

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16/8/2018

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.11630 of 2018

A. Dhanraj

...Petitioner

Vs

1. The District Collector
Tiruvallur District
Tiruvallur.
2. The Tahsildar
Madhavaram Taluk
Chennai 600 060.
3. The Commissioner
Greater Chennai Corporation
Ripon Building
Chennai 600 003.
4. The Zonal Commissioner
Zone 3, Madhavaram
Chennai 600 060.
5. The Commissioner of Police
Vepery
Chennai 600 007.
6. The Executive Engineer
Chennai Metrological Water Supply
and Sewage Board
Chintadripet
Chennai 600 002.
7. The Senior Engineer
Tamil Nadu Electricity Board
Vyasarpadi
Chennai 600 039.

...Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of mandamus, to direct

the respondent Nos.1 to 7 to consider the petitioner's representation dated 28/3/2018 to take permanent necessary legal action against the unauthorised and unapproved indiscriminate sucking/withdrawal of ground water in the area including Madhavaram, Mathur, Manjampakkam, Assisi Nagar, Kampan Nagar, GKM Colony, Ring Road Housing Sector, Vadaperumpakkam and Milk Colony road within the time fixed by this Court, in order to prevent untoward happenings.

For petitioner ... Mr.A.K.Rajaraman

For Respondents... Mr.S.Kamalesh Kannan
Government Advocate
for R.R.1, 2 and 5
Mr.R.Arunmozhi
for R.R.3 and 4
Mr.N.Ramesh for R.6
Dilip Kumar for R7

O R D E R

(Order of the Court was made by S.Manikumar,J)

Claiming himself to be a public interest litigant, petitioner has filed the instant public interest litigation, for a direction to the respondents, 1 to 7, to consider his representation, dated 28/3/2018, to take necessary legal action, against the unauthorised and unapproved indiscriminate sucking/withdrawal of ground water, in the area including Madhavaram, Mathur, Manjampakkam, Assisi Nagar, Kampan Nagar, GKM Colony, Ring Road Housing Sector, Vadaperumpakkam and Milk Colony road.

2. The people living in Madhavaram, Assisi Nagar, GKM Colony, Kamban Nagar, Shanthi Colony, MGC Nagar, Manjampakkam, Ring Road Housing Sector and Mathur, have given several complaints, to the authorities concerned, in connection with the theft of ground water, in their area. Since no action has been taken, people living in the said areas have written a complaint, to Special Cell of the Hon'ble Chief Minister of Tamil Nadu, dated 14/9/2015. On 30/1/2017, members of Mathur Village Resident Welfare Association had conducted one day fasting to invite attention of the local body officials and the Police authorities and on 11/5/2017, sixth respondent had conducted an inspection and disconnected around 7 borewells and their electricity connection. This was published in the local Tamil daily newspaper 'Dinamalar' on 12/5/2017, but the raid was conducted only as an eye wash to the local public. At present, the disconnected borewells are working and the miscreants are

using illegal electricity connection which results in huge loss of electrical energy.

3. It is the contention of the petitioner that once the precious ground water is sucked limitlessly, it would cause serious repercussion in future. Commercial use of water for private gain without any approval from the authorities concerned is an offence.

4. Counter affidavit was filed on behalf of the second respondent, wherein it is stated as follows:-

Government of Tamil Nadu, introduced Act 27 of 1907 to regulate the extraction and to conserve ground water in certain areas in the State of Tamil Nadu. The said Act has been published in T.N.G.G.(Extraordinary Issue No.388/Part IV-Section 2 dated 17/6/1987. Tamil Nadu Groundwater (Development and Management) Act, 2003 in the Tamil Nadu Ordinance No.4 of 2013 has made an Ordinance to repeal the Tamil Nadu Groundwater (Development and Management) Act, 2003 which initially dealt with protection of groundwater resources, provide safeguards against hazards of over exploitation and to ensure planned development and proper management of this vital and limited resource. Following the above Act, an amendment Act 43/2008 for Chennai Metropolitan Area Ground Water (Regulation) Act 1987 was introduced, Chennai Metropolitan Area Ground Water (Regulation) Amendment Act, 2008 in respect of erstwhile Chengalpattu District and now applied to Kancheepuram and Tiruvallur Districts. Hence it gave emergence to G.O.(Ms) No.51/PW (R2) Department, dated 11/2/2004.

