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**BEFORE MAHANADI WATER DISPUTES TRIBUNAL
NEW DELHI**

REFERENCE NO. 1/2018

State of Odisha

Claimant

and

State of Chhattisgarh & Ors.

Respondents

with

INTERIM APPLICATION NO. 1/2018

(For interim reliefs on behalf of the Applicant State of Odisha under Section 5(2) of the Inter-State River Water Disputes Act, 1956, read with order XXXIX of the Code of Civil Procedure, 1908 along with the Affidavit)

With

REFERENCE NO. 2/2019

State of Chhattisgarh

Claimant

and

State of Odisha & Ors.

Respondents

12.08.2023: This matter was called on for hearing before the Tribunal today at 11.00 hrs.

CORAM:

HON'BLE MR. JUSTICE A.M. KHANWILKAR

CHAIRMAN

HON'BLE DR. JUSTICE RAVI RANJAN

MEMBER

HON'BLE MRS. JUSTICE INDERMEET KAUR KOCHHAR

MEMBER

FOR STATE OF ODISHA:

Mr. Ashok Kumar Parija, Advocate General

Mr. Mohan Katarki, Senior Advocate

Mr. Mahesh Agarwal, Adv.
Ms. Anindita Pujari, Adv.
Mr. Ranvir Singh, Adv.
Ms. Biswabara Dash, Adv.
Mr. Manu Krishnan, Adv.
Ms. Kamakshi Sehgal, Adv.
Mr. Pawan Bhushan Adv
Mr. Mr. Ashutosh Das, EIC cum Spl. Secretary,
Dr.T.Pradhan, Spl. Secretary, DoWR, Orissa
Mr. Tapas Prahanaj, Adv.

FOR STATE OF CHHATTISGARH:

Mr. A.K. Ganguli, Sr. Adv.
Mr. K.K. Lahiri, Adv.
Mr. Jagjit Singh Chhabra, Adv.
Mr. Saksham Maheshwari, Adv.
Mr. Kuber Singh Guroower, Chief Engineer.
Mr. Jayant Bisen, Asstt. Engineer.
Mr. Champal Dewangan, Asstt. Engineer.
Mr. Anil Kumar Goyal, Consultant.

FOR STATE OF MAHARASHTRA:

Mr. Deepak Nargolkar, Sr.Adv.
Mr. Viraj Kadam, Adv. AOR

FOR STATE OF MADHYA PRADESH:

Mr. Shashank Shekhar, Adv.
Mr. Ronak Baid, Adv.
Mr. Sunny Chaudhary, Adv.

FOR STATE OF JHARKHAND:

Mr. Arunabh Chaudhary, Sr. Adv.
Ms. Pragya Baghel, Adv.
Ms. Tulika Mukherjee, Adv.
Mr. Zain A. Khan, Adv.

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ORDER

Perused the office report dated 11th August 2023.

2. As regards email letter dated 13th July, 2023 of the Advocate-on-Record for the State of Chhattisgarh, request is made to permit substitution of Appendix 6 as already filed by them. This request is not opposed by the opposite parties. Hence, it is accepted. The record be rectified accordingly.

I.A.No.1 of 2018 by State of Odisha:

As regards IA No.1 of 2018, the learned Advocate General appearing for the State of Odisha prays for one more opportunity to make a clear statement regarding the reliefs claimed in the application. We accept this request of the learned Advocate General. This IA be listed on the next date, as requested.

I.A.No.9 of 2020 and I.A.No.10 of 2020, by State of Odisha:

It is agreed that these applications are worked out as the admission and denial of documents process is already concluded. Accordingly, these applications are disposed of.

I.A.No. 15 of 2021, I.A.No.18 of 2022 and I.A.No. 21 of 2022 by State of Chhattisgarh:

It is agreed that even these I.As. filed by the State of Chhattisgarh stood disposed of in terms of order dated 04.09.2021, 05.11.2022 and 25.03.2023, as applicable. Indeed, liberty has been given to the parties to renew the request made in these applications, as and when occasion arises in future.

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I.A.No. 19 of 2022 by State of Odisha:

It is agreed that even this application stood disposed of in terms of order dated 05.11.2022 with liberty given to the parties to renew the request as and when required.

I.A.No. 22 of 2022 by State of Chhatisgarh:

It is brought to our notice that the factual position stated in the office report is incorrect. It is agreed, including by the State of Madhya Pradesh, that no reply has been filed to this application thus far. Hence, we direct the State of Madhya Pradesh to file appropriate response to the reliefs claimed in the subject application before the next date of hearing.

I.A.No. 23 of 2023

It is agreed by all concerned that this application is worked out in terms of the previous order and be treated as disposed of.

3. Counsel appearing for the concerned State Party seek time to examine and study the report prepared by the Assessors regarding the delineation of basin of river Mahanadi (soft copy whereof has been duly circulated along with the Office Report under consideration), and to give them some time to offer their response if any, before the next date of hearing.

4. As regards the request made by the State of Odisha vide email letter dated 9th August 2023, the same is not opposed by the other State parties. Hence, the same is taken on record subject to just

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exceptions. Similarly, the communication received from the State of Chhattisgarh dated 11th August 2023 is taken on record, subject to just exceptions.

5. There is one more communication received from the State of Chhattisgarh dated 11th August, 2023 - to permit them to replace Appendices 23 and 25. The Counsel appearing for other State parties have no objection to allow this request. The request is granted. Record be corrected as prayed.

6. There are two other communications, one referred to in the office report being dated 10th August 2023, received from the State of Chhattisgarh and the communication received online late night from the State of Odisha in response thereto. The same are taken on record without prejudice. The parties are, however, free to pursue their respective stand in connection with the contents of the stated communications.

