

FORM-I

BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) CHENNAI**MEMORANDUM OF APPLICATION**

(Under Section 18(1) read with Sections 14, 15 of National Green Tribunal Act 2010)

Application No 6 of 2013**Between:**

Leo F. Saldanha
Aged about 44 years
S/o S. J. Saldanha
1, Pearl Gardens
Vajarahalli
Kanakapura Road
Bangalore 560062

AND

- 1) The Union of India
Rep. by its Secretary to Government
Ministry of Environment & Forests
Paryavaran Bhavan, CGO Complex
Lodhi Road, New Delhi & Others
- Respondents

The Applicant above named begs to submit the following comments/ reply to the report submitted by the FFC constituted by this Hon'ble Tribunal per its order dated 21st March 2013.

Introduction:

1. The Applicant respectfully submit their comments to the **“Report of the Fact Finding Committee on Amrit Mahal Kaval, Challakere, Chitradurga District, Karnataka”** submitted to the Hon'ble National Green Tribunal (South Zone) by Dr. S. Ravichandra Reddy, Chairman and Dr. K. V. Anantha Raman, Member of the Fact Finding Committee (hereinafter referred to as FFC) appointed by the Hon'ble Tribunal per its order dated 21 March, 2013 in Applications 6/2013 connected with 12/2013.
2. The Applicant is herewith submitting a joint response to the findings of the said Committee keeping in view the Terms of Reference (TOR) that were issued by the Hon'ble Tribunal defining the scope and functioning of the FFC which included

responding to various issues and concerns raised before the Hon'ble Tribunal in the proceedings relating to the aforesaid Applications and also any other matter of concern that the Committee deemed fit to investigate, interrogate and confirm. The Applicant acknowledge that the FFC was appointed to assist the Hon'ble Tribunal in assessing the true impacts of the proposed projects in Challakere, to confirm if the project proponents have complied with statutory requirements, to possibly project likely impacts based on empirical evidence sourced from various sources, and to provide their expert opinions to inform the Hon'ble Tribunal in determining the necessary relief prayed for in the Applications.

3. The Applicant respectfully submit to the Hon'ble Tribunal that the FFC has fallen short of fulfilling the various items of the TOR adverted to earlier, and are thereby constrained to submit this detailed response highlighting the various shortcomings of the report. At the very outset the Applicant wish to draw the attention of this Hon'ble Tribunal to the fact that the FFC has admitted at page 64 of its report to having received a detailed submission from the Applicant entitled “**Forfeiting Our Commons : A case for protecting and conserving Challakere’s Amrit Mahal Kavals as Livelihoods-supporting, Biodiverstiy-rich and Ecologically-sensitive grassland ecosystems**”. However, none of the facts, arguments, evidence, analyses, and such other articulations submitted by the Applicant in their report has been taken due consideration of by the FFC.
4. The Applicant submit that upon their request several renowned researchers and institutions have reviewed the findings of the FFC, and their views and criticisms of the same are appended to this submission at **Annexures A to H**.
5. Mr. Darshan Shankar is a Member of the Board of National Biodiversity Authority, and Advisor Foundation for Revitalisation of Local Health Traditions (FRLHT). He is also currently Chairman, Institute of Ayurveda and Integrative Medicine at Bangalore. Mr. Shankar has held several responsible & prestigious positions in the areas related to Traditional Health Sciences and sustainable harvest of medicinal plants. He is a recipient of a number of prestigious awards including Norman Borlag Award, Common Wealth Youth Service Award, Equator Initiative Prize and Columbia University's Center for Complementary and Alternative Medicines International Award and many others. His submission is attached as **Annexure A**.
6. Dr. K. Ullas Karanth founded the Centre for Wildlife Studies (CWS) in 1984 to actively engage with wildlife conservation. Inspired by Dr. George Schaller of Wildlife Conservation Society (WCS), Dr. Karanth decided to become a professionally-trained wildlife biologist, thereafter obtaining his Masters degree

from the University of Florida (1988) and Doctorate from Mangalore University (1993). He was selected by Dr. Schaller to join WCS staff in 1988, where he continues to work as a Senior Conservation Scientist. Dr. Karanth has adjunct teaching faculty status at NCBS-TIFR, Bangalore and at the Department of Wildlife Biology, University of Minnesota, and, also supervises doctoral candidates at Manipal University, Karnataka. He has been a member of the National Board for Wildlife headed by the Prime Minister of India and Forest Advisory Committee of the Union Ministry of Environment and Forests. His submission is attached as **Annexure B**.

7. Dr. M. V. Ramana obtained his Ph.D. in Physics from Boston University in 1994 and was a post-doctoral fellow at the Department of Physics, University of Toronto and the Center for International Studies, Massachusetts Institute of Technology. He came to Princeton in 1998. Between 2004 and 2009, he was at the Centre for Interdisciplinary Studies in Environment and Development in Bangalore, India. He is currently appointed jointly with Program on Science and Global Security and the Nuclear Futures Laboratory at Princeton University and works on the future of nuclear energy in the context of climate change and nuclear disarmament. Ramana is completing a book on nuclear power in India. He is a member of the Science and Security Board of the Bulletin of the Atomic Scientists and the International Panel on Fissile Materials. His submission is attached as **Annexure C**.
8. Dr. Mark Chernaik, Staff Scientist, ELAW, U.S.A. helps attorneys and citizens make effective use of scientific information to defend the environment. Dr. Chernaik received a Bachelor of Science degree in Biochemistry from the University of Massachusetts at Amherst and a Ph.D. in Biochemistry from Johns Hopkins University. His work has been published in the Proceedings of the National Academy of Sciences, U.S.A, and the Journal of Biological Chemistry. Mark received his law degree from the University of Oregon School of Law in May 1993, and has worked on a variety of environmental litigations world over. Dr. Chernaik joined ELAW in 1992 and his work has taken him to Asia, Latin America, Eastern Europe, and the Middle East. His submission is attached as **Annexure D**.
9. Ashoka Trust for Research in Ecology and the Environment (ATREE) is a research institution in the areas of biodiversity conservation and sustainable development. ATREE focus on applied science through research, education and action that influence policy and practice on conservation of nature, management of natural resources, and sustainable development. Dr. Nitin Rai did his Ph.D. from Department of Biology, Pennsylvania State University on 'Human use, reproductive

ecology, and life history of *Garcinia gummi-gutta*, a non timber forest product, in the Western Ghats, India' in the year 2003 and is currently working as a Faculty in ATREE. Their submission is attached at **Annexure E**.

10. Prof. Atul Chokshi is currently Professor of Materials Engineering at the Indian Institute of Science, Bangalore. Prior to joining IISc in 1994, he was on the faculty of University of California, San Diego for five years. He has held visiting faculty positions in more than six Universities in USA, Europe and Japan. He received his B.Tech degree in Metallurgy from IIT Madras in 1980 and M.S. and Ph.D. degrees from the University of Southern California, USA. Dr. Aarti Chokshi obtained a PhD in Astrophysics at the University of California, Los Angeles and she has worked at NASA, Princeton University, Cal Tech and as a faculty member at the Indian Institute of Astrophysics. She is currently involved in human rights activities with the People's Union for Civil Liberties. His submission is attached as **Annexure F**.

11. Dr. Abi Tamim Vanak is a Fellow, National Environmental Sciences Program, Ministry of Environment and Forests, Government of India and Fellow, Centre for Biodiversity and Conservation, Ashoka Trust for Research in Ecology and the Environment (ATREE). He is an animal ecologist and conservation biologist. He completed his Ph.D. on Wildlife Science from University of Missouri, Columbia, MO, USA in 2008. His current work focuses on the ecology and conservation of India's semi-arid savanna grasslands and its unique set of endemic and endangered fauna. His submission is attached as **Annexure G**.

12. Ms. Mercy Kappen, Associate Director and Trustee, Visthar has twenty five years of experience, at various levels, in the field of community development working with and through non profit organizations. The last twelve years she have been at a senior management level, focusing on capacity building of NGOs and Social Movements and co-facilitating study abroad programme for students from the USA. She has also served as a member of the core staff for the Training for Transformation course at Kleinmond, Cape Town. Her submission is attached as **Annexure H**.

Regarding “Historical information in respect of the Amrit Mahal Kaval and Cattle” accessible at page 3 of FFC report

13. The Applicant submit that the report produced by the FFC provides an exhaustive historical account of the Amrit Mahal Kavals in Karnataka and the process by

which the Amrit Mahal breed of cattle was developed. The report also details the roles of communities over centuries in according protection to the Kavals and ensuring that the natural resources of such grassland ecosystems and grazing pastures is prudently used. The FFC report also confirms that it is because of such sensitive interdependence between the Kavals and pastoral communities, and the role of communities in conserving them that these habitats have survived over centuries against all odds. This fact is acknowledged in the FFC report at page 3 wherein it is stated that “such reserved grasslands were 240 in number and their total area was 4,13,529 acres”. As there is no specific date ascribed to the spatial extent of the Kavals enumerated in the FFC report, the Applicant presume that this may be at the time of independence.

