of the said Act it attained the force of a decree of this Hon'ble Court and the same cannot be reopened or reviewed. In fact, the 3<sup>rd</sup> Respondent State of Telangana has pleaded the same before this Hon'ble Court in the Special Leave Petition Nos. 33623 of 2014 and 33627-29 of 2014 filed by it against the decision rendered by KWDT-II under section 5(2) and (3) of Act 1956. Thus, the 3<sup>rd</sup> Respondent State is estopped by its own pleadings to contend otherwise.

xviii. It is relevant to refer to Sec.69 of Act, 2014 which reads as follows:

*“If it appears to the Central Government that the arrangement in regard to the generation or supply of electric power or the supply of water for any area or in regard to the execution of any project for such generation or supply has been or is likely to be modified to the disadvantage of that area by reason of the fact that it is, by virtue of the provisions of Part II, outside the State in which the power stations and other installations for the generation and supply of such power, or the catchment area, reservoirs and other works for the supply of water, as the case may be, are located, the Central Government may, after consultation with the Governments of the successor States wherever necessary, give such directions as it deems proper to the State Government or other authority concerned for the maintenance, so far as practicable, of the previous arrangement and the State to which such directions are given shall comply with them.”*

It is clear from the above provision that the successor States cannot produce power detrimental to the interest of the other successor State. Further, the 1<sup>st</sup> respondent after consultation with the successor States where ever necessary give such directions to the successor States or other authority concerned for the maintenance, so far as practicable of the previous arrangement and to the State to which such directions are given shall comply with. Thus, the 1<sup>st</sup> Respondent has a statutory obligation both under entry 56 of list.1 of VII<sup>th</sup> Schedule and also under the provision of Act 2014. This statutory obligation on the 1<sup>st</sup> Respondent is also to see that in order to protect the federal rights of the respective riparian States. The 1<sup>st</sup> Respondent has to act promptly whenever it is brought to its notice about various unilateral actions by upper riparian State

and prejudice caused to the lower States. The 1<sup>st</sup> Respondent should also take appropriate steps that the riparian States honour the agreements and operational protocols based on adjudicated Award.

xix. It is submitted that as per Section 84 of the Act 6 of 2014, an Apex Council was constituted, which would supervise the functions of the Godavari River Management Board (GRMB) and Krishna River Management Board (KRMB).

xx. It is humbly submitted that a perusal of Section 85 of the Act 2014, the Central Government shall constitute two separate Boards to be called “Godavari Management Board (GRMB)” and “Krishna River Management Board (KRMB)”. Thus, Krishna River Management Board was constituted on 28.5.2014. The functions assigned to the KRMB are specified in Sub-Section 8 of Section 85 of Act 6 of 2014, which reads as follows: -

*“(8) The functions of each Board shall include –*

- (a) The regulation of supply of water from the projects to the successor States having regard to –*
  - (i) awards granted by the Tribunals constituted under the Inter-State River Water Disputes Act, 1956;*
  - (ii) any agreement entered into or arrangement made covering the Government of existing State of Andhra Pradesh and any other State or Union territory;*
- (b) the regulation of supply of power generated to the authority in-charge of the distribution of power having regard to any agreement entered into or arrangement made covering the Government of the existing State of Andhra Pradesh and any other State or Union territory;*
- (c) the construction of such of the remaining on-going or new works connected with the development of the water*

*resources projects relating to the rivers or their tributaries through the successor States as the Central Government may specify by notification in the Official Gazette;*

- (d) making an appraisal of any proposal for construction of new projects on Godavari or Krishna rivers and giving technical clearance, after satisfying that such projects do not negatively impact the availability of water as per the awards of the Tribunals constituted under the Inter-State River Water Disputes Act, 1956 for the projects already completed or taken up before the appointed day; and*
- (e) such other functions as the Central Government may entrust to it on the basis of the principles specified in the Eleventh Schedule.”*

Further paras 2, 3 & 9 under Eleventh Schedule of Act 2014

specifies that:

*“2. In the event of conflicting demand of water for irrigation and power, the requirement of water for irrigation shall take precedence.*

*3. In the event of conflicting demand of water for irrigation and drinking water, the requirement of water for drinking water purpose shall take precedence.*

*9. In case of non-implementation of the decision by either of the States, the defaulting State shall bear the responsibility and shall face financial and other penalties imposed by the Central Government.”*

xxi. It is humbly submitted that Section 87 of the Act 6 of 2014

stipulates as below:

*“87. (1) The Board shall ordinarily exercise jurisdiction on Godavari and Krishna rivers in regard to any of the projects over headworks (barrages, dams, reservoirs, regulating structures), part of canal network and transmission lines necessary to deliver water or power to the States concerned, as may be notified by the Central Government, having regard to the awards, if any, made by the Tribunals constituted under the Inter-State River Water Disputes Act, 1956*

*(2) If any question arises as to whether the Board has jurisdiction under sub-section (1) over any project referred thereto, the same shall be referred to the Central Government for decision thereon.”*

The Board shall exercise such jurisdiction on Krishna River in regard to any of the projects as may be notified by the Central Government.

- xxii. It is humbly submitted that after formation of the successor States under Act, 2014 and after constitution of KRMB on 28.05.2014, for last 7 years, the control of Srisaïlam Dam and Right Side Power House are with the Petitioner State and Left Side Power House is with 3<sup>rd</sup> Respondent as per their geographical and territorial location, whereas, the control of entire Nagarjunasagar dam is with the 3<sup>rd</sup> respondent, even though, the head regulator of Nagarjunasagar Right Canal and right half of the Nagarjunasagar dam are in the geographical territory of Petitioner State. Due to lack of control over the NSRC Head Regulator, the Petitioner State is not getting its due share and timely releases of water even after issuance of release order by 2<sup>nd</sup> Respondent. The 3<sup>rd</sup> Respondent State and the Petitioner State are the successor States of the erstwhile State of Andhra Pradesh because of the geographical advantage and dominance of the upper riparian State defying the protocols and acting unilaterally prejudicial to the interest of the lower riparian State.
- xxiii. It is humbly submitted that under Sec.89 of Act, 2014 a reference was made to KWDT-II, directing to make project wise specific



allocations if not made by earlier Tribunal and also to determine operational protocol for project-wise releases of water in the event of deficit flows. Thus, the reference made to KWDT-II is not under Act 1956 but it is under Sec.89 of Act 2014 is pending adjudication before KWDT II.

xxiv. It is stated that 3<sup>rd</sup> Respondent State of Telangana has filed a complaint dated.14.07.2014 under Sec.3 of Act, 1956 which is pending with the 1<sup>st</sup> Respondent. The Petitioner State has filed its objections for reference on 08.07.2015 and 06.07.2021 and contending that the Award of KWDT-I which became final by virtue of proviso to Sec.4(1) and Sec.6(2) of the Act, 1956 as amended in the year 2002 and there is no water disputes involved for reference under Sec.3 of Act, 1956 in the Compliant filed the 3<sup>rd</sup> Respondent. The 3<sup>rd</sup> Respondent filed Writ Petition No.545 of 2015 under Article 32 of the Constitution of India seeking a direction against the 1<sup>st</sup> Respondent to constitute a Tribunal under the provisions of Act, 1956.

