

In the High Court of Judicature at Madras

Dated : 11.12.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mr.Justice K.RAVICHANDRABAABU

Writ Petition No.32032 of 2017 &

WMP.Nos.35191 & 35192 of 2017

K.M.Ravi

...Petitioner

Vs

1.State of Tamil Nadu, rep.by its
Principal Secretary, Municipal
Administration & Water Supplies
Department, Fort.St.George,
Chennai-9.

2.The District Collector, Coimbatore
District, Coimbatore.

3.The Commissioner & Special Officer,
Corporation of Coimbatore,
Coimbatore-2.

4.The Deputy Commissioner (General),
North Zone, Corporation of
Coimbatore, Coimbatore-2.

5.The Assistant Director (Geology),
Ground Water - Geological Sub-
Division, Public Works Department,
Coimbatore-1.

6.M/s.Bharathi Raja Water Suppliers,
rep.by its Manager, Coimbatore-2.

7.M/s.Gokul Water Suppliers, rep.by
its Manager, Coimbatore-1.

8.M/s.Shyam Sundar Water Suppliers,
rep.by its Manager, Coimbatore-6.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing respondents 1 to 5 to permanently stop the illegal extraction of ground water by respondents 6 to 8 within the Corporation limits of Coimbatore.

For Petitioner : Mr.S.Joel
For Respondents 1, 2 & 5 : Mr.T.N.Rajagopalan, SGP
For Respondents 3 & 4 : Mr.K.Magesh

Order of the Court was made by T.S.SIVAGNANAM,J

Mr.T.N.Rajagopalan, learned Special Government Pleader accepts notice for respondents 1, 2 and 5. Mr.K.Magesh, learned Standing Counsel accepts notice for respondents 3 and 4. Heard both. In the light of the orders we propose to pass, notice to respondents 6 to 8 is dispensed with and the writ petition itself is taken up for final disposal.

2. The petitioner claims himself to be a former ward councillor in the Corporation of Coimbatore for ward No.11, Saibaba Colony, K.K.Pudur, Coimbatore-38 for the period from 2011 to 2016. In this writ petition styled as a public interest litigation, the petitioner points out that respondents 6 to 8 are indiscriminately exploiting the ground water for commercial purpose without obtaining any licence from the appropriate authority. In this regard, the petitioner sought for information under the Right to Information Act as to whether any licence has been given to respondents 6 to 8, for which, a reply dated 15.9.2017 has been received stating that no licence has been granted to the private respondents for extraction of ground water for commercial purposes. Armed with this information, the petitioner approached the official respondents by way of a representation dated 24.9.2017. Since the said representation has not yet been considered, the petitioner is before this Court.

3. The petitioner has also filed, in the typed set of papers, photographs to show that exploitation of ground water is being done for commercial purposes and that factory like arrangement has been erected for drawal of water and filling up of water into water tanks.

4. The learned Special Government Pleader appearing for respondents 1, 2 and 5 submits that for effective management of ground water, the Government framed regulations in G.O.Ms.No.142 Public Works Department dated 23.7.2014, which provide for issuance of a no objection certificate/ licence for extraction of ground water. In terms of the said Government Order, a no objection certificate for extraction and transportation of ground water has to be obtained from the competent authority.

The said Government Order also deals with cases where already persons obtained the no objection certificate and the procedure to be adopted for granting renewal has also been stipulated. It is further submitted that it is not known as to whether respondents 6 to 8 had obtained such a certificate prior to issuance of G.O.Ms.No.142 and as to the exact state of affairs.

5. In addition to the said Government Order dated 23.7.2014, the Government also issued G.O.Ms.No.113 Public Works Department dated 09.6.2016 for regulation of ground water extraction. In terms of Clause 8 of G.O.Ms.No.113 dated 09.6.2016, certain areas have been classified as over exploited, critical, semi-critical, safe and saline as detailed in the annexure to that Government Order. It is also submitted that the area in question is classified as 'over exploited area'.

6. In any event, since the Government has already framed regulations for regulating exploitation and transportation of ground water through out the State of Tamil Nadu, such Government Orders are required to be strictly adhered to and the enforcement of the said Government Orders lies with the official respondents.