14. On such basis, the FFC reports at page 5 of its report that “(a)t present, Department of Animal Husbandry and Veterinary services claims possession of 65,925.36 acres (27,468.9 ha) of Amrit Mahal Kaval lands in 62 locations in 6 districts - Chikkamagaluru, Chitradurga, Hassan, Tumkur, Mandya and Davanagere... In 1982, the Kaval area was reduced to 54,000 acre and in 1996 it further came down to 30,000 acres. Nearly 45.58% of the landmass has disappeared due to different pressures.” It is clear from this finding of the FFC that were the illegal diversion of the Challakere Kavals to be sustained then the last remaining contiguous stretch of semi-arid grassland ecosystem left in Karnataka would be lost forever. What would then be left would be mere patches of such sensitive ecosystems whose chances of surviving as habitats for semi-arid flora and fauna is highly unlikely, given especially the admitted situation currently of weak protection by the State authorities. On the biodiversity value of the Kavals the Committee infact has held that these areas “for centuries have kept natural vegetation without disturbance. Existence of grassland fauna like wolf, blackbucks, fox, etc. in these Kavals have been observed from time to time.”
15. The Applicant also draw the attention of this Hon’ble Tribunal to a finding in the FFC report where it has been recorded at page 6 that “(t)ill date, as per records and practices, the Kavals have come under the jurisdiction of Animal Husbandry and Veterinary Services for their maintenance and their protection.” The Committee has further submitted that in addition to the Kavals being within the maintenance jurisdiction of the Animal Husbandry department, “Kavalgaras were appointed for watch and ward of these Kaval lands. While 113 of them were working in 37 out of 59 villages there was no watch and ward for 24, 919.50 acres (45 per cent) of Kaval lands in the remaining 22 villages. According to the conditions prescribed (February 2008) by the Government for appointment of Kavalgaras, each

Kavalgara was to be appointed for every 400 acres of land and was to be allotted 2 acres to make a living by growing crops other than commercial crops. Every Kavalgara was to be engaged in fodder production besides maintenance of the farms.” The FFC has further noted at page 7 that “(t)he land which was not utilized by Government Amrit Mahal cattle were used for grazing by the local cattle after paying a nominal fee. This amount was used as salary for Kavalagaras.” In addition it has been reported that when the density of livestock maintained by the department in certain Kavals dwindled due to various factors, and particularly “due to repeated failure of monsoon and depletion of underground water, (because of which) the herd strength got reduced and also there was lack of sufficient funds for expansion of activity of the farms”.

16. It is clear from these findings of the FFC that:

- The Amrit Mahal Kavals are within the maintenance jurisdiction of the Animal Husbandry department and are thereby not owned by the State.
- The maintenance of the Amrit Mahal Kavals in the post independence period has been shared between the aforesaid Department and the Kavalgaras appointed from the local communities.
- The Kavals were extensively used by the local communities to forage their cattle by paying a nominal fee when the ranges were not required for use by Amrit Mahal breed or other livestock maintained by the Animal Husbandry department, and also when the department run facilities suffered failures due to various factors such as drought or lack of funds.
- The revenue so generated from the use of the Kavals by communities supported the salaries of the Kavalgaras.
- The Government of Karnataka in its wisdom has evolved a detailed set of guidelines and conditions for the maintenance of Kavals as recently as in February 2008.
- The extent of Kavals has drastically reduced to merely 30,000 acres prior to the illegal diversion of the Challakere Amrit Mahal Kavals, and if such illegal diversion were sustained it would amount to an almost total destruction of this living heritage and biodiversity rich landscapes of the State of Karnataka.

- The local communities have been extremely wise and sensitive to the ecological nature of the Kavals and their dependence on these grassland ecosystems has been of a symbiotic nature.
17. However, the Committee has not provided any measure or data to estimate the productivity of the Kaval area be it during normal monsoon or drought periods, and thus the claim made that the grazing pastures have become unproductive and unviable remains without substance.
18. At page 11, the Committee reports that during “pre-independence the Amrit Mahal breed number was 12,300. By 1982, the number came down drastically to 1,700 and in 1996 it was reduced to 1,200 only. Presently, around 1,343 Amrit Mahal Cattle are being maintained in 7 sub-centres in 3 districts of Karnataka (Table 1).... Table 2 details the Number of Amrit Mahal Cattle owned by villagers around the Kaval area (Census 2012). As per the census records of 2012, Amrit Mahal Cattle is not found in the villages located around the Kaval area.” The Applicant draw the attention of this Hon’ble Tribunal to the claim made by the Committee to the effect that the region is now devoid of any Amrit Mahal cattle as being based on mere presumption which does not corroborate with averments made in other sections of the report and also evidence which is available in the public domain, which strongly indicate that local villages have continued the tradition of rearing the Amrit Mahal breed of cattle to this day. The Committee has in the aforesaid table reported that between the 2007 and 2012 census of Amrit Mahal cattle there has been a drop from 150 heads of cattle to 0, without, however, explaining what census is being referred to. Unless the Committee clarifies as to which census it is exactly referring to, the claims made to the effect that no Amrit Mahal cattle exist in the Challakere Kaval region cannot be accepted as an admissible fact for judicial review.
19. Another inconsistency that emerges in the manner in which the Committee has arrived at such numbers, as adverted to above, is in terms of the number of villages the Committee claims to be surrounding the Amrit Mahal Kaval, Challakere, which for the present purposes constitutes the impact zone. At Table 2, the Committee provides the number of villages where the status of Amrit Mahal cattle can be assessed around the Kaval area as 16. However, at page 34 the Committee reports, under section titled “Specific Issue for Consideration”, that the population impacted around the Kaval area is in 62 villages. This raises serious questions about the anomalous nature of comparative reasoning that has been employed by the

Committee in defining what the impact zone is for determining various factors, such as, in the current example, assessing the numbers of Amrit Mahal cattle.

20. The Applicant submit that when the 2007 Livestock Survey is appropriately reviewed, the data reveals that there were 376 heads of Amrit Mahal cattle even in just 47 of the impacted villages. The Committee seems to have overlooked this critical information which has a serious bearing on the outcome of the present proceedings.

Regarding “Ecological nature of the landscape” accessible at page13 of the FFC report

21. At the outset the Applicant submit that the facts as provided by the Committee to describe the ecological nature of the Amrit Mahal grasslands of Challakere, are essentially geographical in nature. Thereby, no appropriate finding has been arrived at in describing, determining and defining the ecological nature of the landscape of the grassland ecosystem, which constitutes the subject matter of the present proceedings.
22. The Applicant wish to submit to this Hon’ble Tribunal that the accepted scientific standard for assessing the ecological nature of landscape should be based on specific criteria and a working definition to rule out any confusion or confounding interpretations, as has been done by William R. Clarke in a paper entitled “Principles of Landscape Ecology” published in the internationally acclaimed journal *Nature*¹ wherein he states categorically that “landscape ecology is the study of the pattern and interaction between ecosystems within a region of interest, and the way the interactions affect ecological processes, especially the unique effects of spatial heterogeneity on these interactions”. The author also explains that landscape ecology “specifically recognizes that disturbance, whether anthropogenic or caused by natural processes, creates spatial heterogeneity that is the normal condition of ecosystems.”
23. The Applicant respectfully submit that in approaching complex questions of scientific enquiry, as was required per the TOR, the Committee, instead, has merely satisfied itself by attempting to pass off a geographical description of the area as though it were an assessment of the ecological landscape of the Kavals. The

1 William.R.Clarke, "Principles of Landscape Ecology", Department of Ecology, Evolution and Organismal Biology, Iowa State University, 2010.

Committee has also not provided any illustrative representation of the composition of the landscape as it existed, currently exists, and implications of the projects on its ecological nature. In the absence of such material, the FFC would be comprehensively handicapped in making any accurate assessment of the landscape ecology of the area. The Applicant therefore submit that the FFC has failed in complying with the expectations of review per the applicable items of the TOR.

Regarding “Demographic features of the landscape” accessible at page 15 of the FFC report

24. The Applicant submit that the FFC has provided certain very broad and overarching description of the demographic features of Challakere, without in any manner specifically addressing the relevant items of the TOR that would provide a cogent understanding of relevant factors such as the exact number of directly and indirectly affected populations, the displacement factor, livelihood loss, loss of economic opportunities, fragmentation of communities, the implications on gender issues, loss of traditional knowledge associated with local biodiversity, etc. The data provided in the Committee’s report, *sans* citation, appears to have been a result of crowd sourcing and without even specifically identifying the spatial extent of what Challakere constitutes. Further, there is absolutely no attention paid to some of the more pertinent concerns determined by such factors as the fact that the region is one of the highest vegetable oil producing areas in India.

25. The Applicant in their aforesaid report have provided an exhaustive interpretation of data sourced from 1991, 2001 and 2011 Census of India, specifically segregating and analyzing data relating to Challakere Rural and Urban areas. The Committee has comprehensively ignored this submission, and its demographic analysis is cursory, indicating a serious non-application of mind to extremely critical factors that determine the futures of thousands of families.

Regarding “Characteristics of the Biodiversity” accessible at page 16 of the FFC report

26. The Committee, as per the TOR, was required to provide a detailed assessment of the characteristics of the biodiversity of the region in question to assist the Hon’ble Tribunal in its decision making process. At the outset, the Committee admits that there has been a Rapid Biodiversity Survey of Khudapura Kaval by IISc, entitled “**A Precious Heritage**” which, as admitted by the research team, was a result of only 2 days field work. It is clear from the study and also the assessment of the

Committee that the habitat has a “rich” diversity of flora and fauna. However, the Committee claims that this survey is the only “study pertaining to the Characteristics of biodiversity of the land allotted to IISc” which it also admitted, based on opinion provided by the Karnataka Biodiversity Board, “may be taken as representative biodiversity of the whole area”. Save such comments, the FFC makes no effort whatsoever to provide any assessment of the characteristics of biodiversity of the impacted area and also does not provide any clear direction for appreciating the biodiversity characteristics even as it admits that the Karnataka Biodiversity Board “have not conducted any biodiversity study in these Kaval lands at Challakere”.

27. The Applicant also state the Committee seems to have totally overlooked various detailed submissions made by the Applicant on the biodiversity of the project-impacted area, in particular, a 40 page submission entitled “**A Note on the Floristic Diversity and Ethno-botany of Chitradurga District**” produced by Dr. N. M. Ganesh Babu, Senior Research Officer, Foundation for Revitalisation of Local Health Traditions which is a Centre of Excellence established by the Union Ministry of Environment and Forests, based on field work undertaken during 1999 to 2013 culminating in a Ph.D. from Forest Research Institute, Dehradun. Had the Committee reviewed this material, it would have noticed that Dr. Babu’s study has revealed that 159 species of flora found in Chitradurga are endemic to Karnataka of which 4 are endemic only to the district and that “2 taxa discovered in the Amrit Mahal Kaval of Challakere Taluk are found only in the Tiruvanamalai hills of Tamilnadu, viz., *Caralluma adscendens* var. *carinata* and *Caralluma adscendens* var. *gracilis*, both being of critical importance as medicinal plants and also of economic value. In fact these plants are in very high demand amongst pharmaceutical companies, and need to be preserved immediately in their natural settings, especially because they have been rediscovered after 80 years, and arguably need to be classified as critically endangered. The study has also revealed that some species of flora, including endemic taxa, which are found in other parts of the country have only been recorded in the Challakere area and nowhere else in the state of Karnataka.”
28. Taking the above facts into consideration, the Researcher submits that the “conservation of the Amrit Mahal Kaval in Challakere taluk of Chitradurga district of Karnataka state as a natural grassland ecosystem is of critical importance to the conservation of such habitats and species unique to such ecological type.”
29. The Applicant submits that the FFC has acknowledge certain studies while ignoring others.