7. Joint request is made by the counsel appearing for the State of Chhattisgarh as well as State of Odisha to give them further time to file the remaining appendices. Assurance is, however, given by all parties that no further time on this count will be sought hereafter and that the parties will proceed with the recording of evidence with liberty to bring the relevant left out documents on record by way of evidence. For fixing the date for recording of evidence and to produce witnesses including for filing affidavit in lieu of

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examination in chief of witnesses of the concerned State parties, we defer the hearing of this matter till **16th September, 2023 at 11.00 A.M.**

8. Ordered accordingly.

— SD —

..... J.
(A.M. KHANWILKAR)
CHAIRMAN

— SD —

..... J.
(DR. RAVI RANJAN)
MEMBER

— SD —

..... J.
(INDERMEET KAUR KOCHHAR)
MEMBER

Certified to be True Copy

[Signature]
Registrar 12/8/2023



order copy
16/9/2019

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BEFORE MAHANADI WATER DISPUTES TRIBUNAL
NEW DELHI

REFERENCE NO. 1/2018

State of Odisha

Claimant

and

State of Chhattisgarh & Ors.

Respondents

with

INTERIM APPLICATION NO. 1/2018

(For interim reliefs on behalf of the Applicant State of Odisha under Section 5(2) of the Inter-State River Water Disputes Act, 1956, read with order XXXIX of the Code of Civil Procedure, 1908 along with the Affidavit)

With

REFERENCE NO. 2/2019

State of Chhattisgarh

Claimant

and

State of Odisha & Ors.

Respondents

16.09.2023: This matter was called on for hearing before the Tribunal today at 11.00 hrs.

CORAM:

HON'BLE MR. JUSTICE A.M. KHANWILKAR

CHAIRMAN

HON'BLE DR. JUSTICE RAVI RANJAN

MEMBER

HON'BLE MRS. JUSTICE INDERMEET KAUR KOCHHAR

MEMBER

FOR STATE OF ODISHA:

Mr. Ashok Kumar Parija, Advocate General
Mr. Mohan Katarki, Senior Advocate
Mr. Mahesh Agarwal, Adv.

Ms. Anindita Pujari, Adv.
Mr. Ranvir Singh, Adv.
Ms. Biswabara Dash, Adv.
Mr. Arnav Behera, Adv.
Mr. Tapas Prahanaj, Adv.
Mr. Manu Krishnan, Adv.
Ms. Kamakshi Sehgal, Adv.
Ms. Deepsikha Mishra, Adv.
Mr. Pawan Bhushan Adv
Dr. T. Pradhan, Spl. Secretary, DoWR, Orissa
Mr. Adikanda Patra, Addl. Chief Engineer, ISWI,
Odisha
Mr. Purusottam Naik, Addl. Dir. ISWI, Odisha

FOR STATE OF CHHATTISGARH:

Mr. A.K. Ganguli, Sr. Adv.
Mr. K.K. Lahiri, Adv.
Mr. Jagjit Singh Chhabra, Adv.
Mr. Saksham Maheshwari, Adv.
Mr. N.K. Mathur, Consultant.
Mr. Anil Kumar Goyal, Consultant.
Mr. N.K. Mathur, Consultant.
Mr. Rakesh Kumar Nagaria, Chief Engineer (Retd.)
Mr. Jayant Bisen, Executive Engineer.
Mr. Dhruv Singh Nohar, Sub-Engineer.

FOR STATE OF MAHARASHTRA:

Mr. Deepak Nargolkar, Sr. Adv.
Mr. Viraj Kadam, Adv. AOR

FOR STATE OF MADHYA PRADESH:

Mr. Shashank Shekhar, Adv.
Mr. Sunny Chaudhary, Adv.

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FOR STATE OF JHARKHAND:

Mr. Arunabh Chaudhary, AAG.
Ms. Pragya Baghel, Adv.
Ms. Tulika Mukherjee, Adv.
Mr. Zain A. Khan, Adv.
Mr. Dev Aaryan, Adv.

ORDER

Perused the office report dated 15th September 2023.

I.A.No.1 of 2018

2. As regards IA No.1 of 2018 filed by the State of Odisha, in view of subsequent events and the present fact situation we deem it appropriate to dispose of this application with liberty to the State of Odisha to take out a fresh application for same or further interim relief(s) if so advised and/or to revive the present application if the situation so warrants in future.

3. As aforementioned, it appears to us that at present there is no serious concern/issue to be addressed at the instance of the State of Odisha. For, all contentious matters will be finally adjudicated in due course. Hence, this application stands disposed of in the above terms.

I.A.No. 22 of 2022

4. This I.A. is filed by the State of Chhattisgarh. Counsel for the State of Chhattisgarh submits that the latest affidavit filed by the State of Madhya Pradesh on 15th September 2023, does not pertain to this application. The counsel for the State of Madhya Pradesh



seeks liberty to file response to the stated application within one week from today. We give further time as last opportunity.

5. In the affidavit filed by the State of Madhya Pradesh on 15.09.2023, it is stated that the Chief Engineer, Water Resources Department, Bodhi, Bhopal vide letter dated 13.09.2023 has informed that the material referred to in the communication of Superintending Engineer dated 09.09.2023, is not available in his office. Considering this statement, counsel for the State of Chhattisgarh pointed out that the documents requisitioned in communication dated 19th July 2023 are separate and pertain to Appendix 37. Be that as it may, it will be open to the State of Chhattisgarh to examine the concerned officer(s) of the State of Madhya Pradesh or CW&PRS, Pune, as the case may be, as witnesses and call upon them to produce the relevant record in his/their office, if so advised.