xxv. It is humbly submitted that it has been agreed between both the States under the provisions of Act 2014 that the allocation of 811 TMC made by KWDT-I to the erstwhile State of Andhra Pradesh, is to be apportioned in between the successor States as 299 TMC for Telangana and 512 TMC for Andhra Pradesh. Thus, this is an agreement to enforce and apportion the adjudicated share by KWDT-I. This arrangement is arrived under the provisions of Act, 2014, which was agreed before the KRMB, by both the successor States and reduced into writing on 18/19-6-2015. Subsequently,

the said agreement is acted upon by both the States every water year. It is also agreed that the KRMB would monitor the releases. The said agreement is in vogue for the last seven years and both States are drawing the releases as per the agreements. However, there are certain incidents of violations by the 3<sup>rd</sup> Respondent State defying the directions issued by the 2<sup>nd</sup> Respondent from time to time. A copy of the minutes of said meeting dated 18/19-6-2015 is annexed herewith and filed as **Annexure-P6(pg....to.....)**.

xxvi. It is submitted that even in the minutes of the 2<sup>nd</sup> Apex Council held on 06.10.2020 observed as follows under item 3.4 that:

*“...Additional Secretary drew the attention of the members of the apex council that as per section S5(8)(a) of APRA-2014, one of the functions of both KRMB & GRMB include regulation of supply of water from the projects to both the States having regard to awards granted by the Tribunals under ISRWD Act of 1956. She informed that sharing of river Krishna waters is being carried out as per working arrangement agreed by both the states as 298.96 TMC to Telangana and 512.04 TMC to AP out of the total 811 TMC allocated by KWDT-I, pending award of KWDT-I..”*

*“....Ministry of Jal Shakti, GoI proposes that with regards to sharing of waters of River Krishna, until the Award of KWDT-II is notified, award of KWDT-I shall be in force. The working arrangement as agreed by both the states shall continue....”*

Thus, the interim arrangement dated 18/19-06-2015 is acted upon and directed to be continued between the States which includes the operation protocols to be followed in respect of common reservoirs with reference to different beneficial uses. As already submitted there is no provision for exclusive drawl of water for

Power needs. Even the provisions of the Act, 2014 specifically states that whenever there is conflict between Power and Irrigation needs, Irrigation needs will prevail over Power needs and Power needs are to be met incidentally. A copy of the minutes of the 2<sup>nd</sup> meeting of Apex Council held on 06.10.2020 is annexed herewith and filed as **Annexure-P-7(pg.....to.....)**.

xxvii. It is humbly submitted that the Central Water Commission has issued guidelines for preparation of River basin Master Plan in the year 2007, wherein it has observed at chapter.XI, which reads as follows:

*“Man uses water for a multitude of purposes. The important uses of water are: irrigation, hydropower generation, domestic and industrial use, inland navigation, fish and wild life preservation, and recreation. Flood management, though not a water use in the strict sense, also may be added to this, since it involves regulation of water and hence affects the availability for other uses. The estimation of future water demand by the various user sectors in the basin is an important aspect of master plan preparation. According to the National Water Policy the priorities of water use should be: (i) Drinking water, (ii) Irrigation. (iii) Hydropower, (iv) Ecology, (v) Agro Industries and non Agricultural Industries and (vi) Navigation and other uses.”*

xxviii. It is submitted that KRMB was constituted as per the Sec.85 of Act 6 of 2014 which was monitoring the drawl of water from the major Reservoirs including Srisailam and Nagarjuna Sagar by both the States, since they are common Reservoirs with the Petitioner State on right side and the 3<sup>rd</sup> Respondent State on left side. A three member Committee was formed comprising of

Engineer-in-Chief of the State of Telangana, Engineer-in-Chief of the State of Andhra Pradesh and Member-Secretary, KRMB, which has been monitoring the water uses. The KRMB is permitting the water uses as per the respective indents of the States. Depending on crop calendar, the water availability and other requirements, including the drinking water requirements, KRMB is permitting the States to draw water.

xxix. It is humbly submitted that the above executive actions of the 3<sup>rd</sup> Respondent State of Telangana is causing serious prejudice and sufferance to the existing projects in Petitioner State *viz.*, SRBC (19 TMC) and Chennai Water Supply (15 TMC) at 75% dependability allocated by KWDT-I, Telugu Ganga Project (25TMC) allocated by KWDT-II at 65% dependability and the 3 projects included in the para.10 of the Eleventh Schedule of Act, 2014, *viz.*, GNSS 38 TMC), (HNSS 40 TMC) and Veligonda Project (43.5 TMC). All the above projects can draw water by gravity from Pothireddypadu Head Regulator only when the level at Srisailam Reservoir is at +854 ft. and above, except the Veligonda Project which can be operated at +840 ft. HNSS is lift irrigation project lifts the water from a water level of +834 ft,

xxx. It is humbly that the Petitioner State vide its letter dated 22.10.2014 requested the 2<sup>nd</sup> Respondent to ensure that its instructions are complied with by the 3<sup>rd</sup> Respondent and further operation of Power House on the left bank is stopped forthwith in order to protect the vital interest and legal right of water of SRBC

and KC Canal. A copy of the letter dated 22.10.2014 from Petitioner State to 2<sup>nd</sup> Respondent is annexed herewith and filed as **Annexure-P-8(pg....to.....)**.

xxx. It is submitted that the Petitioner State vide its letter dated 12.02.2015 requested 1<sup>st</sup> Respondent to take over the dams of Srisaïlam and Nagarjunasagar along with all its regulators both power and canals and fulfil its obligation under Sec.87(1) of Act, 2014. A copy of the letter dated 12.2.2015 from Petitioner State to 1<sup>st</sup> Respondent is annexed herewith and filed as **Annexure-P-9(pg...to.....)**

xxxii. It is submitted that the Petitioner State submitted its views to 2<sup>nd</sup> Respondent on 01.12.2015, for including in the 4<sup>th</sup> Board meeting of the KRMB with regard to the list of projects to be notified under the jurisdiction of KRMB. In the 4<sup>th</sup> Board meeting of the KRMB held on 27.05.2016, the KRMB directed both the States to submit their respective views as regard to the nature of the Jurisdiction to be conferred on KRMB to oversee operation of the common projects and development of new projects and power related issues. 3<sup>rd</sup> Respondent, however, by its letter dated 31.05.2016 informed the 1<sup>st</sup> respondent not to issue a draft notification as it would adversely affect its interest. It is stated that the Chief Minister of Petitioner State vide its letter of June 2016 to 1<sup>st</sup> respondent requested for the notification of the Jurisdiction of KRMB under Sec.87 of Act, 2014. A copy of the letter dated

22.10.2014 from Petitioner State to the 2<sup>nd</sup> Respondent is annexed herewith as **Annexure P-10** (Pg...to....).

