

W.P. No.3181/2017, etc. Batch

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
17.06.2023 20.06.2023 21.06.2023 22.06.2023 23.06.2023 28.06.2023 30.06.2023	13.07.2023

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 3181 OF 2017

W.P. NOS. 536 & 21516 OF 2018

W.P. NO.10467 OF 2020

W.P. NOS.6262 & 16625 OF 2021

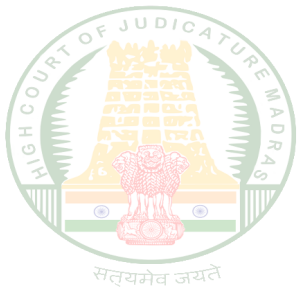
**W.P. NOS. 1477, 11400, 11266, 14832, 14878, 29380, 29387, 29386, 30505,
30509, 32025, 32029, 32030, 32031, 32171, 33615, 34378, 33012, 33014,
33471, 34795 OF 2022**

**W.P. NOS. 979, 1439, 1808, 1933, 2345, 2346, 2347, 2372, 2417, 2771, 2775,
3079, 3347, 3508, 3513, 4029, 4269, 4372, 4578, 4618, 4621, 4759, 5085,
5089, 5092, 5649, 5672, 5866, 6550, 6710, 8321, 8429, 8469, 8473, 8475,
8602, 8615, 8683, 8786, 9065, 12302, 12497, 12885, 12891, 13081, 14147,
14728, 14762, 14767, 14813, 14816, 14889, 14908, 15345, 15346, 15348,
15361, 15364, 15372, 15376, 16751, 17193, 17280, 17483, 17498, 17538,
17749, 18115, 18469, 18251, 18302, 18345, 18348, 18349, 18326, 18797,
18793, 18792, 18786, 18630, 18489, 19208, 19209, 19184, 19508 OF 2023**

AND

W.M.P. NOS.646 & 647 OF 2018

W.M.P. NOS.6868, 17620 & 17621 OF 2021



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W.M.P. NOS.20507, 20516, 10935, 10829, 10830, 10935,14078,17328, 19838, 28703, 28704, 28707, 28709, 28713, 28708, 28710, 28712, 29936, 29937, 29938, 31472, 31476, 31477, 31492, 31596, 32431, 32433, 33068, 33069, 33835, 33836, 32911, 34217, 34219, 30564, 30566, 30453 of 2022, 962, 964, 1531, 1534, 2019, 2406, 2408, 2411, 2450, 2506, 2891, 2897, 3156, 3405, 3551, 3555, 4070, 4317, 4408, 4583, 4623, 4621, 4762, 5105, 5106, 5108, 5664, 5676,5868, 5869, 5870, 6621, 6766, 8523, 8618, 8668, 8675, 8676, 8773, 8786, 8858, 8967, 9190, 12136, 12325, 12326, 12677, 12678, 12681, 12682, 12849, 13757, 14243, 14297, 14301, 14370, 14375, 14459, 14493, 14877, 14876, 14881, 14903, 14908, 14909, 14916, 14918, 16029, 16030, 16173, 16368, 16431, 16625, 16633, 16662, 16846, 17315, 17316, 17317, 17692,17456, 17505, 17548, 17549, 17550, 18036, 18034, 18033, 18027, 17874, 17729, 17532, 18417, 18438, 18769 OF 2023

AND

CONTEMPT PETITION NO. 41 OF 2017

W.P. NO. 3181 OF 2017

S.Vijayasekaran

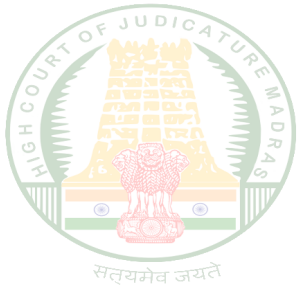
.. Petitioner

- Vs -

1. The Chief Secretary
Government of Tamilnadu,
Secretariat, Fort St. George
Chennai-600 009.

2. The Secretary to the Government
Public Works Department
Government of Tamilnadu
Secretariat, Fort St. George
Chennai-600 009.

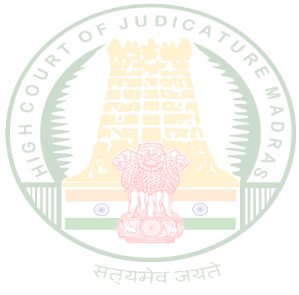
3. The Engineer-in-Chief
Public Works Department (Water Resources Organization),
Chepauk, Chennai-600 005.



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4. The Chief Engineer
P.W.D, (W.R.O)
Coimbatore Region
Town Hall, Coimbatore- 641 001.
5. The Superintending Engineer
P.W.D, (W.R.O)
Parambikulam Aliyar Basin Circle
Pollachi – 642 003, Coimbatore District.
6. The Executive Engineer
P.W.D, (W.R.O),
Thirumurthi Division
Udumalpet-642 126, Tiruppur District.
7. The Executive Engineer
P.W.D, (W.R.O), Aliyar Basin Division,
Pollachi- 642 003, Coimbatore District.
8. The District Revenue Officer
Office of District Collector
Coimbatore.
9. The District Revenue Officer
Office of District Collector
Tiruppur.
10. The President / Revenue Divisional Officer
Monitoring Committee for PAP
Udumalpet, Tiruppur District.
11. PAP Vellakovil Branch Canal
(Kangayam-Vellakovil) Water Conservation Association
Represented by its President
23/70, Bagavathy Palayam



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Veeranampalayam (PO)

Kangayam Taluk, Tiuppur District-638 701.

(R11 impleaded vide order dated 18.02.2022 made in WMP.No.2852 of 2022 in W.P.No.3181 of 2017)

12. The Superintending Engineer

TANGEDCO, Tiruppur District.

(R-12 Suo Motu impleaded dated 24.02.2022 made in W.P.No.3181 of 2017)

13. The Superintending Engineer

TANGEDCO, Coimbatore District.

(R-13 Suo Motu impleaded dated 24.02.2022 made in W.P.No.3181 of 2017)

14. A.Thiyagaraj

(R14 impleaded vide order dated 07.03.2022 made in WMP.No.5115 of 2022 in W.P.No.3181 of 2017)

15. K.Paramasivam

(R15 impleaded vide order dated 27.04.2022 made in WMP.No.7156 of 2022 in W.P.No.3181 of 2017)

16. S.Devendran

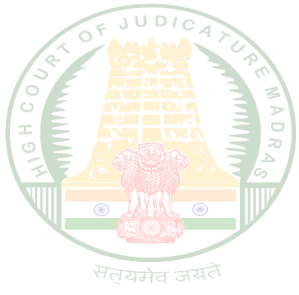
(R16 impleaded vide order dated 27.04.2022 made in WMP.No.7889 of 2022 in W.P.No.3181 of 2017)

17. Chitra

(R17 impleaded vide order dated 25.01.2023 made in WMP.No.14239 of 2022 in W.P.No.3181 of 2017)

18. Manthiramoorthy

(R18 impleaded vide order dated 25.01.2023 made in WMP.No.16394 of 2022 in W.P.No.3181 of 2017)



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19. Thirumurthy Anai Vivasagal Pathukaapu Sangam
Rep. by its President Vijayaraj
No.1/5, Maniyakarar Street, Bodipatti
Udumalpet, Tiruppur District.
(R19 impleaded vide order dated 25.01.2023 made
in WMP.No.16477 of 2022 in W.P.No.3181 of 2017)

20. N.Kuppusamy
(R20 impleaded vide order dated 25.01.2023 made
in WMP.No.33302 of 2022 in W.P.No.3181 of 2017)

21. A.Mahalingam
(R21 impleaded vide order dated 25.01.2023 made
in WMP.No.33305 of 2022 in W.P.No.3181 of 2017)

22. P.Duraisamygounder
(R22 impleaded vide order dated 25.01.2023 made
in WMP.No.33306 of 2022 in W.P.No.3181 of 2017)

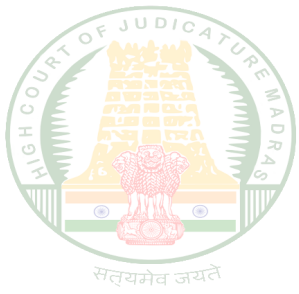
23. S.A.Krishna Kumar
(R23 impleaded vide order dated 25.01.2023 made
in WMP.No.33309 of 2022 in W.P.No.3181 of 2017)

24. M.Appadurai
(R24 impleaded vide order dated 25.01.2023 made
in WMP.No.33310 of 2022 in W.P.No.3181 of 2017)

25. N.Vijayakumar
(R25 impleaded vide order dated 25.01.2023 made
in WMP.No.33311 of 2022 in W.P.No.3181 of 2017)

26. V.Veeramuthu
(R26 impleaded vide order dated 25.01.2023 made
in WMP.No.33312 of 2022 in W.P.No.3181 of 2017)

27. S.Sellamuthu



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(R27 impleaded vide order dated 25.01.2023 made in WMP.No.33642 of 2022 in W.P.No.3181 of 2017)

28. N.Chandralekha

(R28 impleaded vide order dated 25.01.2023 made in WMP.No.33649 of 2022 in W.P.No.3181 of 2017)

29. N.Sakthivel

(R29 impleaded vide order dated 25.01.2023 made in WMP.No.33650 of 2022 in W.P.No.3181 of 2017)

30. M.Chandrasekaran

(R30 impleaded vide order dated 25.01.2023 made in WMP.No.33651 of 2022 in W.P.No.3181 of 2017)

31. C.Venkadasubramaniam

32. C.Lakshmi Narashima Gupta

(R31 & 32 impleaded vide order dated 25.01.2023 made in WMP.No.33656 of 2022 in W.P.No.3181 of 2017)

33. K.Dhandapani

(R33 impleaded vide order dated 25.01.2023 made in WMP.No.33663 of 2022 in W.P.No.3181 of 2017)

34. K.S.Muthusamy

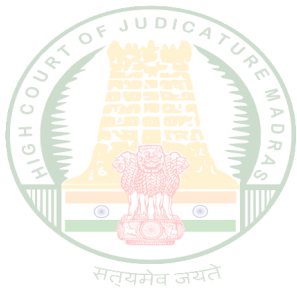
(R34 impleaded vide order dated 25.01.2023 made in WMP.No.33673 of 2022 in W.P.No.3181 of 2017)

35. M.Dhanalakshmi

(R35 impleaded vide order dated 25.01.2023 made in WMP.No.33682 of 2022 in W.P.No.3181 of 2017)

36. A.Sivaprakash

(R36 impleaded vide order dated 25.01.2023 made in WMP.No.33685 of 2022 in W.P.No.3181 of 2017)



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37. K.M.Kumarasamy

(R37 impleaded vide order dated 25.01.2023 made
in WMP.No.33688 of 2022 in W.P.No.3181 of 2017)

38. Kovai Mandala Vivasagial Nala Sangam

Rep. by its Secretary K.Mahindran

No.4/75, E, Pacharpalayam, Sukthanpettai

Poorandampalayam Post, Sulur Taluk

Coimbatore District.

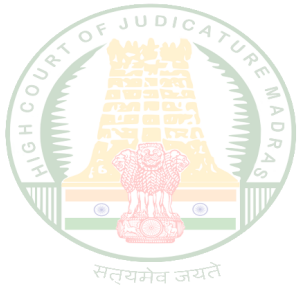
(R38 impleaded vide order dated 25.01.2023 made
in WMP.No.33738 of 2022 in W.P.No.3181 of 2017)

39. Ramaraj

(R39 impleaded vide order dated 25.01.2023 made in
WMP.No.1803 of 2023 in W.P.No.3181 of 2017)

..Respondents

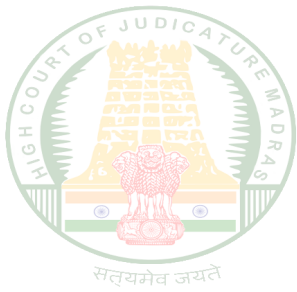
W.P. No.3181 of 2017 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the entire records pertaining to impugned order of the 3rd respondent in Letter No.S7(4)/34052/OT-III/2003 dated 04.01.2017 and quash the same as illegal, incompetent and *ultra vires* and consequently directing the respondents to release the water for the respective zones i.e., 1st and 3rd Zones are fall during January to May and as for as 2nd & 4th Zones are usually fall during August to December in every alternative year, within stipulated time as fixed by this Hon'ble Court.



W.P. No.3181/2017, etc. Batch

WEB COPY For Petitioners

: Mr. Ma.Pa.Thangavelin W.P. No. 3181 OF 2017
Mr. N.Manokaran in W.P.No.536 of 2018
Mr. P.M.Duraiswamy in W.P.Nos.21516 of 2018
Mr. B.Thirumalai in W.P.No.10467 of 2020
Mr. P.Srinivas in W.P.No.6262 and 16625 of 2021
Mr. AR.L.Sundaresan, SC, for
Mr.S.A.Sayedshuhaibb in W.P.Nos.29380, 29386
and 29387 of 2022
Mr. T. Gowthaman, SC, for
Mr.V.Andhamoorthy in W.P.Nos.32025, 34378,
32029 to 32031, 33012, 33014, 34795 of 2022,
1933, 2345, 2346, 2417, 2771, 2775, 3347, 3508,
3513, 4269, 4618, 4621,5085, 5089,5092, 5649,
5672, 5866 of 2023 and for
R-19 in W.P.No.3181 OF 2017
Mr.P.Muthukrishnan in W.P.No.32171, 33472 of
2022, 2372 of 2023
Mrs.R.Meenakshi in 33615 of 2022, 1439 of 2023
Mr.S.Kamalesh Kannan W.P.No.979 OF 2023
Mr.J.Pothiraj in W.P.No.2347,4029, 4372 of 2023
Mr.N.Ponraj in W.P.No.3079, 6550, 6710, 17193,
17483, 17498 of 2023
Mr.K.Myilswamy in W.P.Nos.14832 of 2022,
8321, 8429, 8469, 8473, 8475, 8602, 8615, 8683,
8786, 9065, 14147, 14728, 14762, 14767, 14813,
14816, 14889, 14908, 15345, 15346, 15348,
15361, 15364, 15372, 15376, 17280, 19184,
19209, 19508 of 2023 & for
R-16 in W.P.No.3181 of 2017
Mr.J.Prithiv in W.P.No.4578 of 2023
Mr.K.Govi Ganesan in W.P.No.4759, 12302,
12497, 12885, 12891, 18115, 18469, 18630,
18786, 18792, 18793, 18797 of 2023
Ms.P.Rajalakshmi in W.P.No.14878 of 2022 and
W.P.No.13081 of 2023
Ms.S.Kiruthika in W.P.No.16751 of 2023

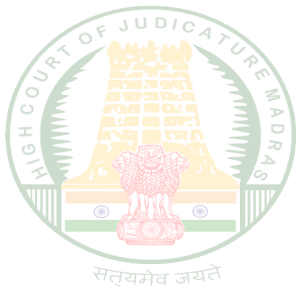


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Mr.S.Thiruvengadam in W.P.No.17538 of 2023
Mr.T.Mohan SC, for,
Mr.M.Guruprasad in W.P.No.1808 of 2023 for
R – 11 in W.P.No.3181 of 2017
Mr.P.H.Aravind Pandian, SC, for
Mr.Vikram Veeraswamy for RR–20 to 37 in
W.P.No.3181 of 2017
Mr.T.Mohan, SC, for,
Mr.R.Prabakar R - 14 in W.P.No.3181 of 2017
W.M.P.No.30564, 30566 and 30453 of 2022, RR–7
& 8 in W.P.No.33615 of 2022 & R – 4 in
W.P.No.34378 of 2022
Mrs.R.Hemalatha for R–15 in W.P.No.3181/2017
Mr.G.Karthikeyan in W.P.No. 11400 of 2022 and
for R- 17 in W.P.No.3181 of 2017
Dr.S.S.Swaminathan in W.P.No.11266 of 2022
Mr.T.Ganesan for R -18 in W.P.No.3181 of 2017
Ms.P.Kritika Kamal for R–39 in W.P.No.3181/2017
Mr.C.Prakasam for R – 8 in W.P.No.21516 of 2017
Mrs.A.L.Gandhimathi, SC, for
Mr.C.Prabakaran for R–38 in W.P.No.3181/2017
Mr.M.N.Balakrishnan in W.P.No.18251 of 2023
Mr.P.Kalimuthu in W.P.No.18302 and 18326/23
Mr.V.Anandmurthy in W.P.No.18345, 18348,
18349 of 2023
Mr.S.Rajmakesh in W.P.No.18489 of 2023

For Respondents : Mr.J.Ravindran, AAG,
assisted by Mr.T.Srinivasan, Spl. G.P. &
Mr.B.Vijay, A.G.P. for State Government
Mr. L. Jai Venkatesh, Std. Counsel
For TANGEDCO
Mr.N.Sakthivel – for RR-5, 7 & 8 in W.P.No.536/18
No Representation for RR–5 & 6 in
W.P.No.34378 of 2022



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COMMON ORDER

The revered poet 'Thiruvalluvar', as back as 2000 years, had impressed upon the importance of water in "Thirukkural" thus :-

-----,

Meaning : ?????????????????????? ???? ????????? ???? ?????????

