

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CIVIL WRIT PETITION No. 2083 / 2012

In the matter of :

Shri Mangni Ram & others

.....Petitioner

Versus

Union of India & others

.....Respondents

REPLY TO CIVIL WRIT PETITION ON BEHALF OF
CENTRAL ELECTRICITY AUTHORITY - RESPONDET No. 10

MAY IT PLEASE YOUR LORDSHIPS :

Para 1 to 3 : That the contents of these paras calls for no reply being a matter of record. However, it is submitted that the preliminary Feasibility Report (PFR) is prepared based on the preliminary information on hydrology, regional geology and topography. Site Specific Survey and Geological investigations has not been carried out at the time of preparation of PFR. ¹

Para 4, 5 & 6 : That the contents of these paras calls for no reply being a matter of record.

Para 7 to 11 : That the contents of these paras calls for no reply being a matter of record.

Para 12 & 13 : That the averments contained in these paras of the writ petition does not pertain to replying respondent, hence no reply is called for on its behalf.

Para 14 to 21 : That the averments contained in these paras of the writ petition does not pertain to replying respondent, hence no reply is called for on its behalf.

Para 22 : That in reply to the averments contained in this para of the petition, replying respondent humbly submits the following for the kind consideration of the Hon'ble Court :

1. CEA received the Detailed Project Report of Bajoli Holi HE Project in Himachal Pradesh from the project developer, namely, M/s. GMR Bajoli Holi Hydropower Pvt. Ltd. for accord of Concurrence under Section 8 of the Electricity Act, 2003.
2. The developer as per DPR informed that different alternatives of Bajoli Holi HE Scheme were explored.

i) Scheme with project components on Right side of Ravi River.

In the initial stage of project conceptualization, HPSEB who had prepared a detail report in 2007 had conceived a right bank development of the project on river Ravi with diversion structures near village Bajoli and powerhouse near Barola village. The complete water conductor system along with powerhouse was conceived on the right bank of river Ravi.

The developer submitted that the right bank layout was not favoured after the detailed assessment in view of the following factors :

- Topography is very rugged and valley slopes rise very steeply.
- As the entire right bank is difficult to access, carrying out geological mapping and other explorations along the water conductor system will be extremely difficult and time consuming.

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- Both the topography and geology in the area are such that the underground powerhouse complex will have to be sited deep inside the hill mass.

- The right bank development would required extensive infrastructure works in the form of project access roads and bridges effecting project cost.

The scheme on the right bank was, therefore, not favoured and it was desired to explore the possibility of having a left bank alternative with location of diversion structure proposed by HPSEB as unchanged.

(ii) Scheme with project components on Left side of Ravi River :

In this scheme, the left bank development of the project was conceived with diversion near village Bajoli and two alternative powerhouses, one on the right bank of Holi nala and the other near Jarota village, upstream of the confluence of Kee Nala with Ravi River.

Project developer finally adopted the layout of the project which includes a 66m high concrete gravity dam as diversion structure, a 15.563 km. long HRT aligned on left bank of Ravi River, surge shaft of 12m diameter and 122.00m deep, 865.5m long pressure shaft and 180 MW installed capacity surface powerhouse located on left bank of Ravi just upstream of confluence of Kee Nala with Ravi and **submitted the proposal to CEA for concurrence for the left bank only.**

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3. Government of Himachal Pradesh, vide its letter No. MPP-F(2)-14/2007-II dated 07.03.2011 confirmed shifting of project components from right to left bank of river Ravi.
 4. CEA accords concurrence to hydro electric schemes based on the information provided in the Detailed Project Report. **In case of Bajoli Holi HE Project, after it was concluded by the project developer and Government of Himachal Pradesh, for locating the project components of left side of the river Ravi, the detailed investigations had been carried for project components on the left side of the river and incorporated in the DPR.**

Earlier, Special Secretary (Power), Department of MPP & Power, Government of Himachal Pradesh vide letter dated 09.04.2009 [Ref.(i)] addressed to M/s. GMR Energy Ltd. (Developer), allowed to shift the project components of Bajoli Holi HE Project **from right to left bank** of the river Ravi due to greater techno-economic feasibility. M/s. GMR Energy Limited submitted the Detailed Project Report (DPR) for Concurrence of CEA proposing water conductor system and power house works of the project on **left bank** of the river and the DPR of the project was taken up for examination in CEA/CWC/GSI in January, 2010.

Joint Secretary (Power), Department of Power, Government of Himachal Pradesh vide letter dated 09.09.2010 [Ref.(ii)] has intimated that it would not be possible to accede to the request of M/s. GMR Energy Limited to shift the project components to left bank of river Ravi. Further, it was intimated that their earlier letter dated 09.04.2009 [Ref.(i)] may be **considered withdrawn** till such time the M/s. GMR Energy Limited the Developer demonstrates that local opposition based on environmental and land consideration have been amicably resolved.

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In the meanwhile, Chief Engineer (Energy), Directorate of Energy, Government of Himachal Pradesh, vide letter dated 13.10.2010 [Ref.(iii)] have intimated that "the company M/s. GMR Energy Ltd. has already been allowed to shift the project components of Bajoli Holi (180 MW) from right to left bank due to greater techno-economic feasibility vide this department letter No. MPP-F(2)-14/2007 dated 09.04.2009 [Ref.(i)] with FRL - 2018.25M and TWL - 1706.75M. The company has obtained all the requisite No Objection Certificates (NOCs) from all concerned Gram Panchayats also. Therefore, the location of project components **on left bank** is hereby confirmed for further necessary action".

5. CEA, after examining the DPR **submitted by the project developer for the left bank** and considering views / observations of Central Water Commission and Geological Survey of India and Government of Himachal Pradesh accorded concurrence to Bajoli Holi HE Project vide its letter No. 2/HP/34/CEA/09-PAC/690-720 dated 30th December, 2011.
6. It is, however, given in the DPR that right bank alternative was also studied by HPSEB in 2007 and the same was not favoured by them due to various reasons such as rugged topography, difficult accessibility etc.
7. As such, **shifting of project components from right bank to left bank is sole responsibility / choice of Government of Himachal Pradesh / project developer** and concurrence has been accorded only on the basis of **detailed submission made for left bank**.

Para 23 : That the contents of this para calls for no reply on behalf of replying respondent being a matter of record.

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Para 24 : That the contents of this para does not pertain to replying respondent, hence no reply is called on behalf of replying respondent.

In this context of all that has been stated in the foregoing paras, it is respectfully prayed that the instant writ petition may be dismissed qua the replying respondent and appropriate orders in the given facts and circumstances of the case may kindly be passed.

Place :

Dated :

Replying respondent

Through Counsel :

(Sandeep Sharma)
Assistant Solicit General of India

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AFFIDAVIT

I, ----- S/o Shri..... aged..... Years, serving as-----
do hereby solemnly affirm and declare on oath as under :-

1. That the accompanying reply has been prepared and drafted at my instance and under my instructions and the contents from paras 1 to 24 of the said reply are true and correct to the best of my personal knowledge and information derived from the official records. No part of it is false and nothing material has been concealed therefrom.

I, the above named deponent do hereby further verify that the contents of my above affidavit are true and nothing material has been concealed therefrom.

Verified at on thisday of, 2012.

DEPONENT