Regarding “Dependence of the local communities on the grassland ecosystem sought to be diverted to non-forest purpose?” accessible at page 17 of the FFC report

30. The FFC admits here that the Kavals form a fundamental basis for existence of proximal villages and also those far away especially “(d)uring drought season” (*sic*). It has also acknowledged the extensive nature of the use and dependence on the Kavals by the local communities including for artisanal economic activity and also as a landscape for sourcing medicinal products. It is clear from their description of observed activities that the Kavals form the very basis of rearing of cattle whose draft power and dung form the very basis of agriculture practiced in the region. Yet, without in any manner appreciating this intricate interdependence between the Kavals, pastoral, artisanal and agriculture activities, the Committee proceeds to formulate an illogical assessment that “other than grazing by sheep/cattle, the communities were not dependent on these lands either for agriculture or for settlement”(sic). From such sweeping generalizations, the Applicant submit that the Committee seems to be influenced by a colonial construct as in the British Raj when such unsubstantiated interpretations were deliberately employed against disempowered communities to effectively dispossess them of their village common.
31. In this context, the Applicant, in order to assist this Hon’ble Tribunal to arrive at a fair conclusion, extract relevant portions from Babu’s note, referred to earlier, which has bearing on this item of the TOR:

“During the entire phase of the study, the Researcher had presumed that the Amrit Mahal Kaval Grasslands of Challakere Taluk were under the least threat, compared even with protected forests in the rest of the district. In fact, the researcher had observed that the local communities in and around the Kaval area of Challakere Taluk were extremely sensitive to the biodiversity value of these unique grassland ecosystems, and their use of this range for pastoral and other needs did not tax theecosystem beyond sustenance limits.

The researcher observed that the interdependence between the local agrarian and pastoral communities and the grasslands was extremely complex and complementary. For instance, pastoral communities would sensitively graze the grasslands without resorting to overgrazing, and the grass was managed in a way that would allow endangered species like the Black Buck to thrive. Were it not for the interventions of pastoral communities, the uncontrolled

growth of grasses would have risked spread of fires, which would have devastated the unique flora of the region.

The knowledge of plants and their use as medicines, in craft, for economic value and food amongst the pastoral and agrarian communities of Challakere Taluk is extremely high, and arguably is highest in the entire district. This is probably because this population has been least disturbed over time and their relationships with local ecological landscapes has remained undisturbed. The Kaval lands form the core of this relationship, as it is also a space for the practice of a variety of religious and cultural rituals. Such is the intensity of dependence on flora amongst the local communities, that it is evident in their folklore, often in the form of songs.”

32. From a study undertaken by Uma Shaanker *et al*² on the livelihood gains and ecological costs of human dependence on natural ecosystems, which was based on exhaustive field studies undertaken in BR Hills, NM Hills and Nagarhole, the researchers report that “...ecological knowledge of people scales positively with the extent of their dependence on the forest.” When this assessment is considered along with Babu’s observations of the historical and ecologically sensitive dependence of local communities on the Kavals and their extraordinary knowledge of local flora and fauna, it seems logical to infer that the current effort to divert these grasslands would have a debilitating impact on the lives and livelihoods of pastoral, artisanal and agrarian communities in the impacted villages. This critical fact the Committee appears to have ignored in its assessment.

Regarding “Likely impact of the proposed projects on human settlements in terms of loss/gain of the following:” accessible at page 17 of the FFC report

Regarding “Displacement “accessible at page 17 of the FFC report

33. In about 6 lines, at page 17, the FFC has comprehensively dismissed one of the most serious impacts resulting from the illegal diversion of the Amrit Mahal Kavals: displacement of directly and indirectly impacted communities. This finding

2 Uma Shaanker et al, “Livelihood gains and ecological costs of non-timer forest product dependence: assessing the roles of dependence, ecological knowledge and market structure in three contrasting human and ecological settings in south India”, Environmental Conservation, 2004

of the Committee is buttressed with no evidence whatsoever and yet summarized in the following manner:

“From time immemorial, the Kaval lands at Challakere have not been inhabited by human beings and there are no records to indicate the human settlement in these Kaval lands. The villages are located around the Kaval lands and therefore, the diversion of the land to the projects has not affected the present human settlement in these villages.”

34. If the FFC had relied on the wealth of information accessible on the enormous scales of irreversible damage, direct and indirect displacement has caused to a substantial proportion of India’s population, then the Committee members would not have characterized the displacement concern in such a nugatory manner, as quoted above.

Regarding “Livelihood” accessible at page 18 of the FFC report

35. On the critical issue of livelihood of the project-impacted communities, the Applicant respectfully submit to this Hon’ble Tribunal that the Fact FFC appears to have relied on conjecture which is evident in the following statement:

“There are chances of job opportunities both for unskilled and skilled labour would increase leading to an improvement in the livelihood conditions of local populace.” This, even after they have admitted that “the people from Below Poverty Line (BPL) who are now utilizing Kaval products and land for grazing activities are going to be devoid of these livelihood facilities”.

36. The Applicant respectfully submit that such an incoherent analysis of the FFC, which cannot be ascribed with any expertise in this, should not form any basis for the massive scale of displacement of livelihoods that is certain to result due to the illegal diversion of the Amrit Mahal Kavals for the proposed projects at Challakere.
37. The livelihoods that are in question here relate to providing some of the most critical inputs to the nutritional security of a much wider population in the form of organic milk and meat (as they are indigenous breeds and not stall-fed), contributed with no damage to the climate (as compared with the high damage cost in Western economies for the same economic contribution from livestock reared there). In addition, there is also the very famous contribution from the region in the form of

the *Challakere Kambli*, a highly sought after blanket by the Indian Army, which is a completely hand-woven product generating several dignified livelihoods for every blanket produced. Such products of the grassland ecosystem and associated low carbon livelihoods will be completely wiped out due to the illegal diversion of the Kavals.

Regarding “Socio-cultural landscape” accessible at page 18 of the FFC report

38. The Applicant submit that the FFC has misconstrued an entitlement as mere benefit. The people of Challakere are entitled to good schools, anganvaadis, colleges, public health facilities, sports and recreational centers, religious and cultural centers, and such other social infrastructure as part of their fundamental entitlement enshrined in Article 21, the Right to Live. Such infrastructure has to be provided as part of the normal process of governance and not as a benefit that will be the outcome of displacement and dislocation of lives and livelihoods. It is indeed extremely disturbing that the Committee seems to indicate that such necessary items of social infrastructure that should be part of the landscape of any rural or urban area, would be the outcome of the proposed illegal developments and a fringe benefit that impacted communities should be looking forward to in the misery of their illegal dislocation and displacement.
39. The Applicant are especially troubled by the manner in which sacred places and sacred rituals of local communities have been treated for consideration by the FFC which is evident in its assumption that since “the organizations in whose land these festivals are celebrated have decided to provide access to the villagers to such places on the days of the festival”. The Applicant submit that there are various laws and judicial pronouncements asserting and affirming the due right of any individual to access his/her sacred ritual space, including burial grounds, and that this is not a Right that is to be subordinated to any discretion, leave alone that of the project proponents who are illegally occupying these areas in the Amrit Mahal Kaval of Challakere.

Regarding “Economic opportunities” accessible at page 19 of the FFC report

40. The Applicant submit that the FFC appears to be grossly underestimating, trivialising even, the massive scale of dislocation and displacement the diversion of the Kavals in Challakere has already caused, and will continue to cause in times to come were these illegal developments sustained. The Applicant fail to understand

how the local pastoral and agrarian communities will benefit from the “increase in population” perceived due to the proposed projects, and the expected “demand for vegetables, groceries, milk, meat and other local resources” when the basis for agriculture and milk and meat production, which are the Kavals, are being comprehensively destroyed by the proposed projects. In this context, it is quite troubling that the FFC proceeds to claim that locals will benefit from jobs generated by the proposed investments in the area. A cursory review of the recent occupational profiles of DRDO, BARC, IISc and ISRO reveal that none less than a candidate with a Ph.D. can be an employee in the true sense in the facilities proposed by these agencies at Challakere. While it may be possible that some low-level jobs such as maintaining sanitation, gardens, etc., could bring in some income to some families, the FFC fails to identify the specific pathways by which even such small jobs will be to the benefit of thousands of families that will be displaced. Further, the FFC claims that establishing these projects will “lead to minimising the migratory pattern of local populace, since it is likely to generate enough employment opportunities for all categories of people”.

41. Without any empirical evidence, without a Social Impact Assessment of the impacts of the proposed investments, without relying on an analysis produced by the Applicant in their aforesaid report which in turn is based on data from Census of India in 1991, 2001 and 2011, and without also referring to any of the District Credit Plans, data from National Sample Survey Organisation, or even the Chitradurga District at a Glance 2011-12 produced by Officer of the District Statistical Officer, Chitradurga, the Applicant fail to understand how the FFC could have come to such a conclusion as adverted to above. In any case, the Applicant submit that it is an uncontestable fact confirmed by the Planning Commission of India in its various reports and the 2007 report of National Commission for Enterprise in the Unorganized Sector (Arjun Sengupta Report)³, that displacement and dislocation destroys the socio-economic-cultural choices of impacted communities, and that this has been the story of such communities in India during colonial and post-colonial times.
42. At the risk of repetition, the Applicant submit that several documents and pleadings that are part of the Applications pending adjudication, such as “Report of the Sub Group on Fodder and Pasture Management Constituted under the Working Group

3 National Commission for Enterprise in the Unorganised Sector, “Comprehensive Legislation for Protection of Unorganized Workers”, 2007

on Forestry and Sustainable Natural Resource Management, Planning Commission version: 1.5 (21st September 2011)”⁴, “Task Force on Grasslands and Deserts for the Environment and Forest Sector for the Eleventh Five Year Plan (2007-2012)”⁵, “ENVIS Technical Report No. 16 (December 2004), Karnataka State of Environment Report and Action Plan on Biodiversity Sector”, “Country Report on Animal Genetic Resources of India, Department of Animal Husbandry and Dairying of the Ministry of Agriculture, Government of India”,⁶ “A Critical Review of Rehabilitation of Displaced Persons, 13th Report, Lok Sabha Standing Committee on Defence (2005-06)”⁷ and “Report of the Working Group on Animal Husbandry and Dairying, 12th Five Year Plan (2012-2017), Planning Commission of India”,⁸ all categorically state that pastoral and agrarian communities have not in the least benefited from their displacement of lives or dislocation of livelihoods due to a variety of projects, particularly defense projects. In fact, each and every one of these reports clearly, categorically and specifically advocate that displacement of farming and pastoral communities in India must be done only after the most thorough review of the need for such, only if absolutely necessary and that displacement and dislocation should not be caused even if there is an *iota* of doubt about the procedural irregularities or the potential benefits projected of proposed investments.