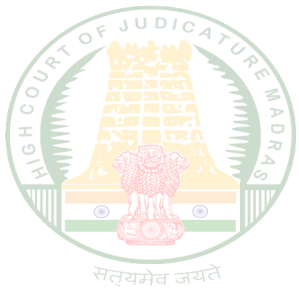
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???????,

Free Hand Translation : No life can thrive on earth without water, likewise, without rain, there would exists no morality

2. Water is the lifeline of both the human and other forms of life and without water, sustenance of any living being on earth would be a big question mark. In fact, scarcity of water leads to reduction of cultivation of crops and thus has a direct nexus in causing extinction of animals and human folk as all the living beings, be it flora and fauna as also the animal species and human beings depend on water for their survival.

3. However, in today's world, there is constant illegal tapping of water and illegal extraction of water, which leads to a gloomy scenario that the

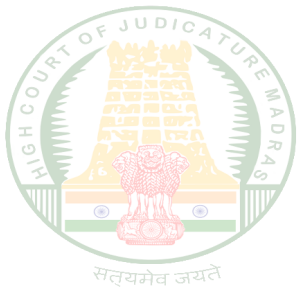


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future generations would find it difficult even to see water in a bottle. When the earlier generations saw water in rivers, lakes, ponds and tanks, the future generation atleast should see water in a bottle. However, the extraction of water by illegal means, by unscrupulous individuals, results in water scarcity, thus putting a big question mark on the continuance of agricultural activity, thereby rendering production of commodities a herculean task.

4. In the aforestated scenario, the present batch of writ petitions has been laid before this Court raising issues of utilisation of water in the Parambikulam Aaliyar Project (for short PAP'). The writ petitions have been filed by individuals, broadly claiming the following reliefs :-

- i) Not to allow persons, who have lands elsewhere and not within the ayacut to take water to their lands;
- ii) To provide electricity connection;
- iii) To issue NOC for the purpose of seeking electricity connection;
- iv) To stop water supply to commercial establishment from the PAP canal;

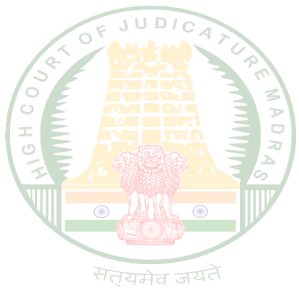


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- v) To permit the petitioners to draw water from their wells using electrical motors;
- vi) To direct the respondents to take action against non-ayacutadars from drawing water from the wells situate within the ayacut region of PAP project.
- vii) To direct release of water for agricultural activities from the PAP canal.

5. The matters were heard on various dates and orders were reserved. However, as the issue in all the cases revolved upon a common divider, viz., the entitlement to draw water from the PAP canal, they are taken up together for disposal through this order.

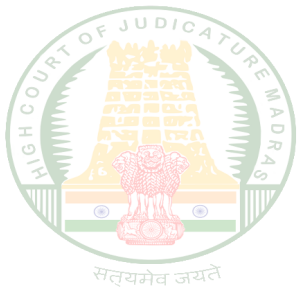
6. There is no necessity for this Court to browse through each and every petition to effectuate the averments made in the respective petitions, as all the petitions relate to drawal of water from the wells situated adjacent or in proximity to the PAP canal or seeking electricity connection for the purpose of installation of motors for drawal of water from the wells. In fine,



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all the petitions relate to drawal of water from the wells and, therefore, it is not necessary for this Court to dovetail the averments in each and every petition and suffice for this Court to permit itself to embark upon the intricacies of the water sharing mechanism and the drawal of water, permissible to the ayacutadars, and persons, who are legally entitled, to be drawn by them from the well by usage of motors. Therefore, for the above reason, this Court is not venturing into the details given in the individual petitions and would concentrate on the issue relating to the water in PAP canal and the drawal of water from the wells which have been dug surrounding the canal at various points of time.

7. However, the sum and substance of the claim in one batch of petitions is that the ayacutdars, who draw water from the well alone must be permitted to draw water for agricultural purposes and permission granted to take the water by laying underground pipelines to areas beyond the ayacut region should be disallowed, it is contended otherwise on behalf of the other persons that they hold lands within the ayacut regions and also outside the ayacut and water is drawn by them from the wells for agricultural purposes

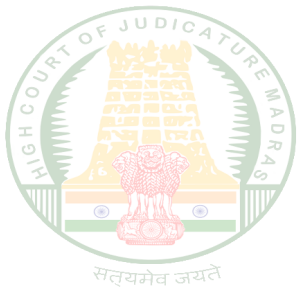


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within the ayacut region and outside the ayacut region, the lands are irrigated with the help of water which is pumped through underground pipelines, which have been laid after getting approval of the PAP authority and in consonance with the Government Order relating to the horsepower of pumpsets that could be used.

8. In another sequence of petitions, non-ayacutadars, who have wells within the ayacut, being subsequent purchasers of the property, seeking electricity connection for the purpose of drawal of water, being negated on the basis of the orders passed by the Government, as the said wells are within the area, which stands protected by the orders of the Government, more particularly, in view of the orders passed by this Court dated 16.11.2022, seeking NOC from the PAP authority and providing of electrical supply, the petitioners have come before this Court.

9. Before embarking upon analyzing the issue, as aforestated, it is but necessary for this Court to detail the reason and necessity for the formation of



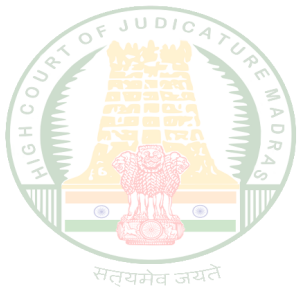
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the PAP canal. A brief introduction of the PAP could be had from the website of the project, which is quoted hereunder :-

“Highly imaginative in concept, bold in its approach, ingenious in planning and beneficial on its completion, this inter state, multi purpose, multi valley parambikulam aliyar project is truly a unique one. It successfully accomplishes the diversion and integration of 8 West flowing rivers, 6 in the Anaimalai Hills and 2 in the plains for the benefit of the drought prone areas in the Coimbatore and Erode district of Tamilnadu State and stabilizing the existing irrigation system in Chittoorpuzha of Kerala State. Dams on the 8 rivers with inter connecting tunnels have been constructed. The tunnels divert the waters impounded in the rivers to the plains of the Coimbatore District and Erode District of Tamilnadu State and Chittur area of the Kerala State.

The reservoirs lie at various elevations ranging between elevation + 3800 feet and + 1050ft. and this difference of elevations has made it possible to utilize the drop between them for the development of hydro-electric power.

This parambikulam aliyar project is an outcome of a hard and sustained work done by a band of enthusiastic engineers. This is situated in Anamalais range amongst its flora and fauna and on the arid and semi arid plains of the southern taluks of Coimbatore District. All the rivers, which has its source in the Anamalai range, is served by the South-West



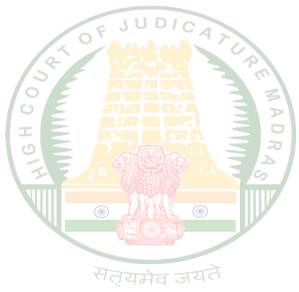
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Monsoon. The Major portion of the Dams and Tunnels are located in the scenic and scene surrounding of the Anamalai range and the reservoirs are located amongst picturesque and natural surroundings in the Reserved forest areas and Tea Estates. This parambikulam aliyar project takes its name after the two important rivers (1) Parambikulam representing the series of river on the west (2) Aliyar representing the east of Western Ghats. In a sense this project is a symbol of Inter-State Co-operation of the two neighbourly State of Kerala and Tamilnadu. An agreement in this regard was signed by the two states 1969 and also in the year 1970.

This multi purpose project has got a long history. The main components of this parambikulam aliyar project comprises of 10 Dams, 4 Power Houses, 6 Main Tunnels and 7 irrigation canals.

The parambikulam aliyar project was executed by Govt of tamil Nadu during 1958 and 1990. The project has culturable command area of 1.74 lakh hectare (1.01 lakh ha original and 0.73 lakh ha under extension and four power houses with installed capacity of 185 MW.”

10. The validity of the Parmbikulam Aliyar Project (Regulation of Water Supply) Act, 1993 fell for consideration before the Apex Court in the case of ***Parambikulam A.P.O. Assn. & Ors. – VS – State of Tamil Nadu & Ors. (1997***



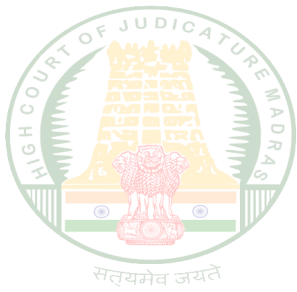
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(7) SCC 626). The Apex Court, while dismissing the challenge made therein, had culled out the facts with regard to the formation of the project and the relevant portion of the said order is quoted hereunder :-

“Briefly stated the facts which are relevant for the disposal of the present appeal are that the members of the petitioner society are agriculturists who are carrying on agricultural operations on lands which are covered in what is called the Parambikulam Aliyar Project.

The said project was undertaken with a view to supply water for agricultural operations in some Taluks of Coimbatore District. In 1962 a declaration is stated to have been made by the Tamil Nadu Government's Policy to the effect that ayacutdars would be supplied water once a year under this project. In 1967 it was represented that an area of 1,40,000 acres under the project would be irrigated once a year and balance one lakh acres will be irrigated after the completion of Solaiyar and Nirar dams.

In 1967 the Tamil Nadu Government issued a Government Order whereby it decided that water be supplied for irrigating on additional area of 1,15,000 acres. This decision was challenged by the appellants by filing Writ Petition Nos. 575 and 1309 of 1978 in the High Court of Madras. On 22nd of December, 1983 as a result of agreement between the parties, the writ petitions were disposed of by the following order:



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"The learned counsel for the petitioners and the learned Additional Government Pleader agree that the following order could be made and imposed on the parties:

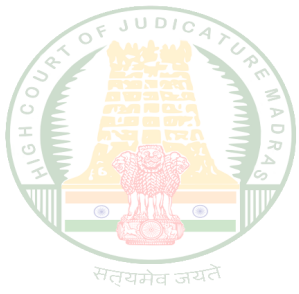
"The petitioner has no objection to the Original Ayacut of 250000 acres covered by Parambikulam Aliyar Project being extended by 1,15,000 acres as envisaged by G.O. No, 126 dated 29-1-1976 or for any further extension:

Provided that before applying water to the new ayacutdars in the extended ayacut, the original ayacutdars are first assured of supply of sufficient water, subject to availability once in eighteen months as regularly as possible or practicable."

There will be an order accordingly in these writ petitions. There will be no order as to costs."

(Emphasis Supplied)

11. From the above, it is amply evident that while the project was initially envisaged, 1,40,000 acres was proposed to be irrigated once a year and the balance of one lakh acre to be irrigated after the completion of Salaiyar and Nirar Dams. However, a period of time, the extent of acreage sought to be irrigated by using the water from the PAP canal underwent



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change to 3,65,000 acres and, thereafter to more than 4,00,000 acres.

Presently, the acreage of irrigation through the canal is 4,00,000 acres.

12. While upholding the legislation, the Apex Court in the aforesaid had made the following observations :-

We may view the matter from a different angle. On the facts as existed in 1983 the order dated 22nd December, 1983 was passed, as a result of which an area of 3,65,000 acres was covered by the project. Considering the change in the circumstances over a period of ten years, and as a matter of agrarian reform, a new procedure was enacted for more equitable distribution of water. In this connection, on the basis of the material placed before the High Court it had observed as follows:

"36.....The materials placed before us by the respondents are sufficient to prove that the four zone pattern which is being introduced by the Act for the purpose of irrigation is certainly beneficial to large number of agriculturists. The records show that more area of dry lands in the drought-prone zones will be brought under cultivation. By the new pattern there will be continuous flow in all the canals throughout the year which will result in the increase in ground-water potentials. All the wells in the ayacut areas and adjacent areas will get indirect benefit of ground- water recharge, which will help the people to utilise the well water during the non-irrigation period also for domestic as well as irrigation purposes. The present pattern is such that the flow of water in the canals is to their full length throughout the year



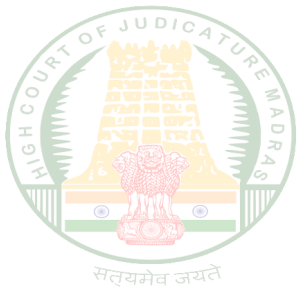
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37. We find that under the four zone pattern of irrigation, the entire extent of 2,03,299 acres in the old ayacut has been distributed over all the four zones in the following manner:

Zone	Old Ayacut	New Extension
Zone I	70308	28,250
Zone II	43,851	54,567
Zone III	54,537	39,487
Zone IV	34,603	51,549

A look at the plans filed by the Government will show that the area is divided into four zones in such a manner that the water shall flow from the head to the tail end every time. That will undoubtedly result in keeping high percentage of humidity in the atmosphere. In short, no one can take any exception to the irrigation of 3,77,000 acres as against 2,03,000 acres on the ground that the original ayacutdars have a vested right to get a particular quantum of water. Even if they had such a right, it can be restricted to a reasonable extent by an appropriate legislation. It is quite obvious, however, that the Act is only regulating the distribution of water in an equitable manner. It is a measure of agrarian reform to bring more lands under cultivation and increase the agricultural production".

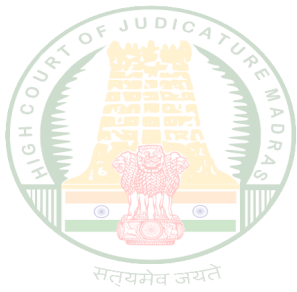
13. The Apex Court had made it clear, based on the plans filed by the Government that the extension of the acreage would result in indirect recharge of ground water, which will help the people to utilize the well during



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the off-season period, both for domestic and irrigation purposes and that during the irrigation period, there will be continuous flow of water throughout the year. Laying stress on the fact that the original ayacutadars have no vested right to a particular quantum of water and no one can take exception for irrigating larger extent of lands, the order had come to be passed by the Apex Court, which was in the year 1999. More than two decades have passed since the said order had come to be passed and in the interregnum, as aforesaid, more extent of lands were brought within the zone of cultivation to be provided with water through the PAP and only in that backdrop, the present petitions have been filed for various reliefs as aforesaid.

14. Initially, the acreage of lands around the PAP canal to the extent of 1,40,000 was held by the ayacutdars, which was, as aforesaid, expanded to more than 4,00,000 acres. When the initial scheme was initiated, G.O. Ms. No.838, PW, dated 15.3.1963 was issued, which laid down conditions for extension of power supply for lift irrigation. Thereafter, vide G.O. Ms. No.1246, PW, dated 29.4.1965, the conditions stood modified, which is as under :-



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"In G.O. Ms. No.1246, PW, dd. 29.4.1965, the Government have ordered that the conditions for extension of power supply for lift irrigation laid down in G.O. Ms. No.838, PW, dt. 15.3.1963, be modified as follows :-

- 1. Electric supply for pumping may be given to wells in Parambikulam Aliyar Project area irrespective of their distance from the main canals and branch channels and distributaries which are lined except in the case of lined canals going on an embankment subject to the condition that the digging of wells should not interfere with the bund or its foundations.*
- 2. In the case of lined canals going on embankment and all unlined distributaries there should be a minimum distance of 100 yards between them and the wells for giving electric supply; and*
- 3. In the case of field channels, no wells situated within 10 yards of a field channel will be given electric supply for pumping."*

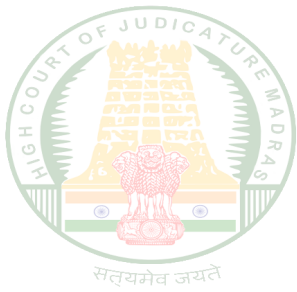
15. On the heels of the aforesaid G.O. Ms. No.1246, PW dated 29.4.1965, the Government considered the issue and resultantly, G.O. Ms. No.2261, Public Works Department, dated 3.11.1967 had come to be passed with the following modifications :-



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"2. The Government have since re-examined the matter in consultation with the Chief Engineer (PAP) and the Commissioner of Food Production and accept the suggestion of Commissioner, Food Production that sinking of new wells and deepening of existing wells and power supply to these wells be permitted subject to the following conditions :-

- i. Sinking of new wells and deepening of existing wells be permitted beyond a distance of 50 metres from the toe of the bund of the main canal and branch canal and 25 metres from the bund of the distributaries.*
- ii. Pumping should be done from the wells for irrigating the ayacut lands only.*
- iii. Pumping will be permitted during the off-season only. Pumping by electricity or by oil engine pumpset during the irrigation season will be heavily penalized.*
- iv. For enforcement of condition (ii) above, each ryot requiring the supply of electricity should enter into a written agreement with the Madras State Electricity Board for cutting off supply or power connection on a date to be fixed by the Chief Engineer (PAP) at the commencement of the irrigation season. The Chief Engineer (PAP) should intimate to the Madras State Electricity Board the date of*

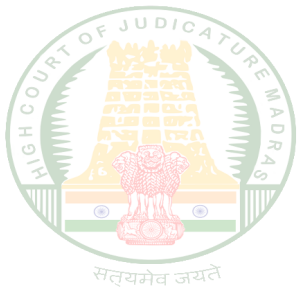


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opening and closing of the main canals for irrigation every year so as to enable the Electricity Board to cut off and restore supply of electricity.

