



W.P.Nos.20391, 20395, 20397, 20398, 20399, 20403 and 20404 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.Nos.20391, 20395, 20397, 20398, 20399,
20403 and 20404 of 2023**

And

**W.M.P.Nos.19753, 19754, 19755, 19757,
19759, 19761, 19760, 19762, 19763, 19764,
19766, 19768, 19767 and 19769 of 2023**

K.Ponnusamy

... Petitioner in W.P.No.20391/2023

Vs.

- 1.The Executive Engineer
Public Works Department
Water Resource Organization
Aliyar Basin Division
Parambikulam Aliyar Project,
Pollachi
Coimbatore District.
- 2.The District Collector
Tiruppur District,
Tiruppur.
- 3.The Revenue Divisional Officer
Dharapuram, Tiruppur District.
- 4.The Tahsildar
Dharapuram Taluk,
Tiruppur District.
- 5.The Executive Engineer
TANGEDCO
Udumalpet,



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Tiruppur District.

6.The Assistant Engineer

Operation and Maintenance

TANGEDCO

Udumalpet Distribution Circle,

Poolavadi,

Udumalpet Taluk,

Tiruppur – 642 206.

...Respondents in W.P.No.20391/2023

Prayer in W.P.No.20391 of 2023:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the impugned order passed by the third respondent in Na.Ka.No.2050/2022/A dated 16.02.2023 and the consequential impugned notice issued by the sixth respondent in Letter No.UMiPo/E&Pe/Poolavadi/VaAa/Ko.PAP notice / A.No.452/2023 dated 20.06.2023 and in Letter No.UMiPo/E&Pe/Poolavadi/VaAa/Ko.PAP notice/A.No:454 / 2023 dated 20.06.2023 and quash the same as illegal and consequently forbearing the respondents 2 to 6 from disconnecting the electricity connection provided to the petitioner's open well situated in his agricultural land in S.F.Nos.934/1A and 933/2C in Munduvelampatti Village, Dharapuram Taluk, Tiruppur District in service connection No.313-004-613 (change over double switch type) except during when water is released more particularly in the Ponnapuram – Puthur Canal from the Parambikulam Aliyar Project Irrigation System by the first respondent as per the conditions imposed in G.O.Ms.No.2261 dated 03.11.1967 issued by the Public Works Department.

For Petitioners : Mr.M.Purushothaman

For Respondents : Mr.LSM.Hasan Fizal for R1 to R4

Additional Government Pleader

Mr.L.Jai Venkatesh for R5 & R6



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Standing Counsel

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COMMON ORDER

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.

2.The petitioner in all the writ petitions except in W.P.No.20397 of 2023 are ayacutdars and the petitioner in W.P.No.20397 of 2023 is non ayacutdar. All the petitions relate to drawal of water from the wells situated adjacent or in proximity to the PAP canal.

3.The learned counsel appearing for the petitioners submitted that the issue arises in these petitions have already been considered by this Court elaborately in a batch of writ petitions in W.P.Nos.3181 of 2017 etc., batch and the same relief be given to the petitioners herein.

4.The learned Standing Counsel appearing for the respondents 5 and 6 submitted that in the absence of interim order, the electricity service connection given to the petitioners well was disconnected after issuing show cause notice to the petitioners.



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5. For better appreciation, the relevant portion of the common order dated 13.07.2023 made in W.P.Nos.3181 of 2017 etc., batch is extracted hereunder:

“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.

98. What is primarily required is strict enforcement of the aforesaid Government Order in letter and spirit so



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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 and deepening of existing open wells and other than that, usage of water from the well already in existence is no where 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



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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 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



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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 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



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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 negatived.

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 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,



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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.

The contempt petition in Contempt Petition No.41/2017 filed for inaction of the respondents on the representation filed by the



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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 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



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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)

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



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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.

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



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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.

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



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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.”

6.These writ petitions are disposed of in the above said terms.

No costs. Consequently, the connected miscellaneous petitions are closed.

05.09.2024

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

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