6. Appendices filed by the concerned State parties including the revised appendices taken on record.

7. Reverting to the issue regarding Common Format Information (CFI), as noted in the subject office report - the State parties are permitted to file remaining appendices at the earliest and not later than four weeks from today.

8. It is however made clear to all concerned that hereafter we propose to proceed based on CFI already finalized by the Assessors subject to just exceptions; and would also consider the appendices already submitted by the State parties including the further appendices or any additional material to be produced by them as

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the matter progresses. The State parties are granted liberty to do so, when necessary.

9. The filing of further appendices or further material, however, need not detain us from commencing the recording of evidence of witnesses. The State of Odisha, in the first place, shall produce its witnesses for being examined on oath before the Tribunal. The Learned Advocate General submits that they would do so at the earliest.

10. In the meantime, concerned States shall file the list of witnesses to be examined by them, within ten days from today. The counsel appearing for the State parties assure us that the concerned State would take responsibility of producing their own witnesses, as and when required. As regards third party witnesses, after the list of witnesses is filed and depending on the need to examine them, notices can be issued in due course.

11. As requested by the counsel for the parties we defer this case until 19th October 2023. To be taken up at 2.00 P.M.



Certified to be True Copy

[Signature]
Registrar

— Sd —
..... J.
(A.M. KHANWILKAR)
CHAIRMAN

— Sd —
..... J.
(DR. RAVI RANJAN)
MEMBER

— Sd —
..... J.
(INDERMEET KAUR KOCHHAR)
MEMBER

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**BEFORE MAHANADI WATER DISPUTES TRIBUNAL
NEW DELHI**

REFERENCE NO. 1/2018

State of Odisha

Claimant

and

State of Chhattisgarh & Ors.

Respondents

With

REFERENCE NO. 2/2019

State of Chhattisgarh

Claimant

and

State of Odisha & Ors.

Respondents

19.10.2023: This matter was called on for hearing before the Tribunal today at 2.00 P.M.

CORAM:

HON'BLE MR. JUSTICE A.M. KHANWILKAR

CHAIRMAN

HON'BLE DR. JUSTICE RAVI RANJAN

MEMBER

HON'BLE MRS. JUSTICE INDERMEET KAUR KOCHHAR

MEMBER

FOR STATE OF ODISHA:

Mr. Mohan Katarki, Senior Advocate

Mr. Mahesh Agarwal, Adv.

Ms. Anindita Pujari, Adv.

Mr. Ranvir Singh, Adv.

Ms. Biswabara Dash, Adv.

Ms. Kamakshi Sehgal, Adv.

Ms. Deepsikha Mishra, Adv.

Mr. Asutash Dash, EIC-cum-Spl. Secty., DoWR.

Dr. T. Pradhan, Spl. Secretary, DoWR, Orissa

FOR STATE OF CHHATTISGARH:

Mr. A.K. Ganguli, Sr. Adv.

Mr. K.K. Lahiri, Adv.

Mr. Jagjit Singh Chhabra, Adv.

Mr. Saksham Maheshwari, Adv.
Mr. Ram Swami Naidu, OIC,CE(Retd.)
Mr. Anil Kumar Goyal, Consultant.
Mr. Rakesh Kumar Nagaria, Chief Engineer (Retd.)

FOR STATE OF MAHARASHTRA:

Mr. Deepak Nargolkar, Sr.Adv.
Mr. Viraj Kadam, Adv. AOR (N.P.)

FOR STATE OF MADHYA PRADESH:

Mr. Shashank Shekhar, Adv.for
Mr. Sunny Chaudhary, Adv.

FOR STATE OF JHARKHAND:

Mr. Dev Aaryan, Adv.

ORDER

Perused the office report dated 18th October 2023 and the supplementary office report of even date. Heard counsel for the parties.

2. We propose to first dispose of I.A. No. 22, in terms of this order. By this application, the State of Chhattisgarh seeks direction against the State of Madhya Pradesh to furnish the data referred to in Annexure-1 to the letter dated 21st June 2022 - addressed by the Chief Secretary to the State of Chhattisgarh to the Chief Secretary of the State of Madhya Pradesh, appended as Annexure B to the application.

3. The State of Madhya Pradesh has filed an affidavit sworn by Mr. Ashish Kumar son of Ravinder Nath working as Additional Secretary Water Resources Department State of Madhya Pradesh. In paragraph 10 of that affidavit, it is stated as under:

"The Water resource Department is making all efforts to collect the data but the same being too old and pertaining to year's 1950 to 2000 is difficult to be found. Moreover, the

Department of the Mahanadi Basin stands transferred to the State of Chhattisgarh after the bifurcation of the State of Madhya Pradesh in year 2000 itself, with all the records pertaining to Mahanadi Basin. Moreover, it will be difficult to provide such all record after 72 years (1950-2000) though the State is making all the efforts to trace the data. "

4. No rejoinder affidavit has been filed to refute this assertion of the State of Madhya Pradesh.

5. Accordingly, we deem it appropriate to dispose of this application with liberty to the State of Madhya Pradesh to substantiate the factual position stated in the affidavit by producing appropriate documentary as well as oral evidence, as may be advised. Liberty is also reserved for the State of Chhattisgarh to produce appropriate evidence in reference to the above factual position, if so advised.

6. Reverting back to the Office Report, it is mentioned that the State of Madhya Pradesh has filed an additional affidavit dated 16th October 2023 sworn by Mr. R.P. Singh Kanwar, son of late Shri R.K. Singh working as Superintendent Engineer Water Resources Circle Shadol, State of Madhya Pradesh. The purpose of filing this affidavit is to seek direction from the Tribunal while adjudicating and deciding the matter finally - to the effect that State of Madhya Pradesh be awarded at least 50 MCM water. That plea can be and will be considered at the appropriate stage. The affidavit is taken on record subject to just exceptions.