- v. *In the case of main canals and branch canals, the Horse power of pumpsets shall not exceed 10 HP depending upon site conditions. In the case of distributaries the Horse Power of pumpsets shall not exceed 5 HP if the distance is between 25 and 50 metres and 10 HP if distance is beyond 50 metres depending upon site conditions.*
- vi. *The nature of crops raised shall be the same as those permitted for the project ayacut, i.e., wet crop shall be allowed only in areas localized as wet; and*
- vii. *The Madras State Electricity Board need obtain clearance from the Public Works Department for extension of power supply to the pumpsets only in cases of doubt.*

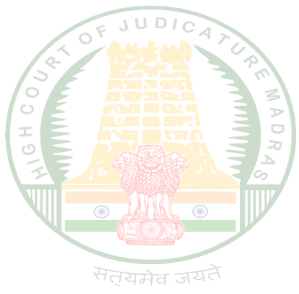
The Madras State Electricity Board is requested to issue suitable instructions to the concerned Superintending Engineer to furnish to the local Public Works Department officials every year a list of connections given to the new wells sunk or existing wells deepened in pursuance of the above orders in the form below."



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16. From the above Government of the year 1967, it is significantly clear that the distance of the well, sought to be dug or deepened in relation to the toe of the bund of the main canal and branch canal has been prescribed, but there is a clear prescription as to the horsepower of the pumpsets that could be used, which cannot exceed 10 HP. Therefore, it is clear that while it is only wells which were permitted to be dug or deepened, the maximum horsepower of motor that could be fixed has also been spelt out.

17. Subsequent to the aforesaid Government Orders, on the recommendations of the Chief Engineer (Irrigation), the rules for regulation of water in respect of Thirumurthy Reservoir under four zone pattern, the Government notified the Parambikulam-Aliyar Project (Regulation of Water Supply) and published in the Government Gazette vide G.O. Ms. No.374, Public Works (Q1) Department) dated 27.4.1994. The said regulation provided for the supply of water to the four zones for the purpose of irrigation and the manner in which the supply of water would be given to the four zones.



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18. After the passing of the aforesaid Government Orders, there came the extension of the acreage, which resulted in the order of the Supreme Court in *Parambikulam case (supra)*. Thereafter, next in the sequence is the communication of the Superintending Engineer, dated 19.9.2011 in and by which the said authority had given directions and a freehand translation of the said directions is quoted hereunder :-

“1. Where the lands in which the wells and borewells are situated and the lands where agricultural activities are being carried on are on either side of the canal in the opposite direction and the lands belonging to the same person, the said person may be permitted to lay pipeline across the canal for the purpose of drawing water for agricultural purposes.

2. Apart from the above persons, no other person would be permitted to lay pipelines across the main PAP canal and also its distributaries, which carry water to all the four zones.

3. Permission should not be granted to any persons who purchase a small bit of land on either side of the PAP canal and dig wells/borewells or who enter into a joint venture with persons who already have wells/borewells on either side of the PAP canal or purchase the wells/borewells which are already dug on either side of the PAP canal, for the purpose of laying down pipelines for pumping water outside the zone.

4. All permissions, which are sought, for taking water out of the wells/borewells, for which the source of water is from



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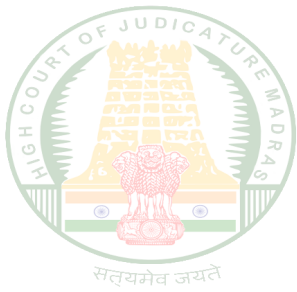
the PAP canal, by laying underground pipelines, should not be granted.

5. No permission should be granted to any person to pump out water from any water source which is within a distance of 300 meters from either side of the PAP canal.

6. Action should be taken immediately against pumping of water in an illegal manner and carrying it through the underground pipelines, which have been laid down by obtaining proper permission, including disconnection of electricity and also dismantling of the underground pipeline.”

19. In the above backdrop of the events, W.P. No.3181/2017 had come to be filed before this Court by the petitioner complaining about the rampant and large scale theft of water by commercial establishments from the PAP canal and a learned single Judge of this Court, vide order dated 27.04.2022, passed the following orders :-

“This Writ Petition has been filed to curb the illegal tapping of water in PAP project. In the similar issue, already this Court by an order dated 06.01.2022 in W.P.Nos. 10545 of 2015 and 957 of 2016, thereby directing the Public Works Department, TANGEDCO, and the revenue authorities to trace out the illegal tapping of water in the entire locality and register criminal cases if theft of water is identified and also blacklist the persons against whom, the action was taken etc.

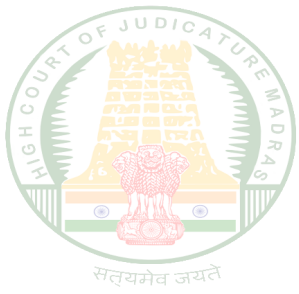


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2. Now, it is submitted that, earlier, by an order passed by the District Collector, Tiruppur, dated 06.10.2021, a Joint Action Committee was constituted within the taluk level for five zones viz., Udumalpet, Tiruppur, Dharapuram, Coimbatore and Pollachi. The committee is consisting of Revenue Divisional Officers of Pollachi, Executive Engineers of Public Works Department, Assistant Executive Engineers of Public Works Department, Executive Engineers of TANGEDCO, and concerned Tahsildars. Earlier, on inspection conducted by the Public Works Department found 2528 violations. Based on the report, Joint Action Committee now inspecting the wells and in Coimbatore District, there are 83 violations were found, in other areas, the Committee is conducting inspection.

3. Mr.Karthikeyan, learned counsel appearing for impleading respondent would submit that, there are many disputed issues are there, most of the wells situated beyond the distance of 50 meters and they abide by all the conditions imposed by the authority. However, many of the wells identified violation. In those circumstances, without conducting proper enquiry and verifying those facts, service connection should not be disconnected as standing crops are there in the field and it will be spoiled.

4. Mr.T.Mohan, learned counsel appearing for petitioner would submit that, there are apparent violations and no notice needs to be given to the violators. As per the order



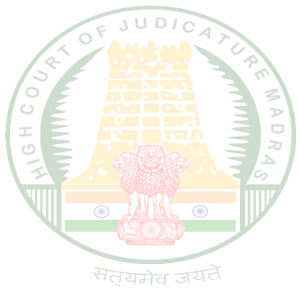
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passed by this Court, action should be taken and service connection should be disconnected immediately.

5. Considering the fact that, this Court by an order dated 06.01.2022 has directed the authorities to take note of it seriously and service connection has to be disconnected and criminal cases are to be filed against the violators, now this Court cannot take a different view in this regard. In those circumstances, if at all, the petitioner and impleaded respondent have any grievance, it is open to them to file necessary petition to get the order modified or to clarify the order."

20. In furtherance to complying with the aforesaid order, the District Collectors of Tiruppur and Coimbatore, vide their proceedings dated 8.5.2022 and 06.10.2021 respectively, have constituted the requisite committees to look into the illegal tapping of water for commercial activities and to take action against the concerned persons by invoking the criminal machinery and also to black list the concerned persons and to disconnect the electricity supply to the concerned service connections.

21. When the above matters stood thus, in view of the communication of the respondents dated 21.09.2022, in and by which certain restrictions



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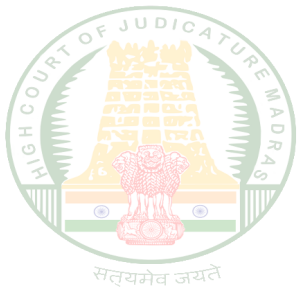
were imposed on the ayacutdars, the action taken by the respondents in view of the aforesaid directions issued by this Court had resulted in a spate of writ petitions being filed before this Court in W.P. No.29396/2022, etc. Batch and this Court, vide order dated 7.11.2022, had passed the following directions :-

“19. Having considered the factual position, especially the stand taken by the petitioners as well as the submissions made by the learned Government Counsel appearing for the respondents, this Court feels that these writ petitions can be disposed of by passing the following orders.

? That there shall be a direction to the respondents that they can monitor the functioning of the pump sets of these petitioners, which are fitted in the wells belonging to these petitioners for the purpose of taking water from the wells for irrigation purposes only, that too only for the lands covered under the ayacut.

? Such kind of tapping of water from the well shall not be used for any other commercial purposes or other non-agricultural purposes.

? That apart, if any of the petitioners make any attempt to take water directly from the canal by any method, whatever action the respondents want to take, they can take in accordance with the conditions imposed in the Government Order No.2261 dated 03.11.1967 referred to above.

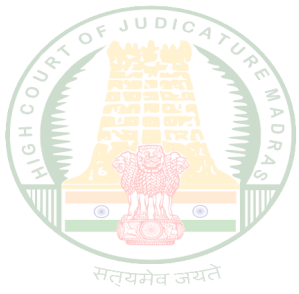


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? The petitioners also shall scrupulously follow the conditions imposed on them and they should not involve in activities like taking water directly from the canal and if any such attempt is noticed by the respondents, then it is open to the respondents to take action for cancelling the permission or cutting off the electricity service connection given to the pump sets installed in the well belongs to the petitioners.

? Despite this order passed by this Court, if any violation is noticed, based on the proof of such violation, action can be taken by the respondents in accordance with law. Except these conditions, only based on apprehension, no such drastic action of either cancelling the permission given already to the petitioners or to cut off electricity service connection or preventing the petitioners from tapping water from their wells by using motor pump sets, shall be indulged to by the respondents.

? This Court feels that since the system has been brought in long years back, ie., more than 50 years ago, as the Government order was issued in the year 1967, based on the conditions imposed in the said Government Order, whether the system has been properly working even now based on the present day need can be re-visited and re-looked by the Government and in this regard, this Court wants to make a suggestion to the respondents to constitute an expert team consisting of irrigation experts,



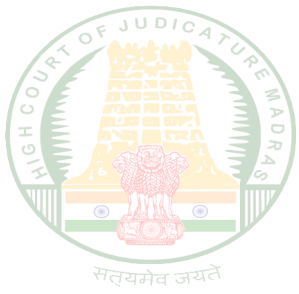
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representatives of agriculturists in that area and have a thorough inspection of the ayacut area as well as canal area and to give a report to the Government to take any further action in order to meet the present day needs of both ayacut and the canal area, as well as the ayacutdhars who take water from the wells like the petitioners and accordingly a comprehensive system can be brought in.

? If the Government wants to do the same, the Committee as suggested above can be appointed by the Government and do the needful at the earliest preferably within a period of three months 12 from the date of receipt of a copy of this order.”

22. In continuation of the above, the present batch of cases, which have been on the Board of this Court for quite sometime in which reports were called for to be filed by the respective District Collectors, which finally yielded some results, which is seen from the order passed by this Court on 16.11.2022. After perusing the reports and the action taken in regard to the directions issued by this Court, this Court passed the following order :-

“Heard the learned counsels on either sides. The status reports filed by the District Collector, Coimbatore, District Collector, Thiruppur and the Superintending Engineer, Water Resources Department, Pollachi, are taken on record.



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2. It is stated in the Status Report filed by the District Collector, Coimbatore that review meetings are conducted with the Joint Committee Members on 16.03.2022, 11.04.2022, 25.04.2022 and 30.08.2022 and instructed to take stringent measures on the violators in the following order of priority:

"a. To immediately disconnect the EB connection of wells within 50m catering to commercial purpose and file FIR in the respective police stations.

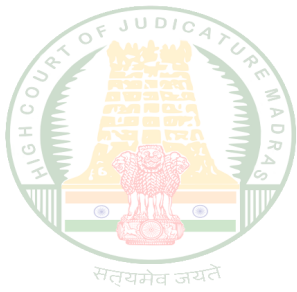
b. To immediately disconnect the EB connection of wells situated between 50m to 300m catering to commercial purpose and file CSR / FIR in the respective police stations

c. To disconnect the EB connection of wells within 300m having agricultural land close to industrial / commercial establishment and taking water in the garb of agricultural purpose.

d. To disconnect the EB connection of wells within 300mts having horizontal pipeline to illegally tap PAP water.

e. To disconnect the EB connection of wells within 300mts catering to agricultural purpose in a Non-contiguous Non-Ayacut area.

f. To disconnect the EB connection of standalone wells situated in a piece of land purchased exclusively for formation of wells within 300mts and taking water to long distance for agriculture or other purpose."



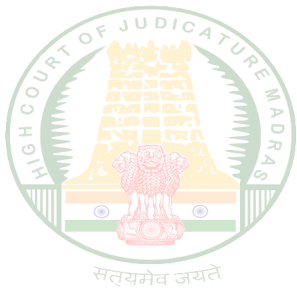
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and according to the said report, 508 number of Wells are situated within 50 meters and 771 number of Wells are situated between 50 meter to 300 meter After the said inspection and detailed enquiry, final orders for 75 cases have been passed. Further, 14 Wells were found to be established before the year 1967 and recommendations were given to the Electricity Board to disconnect the services against the erring persons.

3. The nature of the disconnections, number of connections disconnected so far have not been mentioned and similarly, the status report filed by the District Collector, Tiruppur, Udumalpet Division states that around 871 Wells are situated within 50 meters and 466 Wells more than 50 meters and notice served on 203 consumers and action have been taken over some of them and details regarding nature of action taken against each member has not been captured in the report.

4. Further, the status report filed by the Superintending Engineer, Water Resource Department, Parambikulam Aliyar Basin Circle, Pollachi states that the total Wells, 2,696 were identified and number of Wells inspected by Joint Monitoring Committee were around 1,511, show cause notice have been issued only for 524, personal hearing completed in respect of 221 people and final orders have been passed in respect of 120, electricity connections have been disconnected in respect of 52 Wells.

5. Though Status Reports have been filed indicating the nature of the action against some of them, the earlier directions of this



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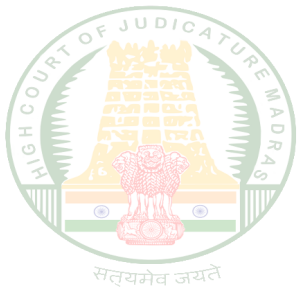
Court in respect of survey numbers has not been captured in the Status Reports. That apart, whenever show cause notice is issued against any of the violators, the show cause notice shall contain that the Writ Petition number and direction of this Court, in fact, it will prevent the parties from suppressing material facts while challenging the show cause notice or orders passed in this regard, the respondents shall file further Status Reports indicating Survey Numbers, name of the person against whom the action was taken, nature of action taken and particulars of Azmoish in all sectors, post the matter on 12.12.2022.”

23. Thereafter, the matter was once again taken up on 06.01.2023 in which this Court passed the following order :-

“Read this order in continuation of, and in conjunction with orders dated 16.11.2022 and 13.12.2022.

2.A final opportunity was granted on 13.12.2022 to the respondents to file a status report for which a direction had been issued on 16.11.2022. Even today, nothing has been filed and instead, there are slew of impleading applications. The case of the petitioners seeking to implead themselves is that the activity carried on by them is commercial/industrial activity.

3.This is the reason that this Court had specifically directed the authorities to look into the activities carried on in the five zones, for which the Joint action committee was constituted,



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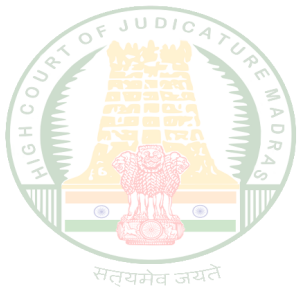
being Udumalpet, Thirupur, Dharapuram, Coimbatore and Pollachi.

4. Though I am inclined to impose a cost for non-filing of the Report till date, since the petitioners in one voice state that the authorities are otherwise doing in a satisfactory job in containing the tapping of water taking place in that region, I desist.

5. Let the report containing all details set out in order dated 16.11.2022 be filed on or before 24.01.2023."

24. Thereafter, the matter stood listed on 25.1.23 and 6.02.23 on which dates the status report as sought for by this Court vide its earlier order dated 16.11.2022 was not filed and finally on 27.02.23, the status report has been filed before this Court, which was also taken on record. Thereafter, the matters were listed before this Court on 12.04.2023 on which date, this Court had called upon the learned Addl. Advocate General to place before this Court the formation of the Committee of experts.

25. To give a quietus to the issue, this Court clubbed all the matters relating to various issues, which govern the utilisation of water from the PAP canal by the ayacutadars, drawal of water from the wells abutting the canal,

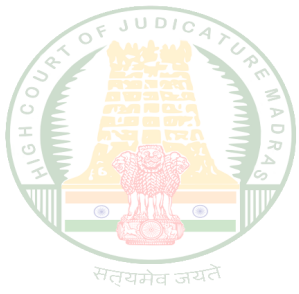


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tapping of water from the canal for the purpose of utilisation of the same for commercial purpose, the disconnection of electricity, which was the outcome of the order passed by this Court and other issues governing the water sharing mechanism between the ayacutadars, non-ayacutadars, commercial usage, etc., and, accordingly, heard the learned counsel appearing for the various parties on the aforesaid issues.