Regarding “Fragmentation of communities” accessible at page 19 of the FFC report

43. The Applicant submit that in their understanding of fragmentation of communities, it is not merely the fragmentation that results due to physical impediments, but also those that result in encroaching or diverting socio-cultural-economic spaces. The Applicant state that for local pastoral communities Amrit Mahal Kavals are not

4 “Report of the Sub Group on Fodder and Pasture Management Constituted under the Working Group on Forestry and Sustainable Natural Resource Management, Planning Commission version: 1.5 (21st September 2011)”, accessible at: http://planningcommission.gov.in/aboutus/committee/.../enf/wg_subfodder.pdf

5 Task Force on Grasslands and Deserts for the Environment and Forest Sector for the Eleventh Five Year Plan (2007-2012), accessible at: http://planningcommission.nic.in/aboutus/committee/wrkgrp11/tf11_grass.pdf

6 Country Report on Animal Genetic Resources of India, Department of Animal Husbandry and Dairying of the Ministry of Agriculture, Government of India”, accessible at: <http://www.dahd.nic.in/dahd/WriteReadData/Annual%20Report%202012-13%20EFG.pdf>

7 A Critical Review of Rehabilitation of Displaced Persons, 13th Report, Lok Sabha Standing Committee on Defence (2005-06), accessible at: http://164.100.47.134/Isscommittee/Defence/14_Defence_13.pdf

8 Report of the Working Group on Animal Husbandry and Dairying, 12th Five Year Plan (2012-2017), Planning Commission of India, accessible at: http://planningcommission.gov.in/aboutus/committee/wrkgrp12/agri/AHD_REPORT_Final_rev.pdf

merely a space, but a place for memory, for knowledge, for cultural exchange and assimilation, a place respected by generations, venerated as critical grassland ecosystems, an area of extraordinary biodiversity, a space and place which local communities deeply respected, interacted with in socio-cultural and economic forms appreciating its ecological roles, and it is thus that for hundreds of years that Challakere's Kavals have remained without encroachment and have sustained the livelihoods of thousands in surrounding villages. The Applicant respectfully submit that the diversion of the Kavals will result in fragmentation, and thus destruction, of all these socio-cultural, economic and ecological dimensions, and that these are irreplaceable as none exist in this scale and with such depth of history elsewhere in Karnataka.

44. The FFC, in contrast, seems to have understood the concept of fragmentation merely in terms of whether a road that has been illegally built, or existing pathways that have been illegally blocked, would handicap communities, which is quite unfortunate indeed. And yet, the FFC has made no reference whatsoever to the massive 30 kms. long double containment high-security wall that has been built by DRDO, and similar efforts by ISRO and IISc, all of which have resulted in not only fragmenting the Kavals physically, destroying already the livelihood opportunities of pastoral communities, but ecologically as well for migratory patterns of wildlife have been impeded, and probably blocked, with unforeseen consequences to the survival of certainly highly threatened and critically endangered species known to inhabit the area.

Regarding “Environmental limiting factor to the activities proposed, in respect of:” accessible at page 19 of the FFC report

Regarding “Geology” accessible at page 19 of the FFC report

45. The Applicant submit that in assessing if the geology of the area is an environmental limiting factor for the proposed projects, the FFC has relied merely on the submissions made by the project proponents, who in turn claim, essentially, that since it is an arid zone, there are no geological limitations. The only specific reference to any study to verify this assumption is by BARC, which claims to have undertaken Geotechnical Studies, which material has not been submitted for wider scrutiny. As each of these projects have very different impacts, a detailed appreciation of the geology of the area would be necessary. Given the limitations of this quick appraisal by the FFC, the least that could have been done is to seek an opinion on the likely implications of these different projects on the geological structure of the area from Geological Survey of India, or the National Geophysical

Research Institute, for instance. From statements by the project proponents relied upon by the FFC, several of which are appended to the report, it is difficult to verify if the proposed activities have any bearing on the geological features of the area, and whether the geology of the areas supports, for instance, deep storage of highly radioactive material that would be the outcome of BARC's facility. Similarly, there is no verification at all of the short-term and long-term implications due to subterranean pollution that would result from highly hazardous operations that BARC and DRDO, in particular, will cause.

46. The Applicant submit that none of the guidelines and mandatory norms that require transparent geotechnical studies, as required to be complied per the guidelines issued by International Atomic Energy Agency (IAEA) and International Civil Aviation Organisation (ICAO), or even those issued by Atomic Energy Regulatory Board (AERB) and Director General of Civil Aviation (DGCA), seem to have been complied with by the proposed projects. This aspect too remains unaddressed by the FFC.

Regarding “Land Availability” accessible at page 20 of the FFC report

47. The Applicant submit that the question of whether land is a limiting factor has been addressed by the FFC in terms of justifying the lands already allotted and not in verifying if such extents of land were at all required by the project proponents. The FFC, for instance, has stated that “IISc is planning to use 40% of its land for its development.” Similarly, it has been stated that “land allotted to DRDO is a composition of plain lands and valleys” and that “land allotted to BARC is not a cultivated land and the area is sufficient for its activities”. Such statements have been made by the FFC without any material to support the same, without any reference to a land-use plan, without any reliance on a Detailed Project Report (if such is available), without a Due Diligence Report, or any such report which will rationalise the need for extent of land and the siting of the projects as is now allotted to different public sector, defence, academic institutions and private agencies from the Challakere Kavals by the Karnataka Government. In addition, the FFC seems to be taking on a role of approving the allotments and not examining the validity of the same based on a rational and scientific audit of land for the various facilities proposed by citing such authorities as the National Building Code of India, international standards, or the various reports of appropriate Parliamentary Committees or even the Comptroller and Auditor General of India. The FFC has also not verified if these allotments have been made on the basis of the District

Land Use Plan prepared by the District Planning Committee in conformance with Constitutional 73rd Amendment (Panchayat Raj) Act and Constitutional 74th Amendment (Nagarpalika) Act. In addition, it seems to have taken upon itself the role of becoming a standard setting agency when it states that the “soil is suitable for developing good runway for testing of easy take-off and landing of unmanned air vehicles” even after it has admitted that the land allotted to DRDO is “a composition of plain lands and runways”, thus clearly confirming it is an undulating terrain wholly unsuitable for the location of a runway strip per the guidelines and standards issued under the Aircraft Act, 1934, by the Director General of Civil Aviation, Indian Air Force or even the ICAO norms.

48. The Applicant have provided extensive evidence about the fact that the original location for siting the DRDO complex was in Hulikunte in Chitradurga where the land is not undulating and appropriate for siting of a facility demanding runways. At Annexure H to the Applicant submission to the FFC (in “Forfeiting our Commons”) is a copy of a letter written by former Member of Parliament of Chitradurga Mr. Justice N. Y. Hanumanthappa, retired Chief Justice of Andhra Pradesh High Court, on 30 March 2007 to Defence Minister Mr. A. K. Anthony, wherein it is argued that the main reason for relocating the DRDO project, which then was considered to have been possible in 3,500 acres (not 4,500 acres as claimed a year later) at Hulikunte, for which all necessary approvals were already in the process of being sought, would be that the Challakere land, according to Justice Hanumanthappa, per his letter, “there is no question of acquisition of land and payment of compensation. Since it is Government land it can be acquired for defence requirement” and that “there will be no procedural hazards”. Further, that “the Government need not spend unnecessarily heavy amount for land acquisition, which is time consuming”.
49. The Applicant submit that Justice Hanumanthappa's letter does not take any cognisance of the 20 March 2001 order of the Division Bench of the Hon'ble High Court of Karnataka in WP No. 17954/1997, a copy of which is annexed to the main Applications, where on the specific issue of protection of Amrit Mahal Kavals from diversion to other purposes, the Hon'ble Court held that the Government of Karnataka is “..duty bound to ensure that the lands reserved for such purpose is preserved and protected for the use for which it is reserved and no portion of that land is in any way diverted or illegally encroached upon.” Pursuant to this direction, the Karnataka Government by a Circular dated 28th February 2004 of the Department of Animal Husbandry and Fisheries, a copy of which is annexed to the main Applications, confirmed that the “decision is applicable to all Amrit Mahal

Kaval lands and therefore it cannot be limited to the land in question in the Writ Petition”. The Circular even proclaimed this direction as an “historic decision” and directed Revenue and Police Departments to ensure the order was complied with rigorously.

50. The FFC has annexed the aforesaid direction of the Hon'ble High Court of Karnataka along with other orders of the Government of Karnataka to its report, thus implicitly admitting their applicability to the present proceedings. Yet, the FFC has not made any specific statement to this effect in the main report, and instead relied on certain statements made by Respondent project proponents and agencies of the Government, which, the Applicant respectfully submit, constitutes gross error on the part of the Committee. This is because in so choosing to rely on project proponents submissions while comprehensively ignoring a binding order of the Hon'ble High Court of Karnataka that has attained finality, shockingly reflects subordination of judicial orders to mere executive opinion, that too involving certain beneficiary agencies who the Applicant state have patently violated all laws and norms.