7. Revised lists filed by State of Chhattisgarh and State of Odisha in terms of order dated 16.09.2023, are taken on record.

8. Counsel for the State of Madhya Pradesh seeks liberty to file list of witnesses to be examined by the State. Liberty is given in terms of this order, provided the same is filed within one week from today.

9. State of Maharashtra does not want to revise the list of witnesses, which has already been filed and taken on record.

10. Counsel for the state of Jharkhand submits that he has no instructions from the State regarding the witnesses to be examined by the State. He seeks one week's time to take formal instructions in that regard. Even State of Jharkhand is given liberty in terms of this order to file the list of witnesses to be examined on behalf of that State, provided the same is filed within one week from today.

11. The office report further indicates that the State of Chhattisgarh and State of Odisha have filed further fresh appendices including revised/supplementary appendix No.40. The same are taken on record subject to just exceptions.

12. Mr. Mohan Katarki, Learned Senior Counsel appearing for the State of Odisha submits that as per the assurance given in the communication dated 17th October 2023, the State of Odisha would produce its first witness Dr. Manoj Panda on 28th November 2023 at 11.00 a.m. That assurance is placed on record.

Accordingly, list this matter on 28th November 2023 at 11.00 A.M.

..... J.
(A.M. KHANWILKAR)
CHAIRMAN

..... J.
(DR. RAVI RANJAN)
MEMBER

..... J.
(INDERMEET KAUR KOCHHAR)
MEMBER

Certified to be True Copy

Rajesh Kumar
Registrar



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**BEFORE MAHANADI WATER DISPUTES TRIBUNAL
NEW DELHI**

REFERENCE NO. 1/2018

State of Odisha

Claimant

and

State of Chhattisgarh & Ors.

Respondents

With

REFERENCE NO. 2/2019

State of Chhattisgarh

Claimant

and

State of Odisha & Ors.

Respondents

28.11.2023: This matter was called on for hearing before the Tribunal today at 11.00 A.M.

CORAM:

HON'BLE MR. JUSTICE A.M. KHANWILKAR

CHAIRMAN

HON'BLE DR. JUSTICE RAVI RANJAN

MEMBER

HON'BLE MRS. JUSTICE INDERMEET KAUR KOCHHAR

MEMBER

FOR STATE OF ODISHA:

Mr. Ashok Parija, Advocate General.

Mr. Mohan Katarki, Senior Advocate

Mr. Ranvir Singh, Adv.

Ms. Anindita Pujari, Adv.

Mr. Manu Krishnan, Adv.

Ms. Biswabara Dash, Adv.

Ms. Kamakshi Sehgal, Adv.

Ms. Deepsikha Mishra, Adv.

Mr. Pavan Bhushan, Adv.

Mr. Tapas P., Adv.

Mr. Asutash Dash, EIC-cum-Spl. Secty., DoWR.

Dr. T. Pradhan, Spl. Secretary, DoWR, Orissa

LDB

FOR STATE OF CHHATTISGARH:

Mr. A.K. Ganguli, Sr. Adv.
Mr. K.K. Lahiri, Adv.
Mr. Jagjit Singh Chhabra, Adv.
Mr. Saksham Maheshwari, Adv.
Mr. Ram Swami Naidu, OIC,CE(Retd.)
Mr. Jayant Bisen, Executive Engineer.
Dr. V.Ratna Reddy, Consultant
Mr. Anil Kumar Goyal, Consultant.

FOR STATE OF MAHARASHTRA:

Mr. Deepak Nargolkar, Sr. Adv.
Mr. Viraj Kadam, Adv. AOR (N.P.)

FOR STATE OF MADHYA PRADESH:

Mr. Shashank Shekhar, Adv.
Mr. Sunny Chaudhary, Adv.
Ms. Samridhi Jain, Adv.

FOR STATE OF JHARKHAND:

Ms. Tulika Mukherjee, Adv.
Mr. Dev Aaryan, Adv.

ORDER

Perused the office report dated 27th November 2023.

2. The State of Madhya Pradesh and State of Jharkhand have sought further time to furnish their list of witnesses. On the previous date, peremptory order was passed. Despite that, request for further time is made on behalf of States of Madhya Pradesh and

Jharkhand. We deprecate this casual approach of the two States in this regard. In the interest of justice, however, we permit the State of Madhya Pradesh and Jharkhand, as a last opportunity, to file their respective list of witnesses within two weeks from today.

3. The State of Chhattisgarh has filed a letter dated 25th October 2023 pointing out certain inadvertent omissions and errors in the description of appendices. A formal application in that regard has also been filed by the State of Chhattisgarh, being I.A. No. 24 of 2023. The reliefs claimed in the IA, are as under:

“(a) Take on record Chhattisgarh’s revised Appendix 3 as submitted on 14th October 2023, and referred on the Office Report dated 18th October 2023 at the top of page 7; and

(b) Also take on record the Revised First Witness Statement of Dr. Bapuji Rao Bodapati as filed on behalf of the State of Chhattisgarh on 17th October 2023 and referred in the Office Report dated 18th October 2023 at the bottom of page 7.”

The other States have no objection to accede to the above request made by the State of Chhattisgarh. Accordingly, we allow these prayers of the State of Chhattisgarh and direct that the records be modified as per the narration in letter dated 25th October 2023 and I.A. No. 24 of 2023 respectively.

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4. The revised first witness statement of Dr. Bapuji Rao Bodapati filed on behalf of the State of Chhattisgarh is taken on record by consent. The stated I.A. stands disposed of.