26. Lengthy arguments were advanced by the learned counsel appearing for the petitioners on the points, which have been culled out in the earlier portion of this order on the issues, within which the respective petitioners fall. At the risk of repetition, the said points in issue, which is placed before this Court for consideration are as under :-

- i) Not to allow persons, who have lands elsewhere and not within the ayacut to take water to their lands;
- ii) To provide electricity connection;
- iii) To issue NOC for the purpose of seeking electricity connection;
- iv) To stop water supply to commercial establishment from the PAP canal;

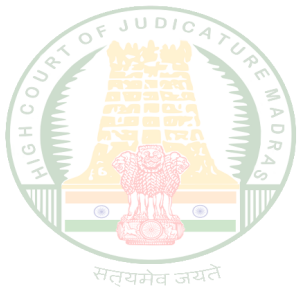


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- v) To permit the petitioners to draw water from their wells using electrical motors;
- vi) To direct the respondents to take action against non-ayacutadars from drawing water from the wells situate within the ayacut region of PAP project.
- vii) To direct release of water for agricultural activities from the PAP canal.

27. Per contra, learned Addl. Advocate General, synthesised his arguments on the status report, the sum and substance of which is as under :-

- i) The Joint Action Committee was formed vide proceedings dated 06.10.2021 and 08.05.2022 by District Collector, Coimbatore and Tiruppur consisting of RDO of Pollachi, Executive Engineer of PWD, Assistant Executive Engineer of PWD and Executive Engineers of TANGEDCO and concerned Tahsildars and the Joint Monitoring Committee had identified 2696 wells and action has been taken.
- ii) District Administration is conducting regular review meeting with the Joint Committee members and allied departments and taking regular remedial measures.

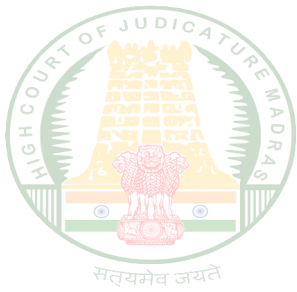


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W.P. No.3181/2017, etc. Batch

- iii) An expert committee is to be formed to look into the grievance of the persons, who are alleged to have been affected by the orders passed by the Joint Monitoring Committee.
- iv) G.O.Ms. No.50 Public Work (Q1) Department dated 26.02.2021 was issued to review the irrigation system of PAP Canal.
- v) Details of conversion of agricultural land into windmill or industries are collected and will be sent to the Government by the District Collector for deletion of such land from ayacut area, as the ayacut zone is an agricultural zone and no industries can be formed in the said zones without reclassifying the lands, which power vests only with the Government.
- vi) Joint Monitoring Committee consist of officials from Water Resource Department, Revenue Department, Electricity Board and Police Department formed by District Collector, Coimbatore and Tirupur District and the said Committee is effectively implementing G.O. Ms. No.2261 dated 3.11.1967.

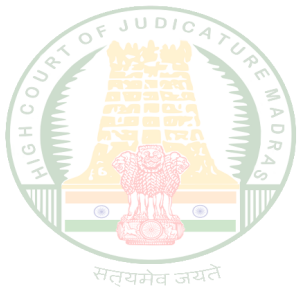


WEB COPY 28. This Court gave its anxious consideration to the submissions advanced by the learned senior counsel appearing for the respective parties, the other learned counsel for the petitioners and the learned Addl. Advocate General appearing for the respondents and also perused the materials available on record as also the various orders passed by this Court in the present batch of petitions as also the orders relating to the above issues passed in other petitions over a period of time.

29. The importance of agriculture and its impact on the society irrespective of the number of employments available has been spoken to in Thirukkural, in the following manner :-

Meaning : ????? ?? ?????? ?????? ??????????? ????? ?????????
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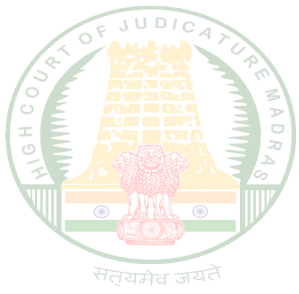
Free Hand Explanation : Agriculture, though laborious, is the most excellent (form of labour); for people, though they go about (in search of various employments), have at last to resort to agriculture.



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30. The sequence of events, which have rolled over the period of time in regard to the above project and its impact on the society adjoining the project, have been culled out by this Court from the materials as is available on record, particularly with reference to the import and importance of the orders passed by this Court.

31. All along, the orders of this Court reveals that this Court had called upon the respondents to spell out the status with regard to the manner in which the water flowing in the PAP canal is utilised *qua* the date of formation of the PAP canal and more particularly in the order dated 7.11.2022 in W.P. No.29396/2022, etc., a slew of directions were issued, including the suggestion for revisitation of the Government Order in G.O. Ms. No.2261 dated 3.11.1967 particularly with reference to the current day scenario by constituting an expert committee consisting of irrigation experts, representatives of agriculturists so that the Government can take further action keeping in mind the present day needs of both ayacut and the canal area as well as the manner and the quantum in which water to be used by the

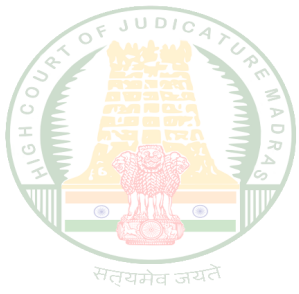


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various persons in and around the ayacut region. However, till date, such a step does not seem to have been taken by the respondents and no report in this regard is tabled before this Court.

32. Be that as it may. In view of the permission granted to persons, who own lands in the ayacut region on either side of the canal and also to persons, who are in possession of wells abutting the PAP canal, for laying down pipelines across the canal for the purpose of taking water from the wells owned by such of those persons.

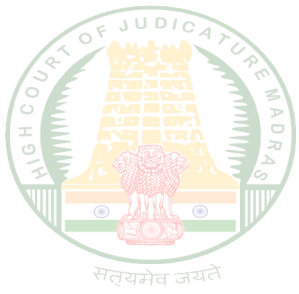
33. Pending the present batch of writ petitions, very many petitions were filed by aggrieved persons with respect to disconnection of electricity, permission to draw water, release of water from the PAP canal and other ancillary reliefs, in respect of the lands falling within the ayacut region and also beyond the ayacut region and also for the purpose of commercial usage and certain orders have been passed in the respective petitions. However, those orders were passed on the facts of the respective case and not with reference to the object of the PAP canal. Further, pending the present



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petitions, orders have been passed without any substantial status report from the Joint Action Committee/Expert Committee constituted for the purpose of revisiting the system, which was established at the time of formation of the PAP canal, viz., in the year 1967. Therefore, looking at the individual grievance of the respective petitioners herein would be an exercise in futility, as it would not only wholly destroy the fabric on which the PAP canal project was woven and the purpose with which the project was envisaged, but would also unnecessarily rob this Court of the valuable judicial time. Therefore, it becomes necessary for this Court to appreciate all the facets leading to the formation of the PAP project and the vision with which the project was executed so that the ultimate object of forming the project would be achieved.

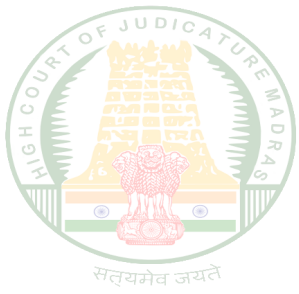
34. In the aforesaid backdrop of the issue, it is to be stressed that it is only comprehensive guidelines, which are required to be issued, which would not only be in the interest of all the stakeholders, but would also be in the interest of the public at large, more especially the persons, who are into agriculture within the ayacut region. Further, the said guidelines would also



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be in the interest of safeguarding the water table, which this generation could leave in-tact for the generations to come and any other order, more specifically in individual interest, would greatly affect the future generations, as the PAP canal, which was envisioned only with the object of cultivation of the dry crops, has now elongated itself to catering of cultivation of even wet crops. Further, the flow of water in the canal is to be utilised only for agricultural purposes right from the starting point to the tail end farmers without there being any grievance from any quarters, which alone would fall within the zone of doing complete and substantial justice.

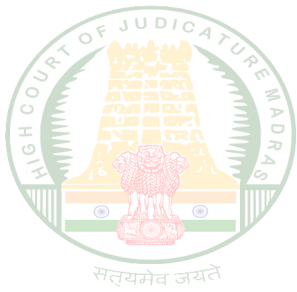
35. In the aforesaid backdrop of the issue, it becomes necessary for this Court to skim through the history relating to the formation of the Parambikulam Aaliyar Project so as to understand the intricacies, which have prevailed upon the various authorities, including this Court, to issue the aforesaid Government Orders and orders by this Court, so that proceeding further, this Court can issue comprehensive guidelines so that the grandeur and the objective with which the project was mooted out would be safeguarded and the agricultural activities would get an impetus.



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36. In the background of the aforesaid facts, the issues that arise for consideration and require to be decided by this Court are as under :-

- i) *Who are the persons, who would be entitled to draw water from the open wells/borewells situated on either side of the canal.*
- ii) *Whether the protected distance prescribed in the GO would bar drawal of water from the open wells/borewells which have been in existence prior to the formation of the PAP canal.*
- iii) *What is the permissible limit of the pumpsets that could be utilised for drawing water from the open wells/borewells.*
- iv) *Whether the persons, who own open wells/borewells alone or who under joint venture with the ayacutadars who own open wells/borewells adjacent to the PAP canal or who own a small piece of land adjacent to the PAP canal in the ayacut region could*



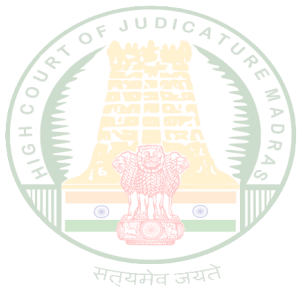
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W.P. No.3181/2017, etc. Batch

be permitted to take water out of the ayacut region through underground pipelines for agricultural activity in respect of the lands situated inside/outside the ayacut region.

- v) *Whether non-ayacutadars are entitled to draw water from the open wells situated adjacent to the PAP canal within the ayacut region for the purpose of irrigating their faraway lands, situated beyond the ayacut region through underground pipelines.*
- vi) *Whether water could be drawn from PAP canal and supplied for commercial activity.*
- vii) *Whether borewells are permitted to be dug/water could be drawn from the borewells within the ayacut region or in close proximity to the PAP canal.*
- viii) *Whether the land owners are entitled to modify the sub-channels for taking water either to ayacut or non-ayacut regions, thereby, preventing flow of water to*

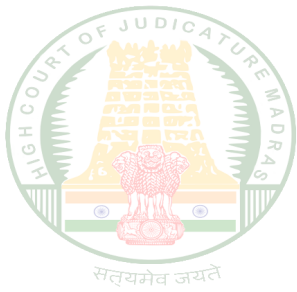


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the tail-end farmers for the purpose of agricultural operations.

- ix) *Whether it is open to the respondents to fix the extent of the diameter of the pipeline to be used for the purpose of drawing water from the PAP canal.*
- x) *Whether the G.O. No.2261 dated 3.11.1967 requires to be revisited in the light of the developments that had taken place over the past 50 years.*

37. To answer the aforesaid issues, which have broader ramification with regard to the utilisation of water by the various entities, which are at loggerheads, as also with regard to the agricultural activity that is to be carried on in the aforesaid Parmbikulam Aaliyar belt, which relates to the substance of the human fold, a broad outline of the project right through its history, which has been traced out by this Court in the case of ***Parambikulam Aliyar Project Original Auyacutdars Association & Ors. – Vs – State of Tamil Nadu & Ors. (1994 (2) LW 232)*** requires to be looked into for better understanding the

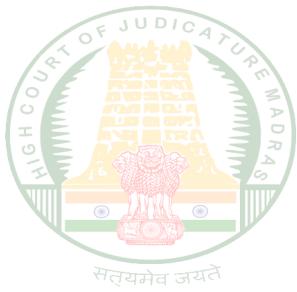


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relevant portion in which the history of the project has been spelt out is quoted hereunder :-

"I. HISTORY.

The Parambikulam Aliyar Project was conceived in 1959 for the purpose of exploiting the rivers in the Western Ghats in Anamalai Region to the fullest extent possible and giving irrigation facilities to as much area as possible in the rain shadow lands which are always drought-stricken for nearly two centuries. The Project depended on the combined effort and co-operation of two neighboring States-Tamil Nadu and Kerala-for harnessing the rivers flowing in both the States. It contemplated integration of eight rivers, six on Anamalai Hills viz., Anamalayar, Nirar, Sholayar, Parambikulam, Thunakadavu and Peruvuripallam and two on the plains viz., Aliyar and Palar, by constructing reservoirs across them and inter-connecting them by tunnels, the tunnels were to help diversion of the waters impounded in the reservoirs to the plains of the then Coimbatore district in Tamil Nadu and Chithur district in Kerala State. As the rivers were in various elevations ranging between 3800 feet and 1050 feet, it was incidentally possible to utilise the drops between the rivers for the development of hydro-power. The project envisaged construction of dams and power houses. The Taluks of Palladam, Udumalpet, Pollachi and Dharapuram in the then coimbatore District formed a very dry region chronically famine-stricken with poor rain fall and no natural water

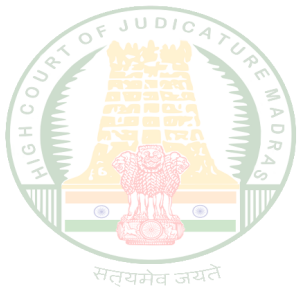


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resources. During the last century and the first half of this century, the Government had to spend large sums of money to afford relief to the famine stricken people in the area besides large remissions given to them. Dharapuram Taluk became part of Periyar District after the bifurcation of Coimbatore District. With a view to develop the entire area and raise the general standard of living, the project mentioned above was undertaken. Canals had to be constructed in such a manner as to make use of each and every drop of water to the fullest extent possible and without wasting any part of it. It was initially estimated that 30.5 TMC feet of water could be realised and utilised for irrigation, out of which 2.5 TMC feet in the Anamalayar Project would be available for Tamil Nadu only after the State of Kerala completes the Edamalayar Scheme.

2. The project is divided into two basins viz., Aliyar Basin and Plar Basin. It should be mentioned that an area of about 40.000 acres was expected to be irrigated by Aliyar basin every year and since 1973-1974 that region has been getting water once in two years.

3. With reference to Palar basin, it was originally estimated that an extent of 2.03 lakhs acres of land could be irrigated. The work on the project commenced in 1960. It was decided that even before the completion of the entire project, the available water could be released for the purpose of irrigation of such extent as may be possible. Government



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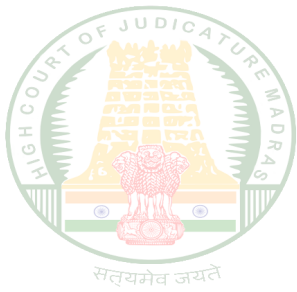
framed rules known as Parambikulam Aliyar Project Water Cess Rules, 1965 in G.O.Ms. No. 1956, Public Works, dated 26-6-1965, in exercise of the powers conferred by S. 1 of the Madras Irrigation Cess Act, 1865 for the levy of water cess for the irrigation of the lands under the project. Rule 3 provides for issue of permits for all the lands irrigation of which is allowed from the project by or under the orders of the State Government. A form of permit is also prescribed, which contains the conditions under which the same is issued. A fee is charged for the issue of permit. Rule 5 enables the District Collector or the Executive Engineer concerned to cancel or modify any permit at any time after giving an opportunity to the permit-holder to put forward his objection. The rates of water cess are fixed by the Rules. Conditions 5 to 10 of the Conditions set out in the prescribed form read as follows.

'5) The permit holder shall not take water contrary to any turn system that may be introduced by the authorities.

6) Irrigation of the land at any time, other than the period mentioned in column (9) or through any source other than that shown in column (8) will be irregular.

7) This permit may be cancelled or modified by the Collector of the district or the Executive Engineer at any time.

8) The State Government reserve to themselves the full right to refuse or restrict temporarily or



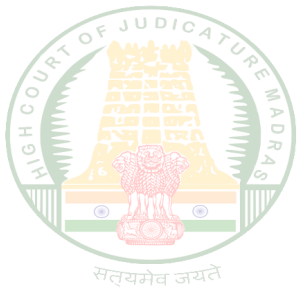
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permanently the supply of water for irrigation and modify the rates or method or both of charging for water at their discretion without assigning any reasons.

9) The State Government reserve to themselves the right of notifying the crops to be grown from time to time in the ayacut lands.

10) The State Government reserved to themselves the right to levy betterment fee at appropriate rates at a later stage.'

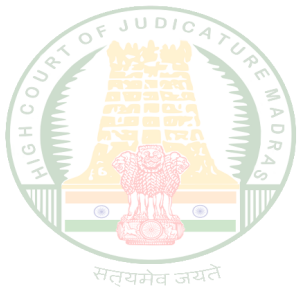
4. By about 1967-1968, a particular stage was reached in the construction of the project and the available quantum of water was released by dividing the ayacut into two zones. Each zone had 4.5 months period. The same was being categorised at stages. Before release of water, the agriculturists were informed expressly that they were permitted to raise only particular crops, which were always dry crops. They were never permitted to raise wet crops. On each occasion, the release of water was approved by the Government by a Government Order and issued to the Officials of the P.W.D., the District Collector and the Officers of the Agriculture Department. The concerned District Collector announced the release of water specifying the crops, area, period supply etc., through All India Radio, local dailies and torn torn in the villages through the village revenue officials. Whenever there was violation by the agriculturists by raising



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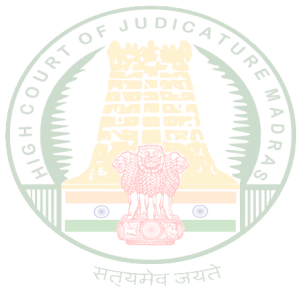
crops other than the notified, they were penalised under the Water Cess Act. In fact, the Board of Revenue in B.P. Perm 286/67, dated 13-10-1967 suggested to the Government several measures to curb the unauthorised raising of wet crops and violation of the conditions of permits.

