

Subject: - Notice for Calling Attention of Urgent Public Importance

Ref: - No. LOP/CA/2020-21/83 dated 25.01.2021

REPLY TO THE CALLING ATTENTION MOTION

‘Fear and anxiety in the minds of the public at large regarding the Mhadei Water Dispute which have remained unresolved till date. The lethargic approach of the Government in dealing with the matter and attempts by Karnataka to divert the water inspite the matter being Sub-Judice has caused damage to ecology of Goa. People have apprehensions on the intention of the Government to protect the interest of the State’

Actions taken by the Government of Goa to protect the interests of the State of Goa in the Mhadei basin:-

1. Inter-State disputes started in the Mhadei Basin around 2000 when Karnataka proposed extra-basin diversion to the Malaprabha basin. From the inception, Goa has taken vigorous action to oppose Karnataka’s proposals and to protect Goa’s vital interests in the Mhadei Basin. These efforts have continued uninterrupted to the present day. Following is a chronological account of the actions Goa has taken in this regard.
2. In June 2000 Goa expressed concern to the Central Water Commission against Karnataka’s projects for diversion of water from the Mhadei basin to the Malaprabha and Kali basins. Responding to Goa’s concern, the CWC initiated joint studies to determine the yield of the Mhadei basin. While the studies were still underway, the Union Ministry of Water Resources granted an ‘in-principle’ clearance from the interstate angle on

30.04.2002 to Karnataka to divert 7.56 TMC of water to the Malaprabha basin. The diverted water was meant purportedly to meet the drinking water needs of Hubli-Dharwad towns. What is surprising was that the MoWR granted the clearance without resolution of the disputes against Goa's known objections. If went unchallenged, the clearance would amount to a "*fait accompli*" by Karnataka. Sensing this danger, Goa immediately initiated steps to reverse the clearance.

3. In July 2002, the then Hon'ble Chief Minister Late Shri. Manohar Parrikar led an all party delegation to call on the Hon'ble Prime Minister. He urged the Prime Minister to withdraw the clearance to protect Goa's rights.
4. Explaining the sequence of events leading to the issue of the 'in-principle' clearance in a letter to the MoWR on 09.07.2002, Goa demanded constitution of an interstate Water Disputes Tribunal. All disputes in the Mhadei basin with Karnataka were to be referred to the Tribunal for adjudication and decision under the Inter-State River water Disputes Act, 1956. Pending the constitution of the Tribunal, Goa insisted on the withdrawal of the "in-principle" clearance. On 19.09.2002, as a result of the efforts mounted at different levels, MoWR placed the "in-principle" clearance in abeyance.
5. Newspaper reports indicated that Karnataka was determined to start diversion works at Kalasa Nallah near the Karnataka-Goa interstate border at Kankumbi on 02.10.2006. To forestall Karnataka's moves, Goa filed a Civil Suit in September 2006 in the Supreme Court. A request was also made in the suit to direct

the Union Government to set up the Mandovi Water Disputes Tribunal. Granting Goa's request, the Supreme Court passed an order directing Karnataka not to divert or to utilise water till the date of next hearing. The Supreme Court also directed the Union Ministry of Water resources to constitute a Water Disputes Tribunal and to refer the interstate disputes to it for adjudication and decision. Accordingly, the Union Government issued a notification on 16.11.2010 to create a three-member Mahadayi Water Disputes Tribunal.

6. The Tribunal commenced its hearings in September 2012. As Karnataka had continued the construction of the diversion works at Kalasa even while the Tribunal heard the dispute, Goa filed an Interlocutory Application in 2012. Goa succeeded in obtaining the following directions from the Tribunal against Karnataka in April 2014:
 - i. To refrain from diverting or actually utilising waters of the Mahadayi basin under Kalasa-Bhandura projects till the disputes were finally adjudicated by the Tribunal.
 - ii. To construct plugs in brick masonry embankment in the two vents of the inter-connecting canal partially constructed by it to prevent automatic diversion of water from the Mahadayi basin to the Malaprabha basin.
 - iii. To fill up the excavations made along the ridge line separating the Mahadayi and Malaprabha basins for construction of the inter-connecting canal so as to restore the ridge line to its pre-existing condition.

The Tribunal also ordered the constitution of a team comprising officials of the rank of Superintending Engineers of Goa, Karnataka and Maharashtra to monitor the works to be undertaken by Karnataka as per its directions. The Tribunal further directed the team to submit an interim report and a final report on the completion of the works. Goa got all these above directions implemented.

7. After 112 hearings, the Tribunal submitted its Award to the Union Government on 14.08.2018. Karnataka had claimed 20.087 TMC for outside-the basin diversion and 14.937 TMC for in-basin use. The Tribunal restricted these claims to 3.9 TMC outside basin and 1.5 TMC in basin consumptive use.. The Tribunal further ordered that Karnataka would not utilise these allocations without preparing revised DPRs and obtaining all clearances from the Central Government.
8. Under the relevant provisions of the ISRWD Act,1956, Goa filed a Clarification Application before the Tribunal on 20-09-2018. In this application Goa sought clarifications and explanations on the Award.In the meanwhile, all the three riparian States had filed Special Leave Petitions before the Supreme Court to challenge the award. Therefore on 16.06.2020 the Tribunal adjourned its hearings *sine die* till the Supreme Court disposed of the SLPs.
9. Even before the Tribunal submitted its award, reports had reached Goa that Karnataka had diverted water from the Kalasa nallah through the inter-connecting channel. The diversion was in contravention of the orders and award of the Tribunal. Goa

therefore filed a Disobedience Petition before the Tribunal against Karnataka on 20-08-2018 to stop further diversions. The matter came up for hearing on 09.05.2019. On the joint request of all the three states, the Tribunal issued an order to adjourn the hearings till the contempt proceedings that Goa had initiated against Karnataka in the Supreme Court on 08.08.2018 were disposed of. On 20.08.2020 the Union Government issued a notification to extend the term of the Tribunal till 19.08.2021.