7. Since we propose to dispose of this writ petition without notice to respondents 6 to 8, we are not inclined to render any finding, but are inclined to direct the second respondent to consider the petitioner's representation on merits and in accordance with law.

8. In the light of the above, the writ petition is disposed of by directing the second respondent to consider the petitioner's representation dated 24.9.2017 on merits after notice to respondents 6 to 8 and if necessary, the District Collector shall authorize one of his officers to conduct an inspection of the place, preferably a surprise inspection and after taking into consideration of all the factors, take a decision on the said representation by passing an order in accordance with law. It is made clear that the direction issued by this Court is only for consideration of the representation of the petitioner dated 24.9.2017. The representation shall be dealt with in accordance with law after affording full and effective opportunity to respondents 6 to 8. The above direction shall be complied with, within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

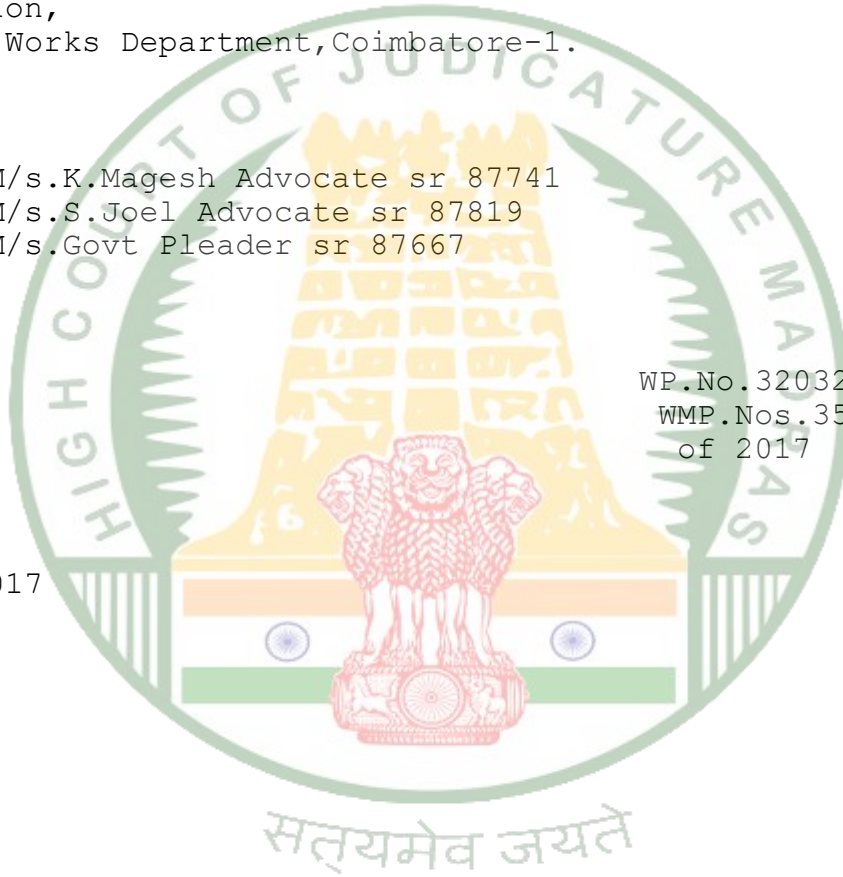
To

- 1.The Principal Secretary to Government of Tamil Nadu, Municipal Administration & Water Supplies Department, Fort.St.George, Chennai-9.
- 2.The District Collector, Coimbatore District, Coimbatore.
- 3.The Commissioner & Special Officer, Corporation of Coimbatore, Coimbatore-2.
- 4.The Deputy Commissioner (General), North Zone, Corporation of Coimbatore, Coimbatore-2.
- 5.The Assistant Director (Geology), Ground Water - Geological Sub-Division, Public Works Department, Coimbatore-1.

+1 cc to M/s.K.Magesh Advocate sr 87741
+1 cc to M/s.S.Joel Advocate sr 87819
+1 cc to M/s.Govt Pleader sr 87667

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