Regarding “Landscape/Range:” accessible at page 20 of the FFC report

51. From time immemorial, communities have understood that grasslands are edaphic ecosystems and should, therefore, not be planted with trees. Traditional knowledge is replete with the understanding that planting trees seriously compromises the high levels of productivity and suppresses endemic biodiversity of grasslands, which, in turn, adversely affects wildlife populations and seriously compromises grazing opportunities. It is also well known that arid grasslands, and the flora and fauna that inhabit them, have adapted to harsh climatic conditions over millions of years. Pastoral communities have appreciated these ecological values of grassland ecosystems, and it is in such acknowledgement of their immense potential in supporting livestock rearing, that such habitats have been protected as commons from time immemorial. Recent climate change related research has demonstrated that grasslands have high rates of carbon sequestration, and must, therefore, be protected as such.
52. The Applicant submit that it is indeed a tragedy of forestry activities propagated during colonial times, influenced clearly by a mindset of certain foresters who originated in temperate areas, where high humus and soil moisture supports tree planting, to have assumed that similar approaches are appropriate to semi-arid and arid areas where grasslands abound. Such thinking which has now become systemic to forestry activities is even today unthinkingly propagated by the Forest

Departments in India, and other agencies as well, with disastrous consequences to conservation of flora and fauna of grassland ecosystems, and to our efforts in tackling climate change. Besides, they are critical to securing the biodiversity that provides resilience to food crops.

53. The Applicant submit that claims by project proponents that they would plant, or are planting, the Amrit Mahal Kaval grasslands has been uncritically accepted by the FFC evident in such statements in the report as “(l)andscape is expected to be improved with the planting of samplings” (*sic*), “(t)he landscape and greenery would be improved by planting 8000 sapling of 5 species of Bio Fuel”, “it is likely that the landscape would improve due to planting of saplings around the land”, etc. It is known over generations, and there is abundance of literature of ecological research conducted in recent decades on grasslands, that planting them with trees is the most certain method of destroying its endemic biodiversity and its livelihood opportunities.
54. The Applicant submit that the Report of the Task Force on Grasslands and Deserts constituted by the Planning Commission of India, cited before, has acknowledged that “..semi-arid grasslands have an important genetic resource in the form of grass and shrub species, which are important for ecological and food security of the country. Therefore, these PAs and other types of protected areas should be considered as important not only for wildlife conservation but should be considered as gene banks. For example, most of our cereals have originated from wild grasses. Arid and semi-arid areas also have important breeds of livestock that also need protection. Therefore, protection and enhancement of PAs in arid and semi-arid regions and also protection of wildlife outside PA system should be given high priority and should be integrated in the over-all land-use policy of the country.”
55. Clearly such profound understanding of the role of grasslands in advancing ecological security of present and future generations has been comprehensively disregarded in the proposal to divert Challakere's Amrit Mahal Kavals on the one hand, and now by activities to plant them with trees. Such highly questionable and ecologically unwise approaches seem to have found the uncritical approval of the FFC.
56. The Applicant also submit that the FFC has, on the one hand, eulogised the report of IISC, viz. *A Precious Heritage*, which makes a very strong case against destruction of such grassland ecosystems including acknowledging their high biodiversity and carbon sequestration roles, and on the other has relied upon a submission made by this very institution which states that “(t)he landscape and

greenery would be improved by planting 8000 sapling of 5 species of Bio Fuel (Honge, Neem, Hippe, Harali and Simaruba) plants”. The FFC report then has at Annexure 21 a letter of the IISc Registrar to the FFC dated 21st June 2013 where it is claimed that “the proposal of the Chairman, FFC to retain some portions of the land in the 'present form' i.e. dry & barren landscape at least for some years so that the change of environment is gradual”. The Applicant respectfully submit that such mixed, contradictory and shifting stances on the part of the FFC and IISc on how grasslands must be perceived and protected is indicative of serious non-application of mind.

Regarding “Hydrology:” accessible at page 21 of the FFC report

57. The Applicant submit that the question of hydrology being an environmental limiting factor is a very serious concern, especially in Challakere region, which falls in one of the most drought affected areas of south India. To the Applicant, the question is if there is sufficient water storage and recharge potential in latent surface and groundwater aquifers to support the extremely high demands of defence, nuclear, institutional and infrastructure developments proposed here, and the massive urbanisation which would result, while also providing for the water demands of agrarian and pastoral communities, not to forget the demands of existing towns and cities of the district which are growing. Considering the fact that none of the project proponents have even initiated any environmental appraisal studies to address this and other aspects, it would appear prudent to examine if there is water available at all to support such a dense cluster of water intensive activities first and foremost. In addition, it is critical to appreciate how surface and ground water flows will be affected by transformations of existing land use patterns due to the mega developments proposed. In the absence of a Detailed Project Report and Land Use Plan, it is simply not possible, the Applicant submit, to assess such critical determinants to environmental decision making. Even on this critical determinant, the FFC has relied on claims of project proponents that “there activities do not affect the hydrology of the area and will not modify the existing drainage pattern” (*sic*).

Regarding “Surface and ground water assessment:” accessible at page 21 of the FFC report

58. The FFC admits that the region is severely water starved, which is not at all surprising considering the climatic zone where it is located. It is also admitted that the water bodies, mainly irrigation tanks, are all seasonal, which is typical of all such systems in south India, especially in arid zones. It is further admitted that the impacted region is marked by “poor ground water levels”. Yet, the FFC proceeds to state that “surface and ground water if not abundant may not become a limiting factor for the type of forthcoming activities” without substantiating how this could be the case considering the nature and scale of projects proposed.
59. The Applicant in their report “Forfeiting our Commons” submitted to the FFC, have provided analysis of the surface and groundwater situation in the region based on data sourced from Government monitoring agencies which reveals that water is in fact a very serious environmental limiting factor to the proposed activities. This is because, as the Applicant report summarises, “Chitradurga district is without a major river providing a perennial source of water, and that groundwater levels have depleted even without major industrialisation and urbanisation thus far, (and) water remains a critical limiting environmental factor defining the future of mega industrial, nuclear, defence, infrastructure and technology projects that are proposed in Challakere taluk. Besides ground water, irrigation tanks remain the most important source of water. Given that the Amrit Mahal Kavals form major watersheds of such tanks and also for ground water recharge, any further diversion of the Amrit Mahal Kavals for such mega projects portends a bleak future as this will undoubtedly result in increasing water demand that are unlikely to be met without conflict.” Not only has the FFC ignored such submissions, but it is also a fact that the Committee's report at no point acknowledges the enormous role of Kavals as watersheds for surface and groundwater aquifers, and water flows across the landscape.

Regarding “Water Availability:” accessible at page 25 of the FFC report

60. The Applicant respectfully submit to this Hon'ble Tribunal that in the absence of a review of the water balance for each and every one of the proposed investment, compared with current and project demands of water of residual populations and activities, it is technically impossible to determine if there is sufficient water to support the range of investments proposed. The FFC, on the contrary, has relied on mere assurances by project proponents and proceeded to conclude that “(c)onsidering the quantum of water available”, to substantiate which there are no figures provided, “both for human requirement and activities of the *beneficiaries of*

the land, the Karnataka Urban Water Supply and Drainage Board has already initiated laying pipelines to supply water from Vani Vilas Sagar Dam, Chitradurga not only to people of Challakere but also to the *beneficiaries of the land in question* for meeting the demand of water for domestic/project activities. Therefore, water availability may not limit the activities of the beneficiaries.” (*Sic. Emphasis supplied.*)

61. The Applicant respectfully submit to the Hon'ble Tribunal that such analyses clearly is an insufficient basis to decide whether there is water to sustain current and projected demands, especially given that water from the Vani Vilas Sagar is already over-used and the dam has rarely filled to capacity in recent decades.

Regarding “Nature of human habitat/Settlement:” accessible at page 26 of the FFC report

62. The Applicant respectfully submit to this Hon'ble Tribunal that FFC has resorted to confounding an issue that is simply a matter of verifying Census data to assess the nature of human settlements that exist around the Amrit Mahal Kavals of Challakere. This because it is a settled fact that the Kavals are common lands which local communities have protected and wisely used for generations, and this included not inhabiting them by practice, culture, community-imposed restrictions, etc. Clearly, therefore, there cannot be habitations within the Kaval, and such settlements, if they do exist, would constitute a grave illegality considering the law and the aforesaid directions of the Hon'ble High Court of Karnataka.
63. It is to the immense credit of the communities in about 70 villages that ring the Amrit Mahal Kavals of Challakere, that such an expansive area, approximately 12,000 acres, remains without encroachment. Nowhere else in Karnataka can such an expanse of grasslands and grazing pastures be found. That this cultural richness of securing these commons for the benefit of current and future generations, a tradition honed by hundreds of years of similar practice, is, rather unfortunately today, become the very crucible for communities who find their Kavals diverted to other purposes without their due Prior and Informed Consent. The FFC has comprehensively failed in appreciating this tender interdependence of communities with Kavals which is clearly evident in their statement that “(s)ince the human settlement in the project area of the land of beneficiaries is limited, the settlement may not limit the activities”. The Applicant submit that they sincerely fail to understand what is being articulated here.

Regarding “Are there environmental studies undertaken for citing of the proposed activities in the land in question?” accessible at page 26 of the FFC report

64. The statement here by the FFC that IISc is the only agency that has undertaken some studies on the environmental and geographical attributes of the Kavals sought to be diverted, clearly is an indication of the comprehensive violation of environmental laws and norms in the instant case.

Regarding “Have the project proponents complied with the statutory requirement of the Environmental Protection Act, 1986, Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981, Forest Conservation Act, 1980, Forest Rights Act, 2006 read with Scheduled Caste Tribes and Others Forest Dwellers (Recognition of Forest Rights) Act, 2006, and Biological Diversity Act, 2002, in particular the Mandatory provision of the following: “ accessible at page 27 of the FFC report

65. It is evident from what is stated under this section of the report of the FFC that there has not been a rigorous application of mind to a critical determinant of the legality of environmental decision making relating to the proposed investments in Challakere. The FFC has reported the submission made to it by project proponents which reveals that none have complied with any of the Rules, Notifications, Orders, Circulars and such other norms and guidelines, and thus the provisions of the Environment Protection Act, 1986 which is mandatory, and violations of which constitute a criminal act. Yet, the FFC appears to be satisfied with the submissions made by the proponents and seems to have not made any effort to interrogate the reasons why project-proponents have so violated the laws. In addition, the FFC has not demanded any accountability on the part of environmental regulatory agencies who have tolerated such egregious violations for several years now. This particularly when project proponents have on record confirmed that they have commenced project activities, such as construction of compound walls which is an activity strictly prohibited per the applicable norms under the Environmental Impact Assessment Notification, 2006.