The following Government Orders have been issued regarding Ground Water Development:-

G.O. (Ms) No.51/PW (R2) Dept dated 11/2/2004	Categorisation of Panchayat Union Blocks as (1) Over exploited (2) Critical (3) Semi critical and (4) safe. Accordingly, this Madhavaram Taluk comes under the Semi-critical Block (Below 70% and 90%)
G.O. (Ms.) No.52/PW (R2) Dept dated 2/3/2012	(i). A category - For over exploited and critical Blocks where ground water extraction is 90% and above (ii). B Category - For semi-critical and safe blocks where ground water extraction is below 90%

No schemes should be formulated in over-exploited and critical blocks notified as "A-category". As regards "B category", schemes should be formulated through State ground and Surface Water Resources Centre of Water Resources Department and the Chief Engineer/State Ground & Surface Water Resources Data Centre will issue No Objection Certificate for ground water clearance.

G.O. (Ms) No.142/PW(R2) department dated 23/7/2014	Regulation for Management of Ground Water and Issue of NOC/license for extraction of ground water in the States of Tamil Nadu
G.O. (MS) No.113/PW (R2) Department dated 9/6/2016	Categorisation of Firkas as overexploited, critical, semi-critical, safe and Saline for groundwater. Madhavaram Taluk is categorised under Semi-critical area comprising Madhavaram Firka (1) and Redhills (2)

The Hon'ble National Green Tribunal in its order dated 25/5/2017 of Suo Moto Appeals 26 to 34 of 2017	States that No Objection Certificate (NOC) has to be given by the Metropolitan Area Ground Water (Division) of CMWS & SB. Until the Board passes any order on consent, the petitioner is only permitted to run his unit with the transported water from outside Madhavaram Taluk. It also states that even in cases where the transportation of water is permitted, the same must be only after obtaining "consent" from the Board. The Board has to make impact assessments before the request of NOC is processed to the Drinking Water packaging units. It declares that the Tahsildar shall always be entitled to visit the units to ensure that water is not illegally drawn in places where the packaged drinking water activities are being carried on. It also affirms that at any rate, the petitioner should not be allowed to extract ground water through borewells installed within the petitioner's premises itself.
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It is necessary to state that Madhavaram Taluk was categorised into Semi-Critical Zone in 2011 by the Central Ground Water Board and the Tamil Nadu Water Supply and Drainage Board, based on the extraction rate; therefore, presently Madhavaram Taluk is in Category - B. The G.O (MS) No.113/PW(R2) Department dated 9/6/2016 affirms that in Semi-Critical and Safe Blocks "Notified as B Category Blocks", all the schemes should be formulated through the State Ground and Surface Water Resources Data Centre of the Water Resources Department and the Chief Engineer, State Ground and Surface Water Resources Data Centre, would issue "No Objection Certificate"

for ground water clearance. With reference to the above G.Os, the District Collector, Tiruvallur has given suitable instructions to monitor the extraction and transportation of ground water by the units and to verify the genuineness of the companies/water units as regards requirements of NOC/Licenses for running the units or companies as the case may be. According to the instructions, the Revenue Divisional Officer, Ambattur and the Tahsildar, Madhavaram are taking effective action regularly.

