Naveen writes to PM on Mahanadi Issue 13/12/2017


Requests for constitution of a tribunal to resolve the water dispute between Odisha and Chhattisgarh Odisha Chief Minister Naveen Patnaik has written a strongly worded letter to Prime Minister Narendra Modi, requesting issuance of instructions for the constitution of a tribunal to resolve the Mahanadi water dispute between Odisha and Chhattisgarh.

The Chief Minister requested the Prime Minister to issue the necessary notification under Section 4(1) of the Inter State River Water Disputes Act, 1956, “to protect the interest of the four-and-a-half crore people of Odisha”.

Emphasising that the federal scheme of the Constitution does not countenance forcing the unwilling State to negotiate or deliberate, Mr. Patnaik said his “government does not see any purpose in further negotiating with the recalcitrant State of Chhattisgarh which has unilaterally and surreptitiously gone ahead with construction of dams and barrages in Mahanadi basin far exceeding its share of water”.

“The Hirakud dam in downstream Odisha has already suffered and is likely to suffer heavily much to the prejudice of the people of Odisha,” he added.

Clear stand Drawing Mr. Modi’s attention to the fact that the Odisha government had filed a complaint with the Centre on November 19, 2016, seeking appointment of a tribunal to adjudicate the water dispute, Mr. Patnaik pointed out that the Union Ministry of Water Resources had taken a clear stand that the water dispute cannot be settled through negotiations and a tribunal was required to be constituted.
An identical statement in this regard was made in this regard by Union Minister of State for Water Resources in the Rajya Sabha on July 31, 2017, and the Lok Sabha on August 10, 2017, stating that the dispute cannot be resolved by negotiation and it had been decided to constitute a tribunal for adjudication of the dispute, Mr. Patnaik pointed out in his letter to Mr. Modi.

The Chief Minister further informed Mr. Modi that during the hearing of the Odisha government’s petition on the dispute, the counsel appearing for the Centre before the Supreme Court had said that a notification will be issue before November 19 for constituting a tribunal.

“However, to the utter surprise of the people of Odisha for whom the Mahanadi is a lifeline, the Union Ministry of Water Resources filed a written statement on December 4, 2017, changing its stand completely by stating that the tribunal cannot be constituted. This volte face is not only surprising but prima facie smacks of considerations other than legal or what is just and fair,” said Mr. Patnaik.

‘Agreement misread’

“The pretext used by the Union Ministry of Water Resources is the Agreement of 1983, which the State of Odisha and State of Madhya Pradesh had agreed to constitute a Joint Control Board (JCB).” “But, the Union Ministry has wholly misread the said Agreement of 1983 with regard to the functions of the JCB. The Principal Secretary in the Water Resources Department, Government of Odisha, has pointed out clearly on January 17, 2017, that the said JCB is not intended to resolve inter-State disputes on sharing of Mahanadi water, particularly the dispute on the prejudicial impact of diversions planned by the State of Chhattisgarh.
"Pointing out that the JCB was intended for monitoring certain projects then contemplated in 1983 by Odisha and Madhya Pradesh (predecessor of Chhattisgarh), Mr. Patnaik said that none of those joint projects were taken up and therefore, the JCB had not been constituted in the last 35 years.

“In any case, JCB is only a deliberative mechanism and its formation and deliberation before it is not a condition precedent for formation of a tribunal, which is a mandatory statutory obligation of the Central government under Section 4(1) of the Act of 1956,” he added.