5. State of Odisha has made similar request vide email dated 1stNovember 2023, regarding typo errors in the information mapped for the Hirakud Dam project. The other States have no objection to accede to the request made by the State of Odisha. Accordingly, the records shall stand modified in terms of the request made by the State of Odisha in the stated letter dated 1stNovember 2023.

6. **I**n paragraph IV of the Office Report it is pointed out that the Assessors have noticed certain errors in the CFI, which need to be corrected. Counsel appearing for the concerned States pray for some time to examine this request. Accordingly, appropriate direction(s) can be passed on the next date of hearing in this regard.

7. The State of Chhattisgarh and State of Odisha have submitted a note on procedure to be adopted by the Tribunal during recording of oral evidence of the witnesses. The other States have no objection for passing appropriate directions on this note. The joint submission is as under:

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“(The State of Odisha and Chhattisgarh are in agreement on Clauses 1 to 10 below. However, there is a divergence of views on Clause 11 as indicated hereinafter.)

1. *On taking oath under the Oath’s Act, 1969, the witness will answer questions in Examination-in-Chief, Cross-Examination and Re-Examination.*

2. *The Affidavits of witnesses, their Supplementary Affidavits, Witness Statements, First Witness Statements, Second Witness Statements, etc. along with Reports submitted by the witnesses, shall be treated as their statements by way of Examination-in-Chief and marked as that of the party State on whose behalf the witness has deposed.*

Example: *Affidavits or Witness Statements along with accompanying Reports shall be marked as “OdW-1”, “OdW-2”, “OdW- 3”, etc. for the witnesses tendered on behalf of the State of Odisha and as “CgW-1”, “CgW-2”, “CgW-3”, etc. for the witnesses tendered on behalf of the State of Chhattisgarh.*

3. *The documents produced by the witness with an Affidavit, Supplementary Affidavit, Witness Statement, First Witness Statement, Second Witness Statement, etc. and during the Examination-in-Chief, Cross-Examination or Re-Examination shall be marked on the direction of the Hon’ble Tribunal either as “Exhibit” or “Mark” of the party on whose behalf the witness has deposed.*

Example: *The document produced by Odisha’s witness shall be marked by the Hon’ble Tribunal either as Exh. OdW- 1/X or Mark I–OdW 1/X. The document produced by Chhattisgar’s witness shall be marked by the Hon’ble Tribunal either as Exh. CgW-1/X or Mark I – CgW- 1/X.*

4. *Before the witness is tendered for cross-examination after taking oath, he/she may be asked further questions by way of Examination-in-Chief.*

5. *Thereafter, the witness will be Cross-Examined.*

6. *After conclusion of the cross-examination, the party which tendered the witness, with the permission of the Hon’ble Tribunal, may ask questions in Re-examination only for seeking clarifications or explanations in respect of any answer that the witness has given in response to a question in cross-examination.*

7. *If a counsel confronts the witness with a document during the Cross-Examination which is not on record either as Exhibit or Mark, it shall be marked on the direction of the Hon’ble Tribunal either as “Exhibit” or “Mark” of the party State on whose behalf the counsel confronts the witness.*

Example: *A new document produced to confront a witness appearing for Chhattisgarh may be marked as “CgW-1/Od1”, “CgW-1/Od2”, etc. Likewise,*

when a witness on behalf of Odisha is confronted with a new document, the same could be marked as "OdW-1/Cg-1", "OdW-1/Cg-2", etc.

8. The information and data filed by the States in the **Common Format for Information (CFI)/Appendices**, shall be marked as the "Exhibit" of the State that has produced the said information and data.

Example: The information/data filed by the respective States in the **Common Format for Information (CFI)/Appendices**, shall be marked as "Exhibits". For example, the CFIs/Appendices filed by Odisha would be marked as "Od-CFI/1", "Od-CFI/2", etc. and those furnished by the State of Chhattisgarh would be marked as "Cg-CFI/1", "Cg-CFI/2", etc.

9. During the Examination-in-Chief, Cross-Examination or Re-Examination, a witness would be free to refresh his/her memory by referring to the pleadings, documents, notes, etc, or with the permission of the Hon'ble Tribunal take assistance for calculations, etc.

10. The Counsel conducting the Examination-in-Chief, Cross-Examination or Re-Examination of the witness is free to take assistance from any person.

11. **Regarding the presence of witnesses** during the course of cross-examination of witnesses before the Hon'ble Tribunal, the suggestion of State of Odisha is –

The witnesses mentioned in the List of Witnesses filed by the party States and who have been examined are free to attend proceedings of the Hon'ble Tribunal.

However, the State of Chhattisgarh suggests as below –

The witnesses mentioned in the respective Lists of Witnesses filed by the party States may be permitted to attend the hearings during recording of evidence but not when the witnesses of the concerned State are being examined/cross-examined/re-examined unless his/her cross-examination is concluded. However, the witnesses from the other States may be permitted to attend the proceedings.

For example, when a witness tendered by the State of Odisha is being examined/cross-examined/re-examined, the other witnesses mentioned in Odisha's list would not be permitted to attend the hearings. However, once cross-examination of the said witness is concluded, he/she would be free to attend all the proceedings. Witnesses of the States of Chhattisgarh, Maharashtra, etc. would be permitted to remain present during examination/cross-examination/re-examination of all Odisha's witnesses. The

same procedure would apply when the witnesses of the States of Chhattisgarh, Maharashtra, etc. are being cross-examined.

The States of Odisha and Chhattisgarh are in agreement on Clauses 1 to 10. The only point of divergence is on the subject matter of Clause 11. The Hon'ble Tribunal may direct as it deems fit in the interest of justice and equity."