5. The Agriculturists of the lands which were not originally included in the ayacut were making frequent representations for extending the area of the ayacut so that they could also have the benefit of irrigation from the project. Their representations were considered and the Chief Engineer of the Project in his letter S2/17743/71-16 dated 9-2-1971 submitted preliminary proposal to the Government after study of the quantum of water available, recommending further extension of the ayacut, which would be possible if the frequency of supply was changed. The Government considered the recommendation and passed G.O.Ms. 450, Public Works, dated 25-3-1975 directing the Chief Engineer to include in the ayacut an additional extent of 88,800 acres in the four taluks referred to earlier. Subsequently, the Government passed another order in G.O.Ms. No. 1234, Public Works, dated 7-8-1975 in supersession of the earlier G.O. and directed the Chief Engineer to include in the ayacut an additional extent of 1,03,000 acres. By a third order in G.O.Ms. No. 126, Public Works, dated 29-1-1976, the Government directed the inclusion of 1,15,000 acres in the ayacut instead of 1,03,000 acres.



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6. Though it was not implemented immediately, one ayacutdar by name Haridas, who was owning 9 acres 57 cents in Thoriyur Village, Pollachi Taluk, filed W.P. No. 575 of 1978 praying for issue of a mandamus restraining the Government and the Chief Engineer from implementing G.O.Ms. 126 dated 29-1-1976 in so far as he was concerned. The prayer was expressly limited to the benefit of the said petitioner. A similar writ petition was filed by another ayacutdar by name E.P. Thangavelu in W.P. No. 1309 of 1978. A similar prayer was made by him in so far as he was concerned. He owned 21 acres 37 cents in Udukkampalayam, Udumalpet Taluk. Admittedly the lands owned by the two petitioners were classified as unirrigated dry lands in Revenue records. They got the benefit of irrigation under the project on permits obtained by them. Both the writ petitions were heard together. The learned Judge who heard the matter would appear to have suggested supply of water for irrigation once in 18 months to the petitioners therein and extend the rest of the water to the new ayacut. The learned Judge passed an order on 25-3-1982 describing it as 'Aide Memoir' recording the conditions imposed by learned counsel for the petitioners therein that there shall be no increase in the ayacut beyond the 1.15 lakhs acres until Anamalayar diversion works contemplated in the Project were completed and the supply of water once in 18 months should not be sporadic and intermittent, but it should be for a week or ten days continuously before interruption so



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that agricultural operation could be carried on effectively and that the water should be supplied preferably from the third week of July or the first week of December, as the case maybe with reference to the rotation of 18 months. The learned Judge directed the Government Pleader to get instructions on those conditions proposed by learned counsel for the petitioner and added that in his opinion they were very reasonable and there should not be any difficulty in accepting the same. Thereafter, a common final order was passed on 22-12-1983 in the two writ petitions in the following terms:-

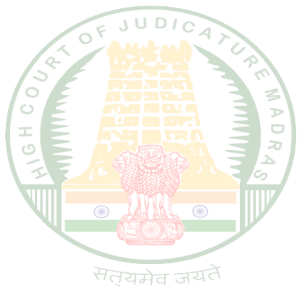
The learned counsel for the petitioners and the learned Additional Government Pleader agree that the following order could be made and imposed on the parties:

'The petitioner has no objection to the original Ayacut of 250000 acres covered by Parambikulam Aliyar Project being extended by 1,15,000 acres as envisaged by G.O.Ms. No. 126 dated 29-1-1976 or for any further extension:

Provided that before supplying water to the new ayacutdars in the extended ayacut, the original ayacutdars are first assured of supply of sufficient water, subject to availability once in eighteen months as regularly as possible or practicable.'

There will be an order accordingly in these writ petitions: There will be no order as to costs.'

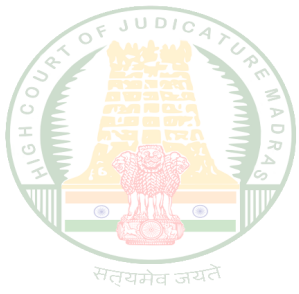
7. Even during the pendency of the writ petitions, the Government had passed G.O.Ms. No. 518, Public Works, dated



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13-4-1978 directing the Chief Engineer (Irrigation) to send detailed plans and estimates in respect of the work for providing irrigation facilities to 1,15,000 acres ordered to be included in the ayacut under G.O.Ms. No. 126, Public Works, dated 29-1-1976. The Chief Engineer was also directed to evolve a mode of regulation of water under the project to the entire ayacut including the newly added extent.

8. By 1980, the last component of the Project, i.e., Lower Nirar Dam was completed. In 1982, G.O.Ms. No. 175, P.W.D. dated 28- 1-1982 was passed accepting the proposals of the Chief Engineer, (Irrigation) for the inclusion of 25000 acres of lands in the project at an estimated cost of Rs. 4,00,00,000/-, in addition to the extent of 1.15,000 acres already mentioned. G.O.Ms. No. 175 was passed on the basis of representations made by the agriculturists for inclusion of some pockets of lands which were situated between or surrounded by the agriculturists for inclusion of some pockets of lands which were situated between or surrounded by the approved lands of the ayacut. Again, G.O.Ms. No. 1903, P.W.D. dated 14-9-1984 was passed directing inclusion of 35,000 acres of lands, after the Government examined various representations made by the farmers in consultation with the Chief Engineer (Irrigation). It was clearly indicated that the said inclusion would be the final and last extension. In 1983-1984, the original extent of 2,03,000 acres were divided in three Zones and the irrigation supply was given for about 4.5 months for



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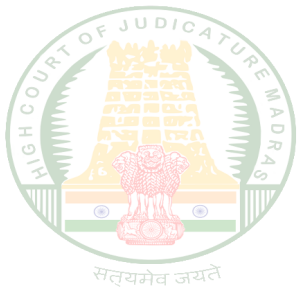
each zone of ayacut out of six months. By the three G.O.Ms. referred to above, viz., G.O.Ms. No. 126, G.O.Ms. No. 175 and G.O.Ms. No. 1903, an extent of 1.75,000 acres was directed to be included in the ayacut. The Government had taken into consideration that there was no other natural source of water available in that area to cater even to the basic needs of the society and the wells in the area were of about 500 feet deep and the water available in such wells were not even sufficient for the daily necessities of men and cattle. The extension of ayacut has been done only after repeated representations from the farmers, who had no irrigations facility whatever for quite a long time. Huge amounts were spent by the Government for acquiring lands for constructing branch canals, distributors and water courses as well as aquaducts and regulators. The acquisition of lands for that purpose commenced in 1981. Thus, the total extent of ayacut having been increased to 3,77,000 acres of lands, the Government had necessarily to think of a suitable pattern of irrigation for the purpose of making an equitable distribution of the available water to the entire ayacut. In July 1982, the Technical Committee for improving the efficiency of Parambikulam Aliyar system submitted a report suggesting division of the ayacut into four zones and supply of water to the same from Thirumurthy Dam on rotation basis. It was pointed out in the report that in the four zones pattern, water will be running through the entire length of Parambikulam



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main canal throughout the two spells of the year, i.e., for a period of nine months, which will help in recharging the ground water and improving the water table in the wells of the area. It was also pointed out that in the ultimate stage, i.e., when the Anamalayar diversion and Nallar dam are constructed, the realisation at Thirumurthy dam can irrigate 2,60,000 acres annually or 3,90,000 acres once in 18 months and as such, in the ultimate set up, the entire ayacut under Thirumurthy dam will get irrigation supply once in 18 months on rotational basis. The Committee made several suggestions for the purpose of carrying out the scheme. The Government had repeated consultations with Expert Committees including the Central Water commission and the Standing Irrigation and water Resources Commission and after ensuring itself of the benefits available to the agriculturists by implementation of the four zones pattern, the Government chose to accept the same. In fact, the Chairman of the Standing Irrigation and Water Resources Commission and a Full Time member toured the ayacut areas in March 1991 and had discussions with the officials of Irrigation, Agriculture, Agriculture Engineering and Revenue Departments and also with the farmers, both in the field and also in the formally organised meetings convened by the Collectors of Periyar and Coimbatore Districts.

9. Yet another writ petition was filed in W.P. No. 13394 of 1992 by Parambikulam Aliyar Original Ayacut Udumalpet Canal Agricultural Society represented by its President, for

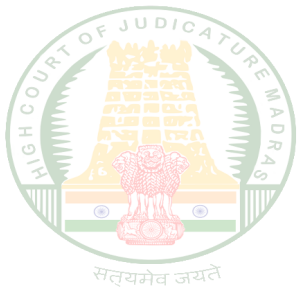


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issue of mandamus calling for the records relating to the unsigned and undated notice issued by the Executive Engineer, Udumalpet Division extending the ayacut area in Udumalpet by 14908 acres and providing irrigation facilities to the said area and quash the same and consequently preventing the Chief Engineer (Irrigation) from implementing the said notice. When the interlocutory petition came up before a learned single judge for orders on 20-10-1992 the learned Judge disposed of the main writ petition in the following terms:-

'It is agreed by both the counsel that the petitioners, who are original ayacutdars will receive the accustomed supply of water in accordance with the existing pattern of supply. After supplying the water to the petitioners in the above manner, the farmers of the extended area will be supplied water. If any exigencies arise affecting the interest of the existing ayacut, the department is bound to cut or reduce the supply to the extension area, as the intention of the Department is not to give relief to the extension area to the cost of the existing ayacut.'

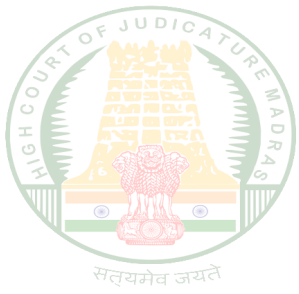
38. Not only a broad outline, but the intricate details with regard to the project has been written in an artistic masterpiece by M.Srinivasan, J. (as His



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Lordship then was), which clearly dovetails the details and the necessity which mandated the formation and implementation of the project.

39. From the above piece of history, it is evident that as the Taluks of Palladam, Udamalpet, Pollachi and Dharapuram in the then Coimbatore District formed a very dry region chronically famine-stricken with poor rain fall and no natural water resources, contemplation of integration of eight rivers, flowing in the States of Kerala and Tamil Nadu, six of which originated in the Anamalai Hills, viz., Anamalayar, Nirar, Sholayar, Parambikulam, Thunakadavu and Peruvuripallam and two on the plains, viz., Aaliyar and Palar, were made and to achieve the above object, constructing reservoirs across them and interconnecting them by tunnels so as to divert the waters so impounded in the reservoirs to the plains for the purpose of carrying out agricultural activity, which would mostly be the plantation of dry crops. In fact, from the aforesaid order, it is abundantly clear that there was a clear understanding with the agriculturists that the release of water for agricultural purposes was only for the purpose of raising dry crops and it was not intended for raising wet crops.



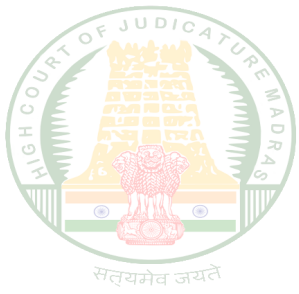
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However, the fact remains that not only dry crops, but also wet crops are being cultivated, more particularly coconut grooves have come up.

40. It is to be pointed out that the reason for implementation of the project is only for the purpose of carrying out agricultural activities in and around the taluks, which were dry region chronically and with a view to keep away the region from famine, the project was implemented, whereby dry crops could be grown.

41. Initially, the said project was undertaken with a view to supply water for agricultural activities for the ayacutdars for irrigation of the lands. Initially, the ayacut comprised of 1.40 Lakh acres, which was slowly expanded by the Government and as of today it stands at 4 Lakh acres. It is to be stated that the Government had taken a conscious decision not to increase the ayacut beyond the acreage of 4 Lakhs.

42. The water supply was intended only for the ayacutadars, who held lands on either side of the PAP canal and where the wells were in existence for

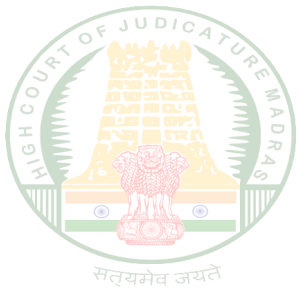


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irrigating the crops. There is no quarrel about the fact that the ayacutadars were permitted to dig wells beyond the protected distance so that the water from the PAP canal is not absorbed into the well.

43. However, the whole genesis of the case took a different turn when non-ayacutadars started purchasing smaller packets of land and, in fact, certain non-ayacutadars either dug well in the small parcels of land adjacent to the PAP canal, more particularly after the formation of the PAP canal and issuance of the Government Orders or, in a joint venture with ayacutadars, who own well adjacent to the PAP canal started using the water by transporting them through pipelines laid across the PAP canal.

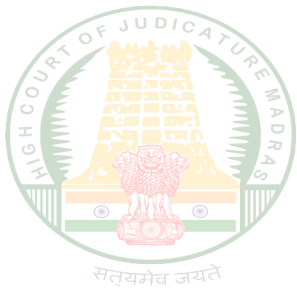
44. To mess it up even further, certain persons, who own land outside the ayacut zone, started transporting water through the said underground pipelines to lands, which are as far away as few kilometres, by using pumpsets of higher horsepower than what was permitted, without the knowledge of the PAP authorities.



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45. It is even noticed that the bund of the canal is being broken and through extended pipes, water is being sucked from the canal by illegal means, which have been removed, but the bund has not yet been repaired. In some cases, due to climatic changes and weather, the concrete structures, which surround the pipelines of the PAP canal have started falling out, which also causes loss of water through the numerous leakages through the pipelines.

46. The Farmers Management Irrigation Systems Act, 2000, governs the farmers, who undertake agricultural activities in the PAP belt. Laying of underground pipelines for the purpose of taking water from the wells belonging to the ayacutadars, who own lands on either side of the PAP canal was accorded vide proceedings dated 19.9.2011 by the Superintending Engineer. These were persons, who were in possession and occupation of the lands well before the formation of PAP canal and the canal having cut across their lands, necessarily for the purpose of providing water to the other half of the lands, where well is not situated, there arose a necessity of laying underground pipelines, cutting across the PAP canal, so that water could be

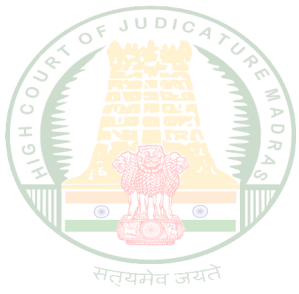


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pumped from the well to the other side of the canal for the purpose of irrigation during off-season, when water is not opened from the PAP canal. To put it in plain language, the said persons are ayacutadars, who were holders of land in the 1.40 Lakh acreage.

47. However, many persons, who owned lands far away from the PAP canal, but had no source of water, to tap the resources and to rob away water from the ayacutadars, had purchased small packets of land for the purpose of digging a well and transporting water through underground pipelines, which option was granted to ayacutadars, who owned lands prior to the formation of PAP canal. Such water is being taken a few kilometres away to irrigate the lands, which are much beyond the ayacut zones, viz., the four zones. **Whether the said act of the non-ayacutadars in pumping the water through the underground pipelines to lands beyond the ayacut zone is permissible is an issue, which requires to be addressed.**

48. It is to be pointed out that the water provided for irrigation through the PAP canal is only with reference to the ayacutadars, who owned lands

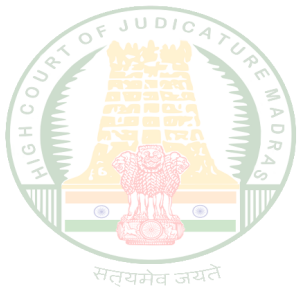


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prior to the formation of PAP canal and also the persons, who were in possession of lands, which were brought into the ayacut later in point of time through various Government Orders. Only such of those persons, who fall within the ayacut would be entitled to draw water from the wells situated within the ayacut zone for the purpose of cultivation of lands. Any lands, which are situated beyond the ayacut for which water is pumped from the wells adjacent to the PAP canal, which are lying within the ayacut zone is wholly illegal and impermissible.

49. With regard to sharing of water, equity can be only amongst the ayacutadars, who had lands prior to the formation of PAP canal. The non-ayacutadars cannot claim any equity as they do not have lands within the ayacut zone. Even if the non-ayacutadars hold lands, at a later point of time, by means of a purchase of a miniscule piece, the same cannot be the basis for granting similar equity to the non-ayacutadars.

50. Further, one other aspect, which has already been highlighted is the fact that non-ayacutadars, purchasing a small portion of land within the

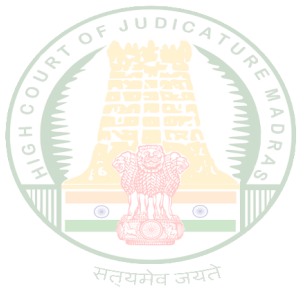


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ayacut zone, adjacent to the PAP canal, giving a go-by to the prescription of 5/10 HP pumpsets for the purpose of pumping water, as prescribed in G.O. Ms. No.2261 dated 3.11.1967, through underground pipelines by using pumpsets of higher horsepower, viz., more than 10 HP, transport the water to far off places for the purpose of carrying on agricultural activity.