10. Before the Tribunal submitted its Award, Goa filed a Contempt Petition in the Hon'ble Supreme Court against Karnataka on 08-08-2018 for having made illegal diversions which were noticed in July 2018. This action preceded the Disobedience Petition filed in the Tribunal. The petition has been fixed for admission. It last appeared on 05.01.2021 on the Supreme Court's board but did not figure in the final cause list. The next date of hearing is yet to be notified

11. Besides filing the Clarification Application before the Tribunal, Goa decided to challenge the award. To this end, an SLP was filed in the Supreme Court on 18-07-2019 for reviewing the Award of the Tribunal. Karnataka and Maharashtra have also filed their respective SLPs challenging the Award. The Supreme Court has decided to hear SLPs of all the three States jointly by clubbing the petitions together. The Court heard the Petition on 15.07.2020 virtually. Because of the voluminous documentation involved in the case, Goa requested adjournment to a future date when physical hearings are possible. Hearings will commence on a date to be fixed on the directions of the Supreme Court. The matter had been fixed provisionally for direction on

05.01.2021 but did not figure on the final cause list. The next date of hearing is yet to be notified

12. Over and above the Contempt Petition filed in 2018, Goa has filed another Contempt Petition. This petition will reinforce the contempt petition of 2018. Need for this second petition arose because newspapers reported on 04.09.2020 that Karnataka had continued the diversion from Kalasa causing a reduction in the flows at the Barazan falls. WRD officials confirmed these reports soon thereafter through inspections. This second Contempt Petition was filed on 06.10.2020 and was registered on 18.12.2020, but is yet to come up for admission. It was provisionally fixed for hearing on 04.01.2021 although it did not figure on the final cause list. The next date of hearing is yet to be notified.

13. It was learnt through reliable reports that Karnataka had submitted revised DPRs of Kalasa and Bhadura projects to the CWC for appraisal. In the proceedings before the Tribunal, Goa had led evidence based on scientific studies for reserving adequate yields for environmental flows. In its award however the Tribunal has not earmarked any specific quantity of water for environmental flows. Goa has included this matter of environmental flows in the SLP before the Supreme Court. It is also a subject matter on which Goa has sought clarifications from the Tribunal in its Clarification Application. The outcomes of these cases will greatly determine the final scopes of the Kalasa and Bhandura projects. In view of these facts, Goa requested the Union Ministry of Jal Shakti not to take any decision on the revised DPR/PFR of Kalasa and Bhandura

projects submitted by Karnataka to the Central Water Commission (CWC) for approval till the issues before the Supreme Court and the Tribunal were disposed of. Goa has also placed on record its objections before the CWC against considering Karnataka's PFR/DPR. CWC have acknowledged that they have noted the issues Goa has flagged. They have also assured that they would bring Goa's views to the notice of the competent authority in CWC and the Ministry of Jal Shakti before taking any decision.

14. The Hon'ble Chief Minister had held discussions with the Hon'ble Union Jal Shakti Minister on concerns of increasing salinity in the Mhadei River due to the proposed diversions by Karnataka. Following these discussions, the Jal Shakti Ministry entrusted a study on salinity to the National Institute of Hydrology (NIH), Roorkee. Two Scientists of NIH visited Goa from 16th to 19th September 2020 to establish observation sites on the Mhadei River and its tributaries. As part of their study, they also visited the Kalasa dam site at Kankumbi. The Goa Government extended full cooperation to the NIH team during their visit. Since the duration of their study till September was likely to produce a wrong picture of the salinity in the basin, NIH were requested to extend their study to the lean season till May. The Jal Shakti Ministry later agreed to extend the period of the study till May 2021 to address Goa's concerns. Daily salinity observations have been undertaken at 14 locations on the Mhadei and its tributaries since the visit of the NIH team. WRD is collecting observations on salinity at these observation sites on behalf of NIH. In a recent communication, NIH have

informed that they would visit Goa for the second time in the last week of February to monitor the observations which will be followed their visit for lean season observations in May 2021.

15. From time to time, the Hon'ble Chief Minister has addressed letters to the Hon'ble Union Jal Shakti Minister as well as to the Hon. Union Minister for Environment, Forests and Climate Change to express Goa's concerns unfailingly in the ongoing disputes. Whenever reports of violations of the Tribunal and Supreme Court's orders by Karnataka have been received, officials of WRD have promptly visited the diversion site at Kalasa to verify the reports. Based on these reports, appropriate legal and administrative actions have been initiated.

16. Goa has vigorously and single-mindedly explored all avenues, legal and administrative to safeguard its legitimate interests in the Mhadei basin. No efforts have been spared in pursuing its objectives. Constant vigil has been maintained to detect all instances of violation of the Tribunal's award and other orders by Karnataka to initiate prompt legal and administrative action. The Government is determined to protect its future water security in the Madei basin by forestalling all diversion of water from the Mhadei Basin. These efforts will also ensure protection of the basin ecology.