A copy of the minutes of 4<sup>th</sup> Board meeting of KRMB held on 27.05.2016 are annexed herewith and filed as **Annexures—11**(pg...to.....).

A copy of the letter dated 31.5.2016 from the 3<sup>rd</sup> Respondent to the 1<sup>st</sup> Respondent is annexed herewith as **Annexure P-12**(Pg...to.....)

A copy of letter from the Chief Minister of the Petitioner State to 1<sup>st</sup> Respondent during June, 2016 are annexed herewith and filed as **Annexures-P-13**(pg...to.....).

xxxiii. It is submitted that in the inter-state meeting held on 15.02.2018 at New Delhi under the Chairmanship of the Secretary (WR, RD & GR), it was observed in the said meeting that

*“Secretary, WRD, GoAP stressed that it is high time to notify jurisdiction as there were delays in implementation of water release order of KRMB especially from Nagarjua Sagar (NSP) to Nagarjuna Sagar (NS) Right Canal. Further, non-realization of water at AP border in NS left Canal, which is 200 km from Head Regulator, water releases to Krishna Delta System (KDS) are delayed. He was of the view that pending allocations to be made by KWDT-II, jurisdiction of KRMB may be notified by Government of India as there was no linkage between jurisdiction and project wise allocation by KWDT-II. In case of GRMB also, Andhra Pradesh is of the view that jurisdiction of GRMB may be notified.*

*Secretary (WR, RD&GR) stated that in the absence of notification of jurisdiction of KRMB and GRMB, they are not in a position to exercise their power effectively. Hence, pending project wise allocations, jurisdiction may be notified*

*and amendment can be done it, if required after KWDT-II Award. ....”*

Thus, it is very clear that lack of conferment of jurisdiction on KRMB is causing serious problems for the Petitioner State to realise its allocation. In fact, the 1<sup>st</sup> Respondent opined that the 2<sup>nd</sup> Respondent is unable to act and effectively enforce its jurisdiction, more particularly because of the recalcitrant attitude of the 3<sup>rd</sup> Respondent in repeatedly violating directions given by the 2<sup>nd</sup> Respondent and drawing water from common reservoirs prejudicially impacting the Petitioner State.

A copy of the minutes of the said meeting dated .....is herewith filed as **ANNEXURE-P-14 (Pg...to.....)**

xxxiv. It is submitted that the 2<sup>nd</sup> Respondent vide proceeding No. F.No.2/13/2015/KRMB/ 1379-81 dt.04.05.2018 requested the 1<sup>st</sup> Respondent to notify the jurisdiction of the 2<sup>nd</sup> Respondent as per the draft notification annexed to it. A copy of proceeding No. F.No.2/13/2015/KRMB/ 1379-81 dt.04.05.2018 from 2<sup>nd</sup> Respondent to the 1<sup>st</sup> Respondent is annexed herewith and **Annexure-P-15 (pg....to....)**

xxxv. It is submitted that the Petitioner State vide its letter dated 16.11.2019 to the 4<sup>th</sup> Respondent, requested to stop the water draws through Srisailam Left Bank Power House till the release orders from 2<sup>nd</sup> Respondent is received for effective utilisation of available water in the reservoir.

A copy of letter dated 16.11.2019 from Petitioner State to 4<sup>th</sup> Respondent is annexed herewith and filed as **Annexure-P-16(pg....to.....)**.

- xxxvi. It is submitted that a joint meeting was held on 21.01.2020 of the 2<sup>nd</sup> Respondent and GRMB in the presence of the 1<sup>st</sup> Respondent and in the minutes of the said meeting, it was held that conferring Jurisdiction of KRMB and GRMB cannot be postponed till Award of KWDT-II is passed and already considerable time has elapsed since the provisions of Act, 2014 has already given effect to and it is time to notify the jurisdiction of the Boards. A copy of the minutes of the joint meeting of the 2<sup>nd</sup> Respondent and GRMB in the presence of the 1<sup>st</sup> Respondent held on 21.01.2020 is annexed herewith and filed as **Annexure-P17(pg.....to.....)**.
- xxxvii. It is humbly submitted that Petitioner State vide its letter dated 07.03.2020, to 4<sup>th</sup> Respondent requesting it to stop the water drawls through Srisailam Left Bank Power House for effective utilisation of available water in the reservoir. A copy of letter dated 7.3.2020 from Petitioner State to the 4<sup>th</sup> Respondent is annexed herewith and filed as **Annexure-P18(pg.....to.....)**.
- xxxviii. It is humbly submitted in the 12<sup>th</sup> Board meeting of the KRMB at Secretaries level on 04.06.2020 in item 12.5 it was agreed between both States that the power produced from the Srisailam Reservoir would be shared in the ratio of 50:50 as agreed in the 2015 and subsequently being followed. In the said meeting under the very same item 12.5 the protest of Petitioner State that State of



Telangana is producing excess power at Srisaillam Reservoir lowering levels in the said Reservoir is recorded. The Chairman of the KRMB categorically observed that the power generation being incidental while drawing water for irrigation and drinking purposes, the downstream requirements from Nagarjunsagar Project may be kept in view. The members of the both the States agreed before KRMB to share the power generation in the ratio of 50:50 for the current year 2020-21. In fact, the State of Andhra Pradesh also laid its protest for sharing the power in the ratio of 50:50 at Srisaillam in its letter dated 29.06.2020. The relevant portion in the said letter is extracted below:

*“But, it is to submit that, the stand of Andhra Pradesh is same as per the following pleadings in the Statement of Case filed before the Hon'ble KWDT-II (Extn.)*

***Srisaillam Project:***

- a. The Engineer in Chief(I), WRD, A.P. mentioned in KRMB meeting that the power generation by the Andhra Pradesh and Telangana from their respective power stations with installed capacity of 770 MW and 900 MW respectively will have to be limited to their downstream drinking and irrigation requirements as per the project-wise specific allocations from Srisaillam Reservoir, which is not recorded in the minutes of meeting.*
- b. If any excess power generation is made through the left pumped storage scheme over and above the downstream entitlements, the such excess releases so made shall be pumped back to the reservoir.*

***Nagarjunsagar and Pulichintala Projects:***

- a. The downstream river releases at Nagarjunsagar and Pulichintala reservoirs is incidental to the extent of drinking and irrigation releases for the Krishna delta in the State of Andhra Pradesh. Although both the dam power stations at Nagarjunsagar and Pulichintala fall in the State of Telangana due to division of territorial boundaries, the operation of*