66. The Applicant further submit that the admitted fact that project activities have commenced even when “(m)aster plan for the development of land is yet to be finalised” and the astonishing claim on the part of ISRO and BARC that “(a)fter finalisation of the same, necessary clearances will be obtained as per the

Environment Act 1986, before commencement of construction activities and seek the consent for establishment from the state pollution control board” (*sic*) is indicative of the cavalier attitude demonstrated by the project proponents in respecting environmental laws and regulations, which too the FFC seems to have uncritically accepted. The Applicant pray to this Hon'ble Tribunal that such egregious violations should not be tolerated, and must be proceeded against in the strictest possible manner.

67. Particularly disturbing are the claims of Sagitaur Ventures India Pvt. Ltd. that they are not required to comply with the mandatory requirements of the EIA Notification because an official of the Union Ministry of Environment and Forests has issued a letter to them stating they are exempt. Much as the Notification is a subordinate legislation, the Applicant submit, it is not within the prerogative, discretion or capacity of any officer of the Ministry to issue letters exempting projects from the purview of the EIA Notification. The Applicant pray to this Hon'ble Tribunal that such actions on the part of an executive constitutes an extremely serious abuse of power and must be dealt with unsparingly. This trend seems to have become epidemic in the case of Challakere, as DRDO has also claimed that they have a similar letter from the Ministry exempting them from the provisions of the law. The Applicant have in their report provided extensive evidence in Indian law and jurisprudence, and also in international law and binding treaties, that such claims are untenable and must not only be set aside but that such a trend of officers of the Ministry operating beyond their brief curtailed by seriously reprimanding them and also proceeding against them per applicable law for abuse of power that encroaches legislative privilege. Consequently, the so-called exemptions that DRDO and Sagitaur claims must be set aside by this Hon'ble Tribunal.

68. In the case of KSSIDC, which claims that statutory compliance “will be taken care by individual allottees, after allotment of polt based on the type of manufacturing products in their respective factory units” which, the FFC records, is with the safeguard that “(p)lots will not be allotted to red category industries”, it becomes amply clear that the effort of the proponent to escape the bounds of law seems to have been uncritically accepted by the Committee. The EIA Notification, 2006 is clear on the nature of compliance demanded of Area Development Projects and Industrial Areas, and despite such categorical provisions demanding conformance with law, it is quite shocking that KSSIDC has been allowed to make such claims as part of the fact finding process initiated by the judicial power of the Hon'ble Tribunal.

Regarding “Water Act, 1974 (Prevention and Control of Pollution)” accessible at page 28 of the FFC report

69. The Applicant submit respectfully that it would certainly be well-intended and acceptable argument if ISRO were to claim expertise in rocket science, for truly, they are pioneers and the only agency allowed to and competent in this aspect. But for the same agency to claim, as is noted by the FFC in its report, that “ISRO/ISAC is pioneer in constructing waste water reclamation plant”, and that “tertiary treated waste water will be used for flushing of toilets” is a shocking admission of the extent of trivialisation of the due processes and procedure of regulation of pollution contained in the Water (Prevention and Control of Pollution) Act, 1974 that the space agency seems to advocate in the instant case. But it appears ISRO is not an exception as BARC, which is proposing one of the most toxic facilities known to humanity in Challakere, also approaches this critical regulation in an equally, if not more, *cavalier* manner when it claims, as is reported by the FFC, that “Water Act, 1974 will be complied with once the construction activities are initiated”.
70. As for DRDO, it appears that a Consent for Application has been “filed and fees of Rs. 2/- lakhs paid on 26 Mar 13 to Karnataka State Pollution Control Board”, as reported by the FFC. This clearly reveals that the agency is seeking to set right a serious wrong by taking shelter consequent to the initiation of legal proceedings by the Applicant, indicating, again, the callous disregard for environmental regulation and pollution control norms. This trend continues with Sagitaur, which claims it will only seek clearance “at the time of commencement of project activities”, and a much worse position is adopted by the KSSIDC which once more claims that compliance will be “taken care by individual allottees”. IISC, for instance, has claimed, as recorded by the FFC, that it is “in the process of developing a master plan complying with the said legal requirements” without specifically stating which.
71. In consideration of the above, the Applicant submit respectfully that there simply does not seem to be any seriousness on the part of the Respondent Project Proponents to appreciate the purpose for which such laws exist, and all seem to demonstrate an intent that amounts merely to a ritualistic compliance, a fact that goes unquestioned by the FFC. Clearly, the Applicant submit, that such cases are a fit and proper occasion for the Hon'ble Tribunal to forcefully intervene to set right the anomalies, considering that the proponents here are all leading science and

technology establishments or pioneering academic institutions, so that such lackadaisical approach to respecting the law of the land becomes a thing of the past.

Regarding “Air Act, 1981 (Prevention and Control of Pollution)” accessible at page 29 of the FFC report

72. As in the statements recorded by the FFC against the question of compliance with the Environment Protection Act, 1986 and the Water (Prevention and Control of Pollution) Act, 1974, the project proponents seem to similarly trivially consider the implications of non-compliance with the Air (Prevention and Control of Pollution) Act, 1981. The Applicant submit that in a country where such attitudes resulted in the world's worst industrial disaster at Bhopal, wherein several years after the enactment of the Air Act there was deliberate and criminal neglect on the part of regulatory agencies and Union Carbide/Dow Chemicals resulting in the loss of thousands of lives, an act of extraordinary negligence that even today continues to maim and kill people, unsparing attention is demanded to curtail such behaviour. Thus, the Applicant respectfully submit, the Hon'ble Tribunal must take a very strict view of these violations in the instant case, particularly considering the fact that some of the most hazardous processes are proposed in the Challakere area, primarily nuclear enrichment and weapons testing, not to forget hazardous operations proposed by other proponents.

Regarding “Environment Impact Assessment Notification, 2006 and 2009” accessible at page 30 of the FFC report

73. The Applicant have dealt with the aspect of compliance, or the lack of, with the EIA Notification in the section under Environment Protection Act, 1986, and only wish to further submit before the Hon'ble Tribunal that the so-called exemptions extended by an officer of the Ministry of Environment and Forests, are clearly illegal and such instances of administrative over-reach must be comprehensively investigated. The FFC, in contrast, has been satisfied by the claims made by the project proponents, and has not made an effort to examine the issue to the extent or depth demanded per the TOR issued for its functioning by this Hon'ble Tribunal.

Regarding “Hazardous waste (Management and Handling and Trans Boundary Movement) rules, 2008 as amended by (Amendment) Rules, 2010” accessible at page 31 of the FFC report

74. At the outset the Applicant submit that in regard to the proposal by BARC, nowhere has it been clarified if the facility is for defense or civilian purposes. Under Indian law there is no exemption from compliance with environmental laws for defense projects (barring an exemption from the Public Hearing procedure), and were the facility to be for civilian use, scrutiny would be required per Indian law and also international standards, such as those evolved by International Atomic Energy Agency. With particular regard to the siting of such hazardous facilities, the Atomic Energy Regulatory Board of India has evolved guidelines that explicitly warn against locating such high risk facility next to another high risk facility, for instance an airport, or weapon testing facility. In stark contrast, in Challakere, fundamental violation of these standards is what is being attempted. The Applicant rely on the expert opinion they have supplied as a part of their present pleadings to make a strong case against allowing the development of such hazardous facilities in Challakere. In particular considering the statement of BARC as reported by the FFC that “wastes shall be either sold to authorised recyclers or disposed to Treatment Storage Disposal Facilities”, the Applicant submit that such matters relating to highly radioactive and hazardous wastes cannot be left without high levels of scrutiny, particularly considering the very poor record of BARC in dealing with such matters as is evident in Jadugada in Jharkand. The FFC has not addressed this matter adequately to appreciate the long term consequences of what is being state here. Similarly, the FFC has accepted the claim of “DRDO, ISRO and Sagitaur Ventures India Pvt. Ltd. (who) have indicated that their activities do not produce hazardous waste” as also that of IISc which seems to state it is not yet aware if it will produce hazardous waste as its “master plan is yet to be finalised.. and will seek the clearance base on the need ..” (*sic*), and KSSIDC stating no different from what it has said about compliance with other laws, clearly indicating that this highly critical issue has not been interrogated at all as was required per the TOR issued by this Hon'ble Tribunal. The Applicant therefore state that all project proponents have comprehensively violated the due processes and procedures involved in appraising their activities from the rigours demanded by laws regulating hazardous waste in India.

Regarding “Consent from Forest Right Committees:” accessible at page 32 of the FFC report

75. The Applicant submit that per the Forest Conservation Act (1980) as interpreted by the Hon'ble Supreme Court in the Godavarman case, and more recently The

Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, also known as the Forest Rights Act, the question of what constitutes a forest is not subject to an executive privilege as was the case during colonial times and in the post-colonial period till the passing of the Godavarman ruling. Particularly with the passing of the Forest Rights Act, the Parliament in its wisdom unanimously allocated the task of defining a right over a forest, and what constitutes a forest, to the Forest Rights Committee functioning under the Gram Sabha per the Constitutional 73rd Amendment (Panchayat Raj) Act, 1992. Clearly, therefore, such Constitutionally guaranteed Rights cannot be subordinated to any Executive privilege or notion.