8. The parties have agreed to Item Nos. 1 to 10, reproduced hereinbefore. As regards the issue (No. 11) of presence of witnesses, after some deliberations, the learned counsel appearing for the concerned States have left it to the discretion of the Tribunal. In our opinion, instead of passing a blanket direction on the issue under consideration in advance, it would be appropriate to consider the objection to any given witness or the officer attending the proceedings on the given date on case-to-case basis. We order accordingly. In other words, the arguments canvassed by State(s) of Odisha and Chhattisgarh are kept open to be decided at the appropriate stage.

9. The State of Chhattisgarh in its letter dated 20th November 2023, has made suggestion to provide facility for recording of real time transcription (live transcript recording) of the proceedings including by video conferencing (VC). It is agreed that the learned counsel will jointly indicate the modalities in that regard, which can be taken forward by the Tribunal on the future dates. For the hearing and recording of evidence of witness summoned for today, the parties have agreed that live camera recording can be done and the clip (soft copy, in the form of pen drive) of such recording be given to the parties along with the transcript of the witness statement, for verification and record.

10. Learned Advocate General appearing for the State of Odisha submits that the concerned State(s) must ensure that the affidavit in lieu of the Examination-in-Chief including the supplementary affidavit of their witness(es) to be examined, need to be filed by the end of January 2024. Accordingly, we direct all the parties to ensure that the affidavits in lieu of Examination-in-Chief including the supplementary affidavit of the concerned witness(es) to be examined by the State should be filed in the Tribunal by end of January 2024.
11. The first (expert) witness on socio-economic aspects of Mahanadi Basin examined by the State of Odisha - Dr. Manoj Panda - was then called upon to enter the witness box. He was administered oath before commencing his examination. Mr. Katerki learned senior counsel then commenced his examination in chief. After Mr. Katerki completed his examination in chief, the witness was offered for cross-examination. Mr. Ganguli learned senior counsel for the State of Chhattisgarh began cross-examination.
12. After some time, Mr. A.K. Ganguli, learned senior counsel appearing for the State of Chhattisgarh requested for some time for taking instructions in respect of certain specific issues noted by Dr. Panda in the study report - Annexure-B to the affidavit in lieu of Examination-in-Chief.
13. Mr. Ganguli submits that two working days may be required to conclude the cross-examination of this witness.

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14. Accordingly, by consent, the matter will now proceed on 12th and 13th January 2024 at 11.00 A.M. Dr. Panda do remain present on the given dates along with all the relevant documents.

15. List on 12th January 2024 at 11.00 A.M.

Sd-

..... J.
(A.M. KHANWILKAR)
CHAIRMAN

Sd-

..... J.
(DR. RAVI RANJAN)
MEMBER

Sd-

..... J.
(INDERMEET KAUR KOCHHAR)
MEMBER

Certified to be True Copy

Pooja K...
Registrar 29/11/2023



(41) 4/1/18

**BEFORE MAHANADI WATER DISPUTES TRIBUNAL
NEW DELHI**

REFERENCE NO. 1/2018

State of Odisha **Claimant**
and
State of Chhattisgarh & Ors. **Respondents**
With

REFERENCE NO. 2/2019

State of Chhattisgarh **Claimant**
and
State of Odisha & Ors. **Respondents**

12.01.2024: This matter was called on for hearing before the Tribunal today at 11.00 A.M.

CORAM:

HON'BLE MR. JUSTICE A.M. KHANWILKAR	CHAIRMAN
HON'BLE DR. JUSTICE RAVI RANJAN	MEMBER
HON'BLE MRS. JUSTICE INDERMEET KAUR KOCHHAR	MEMBER

FOR STATE OF ODISHA:

Mr. Ashok Parija, Advocate General.
Mr. Mohan Katarki, Senior Advocate
Mr. Ranvir Singh, Adv.
Ms. Anindita Pujari, Adv.
Ms. Biswabara Dash, Adv.
Ms. Kamakshi Sehgal, Adv.
Ms. Deepsikha Mishra, Adv.
Mr. Pavan Bhushan, Adv.
Dr. Tribikram Pradhan, Spl. Secretary
Mr. Asutash Dash, EIC-cum-Spl. Secty., DoWR.

FOR STATE OF CHHATTISGARH:

Mr. A.K. Ganguli, Sr. Adv.
Mr. K.K. Lahiri, Adv.
Mr. Jagjit Singh Chhabra, Adv.
Mr. Saksham Maheshwari, Adv.
Dr. V. Ratna Reddy, Consultant
Mr. Anil Kumar Goyal, Consultant.
Mr. Ram Swami Naidu, OIC, CE (Retd.)
Mr. Rakesh Kumar Nagaria, CE (Retd.)

**FOR STATE OF MAHARASHTRA:**

Mr. Deepak Nargolkar, Sr.Adv.
Mr. Viraj Kadam, Adv. AOR (N.P.)

FOR STATE OF MADHYA PRADESH:

Mr. Sunny Chaudhary,Adv.
Mr. Shashank Shekhar,Adv.

FOR STATE OF JHARKHAND:

Mr. Anish Ahlawat,Adv.
Ms. Tulika Mukherjee,Adv.

ORDER

Perused the office report dated 11thJanuary 2024.