51. Not only transportation of water is done by non-ayacutadars for the purpose of carrying irrigating their lands, which is outside of the ayacut zones, even for the purpose of commercial use, water is being drawn from the PAP canal by persons running industries, thereby, the main purpose for which the PAP canal was formed not only gets defeated, but the lands within the ayacut zones are robbed of their share of water, thus limiting the extent of water that is being given to the ayacutadars.

52. Though G.O. Ms. No.2261 dated 3.11.1967 had prescribed the manner in which water would be pumped through the PAP canal for the purpose of irrigation and the period during which such pumping would be carried on, however, due to the rampant digging of wells and usage of motors

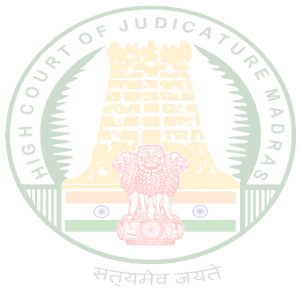


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beyond the prescribed period and transportation of water through underground pipelines to lands, which are outside the ayacut zones and also for commercial purposes, the object and intent with which the project was formed and put into action has got squarely defeated.

53. In this regard, a deeper analysis of G.O. Ms. No.2261 dated 3.11.1967 reveals that digging of open wells alone is permitted and that there is no permission for digging borewells. Further, insofar as digging of open wells and deepening of the existing open wells is concerned, it is permitted beyond a distance of 50 mtrs., from the toe of the bund of the main canal and 25 mtrs., from the bund and that the pumping should only be for the purpose of irrigating the ayacut lands.

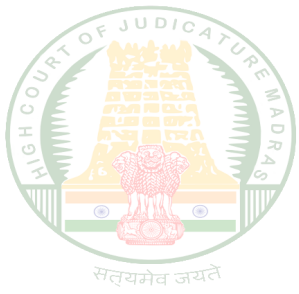
54. From the above prescription, it is clear that not only a distance is prescribed beyond which open well could be dug or the existing open well could be deepened, but the utilisation of water from the open well *should be only for the purpose of irrigating the ayacut lands*. The said condition has not been challenged and it has withstood the test of time. Therefore, it is



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clear that the water from the open well, which is within the ayacut zone, could only be used for irrigating the fields, which falls within the ayacut zone and any lands, which are beyond the ayacut zone, for which water is transported through underground pipelines is strictly prohibited and barred. Even for transportation of water through pipelines within the ayacut zone, no objection from the Water Management Association is required. (See : *Dhanapalan – Vs – Superintending Engineer & Ors. (W.P. No.4257/2014 dated 30.07.2014)*)

55. Only keeping in mind the aforesaid prescription of irrigation of lands within the ayacut zone with the water pumped from the well within the ayacut zone, the power of the pumpsets have been prescribed. **There is a clear prescription with regard to the place where 10 HP could be used and where 5 HP pumpsets could be used. Further, it is to be noted that the maximum horse power of the pumpsets could only be 10 HP and no pumpsets exceeding the aforesaid horsepower is permitted.** Even this condition with regard to the horse power of the pumpsets has not been challenged. The only reason that could be attributed to the above is for the

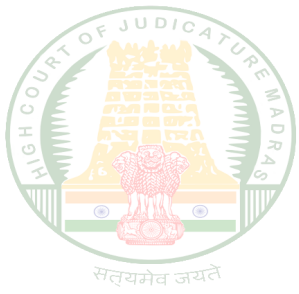


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reason that the lands owned by the ayacutadars is within the irrigatable area which could be done by a 10 HP or a 5 HP motor and beyond the said motor, higher horse power motor is not required. Such being the case, installation of any motor beyond the prescribed 10 HP is not only permissible, but it would clearly reveal that an illegal act is sought to be perpetrated by such of those persons, who are utilising motors beyond 10 HP and necessarily the said pumpsets should be removed.

56. In fine, this Court holds that the prescription of motors of 5 HP and 10 HP prescribed in G.O. Ms. No.2261 dated 3.11.1967, more particularly spelt out at S. No.(v) of the said Government Order must scrupulously followed and any installation of motors beyond the said horse power has to be necessarily removed by the PAP authorities and electrical service connection given to such of those motors should be disconnected in accordance with law. **(Answer to Q-3)**

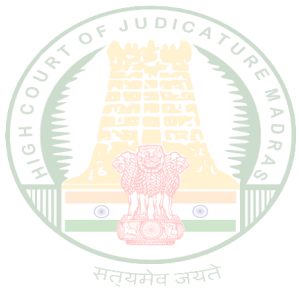
57. There can be no quarrel from the petitioners with regard to prescription of horsepower of pumpsets is bad or that they hold lands within



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the ayacut region which is beyond the pumping power of a 10 HP motor and, therefore, necessarily, it requires a higher horse power motor to carry the water to the said lands within the ayacut region. When there is no claim with regard to the further distance where water is required to be pumped, requisition of a motor beyond 10 HP is not only unwarranted, but would be impermissible, more so, when borewells are not permitted to be dug in the ayacut lands so as to carry water by usage of motor beyond 10 HP.

58. Further, it is also to be pointed out that what is permitted for is only open wells and no bore wells are permitted. This is evident from G.O. Ms. No.2261. Even it is the stand of the petitioners that they are not raising their voice for utilisation of water by digging borewells and it is only with regard to drawal of water from open wells within the ayacut regions. Therefore, not only by the mandate of G.O. Ms. No.2261 dated 6.11.1997, but also by the very admission of the petitioners that borewells are not permissible to be dug within the ayacut region, necessarily this Court has to answer that digging of borewells is not permitted within the ayacut zone and even if any borewells had been dug by obtaining permission from the PAP authorities, such

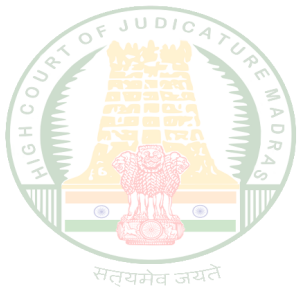


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borewells are prohibited and necessarily the said borewells need to be closed and no water could be drawn through the said borewells. No borewell is permitted to be dug or put into operation throughout the ayacut region and if any such borewell is in operation, the PAP authorities have to take necessary action to immediately seal the borewell and stop it from being used to draw water. **(Answer to Q-7).**

59. It is also evident from all the materials, as also the orders passed by this Court and also the decisions in *Parambikulam Aliyar Association case (supra)*, passed both by this Court as well as the Supreme Court, that persons were holding lands in which agricultural operations were carried on and that open wells were very much in existence even prior to the formation of the PAP canal.

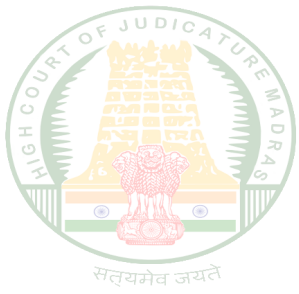
60. The PAP canal was formed with a broader view of providing water by augmenting the water stored in the reservoir and also by diversion of the water impounded in the reservoirs to the plains so that the agricultural activity of raising dry crops could be taken up by the persons holding the



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lands. Therefore, the existence of open wells prior in point of time to the formation of PAP canal is not disputed by either of the parties to the *lis*. Such being the case, the formation of PAP canal cannot prevent the persons already holding lands along with open wells to use the said wells for agricultural purposes.

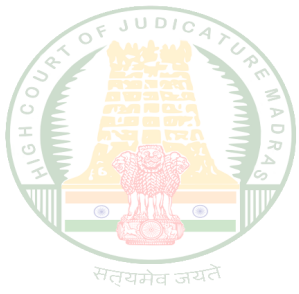
61. Only in this regard, specific prescription have been given in the Government Orders as to when the open wells are to be used for the purpose of drawing water through motors. It is only during off-season that pumping activity could be resorted to, to draw water from the wells. Therefore, not only the existence of the open wells was admitted by the Government, but its usage has also been prescribed. Therefore, the protected distance prescribed in G.O. Ms. No.2261 would be only with regard to sinking of new open wells and deepening of existing open wells and other than that, usage of water from the open well already in existence is nowhere barred. Ayacutadars, who are in possession of lands as also open wells, which have been sunk, prior to the formation of PAP canal could very well use the open wells for the purpose of drawal of water through motors of the horsepower prescribed under G.O. Ms.



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No.2261 for irrigating their lands during off-season and there could be no bar on the usage of the open wells already in existence prior to the formation of PAP canal. **(Answer to Q-2)**

62. From the discussion made above with regard to question Nos.2, 3 and 7, it is implicitly clear that ayacutadars, who were in possession of lands within the ayacut zones, in which open wells were in existence, could very well draw water from the existing open wells situated on either side of the PAP canal and use the same for agricultural activity within the ayacut zone. However, if the lands are on either side of the PAP canal or anywhere within the ayacut zone, the transportation of water from the open wells to the lands through underground pipelines could be only done after obtaining no objection from the Water Management Association, and whereinafter only, the PAP authorities could permit transportation of water through underground pipelines. However, even in such a scenario, the restriction with regard to the motors that could be used would be in line with the horsepower of the motor prescribed in G.O. Ms. No.2261. Therefore, with the above restriction and procedure, any person, who own lands within the ayacut zone,

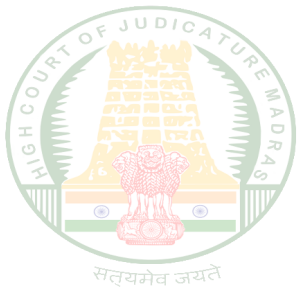


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are entitled to draw water for the purpose of irrigating the lands, which falls within the ayacut zone and not elsewhere. **(Answer to Q-1)**

63. However, one other aspect should not be lost sight of is that open wells were in existence, which were used for irrigation purpose of the lands even prior to the implementation of the project. By virtue of implementation of the project and consequently, issuance of G.O. Ms. No.1246 dated 29.4.1965, which prescribed a protected distance for sinking an open well or deepening an existing open well, the persons, who had wells within the protected distance and through whose lands the PAP canal passes through, literally dividing the lands into two portions would not be in a position to irrigate the lands, which does not contain a well.

64. However, the fact remains that in respect of lands which have been cut across by the PAP canal with one side of the canal having access to the well and the other side not having access, it is to be pointed out that water from the PAP canal would serve the purpose of the well and there would be no requirement of water from the well to irrigate the lands. However, in

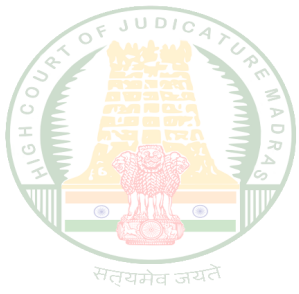


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respect of lands which is not adjacent to the PAP canal, which lands has an open well, if water is to be pumped to other portions of the land within the ayacut region through underground pipelines then necessarily, no objection certificate for laying the underground pipeline should be obtained from the Water Management Association. This is evident from the order passed by the learned single Judge of this Court in *Dhanapalan's case (supra)* has passed the following order :-

"3. By the proceedings dated 13.06.2011, the Revenue Divisional Officer, Coimbatore, appears to have accorded permission to the petitioner to lay a pipe line through Government poramboke lands and take water through a distance of more than 10 Kms., from one land to another land. The Assistant Engineer, Highways Department, Sultampet, also appears to have granted permission by the proceedings dated 25.08.2012. The said permission was later cancelled by the second respondent namely the Executive Engineer by the order impugned in the writ petition dated 23.01.2014. Therefore, challenging the said order, the petitioner has come up with the above writ petition.

4. The second respondent has filed a counter affidavit indicating that the petitioner has laid a pipeline on the banks of Parambikulam Aliyar canal and had obtained permission without notice to the ayacutdars and that when the

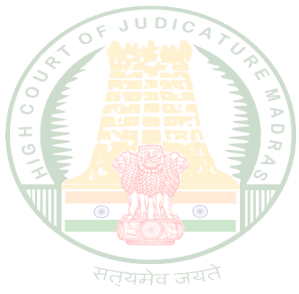


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ayacutdars raised objections, the permission was cancelled. It is also stated by the second respondent that there is a water users association, constituted in pursuance to the guidelines issued by the Government of Tamil Nadu. The association was not impleaded in the first instance as a party to the writ petition. Later they got impleaded.

5. There can be no doubt that the water management association is necessarily to be consulted when such permissions are granted. But, unfortunately no consultation ever be took place, I do not know how permission was granted to the petitioner to lay a pipe line over a distance of more than 10 Kms., underneath the lands which are both private as well as patta. The statutory authorities such as the Local Bodies and Water Supply Boards alone may be competent to lay pipe lines underneath. Therefore, the cancellation of the permission granted cannot be questioned when the permission earlier granted was not in accordance with law."

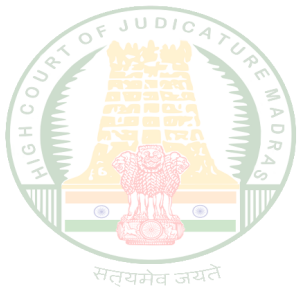
65. From the above decision, it is evident that without any permission from the Water Management Association, there would be no permissibility to lay underground pipelines to transport water from the open wells. Further, there could be no permission to draw water from the open wells situated adjacent to the PAP canal by laying underground pipelines. Therefore, to that extent no pipelines could be laid in respect of the lands situated adjacent to



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the PAP canal, and transportation of water through the said pipelines, if any, laid, should be stopped forthwith. Further, even if permission is obtained from the Water Management Association, transportation of water is permissible through underground pipelines only in respect of lands, which is beyond the protected distance and in respect of the lands not situated adjacent to the PAP canal. Therefore, to that extent, the Water Management Association can permit transportation of water only within the ayacut zone that too from the open wells, which are not situated adjacent to the PAP canal and transportation of water from the open wells within the ayacut zone to lands outside the ayacut zone is impermissible, as the project itself pertains only the four ayacut zones. Therefore, the ayacutadars are not permitted to transport water from the open wells in respect of lands situated away from the PAP canal through pipelines without approval of the Water Management Committee and such transportation could be only within the ayacut zone and not beyond the ayacut zone. **(Answer to Q-5)**

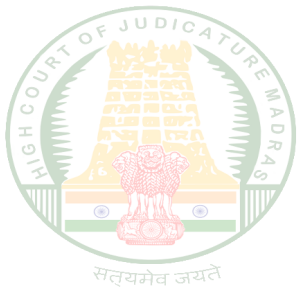
66. Likewise, the sub-channels, through which water flows, which are used to supply water to the ayacut lands, could be used only by the



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ayacutadars. As already aforesaid, the PAP canal was formed mainly for the purpose of catering to the ayacut lands, which is also evident from the orders passed by this Court as well as the Supreme Court in *Parambikulam Ayacutadars Association case (supra)* and even the Parmbikulam Aliyar Project clearly envisages that the water through the canal is to be utilised for the purpose of irrigation of the acreage of lands to an extent of about 4 Lakhs acres covered under the ayacut. That being the case, lands, which do not fall within the ayacut are not entitled for the water that is pumped through the PAP canal. The water is to be utilised only in relation to the ayacut lands and not with relation to the non-ayacut lands. Therefore, none of the land owners would be entitled to modify the sub-channels for taking water to their lands, which is outside the ayacut zone, thereby preventing flow of water to the tail-end farmers, within the ayacut zone, for the purpose of carrying out their agricultural operations. **(Answer to Q-8)**

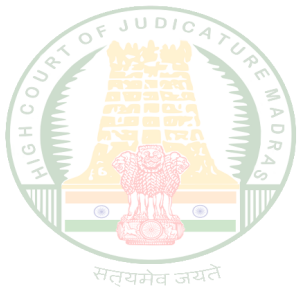
67. One other crucial act, which looms large in the stretch of the PAP canal is the act non-ayacutadars purchasing a small portion of the property in which an open well could be put up and avail the transportation of water by



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laying underground pipeline. One other innovative idea, which has been devised by such persons to tap the water potential from the PAP canal is to enter into a joint venture with the ayacutadars for utilisation of water from the open wells, which are in operation so that water could be transported from the said open well to the lands outside the ayacut zone. Another form of tapping of water resource by non-ayacutadars is to purchase a bit of land beyond the protected distance and after obtaining permission, dig an open well and utilise the water to be carried to non-ayacut regions for being utilised for irrigating the lands which are beyond the ayacut zones.

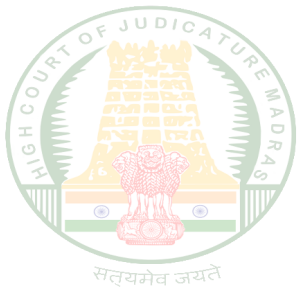
68. Not only this Court deprecates such acts perpetrated by persons, who are non-ayacutadars, who are not in possession of any lands within the ayacut zones, but even purchasing of smaller extent of lands and putting up open wells adjacent to the PAP canal and drawing water and transporting the same through underground pipelines by utilising motors of horsepower beyond the prescribed power for irrigation purpose of lands outside the ayacut zone, stands explicitly barred even from the very prescription in G.O. Ms. No.2261. S. No.(ii) of Government Order in G.O. Ms. No.2261 clearly



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prescribes that pumping of water is to be done from the open wells only for the purpose of irrigating the lands, within the ayacut. Therefore, transportation of water to a place outside the ayacut is barred and to that extent, no permission could be granted by any authority for laying underground pipelines for transportation of water to non-ayacut lands.