- these two power stations shall be vested with Andhra Pradesh only.*
- b. Nagarjunasagar tail pond Hydel Scheme located in the State of Andhra Pradesh has an installed capacity of 50 MW, which is incidental to the extent of downstream river releases for water requirements under Krishna delta and the power generated pertains to Andhra Pradesh.*
  - c. The Nagarjunasagar Right Canal Power House has an installed capacity to generate 90 MW and the water released through this power house is exclusively for the utilization of the State of Andhra Pradesh and thus the power so generated belongs only to Andhra Pradesh.*
  - d. The Nagarjunasagar Left Canal Power House has an installed capacity of 60 MW and the water released through this power house serves the command in both the States, hence power so generated has to be shared in the ratio of their respective water utilisations, i.e., 99.75 (Telangana) : 32.25 (Andhra Pradesh).”*

A copy of the minutes of 12<sup>th</sup> Board meeting of the KRMB held on 04.06.2020 is annexed herewith and filed as **Annexure-P-19(pg...to.....)**.

xxxix. It is humbly submitted that the Petitioner State vide two letters dated 20.07.2020 and 30.07.2020 to 2<sup>nd</sup> Respondent requested it to advise the 3<sup>rd</sup> Respondent to ensure that the instructions of the 2<sup>nd</sup> Respondent are complied by and further operation of power house on left bank is stopped immediately to improve the reservoir level. A copies of the letter from the Petitioner State to the 2<sup>nd</sup> Respondent dated.20.07.2020 is annexed herewith as **Annexure P-20 (Pg.....to.....)**

A copy and 30.07.2020 are annexed herewith and filed as **Annexure-P-21(pg....to....)** respectively.

- xl. It is stated that the 2<sup>nd</sup> Respondent vide its letter dated 03.08.2020 to 3<sup>rd</sup> Respondent State requesting it to issue necessary directions to 4<sup>th</sup> Respondent to stop the water releases through the Srisailam Left Power House immediately and action taken may be informed back. A copy of letter from 2<sup>nd</sup> Respondent to 4<sup>th</sup> Respondent dated.03.08.2020 is annexed herewith and filed as **Annexure-P-22(pg.....to.....)**
- xli. It is submitted that the 2<sup>nd</sup> Respondent vide its letter dated 06.08.2020 to 1<sup>st</sup> Respondent stated that the Power Generation being incidental while drawing water for irrigation and drinking purposes, the downstream requirements from Nagarjunasagar may be kept in view and requested 1<sup>st</sup> Respondent to issue necessary instructions to the 3<sup>rd</sup> Respondent State to stop further drawls of water from Srisailam Left Bank Power House and follow the water release order of the 2<sup>nd</sup> Respondent for generation of power in future. A copy of letter dated 6.8.2020 from the 2<sup>nd</sup> Respondent to the 1<sup>st</sup> Respondent is annexed herewith and filed as **Annexure-23(pg.....to.....)**
- xlii. The 3<sup>rd</sup> Respondent State itself admitted the following in its letter dt.05.09.2020 to the 2<sup>nd</sup> Respondent:
- “4. As such, in terms of KWDT-I, it is evident that the power generation at Srisailam is incidental to meet the irrigation requirements of Nagarjunasagar”*
- A copy of letter dated dt.05.09.2020 from the dt.05.09.2020 to the 2<sup>nd</sup> Respondent is annexed herewith and filed as **Annexure-P24(pg.....to.....)**

xliii. It is humbly submitted that the Petitioner State made repeated requests complaining about the unauthorised construction of projects by the 3<sup>rd</sup> Respondent State of Telangana in Krishna basin and Godavari basin and also made several requests to confer the jurisdiction of Boards and also to convene a 2<sup>nd</sup> meeting of the Apex Council. On the request of the Petitioner State, the Apex Council met on 06.10.2020 and in the minutes of the said meeting it is held as follows

*“Jurisdiction of GRMB and KRMB shall be notified by Government of India. The Hon'ble CM of Telangana expressed his disagreement on this. Hon'ble Union Minister clarified that is the Central Government's prerogative for such notification as per the APRA-2014 and thus the same will be notified as per express mandate of APRA-2014.”*

A copy of the minutes of the 2<sup>nd</sup> meeting of the Apex Council held on 06.10.2020 is filed as Annexure-P-25(pg....to.....).

xliv. It is submitted that Petitioner State vide another letter dated 26.10.2020, requested 2<sup>nd</sup> Respondent to notify the Jurisdiction and submitted the modified draft notification. The Petitioner State addressed another letter to 1<sup>st</sup> Respondent on 15.04.2021 to notify the jurisdiction of 2<sup>nd</sup> Respondent.

A copies of letter by 2<sup>nd</sup> Respondent to the 1<sup>st</sup> Respondent dated. 26.10.2020 is annexed herewith as **Annexure P-26(pg....to....)**

A copy of the letter dated 15.04.2021 is annexed herewith as **Annexures-P-27(Pg....to.....)** .

- xlvi. It is stated that the Petitioner State by its letter dated 24.11.2020 requested the 2<sup>nd</sup> Respondent to advise the 3<sup>rd</sup> Respondent State of Telangana to restrict 4<sup>th</sup> Respondent to limit drawls of water from the Srisailam Left Bank Power House as per operation protocol for power generation as there is no downstream irrigation demands. A copy of letter dated 24.11.2020 from Petitioner State to the 2<sup>nd</sup> Respondent is annexed herewith and filed as **Annexure-P28(pg..to.....)**.
- xlvi. It is stated that at present the 3<sup>rd</sup> Respondent State is drawing water for Kalwakurthy LIS, which is based on surplus waters at a level of +800 ft. from Srisailam reservoir and on the other hand the Petitioner State is unable to draw dependable water to the above mentioned allocated Projects from the Srisailam as the 3<sup>rd</sup> Respondent is not allowing to build up the level to +854 ft. in the reservoir by depleting the reservoir by drawing water through left side Power House indiscriminately in utter disregard to the binding agreements between the States under Act, 2014
- xlvi. It is humbly submitted that in the 1<sup>st</sup> week of June, 2021 when water inflows into Srisailam Dam has started, the 3<sup>rd</sup> Respondent State started illegally drawing water through its Power Houses on the left side of Srisailam Reservoir contrary to the mutual agreement under Act, 2014 as well as Para. 1 and 2 of Eleventh Schedule of Act 6 of 2014 and operation protocols to be followed.
- xlvi. The Petitioner State immediately vide its letter dated 11.06.2021 brought to the notice of the 2<sup>nd</sup> Respondent about the unilateral

action of 3<sup>rd</sup> Respondent State which is prejudicially impacting the Petitioner State. In response to the complaint made by the Petitioner State to the 2<sup>nd</sup> Respondent, vide F.No. 2/06/2020/KRMB/129093 dt.17.06.2021, 2<sup>nd</sup> respondent directed the 4<sup>th</sup> Respondent to stop further releases of water forthwith through Srisailam Left Power House and further directed to follow the water release order issued by the 2<sup>nd</sup> Respondent. A copy of letter dated 11.06.2021 from Petitioner State to the 2<sup>nd</sup> Respondent is annexed herewith and filed as **Annexure-P-29(pg...to....)**.