2. Affidavit of Sh. R.P. Singh Kanwar, filed by the State of Madhya Pradesh, as its witness and the list of witnesses to be examined by it are taken on record subject to just exceptions.
3. Counsel for the State of Jharkhand prays for further time to file the list of witnesses including affidavit in lieu of examination-in-Chief of the concerned witnesses. He submits that the matter is being processed at the highest level and the direction to file its list of witnesses will be complied within four weeks from today. The State of Jharkhand must file a formal application for permission to take on record - the list of witnesses and the affidavit in lieu of examination in chief of the concerned witness filed belatedly. That application will be considered appropriately.
4. Counsel for the State of Chhattisgarh requests for some time to examine the revised further modified CFI report made available to them along with the letter dated 10thJanuary 2024. If any suggestions are forthcoming, the same will be considered appropriately on the next date. In the meantime, without prejudice

to the above, the revised further modified report on CFI accompanying email dated 10.01.2024, is taken on record.

5. The State of Odisha has filed a formal application, as advised by the Tribunal's office vide letter dated 05.01.2024, praying for replacement of 13 number of appendices under CFI referred to therein. This application is not opposed by the opposite parties. Accordingly, the application is taken on record and allowed by consent. The office to give running application number and consign the same to record in terms of this order including to take follow up steps.

6. Considering the observations made in order dated 28.11.2023, the counsel for the State of Odisha and State of Chhattisgarh have jointly presented a proposal for AV set up for recording of real time transcription of hearings. The same is taken on record as no other state has objection thereto. It is open to the parties to finalise the arrangements which they deem appropriate for real-time transcription of evidence which can be adopted by the Tribunal, if acceptable by all parties. We leave that option to State parties to work out the necessary arrangements. Until such time, the extant arrangement of video recording of evidence and giving soft copy of the clip in pen drive along with hard copy of the transcription by the office for their use to continue.

7. The transcript of evidence of the first witness of State of Odisha on the previous date, as furnished to the parties with changes as suggested by them, have been duly carried out. The corrected copy is taken on record, by consent, after being signed by the (first) witness - Dr. Manoj Panda of the State of Odisha. The corrected copy of the version was handed over to the witness for putting his signature. He has placed his signature on every page, and it is taken on record.

8. The first witness - Dr. Manoj Panda was called upon to step in the witness box at 12.00 noon for further cross-examination. At around 1.00 p.m. Mr.

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Ganguli, learned senior counsel on behalf of the State of Chhattisgarh requested us to close the recording of cross examination at this stage; and permit them to continue to cross examine the same witness on the next date.

9. By consent, the matter is now scheduled for hearing on 2nd and 3rd February 2024 at 11.00 A.M.

[Handwritten signature]

[Signature]
..... J.
(A.M. KHANWILKAR)
CHAIRMAN

[Signature]
..... J.
(DR. RAVI RANJAN)
MEMBER

[Signature]
..... J.
(INDERMEET KAUR KOCHHAR)
MEMBER



(42)

**BEFORE MAHANADI WATER DISPUTES TRIBUNAL
NEW DELHI**

REFERENCE NO. 1/2018

State of Odisha

Claimant

and

State of Chhattisgarh & Ors.

Respondents

With

REFERENCE NO. 2/2019

State of Chhattisgarh

Claimant

and

State of Odisha & Ors.

Respondents

21.02.2024: This matter was called on for hearing before the Tribunal today at 11.00 A.M.

CORAM:

HON'BLE MR. JUSTICE A.M. KHANWILKAR

CHAIRMAN

HON'BLE DR. JUSTICE RAVI RANJAN

MEMBER

HON'BLE MRS. JUSTICE INDERMEET KAUR KOCHHAR MEMBER

FOR STATE OF ODISHA:

Mr. Mohan Katarki, Senior Advocate

Mr. Ranvir Singh, Adv.

Ms. Anindita Pujari, Adv.

Mr. Tapas P., Adv.

Ms. Biswabara Dash, Adv.

Mr. Pavan Bhushan, Adv.

Mr. Asutash Dash, EIC-cum-Spl. Secty., DoWR.

(42A)

FOR STATE OF CHHATTISGARH:

Mr. K.K. Lahiri, Adv.
Mr. Jagjit Singh Chhabra, Adv.
Mr. Saksham Maheshwari, Adv.
Dr. V.Ratna Reddy, Consultant
Mr. Anil Kumar Goyal, Consultant.
Mr. Rakesh Kumar Nagaria, CE (Retd.)

FOR STATE OF MAHARASHTRA:

Mr. Deepak Nargolkar, Sr.Adv.
Mr. Viraj Kadam, Adv. AOR

FOR STATE OF MADHYA PRADESH:

Mr. Sunny Chaudhary, Adv.
Mr. Shashank Shekhar, Adv.
Mr. Ratnesh Kumar, Adv.

FOR STATE OF JHARKHAND:

Mr. Anish Ahlawat, Adv.
Ms. Tulika Mukherjee, Adv.
Mr. Zain A. Khan, Adv.

ORDER

Learned counsel for the State of Jharkhand has tendered an application for permission to take on record the list of witnesses and the affidavit in lieu of Examination-in-Chief. As it is not opposed, by consent, the same is allowed. The list of witnesses and affidavit in lieu of Examination-in-Chief is taken on record.

(W.B.)

2. Our attention was invited to the order dated 12th January, 2024, pointing out that the appearance of Mr. Viraj Kadam, Advocate, who had appeared for State of Maharashtra has not been recorded. The said order stands corrected. Office to do the needful.

3. Mr. Mohan Katarki, learned senior counsel has tendered an application on behalf of State of Odisha to permit it to file affidavits in lieu of Examination-in-Chief of three witnesses, namely, Mr. R.C. Tripathy, Prof. P.C. Mishra, and Mr. Prashant Kumar Pradhan within two weeks from today; and, affidavits in lieu of Examination-in-Chief of two other witnesses Mr. Harmohan Pradhan and Mr. Rajesh Kumar within four weeks from today. As this application is not opposed by opposite parties, the same is allowed by consent. State of Odisha shall do the needful in the given time.