69. Once such a prescription is adhered to, the purchase of smaller extent of lands by non-ayacutadars for digging an open well adjacent to the PAP canal or entering into joint venture with the ayacutadars for utilising the water from the open wells situate adjacent to the PAP canal, which is already in existence, would not have any significance, as such acts would only entail in the usage of water, even if drawn from the open well, to be utilised only in respect of the lands in which the open wells are situate and transportation of water from the said open wells would stand barred. Even in respect of transportation of water within the ayacut zone by laying underground pipeline, it would only be after obtaining no objection from the Water Management Association and the PAP authorities, that too in respect of open wells, which are not adjacent to the PAP canal. Therefore, adherence to G.O.

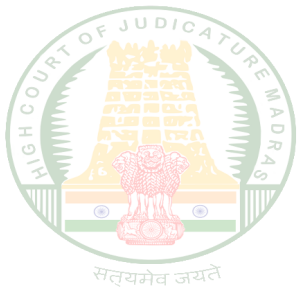


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Ms. No.2261 dated 3.11.1967 insofar as drawal and utilisation of water, would stem the illegal acts, if any, sought to be perpetrated in the usage of water drawn from open wells situated adjacent to the PAP canal by any person, be it the ayacutadars or non-ayacutadars for utilisation of water outside the ayacut region. **(Answer to Q-4)**

70. Therefore, from the above discussion, it is implicitly evident that only such of those persons, who confirm to all the guidelines prescribed in G.O. Ms. No.2261 are entitled to an electrical service connection and any infraction from the said guidelines would resultantly be followed by disconnection of electrical supply. If electrical service connection had been disconnected in respect of any person for any infraction of the prescription, this Court cannot come to the aid of such persons and grant any relief. Necessarily, the Joint Action Committee constituted by the Government at the behest of the directions of this Court is bound to follow all the prescriptions, which have been enumerated in G.O. Ms. No.2261, while deciding the issue in favour of or against a particular individual, be it an ayacutadar or a non-ayacutadatar.

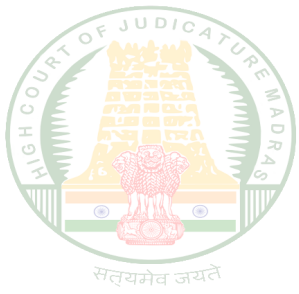


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71. However, what is placed before this Court relating to disconnection of electricity is the fact that the Joint Action Committee constituted by the Government has not taken into consideration all the materials and ground realities with respect to the individual petitioners, but have ordered disconnection of electrical service connection.

72. In fact, based on the orders passed by this Court in certain writ petitions, the Joint Action Committee was formed, which, according to the respondents, have taken up individual electricity service connection and had passed orders for disconnection of electricity service for certain reasons, which have been recorded in the said order.

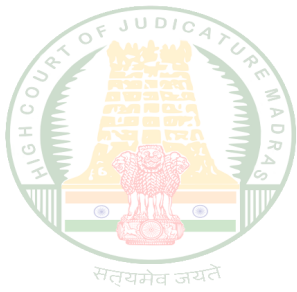
73. **However, broad and sweeping guidelines touching upon the persons, who would be entitled to draw water and the manner in which water could be drawn and the utilisation of the electrical devices for such drawal of water has not only been spelt out in G.O. Ms. No.2261 and the same has been approved by this court. That being the case, there arises no**



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necessity for this Court to deal with the individual writ petitions relating to disconnection of electricity connection, but to merely direct the Joint Action Committee formed by the Government to keep in abeyance the orders passed by it and to grant one more opportunity to the individual petitioners to place all the relevant materials and upon satisfaction of the materials and also after making a personalised spot inspection, in the presence of the petitioner, the Joint Action Committee is directed to pass appropriate speaking orders, with detailed reasons pointing out the infractions of the petitioner, if it decides to stick with the orders already passed with regard to disconnection of electricity.

74. One of the plea raised by some of the petitioners is that the diameter of the pipeline, which is taken out from the main channel is sought to be reduced in diameter on the basis of the order passed by the respondent, which is wholly impermissible, as the respondents have no authority to reduce the size of the pipelines, which are off-shoot from the main channel of the PAP canal.

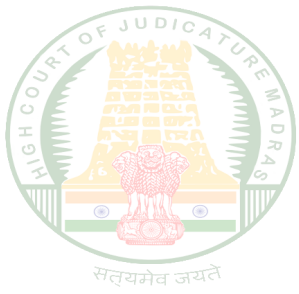


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75. However, the said stand of the petitioners is countered by the respondents on the ground that the reduction in diameter is prescribed only to enable lesser flow of water, as otherwise, the tail end farmers would be deprived of their share of water due to large volumes of water being utilised by such of those persons, who have their lands at the starting point of the canal, as the bigger diameter of the pipeline would negate the outflow of water to the tail end farmers.

76. Water is to be shared in equity between all the farmers within the ayacut region. One farmer cannot be deprived of his share while the other farmer gets a larger chunk of water due to prominent positioning of the lands. Equality is the hallmark of our Constitutional setup in all forms and in all places and there should be no deprivation of any form, even in the form of water to a particular class of persons.

77. Agriculture being the backbone of our country all the farmers should be benefitted from the flow of water and to deprive the tail end farmers of their share is nothing but an inequality being perpetrated.

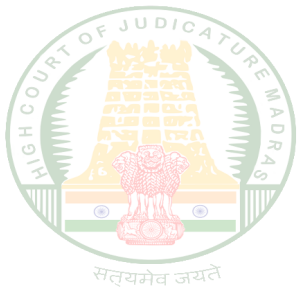


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Therefore, if the larger diameter of the pipeline from the main channel of the PAP canal hinders the flow of water to the tail end farmers and to alleviate their grievance, if the respondents have prescribed a lower diameter of pipeline from the main channel of the PAP canal or even the sub channel, no right vests on the ayacutadars to question the said prescription, as the said prescription is in consonance with the concept of equality and equity in the distribution of nature's gift among all the persons, who are entitled. Therefore, the prayer questioning the fixation of the extent of the diameter of the pipeline used for the purpose of drawing water from the PAP canal or sub-channel cannot be said to impermissible and the said contention deserves to be negative. **(Answer to Q-9)**

78. Now, this Court has to address the issue of drawal of water and supply of the same for commercial activity.

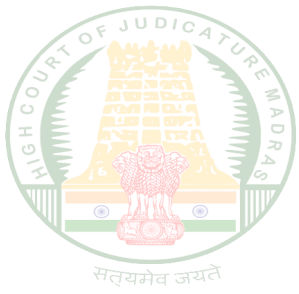
79. Even at the very outset, it is to be stated without any contradiction and iota of doubt that the formation of PAP canal is for the purpose of blossoming of agricultural activity in the taluks of Palladam, Udumalpet,



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Pollachi and Dharapuram in the then Coimbatore District, which were usually a dry region chronically with famine and poor rainfall. Only with a view to develop the agricultural activity and eke out livelihood for the persons in the said region, the PAP canal was formed.

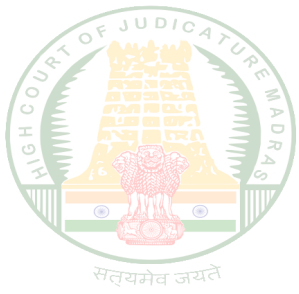
80. From the decision of the Division Bench of this Court in *Parambikulam Aaliyar Ayacutadars Association case (supra)*, it is evident that the main object with which the PAP canal was formed was only for the purpose of raising dry crops. However, gross violations have occurred, whereby, coconut, plantain and sugarcane are being cultivated, which does not fall under the variety of dry crops, but are wet crops. However, the longer the cultivation had taken place, now it would become a detrimental act, if any action is taken to stop the growth of such crops. Therefore, with restrictions in the opening of the sluices of the canal to cater to the four zone concept, whereby all the zones would get their share of water, the wet crops are being allowed to be cultivated.



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81. However, the allowance for growing of wet crops has resulted in the mushrooming growth of commercial activity in around the vicinity of the PAP basis, which has led to the requirement of water increasing manifold. More often than not, water is pumped for these commercial activities from the PAP canal, which was not the intention of the project. Providing of water for agricultural activity is the mainstay of this project and the said object cannot be allowed to be diluted under the garb of industrialisation or economic upliftment, as the basic requirement of human folk is food. Industrialisation and economic upliftment cannot be at the cost of eroding agriculture, as India is a country where agriculture is its backbone and our country is a pioneer in providing food to the vast expanse of human population.

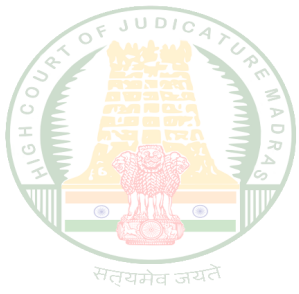
82. It has been urged before this Court by some of the petitioners as also the respondents that the growth of industries, which have a close nexus to the agricultural activities undertaken by some of the ayacutadars has resultantly affected the water sharing among the four zones and has resulted in the short supply of water. However, some of the petitioners, who carry on



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commercial activity, in addition to agricultural operations, as the commercial activity has a close nexus with the agricultural operation carried on by the said persons, claim that they are not using the water from the PAP canal and that they are outsourcing water from elsewhere. They further plead that without ascertaining the actual source of water for their industry, their electrical supply should not be disconnected. Further, they also submit that appropriate directions may be given to the Government to provide them with copious amount of water, so that the industries can function, thereby, the economic upliftment of the State would have an upward trajectory.

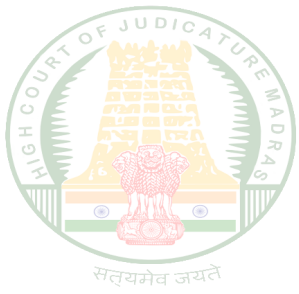
83. Industries are important for the growth of the State and its economic viability, but that cannot be at the cost of agriculture. Further, the PAP project was envisioned only with the object of hydroelectric power generation from the water that flows into the reservoirs and the impounded water flushed through the tunnels is being utilised for agricultural operations. The usage of the said water is only for the purpose of agricultural activity and it cannot be outsourced for any other activity, which would be against the spirit of the project as also the decisions of this Court and the Apex Court.



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84. Therefore, while this Court is unable to countenance the request advanced by the learned counsel for the petitioners with regard to supply of water to the industries on the PAP canal belt from the water source from PAP canal and, thereby, negatives the contention, this Court makes it clear that not even a single drop of water from the PAP canal should be shelled out for the purpose of industries. While agricultural activity feeds the people of the nation, industrial activity may feed the nation, but robs the food of the common man and, therefore, water, which was earmarked for agricultural purposes, while the PAP project was envisioned should not be utilised for any industrial purposes. Therefore, this Court holds that the water from PAP canal cannot be used for industrial and commercial purposes. **(Answer to Q-6)**

85. Further, it is made clear that even in case where an agricultural activity is carried on adjacent to an industrial activity by the very same person, the respondents are to ensure that water from the PAP canal is utilised by the person only for agricultural activity and no part of the water from the PAP canal is to be used for the purpose of industrial activity, as it would not only

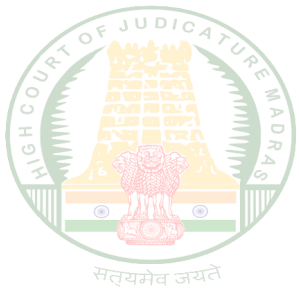


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defeat the object of the project, but it would be in start violation of the various Government Orders and also the orders passed by this Court.

86. If at all the Government is desirous of encouraging industrial activity, within the outer periphery of the PAP canal the Government has to find ways and means to provide water to such industrial activity by sourcing water from elsewhere and pass it on for industrial purposes for financial consideration. The Government has to draw a blueprint for carrying out such activity of providing water to the industries in the outer periphery of the PAP canal and the industries for which water is supplied from the PAP canal for its day to-day activities has to be put an end to. The Government has to devise some other mechanism by which it could provide water for the said industries without using the water from the PAP canal and cost for such supply may be realised from the said industries/commercial venture.

87. In this regard, this Court directs the Joint Action Committee inspect and monitor all the industries which utilise water and see to it that water is not taken from the PAP canal and if any such act is undertaken by the

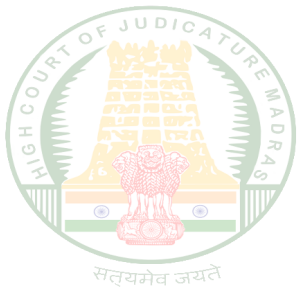


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industries, steps shall be taken not only to stop such act of illegal drawal of water from PAP canal, but to take penal action against such of those industries which resort to such acts so that the illegal activity is curbed in toto.

88. One other fact, which this Court, apart from the above, would like to address is that the status report filed by the respondents/State reveal that in the ayacut zone, commercial activity is undertaken. In this regard, it is to be pointed out that the Town and Country Planning Act provides zone-wise classification of land and agricultural activity falls under a particular zone in which no other activity could be carried on. However, as aforesaid, the status report of the respondents reveal that certain commercial activity like industries and windmills are being undertaken in the agricultural land.

89. It is to be stressed that no activity than the activity that is earmarked for the particular zone should be carried out in the said zone. In the agricultural zone, no other activity barring agriculture should be undertaken. If at all any activity is to be undertaken apart from agricultural activity, it is only the Government which is the appropriate authority to pass

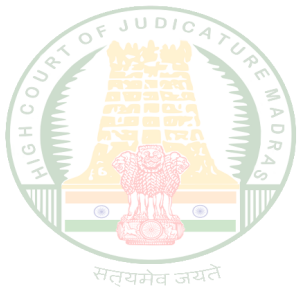


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orders with regard to classification of such lands and no other authority is empowered to reclassify the said lands. In such a scenario, the status report reveals that the Government has been addressed for deletion of such lands in which activity other than agriculture is being carried out from the ayacut zone. It is needless to state that the Government shall take into consideration the provisions of the Town and Country Planning Act before passing orders on the said recommendations made by the authorities for reclassification of land/deletion of the lands from the ayacut zone.

90. One other matter, which was argued before this Court is the pilferage of water due to ill-maintenance of the pipe line of the PAP canal and also the bunds, through which water oozes out, thereby leading to wastage of water.

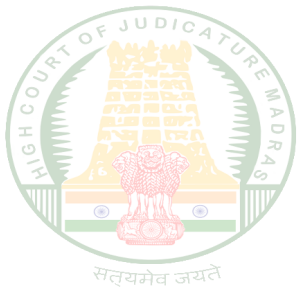
91. This Court need not emphasis anything on the importance of water. Water plays a critical role in the life of both human as well as other living things on earth. Even a drop of water lost by way of pilferage is a loss to



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mankind and necessarily it is the duty of all, in self interest and in the interest of future generations to see that water is not wasted.

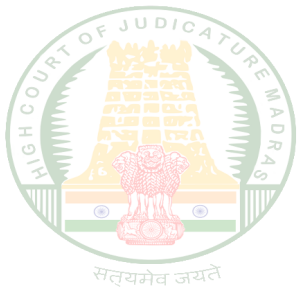
92. It is pointed out by the petitioners that there are umpteen number of cracks and breakages in the PAP water channel, which results in the seepage of water through the said cracks. Photographs to establish the same are placed in the typed set of documents. The above photographs reveals a sorry state of affairs with regard to maintenance of the PAP canal. It is the duty of PAP authorities to see that such breakages are filled up as and when they arise, so that precious water could be saved, which could be utilised for agriculture purposes and also for other life sustenance purposes. The Joint Action Committee is directed to take immediate action to see that such breakages in the concrete fillings along the length of the PAP canal is patched up immediately so that the water flowing through the pipelines do not get wasted. This Court hopes and trusts that the respondents take immediate action forthwith so that life saving water is saved from getting wasted.



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93. One of the contentions advanced on behalf of the petitioners is that the Government Order in G.O. Ms. No.2261 dated 3.11.1967 has got diluted due to efflux of time, as the necessity for water for many purposes requires to be taken into consideration and, therefore, only in that perspective, suggestion was given by this Court in *Appadurai's case (supra – W.P. No.29396/2022)* to the Government to revisit the said Government Order in G.O. Ms. No.2261. In this regard, it is pointed out that the Court had suggested formation of an expert team consisting of irrigation experts, representatives of agriculturists to cause thorough inspection of the ayacut area as well as canal area and give a report to the Government to take appropriate action with reference to the present needs.

94. In this regard, this Court had already dealt with in detail G.O. Ms. No.2261 and in fact had extracted G.O. Ms. No.2261. A careful perusal of the prescriptions found in the said Government Order reveals the forward thinking of the authorities even at that point of time with reference to all aspects in the usage of water. To point out the thought-process that had gone

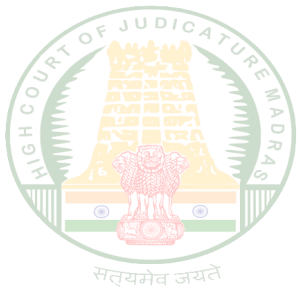


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into the drafting of the said Government Order with reference to the issues covered, they are –

- The prescription of distance for the purpose of sinking new wells/deepening of existing wells;
- The purpose for which the water from the wells are to be used;
- The time during which pumping from wells is permitted with the use of electrical motors;
- The period during which the power supply given to the electrical motors would stand suspended on agreement of the ryot;
- The horsepower of the pumpsets that could be used for pumping out water from the well;
- The nature of crops that are to be raised in the ayacut; and
- The necessity for obtaining no objection from the Electricity Board for the purpose of getting electrical supply.