A copy of a letter F.No.2/06/2020/ KRMB/129093 dt.17.06.2021 to the 4<sup>th</sup> Respondent is annexed herewith and filed as **Annexure-P-30(pg.....to.....)**

- xlix. The Petitioner State vide another letter dated 23.06.2021 to the 2<sup>nd</sup> Respondent complained that the 3<sup>rd</sup> Respondent is not following its instructions and drawing water from Srisailam when the water level is at +805.4 ft on 01.06.2021 which is below MDDL of +834 ft. Out of 8.89 TMC of inflows into Srisailam reservoir 3.09 TMC is drawn by the 3<sup>rd</sup> Respondent without any need for irrigation and when sufficient water is available in Nagarjunasagar to cater to the needs of the initial khariff season. The 3<sup>rd</sup> Respondent is not allowing the water level to be build up in Srisailam Reservoir. The Petitioner State can release water to Rayalaseema region only when the water level in Srisailam reservoir is at +854 ft. and above. A copy of letter dated 23.06.2021 from Petitioner State to

the 2<sup>nd</sup> Respondent is annexed herewith and filed as **Annexure-P-31(pg.....to.....)**

1. At this juncture, without giving any heed to the problems that would be faced by the Petitioner State and to overcome its overt acts, the 3<sup>rd</sup> Respondent, in utter disregard to the agreement dated 18/19.06.2015, 3<sup>rd</sup> respondent State issued G.O.Rt.No.34, Energy (Power-II) Department dated 28.6.2021, to generate Hydel Power in the State upto 100% installed capacity. A copy of G.O.Rt.No.34, Energy (Power-II) Department dated 28.6.2021, issued by the 3<sup>rd</sup> respondent is annexed herewith and filed as **Annexure-P-32(pg.....to./.....)**.
- li. The Petitioner State vide its letter dated 29.6.2021 to 2<sup>nd</sup> respondent stated that in spite of repeated requests, the 3<sup>rd</sup> respondent State is continuously drawing larger quantity of water for power generation. A copy of letter dated 29.06.2021 from Petitioner State to the 2<sup>nd</sup> Respondent is annexed herewith and filed as **Annexure-P-33(pg.....to.....)**.
- lii. The Petitioner State of Andhra Pradesh by another letter dated 30.06.2021 requested the 2<sup>nd</sup> respondent to take punitive action against the 3<sup>rd</sup> Respondent. No further draws from Pulichintala Reservoir exclusively for power generation can be made by the 3<sup>rd</sup> Respondent without any indent placed before the 2<sup>nd</sup> Respondent by the Petitioner State considering its various irrigation needs under Krishna Delta System. It was also requested by the Petitioner State that the unilateral releases made by the 3<sup>rd</sup>

Respondent exclusively for power generation should be deducted from its allocation. A copy of letter dated 30.06.2021 from the Petitioner State to the 2<sup>nd</sup> Respondent is annexed herewith and filed as **Annexure-P-34(pg.....to.....)**.

liii. The Chief Minister of the Petitioner State vide its letter D.O.Letter.No.42/CM-Addl. Secy/2021 dt.01.07.2021 to the Prime Minister brought to his notice about the unilateral and irrational acts of the 3<sup>rd</sup> Respondent which is indiscriminately drawing water for power uses contrary to the rules of the integrated operation of the Reservoirs and contrary to the provisions of the agreement dated.18/19.06.2015 under Act, 2014 and the injury caused to the inhabitants of the Petitioner State and requested to notify the Jurisdiction of KRMB forthwith under Sec.87 of Act, 2014. A copy of letter dated 01.07.2021 from the Chief Minister of Petitioner State to the Prime Minister is annexed herewith and filed as **Annexure-P-35(pg....to.....)**

liv. The Chief Minister of Petitioner State also addressed a D.O.Letter.No.43/CM-Addl.Secy/2021 dt.05.07.2021 to the 1<sup>st</sup> Respondent to take appropriate action in stopping the 3<sup>rd</sup> Respondent from unilateral release of water for exclusively for power to achieve 100% installed capacity, which would have a catastrophic impact on the interests of the inhabitants of Petitioner State who are totally dependent on the waters of River Krishna. A copy of letter dated 05.07.2021 from the Chief Minister of



Petitioner State to the 1<sup>st</sup> Respondent is annexed herewith and filed as **Annexure-P-36(pg.....to.....)**

- iv. The Chief Minister of the Petitioner State vide another D.O.Letter.No.45/CM-Addl. Secy/2021 dt.07.07.2021 to Prime Minister requesting to advise the Central Government to notify the Jurisdiction of KRMB forthwith and take strict action against the 3<sup>rd</sup> Respondent State for its unauthorised drawl of water exclusively for power and to its unauthorised projects. A copy of letter dated 07.07.2021 from the Chief Minister of Petitioner State to the Prime Minister is annexed herewith and filed as **Annexure-P-37(pg.....to.....)**
- lvi. Having been left with no option, the Chief Secretary of the State addressed a letter to the Secretary, Ministry of Jal Shakti informing the Ministry of the State's decision to approach the Hon'ble Supreme Court in view of the recalcitrant attitude of the State of Telangana. A copy of the letter addressed by the Chief Secretary of the State of Andhra Pradesh to the Secretary, Ministry of Jal Shakti is attached herewith as **Annexure P-38(Pg.....to.....)**
- lvii. The Petitioner State is constrained to file the present Writ Petition and the Petitioner State has not filed any other petition before this Hon'ble Court or any other court claiming similar relief. The present Writ Petition is filed on the following amongst other grounds without prejudice to one another:-

## GROUND

- I. It is respectfully submitted that the unilateral action of the 3<sup>rd</sup> Respondent State is in contravention of the binding Award of KWDT-I and operating protocols of various beneficial uses prescribed by KWDT-I and the binding Agreement under the provisions of Act, 2014 and is prejudicially affecting the interests of the inhabitants of the Petitioner State warranting interference of this Hon'ble Court.
- II. It is respectfully submitted that the 1<sup>st</sup> respondent has a authority coupled with statutory duty to give effect to the provisions of Act, 2014 by issuing a notification under Section 87 of Act, 2014. There has been an inordinate delay of over 7 years in discharging its statutory functions warranting interference by this Hon'ble Court as the Petitioner State has been requesting the 1<sup>st</sup> Respondent to confer jurisdiction on the 2<sup>nd</sup> Respondent.
- III. It is submitted that 1<sup>st</sup> Respondent in exercise of powers under section 85 of Act 2014 constituted the 2<sup>nd</sup> respondent, KRMB on 28.5.2014. However, the 1<sup>st</sup> Respondent failed to exercise its authority under section 87 of Act, 2014 and notify the Jurisdiction of KRMB inspite of repeated requests complaining about the same which has seriously affected interests of the inhabitants of the Petitioner State depending on waters of River Krishna.
- IV. It is respectfully submitted that the issue of G.O.Rt.No.34 dt.28.06.2021 is without jurisdiction and contrary to the Award of KWDT-I and operation protocols, which became final and contrary to the provisions and agreement under Act, 2014.