It is further submitted that nearly 41 units are functioning in and around Madhavaram without proper permission. Out of which, some of them are involved in extracting of ground water and few of them getting water from outside and manufacturing packaged drinking water and carrying out business. Further, the District Collector, Tiruvallur is conducting periodical review meetings every month and watching the progress of action taken on the illegal movement on the extraction of Groundwater through bore wells and transport action of water through Tanker Lorries with top priority. It is necessary to state that under the instructions of the District Collector, teams are also formed, headed by the RDO, Ambattur, surprise inspections are made, raids conducted and stringent action are being taken on the illegal extraction of ground water.

Officials are taking drastic actions against the erring units without waiting for any complaints in a routine manner by conducting frequent raids and inspections with other departmental Officers concerned to regulate and control the ground water Management in Madhavaram Taluk. The details of action taken on illicit extraction of ground water and unauthorised transportation of the same through Tanker lorries are furnished in brief.

1. Formation of Committee, headed by RDO, Ambattur, on 20/1/2015.

S.No.	Committee Members
1.	R.D.O, Ambattur
2.	Food Safety Officer, TVR

S.No.	Committee Members
3.	AE, Corporation of Chennai, Zone 2
4.	AE, T.N.Electricity Board, Madhavaram, Mathur
5.	A.E, TNEB, Manjambakkam
6.	A.E.Chennai Corporation Zone 2
7.	D.E.T.N.Pollution Control Board
8.	Station Fire Officer
9.	General Manager, District Industries Centre, TVR
10.	Tahsildar, Madhavaram
11.	Spl Tahsildars, Natham Settlements Unit 1 & 2
12.	Special Tahsildars, Natham Survey

Action taken: Surprise raid conduct on 20/12/2015. Five water manufacturing units inspected.

1.	M/s. Tharaq Aqua Products	2 Bore wells sealed the unit earlier by RDO. The Company file WMP Nos.2446 and 2447 of 2017 in W.P.Nos.2376 and 2377 of 2017. Based on the Court directions, the seal was removed. The Hon'ble Mr.Justice B.Rajendran in his order dated 1/3/2017 has ordered to remove the seals and not to manufacture or sell water for commercial purpose. Hence the seal was removed.
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2.	M/s. J.M.M.Traders	No Bore wells. Only water transported from Marambedu
3.	M/s. Karunya Enterprises	No borewells only water transported from Marambedu. The Company filed W.P.Nos.32814, 32815 and 31109 of 2015 and 2670 to 2673 of 2016 and M.P.Nos.1 to 1 of 2015 in W.P.Nos.2814, 32815 and 31109 of 2015 and WMP Nos.2227 to 2230 of 2016 in W.P.Nos.2670 to 2673 of 2016. The Hon'ble Mr.Justice T.S.Sivagnanam, in his order dated 11/2/2016 has ordered to maintain status-quo which is maintained till date.
4.	M/s. S.S.Aqua	Sample tested on 14/1/2015. Discharged waste water contains total dissolved waste found which spoils ground water. Hence sealed. S.S.Aqua filed writ petition in W.P.No.26822 of 2016. The Hon'ble Mr.Justice M.Sathyanarayanan in his order dated 2/8/2016 has ordered to maintain status-quo which is maintained till date.

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5.	M/s. K.K.Aqua	Already functioning as MSR Aqua. Ownership changed as K.K.Aqua later. Already inspected on 13/1/2015 by the team. 3 borewells found the water extracted without permission to sell water hence sealed. The company filed WMP No.37254 of 2016 in W.P.No.43391 of 2016. The Hon'ble Mr.Justice B.Rajendran in his order dated 19/12/2016 has ordered to maintain to remove the seal of premises and also directed the petitioner not to extract ground water unless he got certified license, hence seal removed.
6.	M/s. APD Gomala Enterprises	ADP Komala Enterprises inspected by Tahsildar, with Pollution Control Board. Unit sealed for extracting groundwater through borewells. The Company filed WMP No.37251 of 2016 in W.P.No.43390 of 2016. The Hon'ble Mr.Justice B.Rajendran in his order, dated 19/12/2016 has ordered to maintain or remove the seal of premises and also directed the petitioner not to extract ground water unless he got certified license, hence the seal was removed.