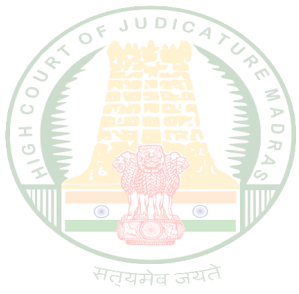
95. From the above, it is blatantly evident that all aspects with regard to the usage of water more particularly with reference to the illegalities that could be committed in the usage of water have been thought out and



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incorporated in the Government Order so that such acts would stand prohibited. The vision of the drafters of the Government Order is writ large in the wide expanse of coverage of very many salient points, which have not only withstood the test of time, but have proved to be important in curbing illegal acts.

96. It is to be stated that the acreage of the ayacut stands fixed and it cannot be extended beyond the present extent. The usage of water from the canal is basically only for agricultural purposes and it should be within the ayacut zone. The transportation of water should be within the ayacut zone and that too only by the ayacutadars and for such transportation laying down of underground pipelines would be permissible only after obtainment of no objection from the Water Management Association. The usage of specified horsepower motors clearly spells out that water cannot be pumped beyond a particular extent and also cannot be drawn from below a particular level. Such being the wide amplitude covered by the aforesaid Government Order, this Court is of the considered view that there arises no necessity to revisit the

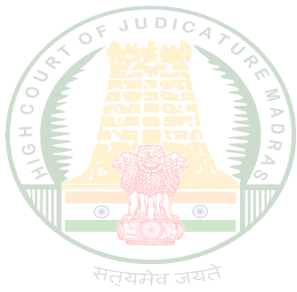


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Government Order in G.O. Ms. No.2261 dated 3.11.1967, even after passage of more than five decades. **(Answer to Q-10)**

97. Insofar as the plea of certain petitioners for the release of water to the respective Zones based on the respective Government Orders, it is to be pointed out that it is the duty of the PAP authorities to see to it that the Government Order, not only in relation to the usage of water, but also with respect to the release of water is followed in letter and spirit. Such being the case, it is the duty of the PAP authorities to release water as stipulated under the various Government Orders on time, as prescribed. In such circumstances, this Court directs the PAP authorities to have strict adherence to the schedule with regard to release of water, as agriculture is dependent on water to be released at the relevant point of time, as only then the crops will survive. The livelihood of the agriculturists should not be stampeded by unnecessary red tapism on the part of the PAP authorities. Therefore, necessary steps may be taken by the PAP authorities for release of water to the respective zones, as stipulated in the Government Orders.



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98. What is primarily required is strict enforcement of the aforesaid Government Order in letter and spirit so that the prescriptions given in the Government Order does not get diluted. This Court hopes and trusts that the Government Order will be adhered to, followed and enforced in its true spirit by the Joint Action Committee, while deciding individual issues raised herein by the petitioners and also by other persons, who may come knocking on the doors of the Joint Action Committee at a later point of time.

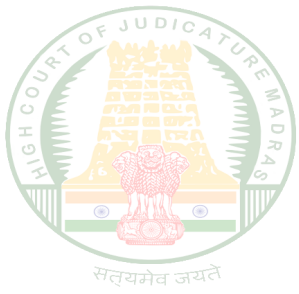
99. For the reasons aforesaid, this Court disposes of all the writ petitions with the following directions :-

Answer to Issue - 1

The ayacutadars, who were in possession of lands within the ayacut zones, in which open wells were in existence, could very well draw water from the existing open wells situated on either side of the PAP canal and use the same for agricultural activity within the ayacut zone.

Answer to Issue - 2

The protected distance prescribed in G.O. Ms. No.2261 would be only with regard to sinking of new open wells



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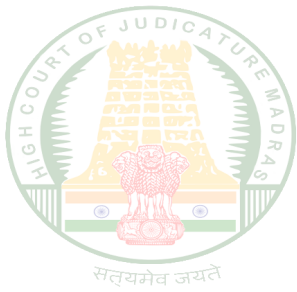
and deepening of existing open wells and other than that, usage of water from the well already in existence is nowhere barred. Ayacutadars, who are in possession of lands as also open wells, which were sunk, prior to the formation of PAP canal could very well use the open wells for the purpose of drawal of water through motors of the horsepower prescribed under G.O. Ms. No.2261 for irrigating their lands during off-season and there could be no bar on the usage of the open wells already in existence prior to the formation of PAP canal.

Answer to Issue - 3

The prescription of motors of 5 HP and 10 HP prescribed in G.O. Ms. No.2261 dated 3.11.1967, more particularly spelt out at S. No.(v) of the said Government Order must scrupulously followed and any installation of motors beyond the said horse power is illegal and impermissible and has to be necessarily removed by the PAP authorities and electrical service connection given to such of those motors should be disconnected in accordance with law.

Answer to Issue - 4

In adherence to G.O. Ms. No.2261 dated 3.11.1967 the usage of water drawn, from open wells situated adjacent to the PAP canal in the ayacut zone by any



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person, be it the ayacutadars or non-ayacutadars could be only for utilisation of the water within the ayacut region and not outside the ayacut region.

Answer to Issue - 5

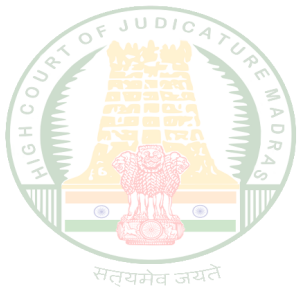
The ayacutadars are not permitted to transport water through pipelines from the open wells within the ayacut zone without approval of the Water Management Committee and such transportation could be only within the ayacut zone and not beyond the ayacut zone. Further, the transportation of water from open wells situated adjacent to the PAP canal is not permitted and no approval could be granted by the Water Management Committee and the PAP authorities.

Answer to Issue - 6

Water from the PAP canal is earmarked only for agricultural purposes and not for any other purpose. Therefore, water from PAP canal cannot be used for industrial and commercial purposes and any supply of water from the PAP canal for industrial or commercial purposes is to be stopped forthwith.

Answer to Issue - 7

No borewell is permitted to be dug or permitted to be operated on either side of the PAP canal and also throughout the ayacut region and if any such borewell is



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in operation, the PAP authorities have to take necessary action to immediately seal the borewell and stop it from being used to draw water.

Answer to Issue - 8

None of the land owners would be entitled to modify the sub-channels for taking water to their lands, which is outside the ayacut zone, thereby preventing flow of water to the tail-end farmers, within the ayacut zone, for the purpose of carrying out their agricultural operations.

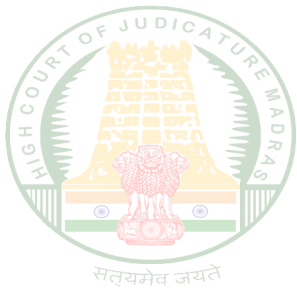
Answer to Issue - 9

The lesser diameter of the pipeline used for the purpose of drawing water from the PAP canal or sub-channel cannot be said to impermissible and the said contention deserves to be negated.

Answer to Issue – 10

There arises no necessity to revisit the Government Order in G.O. Ms. No.2261 dated 3.11.1967, even after passage of more than five decades and the directions given in the Government Order needs to be followed scrupulously in letter and spirit.

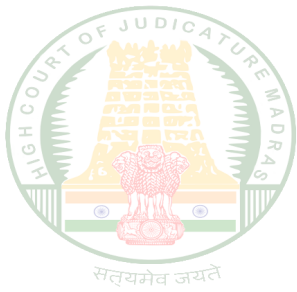
Insofar as release of water is concerned, necessary steps shall be taken by the PAP authorities for release of



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water to the respective zones at the respective points of time, as stipulated in the Government Orders.

Insofar as the writ petitions relating to providing of electricity service connection, which have been disconnected/ordered to be disconnected by the Joint Action Committee pursuant to inquiry, the Joint Action Committee formed by the Government is directed to keep in abeyance the orders passed by it and to grant one more opportunity to the individual petitioners, whose electricity service connection had been disconnected, to enable them to place all the relevant materials before the Joint Action Committee and the Joint Action Committee, upon satisfaction of the materials and also after making a personalised spot inspection, in the presence of the respective petitioner, upon following the directions issued by this Court supra, is directed to pass appropriate speaking orders, with detailed reasons therein pointing out the infractions of the petitioner, if it decides to stick with the orders already passed with regard to disconnection of electricity and pass order and upon such order being passed, it is open to the petitioners, if aggrieved by the said orders, to work out their remedy in the manner known to law.

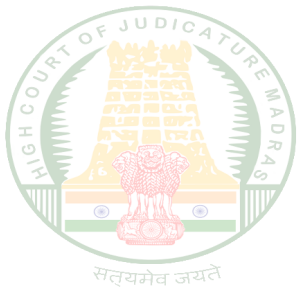


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The contempt petition in Contempt Petition No.41/2017 filed for inaction of the respondents on the representation filed by the petitioner, stands closed in view of the directions issued above and with a further direction to the Joint Action Committee to take up the representation filed by the petitioner and pass appropriate orders in accordance with law. Liberty is granted to the petitioner to work out his remedy in the manner known to law upon orders passed on his representation.

Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

100. Before parting with the case, it has to be placed on record that the Parambikulam Aaliyar Project is eloquence in its grandeur, expanse at its extent and embodiment in its vision, and the above project is highly imaginative in concept, bold in its approach, ingenious in planning and beneficial on its completion, this inter-state, multipurpose, multi valley parambikulam aliyar project is truly a unique one. Parambikulam Aliyar Project is the outcome of hard and sustained work done by a band of



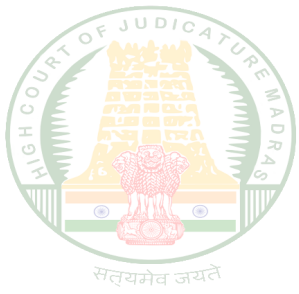
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enthusiastic engineers bringing to life the vision of our forefathers. The project is a symbol of Inter-State co-operation of two neighbourly States of Kerala and Tamilnadu. It is necessary that the Project is utilised for the purpose for which it was implemented and diverting from the original concept by amplifying the scope of the project or utilising the project for any other purpose that what has been mandated would only result in the grave prejudice to agricultural activity and impeding the vision with which this project has been undertaken and would cause grave harm to mankind and, therefore, it is to be stressed that the Government, in letter and spirit follow the directions issued by this Court, in addition to the suggestions made so that the original idea with which the project was formulated does not lose its sheen and the project is restored back to its glory.

101. The famous quotations in “Aathichoodi” by Avvaiyar has impressed upon the necessity for doing good things in the following manner :-

???? ????? ????????

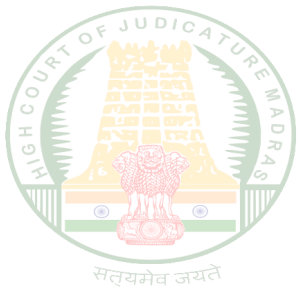
(Free Hand Translation : Desire doing good deed)



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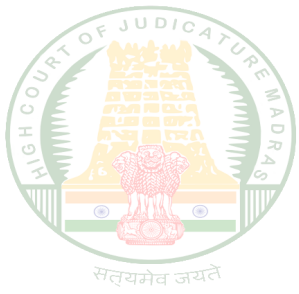
102. It is the hallmark of our culture that doing good deeds for the benefit of mankind leads to prosperity of the future generations. Acts are done by one and all keeping in mind the future generations and with a view to see that the future generations live a more comfortable and happy life than the persons of the present day. To achieve the above, all of us strive hard and try to do good deeds. The Government of Tamil Nadu, being a pioneer in propagating the Tamil language and an ardent follower of Tamil culture is to traverse the above said path so that the acts, which it does today, benefits the citizens of tomorrow.

103. Great Kings, who have ruled over the past, with particular reference to the Great Karikala Chola, had in mind the welfare of his subjects and only with the said view, the ***“Kallanai Dam”***, which stands even today majestically, inspite of all the natural calamities engulfing the State, is not only a testament of the vision of King Karikala Chola, but it speaks volumes of the vision, which the great ruler had, while building the said Dam across the River Kauveri, which till date, caters to the water requirement of the Thanjavur – Tiruchirappalli belt.



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104. Likewise, the Parambikulam Aaliyar Project has its roots in similar vision and as aforesaid, the project is to tap the water source from 8 rivers for the benefit of the agriculturists in the erstwhile Coimbatore region. However, the dam across Anaimalayar has not yet fructified, which if taken up and completed, would not only cater to the water requirement of the said region in plenty, but would also be a source of hydro electric power generation, which would have an added advantage in addressing the power requirement of the State. Though the niceties for the project had taken shape long back, but for reasons best known, the State of Tamil Nadu has not gone ahead with the construction of the Dam with the co-operation of the State of Kerala. The desire of the Government for doing good to its people should always be on a larger platform. If the Dam is taken up and constructed with the co-operation of the Government of Kerala, it would not only be in the interests of both the States, but would have far reaching beneficial implications in the development of agricultural activity as also other allied activities, which have a bearing on water as a source.



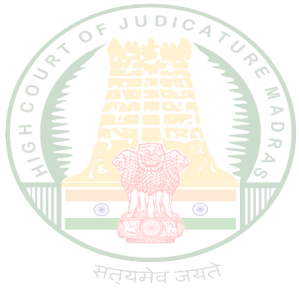
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105. It is placed before this Court that though steps were taken by the State long back, however, the result has not fructified in the construction of the Dam. Though, it is stated across the Bar that the State of Kerala is desirous of putting pen to paper for implementing the project early, however, executive and bureaucracy at the State level are slow in their response. It is time for the State to rise up its ante so that the welfare measure in the form of construction of Dam is taken up, which alone would satisfy the desire of the State to be a welfare State working hard for uplifting and satisfying its people. This Court is merely pointing out the need for the construction of the Dam, which has been placed across the Bar during the course of arguments, which would have far reaching impact in the lives of many agriculturists, who would stand benefitted by the water source. This Court hopes and trust that the State would take up the task of construction of the Anaimalayar Dam with the active co-operation of the Government of Kerala so that the project fructifies early and the citizens of the State, more particularly the agriculturists are benefitted.

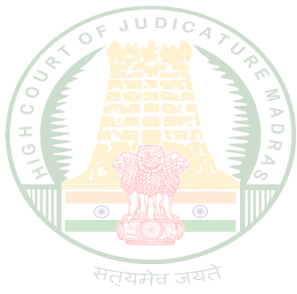
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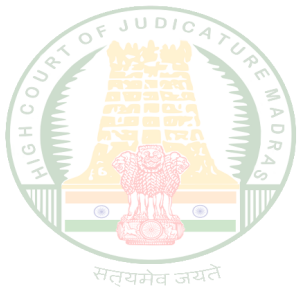


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To

1. The Chief Secretary
Government of Tamilnadu,
Secretariat, Fort St. George
Chennai-600 009.
2. The Secretary to the Government
Public Works Department
Government of Tamilnadu
Secretariat, Fort St. George
Chennai-600 009.
3. The Engineer-in-Chief
Public Works Department (Water Resources Organization),
Chepauk, Chennai-600 005.
4. The Chief Engineer
P.W.D, (W.R.O)
Coimbatore Region
Town Hall, Coimbatore- 641 001.
5. The Superintending Engineer
P.W.D, (W.R.O)
Parambikulam Aliyar Basin Circle
Pollachi – 642 003
Coimbatore District.
6. The Executive Engineer
P.W.D, (W.R.O),
Thirumurthi Division
Udumalpet-642 126
Tiruppur District.
7. The Executive Engineer



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P.W.D, (W.R.O), Aliyar Basin Division,
Pollachi- 642 003
Coimbatore District.

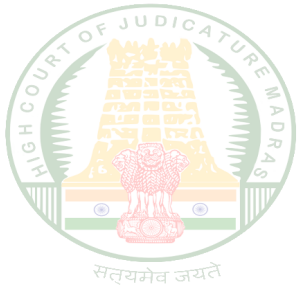
8. The District Revenue Officer
Office of District Collector
Coimbatore.

9. The District Revenue Officer
Office of District Collector
Tiruppur.

10. The President / Revenue Divisional Officer
Monitoring Committee for PAP
Udumalpet
Tiruppur District.

11. The Superintending Engineer
TANGEDCO
Tiruppur District.

12. The Superintending Engineer
TANGEDCO
Coimbatore District.



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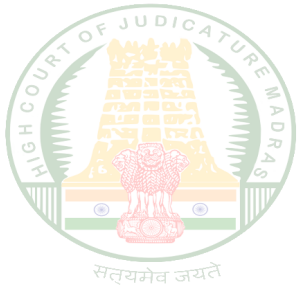
W.P. No.3181/2017, etc. Batch

M.DHANDAPANI, J.

GLN

**PRE-DELIVERY ORDER IN
W.P. NO.3181 OF 2017, ETC.**

Pronounced on



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W.P. No.3181/2017, etc. Batch

13.07.2023