- V. The G.O.Rt.No.34, Energy (Power-II) Department, dated 28.6.2021 issued by the 3<sup>rd</sup> Respondent is without any Jurisdiction as it has no control over the common Reservoirs Srisailam and Nagarjunasagar and storage in these reservoirs is common storage and water has to be drawn only by placing indents before the 2<sup>nd</sup> Respondent as agreed in the agreement dated.18-19.06.2015, which has been acted upon for subsequent years and operation protocols in vogue.
- VI. The G.O.Rt.No.34, Energy (Power-II) Department, dated 28.6.2021 issued by the 3<sup>rd</sup> Respondent is without jurisdiction as it is contrary to Sec.69 of Act, 2014 and 1<sup>st</sup> Respondent alone has jurisdiction and obligation to protect the interests of both the riparian State.
- VII. It is submitted that the para.2 of Eleventh Schedule of the Act 2014 specifically mandates that power releases are always incidental to irrigation needs. Further agreement 18-19.06.2015, under Act 2014, which is being acted upon consecutively for the past 7 years also mandates such use.
- VIII. The indiscriminate drawl of water by the 3<sup>rd</sup> Respondent State, in the beginning of the monsoon from Srisailam, Nagarjunasagar, Pulichintala Projects and the water surplused at Prakasam Barrage are as follows:

**Details of Water inflows into the Reservoirs in Krishna Basin and unauthorised draws by the Telangana for Power Generation during the water year 2021-22 (upto 13.07.2021)**

Sl. No.	Name of the Reservoir	Cumulative Inflows	Unauthorised draws by Telangana for Power Generation	Remarks
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1.	Srisailam	29.59	27.93	
2.	Nagarjunasagar	29.64	27.35	
3.	Pulichintala	31.98	7.84	
4.	Prakasam Barrage	9.09	--	Surplused 7.54 TMC over barrage to the Sea as waste
Total unauthorised draws by Telangana for Power Generation :			<b>63.12</b>	

*Source: Data received from flood monitoring cell of Petitioner State*

IX. The quantity of water needs to be stored in the Srisailam reservoir to build up water level upto +854 ft is 89.29 TMC. The water level in Srisailam reservoir as on 02.06.2021 was +808.50 ft. and corresponding storage was 33.44 TMC. The cumulative inflows into the Srisailam Reservoir upto 13.07.2021 are 29.59 TMC, while water that has flown down because of unauthorised exclusive Power draws by the 3<sup>rd</sup> Respondent State is 27.93 TMC. The water level in Srisailam reservoir as on 13.07.2021 is +808.70 ft. and corresponding storage is 33.58 TMC. If there is no unauthorised drawl of water exclusively for power from Srisailam Reservoir by the 3<sup>rd</sup> Respondent State of Telangana, the reservoir level in Srisailam would have been +839.8 ft. with a storage of 61.51 TMC. If the inflows into Srisailam Reservoir are another 27.78 TMC, the water level would build up to +854 ft. which would cater to the needs of SRBC, Telugu Ganga Project and GNSS in addition to drinking water supply to Chennai City. Due to the unauthorised draws exclusive draws for Power, unless the inflows into Srisailam Reservoir are another 55.71 TMC

(27.93 TMC + 27.78 TMC), then only the water level in Srisaillam reservoir would go up to +854 ft. The unauthorised Power draws by the 3<sup>rd</sup> Respondent State is only with an intention to deplete Srisaillam Reservoir in order to prevent the Petitioner State to draw water from Pothireddypadu Head Regulator by gravity for the above mentioned Projects. Due to vagaries of the monsoon, if there are no proper inflows or no inflows into Srisaillam reservoir from upper States, the inhabitants of the petitioner (over 23 million) dependent upon these projects would be prejudicially affected which would affect the entire agricultural economy of the Petitioner State.

- X. It is submitted that the unilateral action of 3<sup>rd</sup> respondent, defying the directives of 2<sup>nd</sup> respondent with regard to power use, without any jurisdiction issued G.O.Rt.No.34, Energy (Power-II) Department dated 28.6.2021, to generate Hydel Power in the State upto 100% installed capacity unmindful of the downstream uses of the Petitioner State. Water which has flown down to Nagarjunasagar Reservoir from Srisaillam Reservoir is about 28.25 TMC and the water released to Pulichintala from Nagarjunasagar Reservoir is 26.18 TMC. If there are no proper inflows into Srisaillam and water depleted from Nagarjunasagar Reservoir totally deprives water for the ayacutdars under Nagarjunasagar Canals on both Right and Left banks.
- XI. It is submitted that the flows from Nagarjunasagar would cultivate 11.74 lakh acres on right side and 3.78 lakh acres on left side in the Petitioner State of Andhra Pradesh. The Krishna Delta in the Petitioner State, which is dependent on flows from Nagarjunasagar and Pulichintala Projects, would be prejudicially affected. A large

extent of 10.78 lakh acres of ayacut under Krishna Delta System of the Petitioner State of Andhra Pradesh would be seriously affected.

XII. The 3<sup>rd</sup> Respondent State is generating power from the foreshore of Pulichintala, which is wholly illegal. The water flown down from Pulichintala Reservoir is 5.36 TMC and out of which 4.56 TMC of precious dependable water has surplussed the Prakasam barrage and wasted into sea. The crop calendar in Krishna Delta System has not yet began and water would be released into the canals of Krishna Delta System depending upon the availability of sufficient water for the entire ayacut from the upstream reservoirs i.e. Srisailem, Nagarjunasagar and Pulichintala.

XIII. The rainfall in the command area contributes runoff as well as percolates into the soil creating soil moisture in the root zone and the Petitioner State and its inhabitants are losing this benefit of rainfall in the command area. Thus the unauthorised exclusive drawls of Power by the 3<sup>rd</sup> Respondent State is having catastrophic impact on the ayacutdars of Krishna Basin in the Petitioner State and also the areas dependent on River Krishna in Rayalaseema region, Prakasam and Nellore districts of the Petitioner State.

XIV. It is submitted that the illegal and indiscriminate executive action of the 3<sup>rd</sup> and 4<sup>th</sup> Respondents would deprive the inhabitants of the Petitioner State of the precious dependable water from all these three reservoirs which is illegal and unjust. The water utilised by the 3<sup>rd</sup> Respondent State indiscriminately, is meant for khariff crop season including the nursery and transplantation. Thus, because of the unauthorised executive action of the 3<sup>rd</sup> Respondent, if subsequently

south-west monsoon fails the entire khariff crop will be badly damaged and the inhabitants of the Petitioner State would be put to irreparable loss and injury.