76. In the instant case, it is a matter of record that the Government of Karnataka has comprehensively failed in constituting Forest Rights Committees in the Challakere area in particular and Chitradurga district in particular. In the absence of such compliance it is absolutely improper for any agency of the Government, including the Department of Forests, Ecology and Environment, to assert and determine if a certain area constitutes a forest within the framework of Forests Rights Act, or not. The FFC, perhaps, has not been appropriately briefed on this aspect by the appropriate agencies, and has thus been led to the mistaken belief that since the “land in question does not come under the jurisdiction of the Department of Forest, Ecology and Environment, seeking clearance from Forest Rights Committee does not arise”. Interestingly, the FFC soon after proceeds to state that “in the land in question, there are no forest dwellers and only the people from the surrounding villages (including SC and ST) have been procuring the forest resources from time to time”. Thereby, evidently, the FFC confirms that there is a forest resource and there is dependence on such a resource by local communities “from the surrounding villages” which includes Scheduled Tribes and Other Traditional Forest Dwellers, which needs to be interpreted in the broadest sense per the Act. Yet, in what appears to be a confusion in the minds of the Committee members, it is asserted that “the Forest Rights Act 2006 read with Scheduled Caste Tribes and Other Forest Dwellers does not arise”.

77. The Applicant respectfully submit to this Hon'ble Tribunal that the privilege of determining a forest right is with the Forest Rights Committee appointed by the Gram Sabha, is a Constitutional guaranteed to set right historical injustices, and thus cannot be trampled upon by any authority. The confusion introduced in determining this Right due to what appears to be a mistaken understanding of the import of his historic law on the part of the FFC, thereby needs to be set right.

78. Be that as it may, the Applicant also submit that it is a matter of record and part of the submission made in the Applications, that per Rule 33 of the Karnataka Forest Rules, 1969 and a report of Expert Review Committee of the Karnataka Forest Department constituted in compliance with the directions of the Hon'ble Supreme Court in the Godavarman case, the Karnataka Forest Department, by way of an affidavit, has confirmed that Amrit Mahal Kavals are District Forests. To interpret them otherwise now and claim that Amrit Mahal Kavals are not District Forests, possibly to justify the illegal diversions of the Kavals in Challakere, could invite the wrath of the Hon'ble Supreme Court of India on grounds of perjury.
79. These aspects were delineated in the submissions of the Applicant to the FFC in the report "Forfeiting our Commons", which the Committee has not relied upon, thus arriving at an wholly erroneous conclusion about the nature of the Forest Rights Act, its nomenclature even and most certainly its import and application in setting right historical injustices to Scheduled Tribes and other forest dependent communities.
80. The Applicant submit that for the aforesaid reasons, the diversions of the Kavals constitute a grave illegality and violation of fundamental rights, as the Forest Rights Committees have not been constituted, and thus the local forest dependent communities have been denied their due right to participate in decision about the future of the Kavals per the Principle of Prior and Informed Consent guaranteed in the Forest Rights Act, 2006.

Regarding "Consent from Biodiversity Management Committees:" accessible at page 32 of the FFC report

81. The Applicant submit that the FFC has held that there has been weak or absolute non-compliance with the provisions of the Biological Diversity Act, 2002, in particular the requirement to constitute Biodiversity Management Committees (BMC) at the Gram Sabha. It has also confirmed that "(t)herefore, none of these committees have established a register containing comprehensive information on the available Biological resources in Amrit Mahal Kaval lands allotted to these Government/Private Organisations". Considering this admission of violation of a very fundamental provision of the Biological Diversity Act by the FFC, the Applicant submit respectfully to this Hon'ble Tribunal that no activity should be allowed forthwith to further damage the Kaval grassland ecosystems till such time

the biodiversity is assessed by the BMC in strict conformance with law, and their consent is secured for any diversion or alternate use of the Kavals.

Regarding “Specific Issue for consideration:” accessible at page 34 of the FFC report

Regarding “Socio-economic Aspects” accessible at page 34 of the FFC report

82. The Applicant submit that the FFC provided a variety of details without describing its importance or providing a relevant context, which makes it difficult to appreciate the import of such data in the present proceedings. Further, there seems to discordance in the data sourced and provided in different sections of the report.
83. In this section the total population around the Kaval are in 62 villages is said to be 1,32,874. Soon after, under “Number of Villages” the Tahsildar's office is cited as having been the source of information to state the number of villages is 26, but without providing a context for the same. Thereafter, the FFC states that per the Karnataka State Remote Sensing and Application Centre, there are 62 villages in and around 5 km radius, without stating of what. Such ways of describing numbers create a whole range of confusions in appreciating the true nature of the socio-economic aspects of life and livelihoods in and around the Kavals, and thus cannot be relied upon.
84. The FFC then states the main occupational profile of the “above villages” is “Agriculture, Sheep, Goat and Cattle Rearing” and then states that merely 7,466 families are “involved in Sheep and Cattle rearing”. There is no mention of what livelihood options are relied upon by the rest of the families, considering that the FFC states that the population of 62 villages is 1,32,874. There is also a lack of clarity in relying on the figures provided for “Number of sheep, goat and cattle in the study area” listed at Table 5 of the report. Given that the study area has not been defined, as is standard practice, it would be difficult to infer the meaning and purpose of providing information in such manner. In fact in the Table the number of villages listed is 41, leaving out Khudapura, Varavu Kaval and Nayakanahatti and many others which are heavily populated, and there is no clarity on what is the status in the other villages of the 62 list to be around the Kaval area.
85. About the status and number of Amrit Mahal cattle in the Challakere area, the FFC report states that “as per the census of 2012, Amrit Mahal cattle are not found in any of the villages located around the land in question”. However, at Annexure 7 of the FFC report is a submission made by the Department of Animal Husbandry

and Veterinary Sciences, dated 30th April 2013, addressed to this Hon'ble Tribunal in response to the aforesaid Applications, wherein it is categorically listed in a table that there are 408 Amrit Mahal cattle in the Challakare area specifically. There is also the question of why at Annexure 8 to the FFC Report, which is a "List of Villages located around 5 km radius of Amrit Mahal Kaval as generated by KSRSAC, Bangalore", which is undated and claimed to have been provided by Assistant Director, Veterinary Hospital, Challakere, wherein not only are the details for Challakere are missing, but also the number of Amrit Mahal cattle is shown as nil. Clearly, with such gross discrepancies between the numbers provided by two different officials within the same Department should have been interrogated by the FFC, which they have failed to, and have instead, actually, relied on the one that is unsigned and annexed at Annexure 8. The Applicant are perplexed why the FFC has found it important to describe the features of various breeds of indigenous cattle, whereas they ignored relevant facts that matter to the ongoing proceedings before this Hon'ble Tribunal.

**Regarding "Number of families dependent on forest products for livelihood:"
accessible at page 43 of the FFC report**

86. On the core concern of dependency of local communities on the forest produced generated by the Amrit Mahal Kaval, the FFC merely states "28 to 30 percent of the total household of the villages around the land in question" without in any manner explaining what this statement implies.

**Regarding "Government sponsored schemes, if any, for cattle and sheep rearing:"
accessible at page 44 of the FFC report**

87. In this section the FFC provides information listed at Annexure 7 which reveals the various schemes that have been deployed in the Challakere area for the benefit Scheduled Caste, Schedule Tribes and various insurance schemes for the benefit of pastoral communities. It is also revealed at internal Annexure 5 to Annexure 7, cited above, that Rs. 4,87,47,013 has been spent for the purpose of maintaining pure Amrit Mahal and Hallikar cattle.

88. The Applicant also wish to bring on record the fact that a variety Central and State schemes that are actively deployed in the Challakere region have brought extensive economic relief to the communities, particularly during the drought period. The

beneficiaries have been women especially, as there has been a special emphasis on organizing them into Self Help Groups. According to information available on the website of the Karnataka State Department of Industries⁹, “out of the total population of the (Challakere) taluk, 3,76,506, women constitute 1,83,135 i.e., 48.64%. More of women beneficiaries are coming forward to take up self employment activities either individual or by forming SHGs. Loan assistance to women is given under various schemes such as Udyogini, Nagara Stree Shakti, PMRY, SGSY, etc. There are 437 Stree Shakti groups in the taluk. 127 Groups are graded and credit linked.” All this indicates that there has been substantial progress of women in particular that has been achieved by promoting a variety of Central and State schemes, the positive results of which will be wantonly destroyed by the dislocation of these communities due to the proposed investments in Challakere. This will exacerbate the distress amongst communities as several families have assumed long term stability of their societies and settlements, as well as their livelihoods, and secured loans, the repayment of which will be extremely difficult were they to be displaced and dislocated, directly or indirectly.

**Regarding “Beneficiaries of the proposed/on-going developmental activities:”
accessible at page 44 of the FFC report**

89. The Applicant state that this section in the FFC Report appears to be an effort to promote the project proponents in a positive light, by listing out various activities that they are supposed to undertake as part of their regular scheme of work. The Applicant are at a loss to understand the relevance of such information and the enormous investment the FFC has made in providing the details herein, which are of no direct or indirect relevance to the proceedings in the current matter.

Regarding “Proposals announced by the government for enhancing cattle and sheep rearing in recent times”, 14. “Number of Goshalas in the region:” and 15. “Have there been any efforts to preserve, protect and increase the number of pure Amrit

9 Chapter 10, “Salient Features Of Schemes Implemented by Various Departments of State and Central Government”, Karnataka State Department of Industries, available at <http://www.karnatakaindustry.gov.in/content/Chitradurga%20District/Challakere%20Taluk/Final%20Format%20Perspective%20Plan-Challakere%20-%20202.doc>; last accessed on 20th August, 2013

Mahal/Hallikar or other indigenous breeds in the region:” accessible at page 46 of the FFC report

90. Considering the details provided in these sections of the FFC Report collectively, the Applicant state that it is an admitted fact that Goshalas have been set up in the Challakere Amrit Mahal Kaval which reveal that there has been distress amongst pastoral communities due to the long drought that has affected the area in recent years. Clearly, this demands a humanitarian response, and the project proponents have instead illegally blocked off access to the Kavals, thus increasing distress amongst already impacted communities. The Applicant urge the Hon'ble Tribunal to consider these admitted facts and restrain the project proponents from taking up any further activity that will intensify the suffering of the impacted communities.