4. Mr. Manoj Kumar Panda has signed the statement (cross-examination) made on 12.01.2024 being version 4, which has been accepted by all the State parties. The same is taken on record.

5. Mr. K.K. Lahiri, learned counsel pointed out that due to unavoidable circumstances Mr. Ganguli, learned senior counsel is unable to attend the court proceedings for today. He submitted that presence of Mr. Ganguli be excused, and he may be permitted to continue with cross-examination of Dr. Manoj Kumar Panda. Accordingly, Mr. K.K. Lahiri, learned counsel is permitted to continue with the cross-examination.

6. Witness Mr. Manoj Kumar Panda has entered the witness box at around 11.15 am and took oath to depose.

7. During cross-examination he tendered copies of response to Question No.72 given by him on 16th September 2022 marked as ODW1/4, list of points provided by Mr. Susanta Mahapatra which is mentioned in Question No.74, marked Exhibit ODW1/5; and Helsinki Rules referred to in answer given to Question Nos. 110-115, marked ODW1/6. The same are taken on record.

8. Mr. Lahiri requested us to post this matter tomorrow for further cross examination as he would need some instructions from the officials of State of Chattisgarh.

9. Accordingly, by consent, the further cross-examination of Mr. Manoj Kumar Panda shall continue tomorrow i.e. 22nd February 2024 at 12.00 Noon.

sd

..... J.
(A.M. KHANWILKAR)
CHAIRMAN

sd

..... J.
(DR. RAVI RANJAN)
MEMBER

sd

..... J.
(INDERMEET KAUR KOCHHAR)
MEMBER



Certified to be True Copy

[Signature]
Registrar

**BEFORE MAHANADI WATER DISPUTES TRIBUNAL
NEW DELHI**

REFERENCE NO. 1/2018

State of Odisha

Claimant

and

State of Chhattisgarh & Ors.

Respondents

With

REFERENCE NO. 2/2019

State of Chhattisgarh

Claimant

and

State of Odisha & Ors.

Respondents

22.02.2024: This matter was called on for hearing before the Tribunal today at 12.00 A.M.

CORAM:

HON'BLE MR. JUSTICE A.M. KHANWILKAR

CHAIRMAN

HON'BLE DR. JUSTICE RAVI RANJAN

MEMBER

HON'BLE MRS. JUSTICE INDERMEET KAUR KOCHHAR

MEMBER

FOR STATE OF ODISHA:

- Mr. Ashok Kumar Parija, Advocate General.
- Mr. Mohan Katarki, Senior Advocate
- Mr. Ranvir Singh, Adv.
- Ms. Anindita Pujari, Adv.
- Mr. Tapas Praharaj, Adv.
- Ms. Biswabara Dash, Adv.
- Mr. Pavan Bhushan, Adv.
- Mr. Manu Krishnan, Adv.
- Mr. Asutash Dash, EIC-cum-Spl. Secty., DoWR.

FOR STATE OF CHHATTISGARH:

Mr. A.K.Ganuli, Sr. Adv.
Mr. K.K. Lahiri, Adv.
Mr. Jagjit Singh Chhabra, Adv.
Mr. Saksham Maheshwari, Adv.
Dr. V.Ratna Reddy, Consultant
Mr. Anil Kumar Goyal, Consultant.
Mr. Rakesh Kumar Nagaria, CE (Retd.)

FOR STATE OF MAHARASHTRA:

Mr. Deepak Nargolkar, Sr. Adv.
Mr. Viraj Kadam, Adv. AOR

FOR STATE OF MADHYA PRADESH:

Mr. Sunny Chaudhary, Adv.
Mr. Shashank Shekhar, Adv.
Mr. Ratnesh Kumar, Adv.

FOR STATE OF JHARKHAND:

Mr. Anish Ahlawat, Adv.
Ms. Tulika Mukherjee, Adv.
Mr. Zain A. Khan, Adv.

ORDER

Mr. Panda was requested to enter the witness box. He was requested to take oath. He has been administered oath, for recording his further cross examination.

Further cross-examination by Mr. A.K. Ganguli, learned senior counsel started at 12.00 Noon.

Dr. Panda had referred to his draft note prepared by him for the purpose of answering the questions put to him during cross-examination, which refers to some figures derived from the CFI

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Report furnished by State of Odisha. By consent this note is taken on record and marked as ODW1/7.

Cross examination of Dr. Manoj Panda by Mr. A.K. Ganguli learned senior counsel, continued until 2.30 p.m.

At this stage, counsel for both sides jointly submitted that witness Dr. Manoj Panda be discharged for the present, with liberty to both sides to further cross-examine/re-examine him, as the case may be, if and when required.

We accede to this request. The State of Odisha assures to produce second witness on the next date.

Considering the above, witness No. 1 of State of Odisha Dr. Manoj Panda, is discharged for the present.

Counsel for the State of Odisha prays for one week's time for filing supplementary affidavit in lieu of Examination-in-Chief of witness No.2 Mr. Dibakar Naik, to be examined on behalf of State of Odisha.

By consent, the hearing is deferred till 11.03.2024 at 11 a.m. Counsel for the State of Odisha assures to keep Dr. Dibakar Naik present on the next date. Ordered accordingly.



Certified to be True Copy.

[Handwritten Signature]
Registrar

— sd —
..... J.
(A.M. KHANWILKAR)
CHAIRMAN

— sd —
..... J.
(DR. RAVI RANJAN)
MEMBER

— sd —
..... J.
(INDERMEET KAUR KOCHHAR)
MEMBER