XV. It is submitted that para. 9 of the Eleventh Schedule of the Act, 2014, which specifically states that in case of non-implementation of decision of either of the States the defaulting State shall bear the responsibility and shall face financial and other penalties imposed by the Central Government. The unilateral executive action of the 3<sup>rd</sup> Respondent was already found fault by the 2<sup>nd</sup> respondent vide its proceedings dated 17.06.2021. The Petitioner State has already addressed letter to the 2<sup>nd</sup> Respondent on 30.06.2021 requesting the 2<sup>nd</sup> Respondent to deduct the equivalent quantity of water unilaterally drawn by the 3<sup>rd</sup> Respondent, contrary to the KWDT-I Award, provisions of Act, 2014, and interim arrangement arrived under said Act and the operation protocols which are in vogue, from the allocation of 299 TMC of the 3<sup>rd</sup> Respondent State. The 3<sup>rd</sup> Respondent should be permitted to use the reduced quantity as its allocation during the water year 2021-22. By these illegal actions, the gain made by the 3<sup>rd</sup> Respondent is very little, whereas, the consequential resultant loss caused to the Petitioner State and its inhabitants is very huge. The 3<sup>rd</sup> Respondent is bound to compensate the same by paying penalty for the legal injury caused to the Petitioner State as per the provisions of Act 2014. The Petitioner State is constrained to seek direction in view of the irreparable loss and injury caused to its inhabitants who are unable to plan their crop calendar as per their needs and the 3<sup>rd</sup> Respondent State is dictating, when the

ayacutdars of the Petitioner State have to utilise the water in Krishna basin taking advantage of the fact that due to reorganisation of the erstwhile State of Andhra Pradesh, the 3<sup>rd</sup> Respondent has got geographical dominance it became an upper riparian State. The illegal action of the 3<sup>rd</sup> Respondent State are disturbing the crop calendar and the Petitioner State and its inhabitants are deprived of precious dependable water which is required at subsequent period of time, is being wasted to sea. The photographs showing water being surplussed over the barrage is herewith filed as **Annexure-P36**. It is necessary in the interest of Justice appropriate penalties be imposed on the 3<sup>rd</sup> Respondent by the 1<sup>st</sup> Respondent, for the irreparable loos caused to the Petitioner State and its inhabitants.

### **PRAYER**

It is therefore most respectfully prayed that this Hon'ble Court may be pleased to:-

- i. Issue a writ, order or direction to the 1<sup>st</sup> Respondent to notify the Jurisdiction of the 2<sup>nd</sup> Respondent under Sec.87 of the Andhra Pradesh Reorganisation Act, 2014 forthwith;
- ii. Issue an order declaring G.O.Rt.No.34, Energy (Power-II) Department, dated 28.6.2021, issued by the 3<sup>rd</sup> Respondent as illegal, arbitrary, unjust and contrary to the provisions of Andhra Pradesh Reorganization Act, 2014 (Act, 2014) and without jurisdiction and set aside the same;



- iii. Issue a writ, order or direction in the nature of mandamus directing the 1<sup>st</sup> Respondent to take control of the common Reservoirs of Srisaïlam, Nagarjunasagar and also Pulichintala Reservoir along with all their outlets and operate the same as per the operating rules in vogue as per the binding Award of KWDT-I and also follow the order of preference of beneficial uses mentioned therein and also as per the binding agreement under Andhra Pradesh Reorganisation Act, 2014, and if necessary with the help of police protection operate both the common Reservoirs of Srisaïlam, Nagarjunasagar and also Pulichintala Reservoir without causing prejudice to the Petitioner State.
- iv. to restrain the 3<sup>rd</sup> and 4<sup>th</sup> Respondents from unilaterally drawing water exclusively for Power uses contrary to the binding Award of KWDT-I, and operation protocols and the provisions of the Andhra Pradesh Reorganisation Act, 2014, and interim arrangement and the operational protocols in vogue thereunder; and
- v. to direct the 2<sup>nd</sup> Respondent, to deduct the quantity of water unilaterally drawn by the 3<sup>rd</sup> Respondent exclusively for power uses from common Reservoirs of Srisaïlam, Nagarjunasagar and also Pulichintala Reservoirs from its allocation out of KWDT-I Awards from the water year 2021-22 onwards and permit the 3<sup>rd</sup> Respondent to utilise only the reduced quantity as its allocation from the water year 2021-22 onwards, and also, 1<sup>st</sup> Respondent may be directed to impose penalties on the 3<sup>rd</sup> Respondent to

compensate the loss caused to the Petitioner State and its inhabitants as per para. 9 of Eleventh Schedule to Andhra Pradesh Reorganisation Act 2014; and

- vi. pass such further or other orders as this Hon'ble Court deems fit and proper, as otherwise the Petitioners herein will suffer irreparable loss and injury.

Drawn by:

M.R.S.Srinivas  
G.Umapathy  
Advocates

Filed by

(Mahfooz A. Nazki)  
Advocate-On-Record for the Petitioner

Settled by:

Sri. Dushyant Dave  
Sr. Counsel  
Date: 14/07/2021

**IN THE SUPREME COURT OF INDIA**  
**CIVIL WRIT JURISDICTION**  
**I.A.NO        OF 2021**  
**IN**  
**WRIT PETITION (CIVIL) NO.    of    2021**  
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

**IN THE MATTER OF:**

**The State of Andhra Pradesh** .....Petitioner

Versus

**Union of India and Others** .....Respondents

**AN APPLICATION FOR INTERIM RELIEF**

**To**

**The Hon'ble Chief Justice of India and  
His Companion Justices of the Supreme Court of India**

**The humble petition of the Petitioner above named:**

1. The petitioner State of Andhra Pradesh has filed the above Writ Petition under Article 32 of the Constitution of India seeking inter alia a mandamus on the 1<sup>st</sup> respondent notifying the Jurisdiction of the Krishna River Management Board (KRMB) and pending such notification direct 3<sup>rd</sup> Respondent to abide by award of KWDT-I and Agreements reached under the provisions of Act, 2014. The petitioner craves leave to rely on the averments made in the writ for the purpose of the present application for interim relief.
2. It is submitted that Central Government in exercise of powers under section 85 of Act 2014 notified KRMB on 28.5.2014. The Apex council met on 06.10.2020 and in the minutes of the said meeting, it was inter alia recorded as under:-

*“Jurisdiction of GRMB and KRMB shall be notified by Government of India. The Hon'ble CM of Telangana*

*expressed his disagreement on this. Hon'ble Union Minister clarified that is the Central Government's prerogative for such notification as per the APRA-2014 and thus the same will be notified as per express mandate of APRA-2014."*