Regarding “Ecological survey:” accessible at page 47 of the FFC report

91. The Applicant state that in this section of the FFC Report, there is no further information of relevance than is already provided in the earlier sections of the report. Rather than provided details that would constitute truly an ecological survey of the impacted region, as was the mandate per the TOR, the FFC has been content with providing what could broadly be described as geographical information of the area.
92. The only additional information that has been supplied by the FFC, over and above what was provided by the Applicant, is an admission of the Karnataka Biodiversity Board that there has not been an official survey of the biodiversity and associated traditional knowledge in the area as is required per the Biological Diversity Act, 2002. This indicates a critical lapse on the part of the Board and other agencies. The Applicant submit that in the absence of such information, they are constrained to appreciate the basis of the FFC's claim that the area is “barren”.
93. The FFC has chosen to disregard the comprehensive work of Dr. N. M. Ganesh Babu, who is the only researcher to have undertaken a detailed floristic survey of the Chitradurga district, dismissing it on the ground that the “report does not highlight floristic diversity exclusive to Amrit Mahal Kaval of Challakere”. This statement is quite in contrast with the opinion held by biologists, ecologists and botanists of repute who have considered Dr. Babu's effort equivalent to the Hassan floristic survey conducted by renowned taxonomist Late Dr. Fr. Cecil Saldanha. The FFC, instead, has passed as disparaging and unqualified comment stating that

his work “does not highlight floristic diversity exclusive to Amrit Mahal Kaval of Challakere Taluk”. The report submitted by the Applicant to the FFC (“Forfeiting our Commons”) contains a 40 pages submission made by Dr. Babu, which is based on his floristic survey in Chitradurga district, including Challakere Taluk, which is synoptic view of the tome that he has produced, his Ph.D. Thesis, that exceeds 1000 pages of detailed classification of flora and their ethno-botanical value. The Applicant will produce a copy of this thesis to demonstrate the gap between what the FFC has stated, and the fact of the matter.

94. The FFC is also does not clarify why it relies on a study of the Black Buck population in Mydanahalli to state that over 450 individuals are found there, but fails to make the necessary connection that the Challakere Kaval is a similar habitat, of greater range and diversity, and thus capable of sustaining not only a large population of Black Buck, as it already does, but of a variety of other wild fauna. Recent surveys have revealed that the Challakere Kaval is a prime candidate for conservation as it constitutes an appropriate habitat for critically endangered Great Indian Bustard and Lesser Florican, on which issues the FFC provides no detail or comment.

95. About the details provided in what is listed under “List of Flora”, “List of Fauna” which includes the bioresources accessed from the Kavals and utilised by local communities, the Applicant would reserve their comments as much of this information is without citation and thus not meeting required scientific criteria to form the basis for any useful assessment.

8. Regarding “Social infrastructure:” accessible at page 60 of the FFC report

96. The Applicant humbly submit that while they appreciate the concern raised by the FFC over the lack of a variety of social infrastructure in the impacted villages, they fail to understand the emphasis on “(l)ack of efforts to improve overall urban environment through planting of trees, provision of street furniture, developing of parks and playgrounds, lake development and development of leisure places, etc.” which is indicative of the paucity of understanding of the Committee members of what constitutes life and culture in rural areas of India. The Applicant wish to understand also what the FFC intended to state when it reported the need for improving the local environment on the models of “urban environment through planting of trees”.

9. Regarding “Environmental Suitability of the area for the proposed activities:” accessible at page 60 of the FFC report

97. The Applicant have perused the information provided in this section in detail and find that the FFC has listed a variety of factors which it states are determinants favouring the location of the projects in Challakere Amrit Mahal Kaval, but, none of them are buttressed with facts, or scientific rationale, and thus cannot be relied upon.

Regarding “Interactions with the Petitioner/s and visit to Amrit Mahal Kaval” at page 63 of the FFC report

98. The Applicant submit that the information provided in this section are description of activities of the FFC. It is acknowledged here by the FFC that the detailed submission made by the Applicant to the FFC, viz. “*Forfeiting our Commons*”, has been received. However, the FFC has chosen not to rely on any of the facts and analysis submitted in this report of the Applicant, which is humbly brought to the attention of the Hon'ble Tribunal.

Regarding “Interaction by the Fact Finding Committee with local population/stakeholders of Amrit Mahal Kaval region of Challakere Taluk, Chitradurga District” at page 65 of the FFC report

99. The Applicant submit that what is reported here is, once more, a description of events. The Applicant wish to respectfully draw the attention of this Hon'ble Tribunal to a particular statement made by the FFC that “majority of the villagers have repeated the same grievances” which reflects a particular insensitivity and disregard to the suffering of the impacted communities. With such an attitude in interacting with rural communities, the Applicant are at a loss to understand how the FFC could provide a sensitive and nuanced view of the perspectives of the villagers, to who the Committee seemed to be a vehicle delivering justice on behalf of this Hon'ble Tribunal.

Regarding “Observations of the Committee on the interactive meetings:” accessible at page 68 of the FFC report

100. The Applicant state that per the direction of this Hon'ble Tribunal to all parties involved in the present proceedings, the Applicant extended all cooperation and assistance to the FFC. Which seems to have been taken rather unkindly by the Committee which has rather derogatorily commented “(t)his is far from the truth. The Chairman or member of the FFC has not sought any help either from the Applicant or the beneficiaries of the land either for organising the meetings or for mobilising the population/stakeholders to attend the meetings.” The FFC further states that when one of the associates of the Applicant in compliance with the direction of this Hon'ble Tribunal dated 21st March 2013 offered to “assist.. in recording/getting the proforma filled by the villagers”, the “Chairman of the FFC objected to this and warned him not to interfere with functioning of the FFC”. It is further stated that “(i)t was evident on both the days throughout the meetings that the associates of the petitioners were either guiding/interacting with the villagers in making their statements and discussing with the leaders of the village”. The Applicant fail to understand what exactly is their lapse for fulfilling the directions of this Hon'ble Tribunal per the order cited above.

Regarding “Grievances:” accessible at page 69 of the FFC report

101. The Applicant submit that the FFC has summarised in this section some of the grievances reported by the impacted communities due to the proposed projects, and is indicative of the wide scale of adverse impacts that local communities and wildlife are already suffering from. The Applicant submit that since these facts remain uncontested by the FFC, they are admitted facts of the wide ranging impacts due to the projects, and reveals that their actions constitute commencement of project activities without securing any of the mandatory statutory clearances. It is evident from these admitted facts that none of the developments have been undertaken with the Prior and Informed Consent of the local communities and local governments, thus revealing the massive scale of violations that are being perpetrated in Challakere's Amrit Mahal Kavals to the detriment of environment, biodiversity, local livelihoods, local cultures, risking local of traditional knowledge of biodiversity, etc.

Regarding “Observations of the Fact Finding Committee “ accessible at page 72 of the FFC report

102. The Applicant submit that while this section has various references to information and analysis provided by the FFC of its report, the sections that the Applicant would specifically wish to address relates to the fact the FFC had confirmed that “...in the absence of information on density of each of the species, it may be premature to conclude the richness of the biodiversity of the kaval area. It is appropriate that the beneficiaries of the land as also the Bio-diversity Management Committee of the regions including other R&D institutions should establish the diversity and density of species of flora and fauna and then implement appropriate steps to conserve the same”. The Applicant accept this recommendation and request the Hon'ble Tribunal to direct the Karnataka Biodiversity Board to comply with the provisions of the Biological Diversity Act, 2002 in undertaking these statutory tasks with due dispatch. Similarly, the Applicant urge the Hon'ble Tribunal to similarly direct the State of Karnataka to comply with the provision of the Forest Rights Act, 2006 in right earnest and ensure local communities do enjoy their Constitutionally guaranteed rights fully and meaningfully.
103. On the issue of the *mahajars* conducted by the Revenue Department, several of which have been appended to the report of the FFC, the Applicant contend that the same have been prepared without strict adherence to the rule and procedures and provisions of the Karnataka Land Revenue Act, and thus should not be relied upon in any manner in the determination of relief in the present proceedings. Consequently, the opinion of the FFC that such surveys by the Revenue Department “indicates that Kaval/gomal lands are still available” remains unqualified, and is also, thereby, not an admissible fact.
104. The Applicant submit that these and other concerns that have been raised in their Applications amply demonstrate that the reliefs prayed for are just and proper and thus seek the indulgence of this Hon'ble Tribunal to grant the same with due dispatch in the interest of local communities who are suffering endlessly due to grave injustices caused to them by the illegal diversions of the Amrit Mahal Kaval of Challakere to the impugned projects.
105. Keeping the above, the Applicant prays that this Committee's report be eschewed and the application be allowed as prayed for.

Signature of Applicant

VERIFICATION

I Leo F. Saldanha S/o S. J. Saldanha, the applicant herein, do hereby verify that the contents of this affidavit are true to the best of our Knowledge and that we have not suppressed any material fact.

Date : Chennai

Place : 20.08.2013

Signature of the Applicant

BEFORE THE NATIONAL GREEN TRIBUNAL (SZ), CHENNAI**MEMORANDUM OF APPLICATION**

(Under Section 18(1) read with Sections 14, 15 of National Green Tribunal Act 2010)

Application No 6 of 2013**Between:**

Leo F. Saldanha
 Aged about 44 years
 S/o S. J. Saldanha
 1, Pearl Gardens
 Vajarahalli
 Kanakapura Road
 Bangalore 560062

...Applicant

AND

The Union of India
 Rep. by its Secretary to Government
 Ministry of Environment & Forests
 Paryavaran Bhavan, CGO Complex
 Lodhi Road, New Delhi and 16 Others

... Respondents

AFFIDAVIT

I, Leo F. Saldanha S/o S. J. Saldanha, aged about 44, residing at No. 1, Pearl Gardens Vajarahalli, Kanakapura Road, Bangalore 560062, now come down to Chennai solemnly affirm and state :

1. That I am the Applicant in the above mentioned application and as such am conversant with the facts and circumstances of the case and am competent to swear to this affidavit.
2. That I have read the contents of the accompanying reply affidavit and the contents of the same are true as per the verification.
3. That the annexure/s filed along with the application are the true copies of their respective originals.

DEPONENT

VERIFICATION

Verified at Chennai this the 20th day of August, 2013 that the contents of the present affidavit are true and correct and nothing material has been concealed there from.

DEPONENT