

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2018

CORAM :

The Hon'ble Ms.INDIRA BANERJEE, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE ABDUL QUDDHOSE

W.P. No.8612 of 2018

K.V.Elenkeeran

.. Petitioner

-vs-

1.The Secretary,
The Union of India,
Home Ministry, New Delhi.

2.The Chief Secretary,
Government of Tamilnadu,
Secretariat, Chennai 600 009.

3.The Chief Secretary,
Government of Karnataka,
Vidha Chowda, Bangalore.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the respondents to take appropriate, effective and comprehensive actions to protect and safeguard the lives and properties and self respect of Tamil people living in Karnataka during the event of bundh calling for state wide shut down by Pro-Karnataka organizations over the Cauvery water crisis, to be held on 12.04.2018 in the State of Karnataka.

For Petitioner : Mr.G.Pugazhenthir

For Respondents : Mr.Rabu Manohar
Sr.Centl Govt. Stng. Counsel/R-1

: Mr.T.N.Rajagopalan
Govt. Pleader for R-2

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O R D E R

(Made by Ms.Indira Banerjee, Chief Justice)

This writ petition has been filed seeking inter alia a writ of mandamus directing the respondents to take appropriate, effective and comprehensive steps to protect and safeguard the lives and properties of Tamilians living in Karnataka during the Bundh called in the State of Karnataka on 12.04.2018.

2.In the affidavit in support of the writ petition, it is pleaded that 120 year old Cauvery river water dispute has now been resolved by a verdict of the Hon'ble Supreme Court. The people of Tamil Nadu have taken a decision to put pressure on the Government of India to form a Cauvery Management Board within six (6) weeks in terms of the judgment of the Supreme Court. It is alleged that the present Government of Karnataka has been resisting the formation of the Cauvery Management Board from the inception and some Pro-Karnataka organizations have called for a state-wide shut down on 12.04.2018 in the State of Karnataka. The petitioner states that in the past there were brutal attacks on Tamilians in Karnataka by communal and/or racist parties. The petitioner has raised doubts as to whether the Karnataka Government would protect the Tamilians living in Karnataka and has, accordingly, sought orders of this Court.

3.In the writ petition, the petitioner has impleaded the Secretary to the Union of India, Home Ministry, the Chief Secretary to the Government of Tamil Nadu and the Chief Secretary to the Government of Karnataka as respondents. The Chief Secretary to the Government of Tamil Nadu has no jurisdiction over the State of Karnataka. No part of the cause of action has arisen within the jurisdiction of this Court.

4.Article 226 of the Constitution of India provides thus:

226. Power of High Courts to issue certain writs.—(1) Notwithstanding anything in article 32 every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government,

authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.

(3) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause (1), without—

(a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and

(b) giving such party an opportunity of being heard, makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next day, stand vacated.

(4) The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 32.

The High Court can issue prerogative writs to authorities within its territorial jurisdiction or where the cause of action arises either in part or in whole within its jurisdiction. The apprehensions pertain to the fate of Tamilians living in Karnataka. This Court, thus, lacks territorial jurisdiction to entertain the writ petition.

5. Much emphasis has been laid by learned counsel on an earlier writ petition being W.P.No.4244 of 2007 filed by the petitioner and of the order dated 09.02.2007 passed by a Division Bench of this Court in the writ application. The Division Bench of this Court merely recorded a statement made by the Additional Solicitor General with regard to the security measures in the likely event of any backlash following the announcement of the Cauvery Tribunal Award. There is an additional factor in the instant case. It is the Supreme Court

which is in seizin of the Cauvery water dispute and it would not be appropriate for this High Court to issue any orders.

6.This Court might have directed the authorities in Tamil Nadu to take appropriate steps to protect law and order if there were any apprehensions and/or breach of law and order in the State of Tamil Nadu. Unfortunately, in the instant writ petition, the petitioner has expressed apprehension of atrocities and/or breach of law and order in the State of Karnataka. We need not assume that the Government of India and/or appropriate State authorities will not take steps to protect law and order and/or untoward incidents.

The writ petition cannot be entertained and the same is dismissed. No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

sra

To

- 1.The Secretary,
The Union of India,
Home Ministry, New Delhi.
- 2.The Chief Secretary,
Government of Tamilnadu,
Secretariat, Chennai 600 009.
- 3.The Chief Secretary,
Government of Karnataka,
Vidha Chowda, Bangalore.

+ 1 cc to Mr.G.Pugazhenthii. Advocate,SR.26483

+ 1 cc to Mr.Rabu Manohar SCGPC,SR.26362

+ 1 cc to The Govt.Pleader, SR.26943

W.P.No.8612 of 2018

NRI (CO)
NR 27/04/2018