3. It is submitted that during the current irrigation year, as the Complaint of Petitioner State KRMB directed the 4<sup>th</sup> Respondent TS Genco to stop further release of water immediately through Srisailam Left Power House and follow the water release orders issued by KRMB, the 3<sup>rd</sup> respondent State of Telangana unilaterally issued G.O.Rt.No.34, Energy (Power-II) Department, to generate Hydel Power in the State upto 100% installed capacity. It was objected by the Petitioner State by representing to the Prime Minister and the Ministry of Jal Shakti. The unilateral and irrational acts of State of Telangana in indiscriminately drawing water for power uses is not only contrary to the Award of KWDT-I and operation protocols mentioned in the Awards which became final and binding on the 3<sup>rd</sup> Respondent, rules of the integrated operation of common Reservoirs but contrary to provisions of the agreement dated.18/19.06.2015 under Act, 2014, which has resulted in serious prejudice to the inhabitants of the petitioner State and would affect the irrigation of over 44,78,500 acres under the SRBC, Telugu Ganga Project, Nagarjunasagar, HNSS, GNSS, Veligonda, Guntur Channel, Krishna Delta system and drinking water supply to Chennai City depend on the waters of River Krishna.
4. It would be therefore in the interest of justice that appropriate orders are passed against State of Telangana restraining it from unilateral release of water exclusively for power, which would have a catastrophic impact on the inhabitants of the Petitioner State depending on the Krishna waters to sustain the agricultural economy of the State. This Hon'ble Court may be further

pleased to direct the 2<sup>nd</sup> respondent to take control of all the outlets of the common reservoirs of Srisailam and Nagarjunasagar and also Pulichintala Reservoirs to regulate the releases from them in accordance with the decision of KWDT-I including operation protocols of beneficial uses and the provisions of the agreement dated.18/19.06.2015 entered under Act, 2014 which was acted upon for subsequent years as well. The present application is made in the interests of justice.

### **P R A Y E R**

It is most respectfully prayed that this Hon'ble Court may be pleased to:-

- i. pending notifying the Jurisdiction of the 2<sup>nd</sup> Respondent under Sec.87 of Act, 2014 by the 1<sup>st</sup> Respondent, direct the 1<sup>st</sup> Respondent to take control of the common Reservoirs of Srisailam, Nagarjunasagar and also Pulichintala Reservoir along with all their outlets and operate the same as per the operating rules in vogue as per the binding Award of KWDT-I and also follow the order of preference of beneficial uses mentioned therein and also as per the binding agreement under Andhra Pradesh Reorganisation Act, 2014, and if necessary with the help of police protection operate both the common Reservoirs of Srisailam, Nagarjunasagar and also Pulichintala Reservoir without causing prejudice to the Petitioner State.
- ii. suspend the operation of G.O.Rt.No.34, Energy (Power-II) Department, dated 28.6.2021, issued by the 3<sup>rd</sup> Respondent

- iii. 1<sup>st</sup> Respondent may be directed to impose penalties on the 3<sup>rd</sup> Respondent State for its unauthorised exclusive power draws from common reservoirs of Srisailam and Nagarjunasagar and also from Pulichintala reservoir causing irreparable injury on downstream irrigation in the Petitioner State by violating the orders of the 2<sup>nd</sup> Respondent dated.17.06.2021 and for violating the protocol agreed between the Parties under Act, 2014 and also in violation of the binding Award of KWDT-I and for wasting precious dependable water into sea forthwith pending disposal of the writ petition; and
- iv. pass such other order or orders as this Hon'ble Court deems fit and proper in the facts and the circumstances of the case.

Drawn by:

M.R.S.Srinivas,  
G.Umapathy,  
Advocates

Filed by

(Mahfooz A. Nazki)  
Advocate-On-Record for the Petitioner

Settled by:

Sri. Dushyant Dave  
Sr. Counsel

Date: 14/07/2021

Place:

IN THE SUPREME COURT OF INDIA  
CIVIL WRIT JURISDICTION

WRIT PETITION (CIVIL) NO.      of      2021  
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IN THE MATTER OF:

**The State of Andhra Pradesh** .....Petitioner

Versus

**Union of India and Others** .....Respondents

**AFFIDAVIT**

I, \_\_\_\_\_, S/o \_\_\_\_\_, aged about \_\_\_\_\_, R/o Vijayawada, Krishna District, Andhra Pradesh, do hereby solemnly affirm and sincerely state as follows:-

1. I State that I am the \_\_\_\_\_ of the Petitioner and as such I am competent to swear to this affidavit.
2. I State that the contents of pages \_\_ to \_\_\_\_ of the list of dates and Events, pages\_\_\_\_ to \_\_\_\_ of the Writ Petition are true to my knowledge and I believe the same is true.
3. I state that the Annexures filed with the Writ Petition are true copies of the their respective originals

Verified at Vijayawada this day ----- July of 2021

**DEPONENT**

**VERIFICATION**

I, the Deponent above named do hereby verify the contents of my above affidavit are true to my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.

DEPONENT

Verified on this \_\_\_\_\_ day of July, 2021



**IN THE SUPREME COURT OF INDIA  
CIVIL WRIT JURISDICTION  
WRIT PETITION (CIVIL) NO. of 2021  
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)**

**IN THE MATTER OF:**

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.....Respondents

**PAPER BOOK**

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**ADVOCATE FOR THE PETIONER:**

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5.	<b>Annexure-P1A:</b> Copy of this Hon'ble Court's order dated 16.09.2011	
6.	<b>Annexure-P2:</b> Copy of the gazette notification of the KWDT-I award dated.31.05.1976.	
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19.	<b>Annexure-P14:</b> A copy of the letter of the Petitioner State to the 4 <sup>th</sup> Respondent dated.16.11.2019.	
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21.	<b>Annexure-P16:</b> A copy of the letter from the Petitioner State to the 4 <sup>th</sup> Respondent dated.07.03.2020.	
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24.	<b>Annexure-P19:</b> A copy of the letter of the Petitioner State to the 2 <sup>nd</sup> Respondent dated. 30.07.2020.	
25.	<b>Annexure-P20:</b> A copy of the letter from the 2 <sup>nd</sup> Respondent to the 4 <sup>th</sup> Respondent dated.03.08.2020.	
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37.	<b>Annexure-P32:</b> A copy of the D.O. letters D.O.Lr.No.42/CM-Addl. Secy/2021 dt.01.07.2021 from Chief Minister of the Petitioner State to Prime Minister	
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39.	<b>Annexure-P34:</b> A copy of D.O.Letter.No.45/CM-Addl.Secy/2021 dt.07.07.2021 from the Chief Minister of the Petitioner State to the 1 <sup>st</sup> Respondent.	
40.	<b>Annexure-P35:</b> The photographs showing water being surplussed over the barrage.	