Apart from the said actions, show cause notices have also been issued by Pollution Control Board on 4/8/2016, under Water Prevention and Control of Pollution Act 1974 and Air Prevention and Control of Pollution Act, 1981 for operation

of the units without prior consent to operate as deemed necessary under the said Acts. Further personal hearing held had also conducted on 14/9/2016 at the O/o the Joint Chief Environmental Engineer (Monitoring), TNPCB for the violation.

Joint inspection held on 3/11/2016 with TNPCB 10 units inspected, are as follows:-

1. M/s. Evergreen Enterprises, Milk Colony Road, Madhavaram
2. M/s. Sri Venkateswara Enterprises, Madhavaram
3. M/s. K.K.Aqua, Mathur
4. M/s. JMN Traders, Manjambakkam
5. M/s. Ambiga Enterprises, Manjampakkam
6. M/s. APD Komala Enterprises, Mathur
7. M/s. Pandia's Aqua Leela Agro Products, Madhavaram
8. M/s. Pushpam Enterprises
9. M/s. S.S.Aqua Products, Periamathur
10. M/s. Karunya Enterprises

In Kosapur	Surprise inspection was held on 1/6/2016 in city waterways canal. Illicit extraction of water through Diesel Engine found. The engine and pipes were seized and complaint lodged in Police Station, Madhavaram Milk colony, under Sections 3 and 5 of Madras Metropolitan Water Regulation Act, 1987 against Thiru.Manoharan and Thiru.Periasamy (FIR No.430 of 2016)
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In Ponniamanmedu	M/s. Tharang Aqua Water Company involved in extracting water bore well was found during on 9/6/2016. 2 Borewells sealed and 5 HP motor seized Later the above water Company filed writ petition in W.P.No.44304 of 2016 As per direction of the Court, seals removed subject to condition that the company should not utilise ground water for industrial purpose except house usage.
In Mathur Village	Surprise raid made on 15/6/2016 and one tanker lorry bearing No.TN23F-5679 was seized for involving in water theft and the vehicle was handed over to Police Station, Madhavaram Milk Colony
In Mathur & Manjambakkam Village	Joint inspection held on 30/11/2016 with District Environmental and Pollution Control Board Dept Officials. K.K.Aqua Mineral Water company and ADP Komala Mineral water units found involving in extraction of ground water and as such 2 water units were sealed on 2/12/2016. Later, the above 2 water units moved High Court and filed writ Petitions in W.P.Nos.43390 of 2016 and 43391 of 2016 and got interim directions on 19/12/2016 and running on certain conditions of the Hon'ble High Court.
In Madhavaram Village	Inspection conducted on 12/5/2017 and found M/s. Yoga Aqua Mineral Industry involved in extraction ground water through borewell and as such the above industry was sealed.

Periodical raids and inspections are being conducted by the Tahsildar to detect the illicit extraction of ground water and transportation of water without valid permit. The Assistant Commissioner of Police, Madhavaram had also sent a letter to the Tahsildar on 18/11/2017 along with a list of 29 water manufacturing units for enquiry and to send status report. In continuation to which a review meeting was held by the District Collector, Tiruvallur on 29/11/2017 with all connected Departmental Officers regarding illicit extraction of ground water through bore well and instructions were issued to verify the documents available with the units and inspect and check up proper functioning with valid NOCs/permits/licences. As per the instructions, joint inspection with relevant Department officials held on 4/12/2017 and about 38 water units were inspected, on verification, out of 38 water units 14 units have filed writ petitions, challenging G.O.Ms.No.142/PWD/(R2) dated 23/7/2014 containing Regulations for issue of NOC for extraction of ground water and transportation, such cases are filing counter affidavits before the Hon'ble High Court. As regards other Companies, the certificates other relevant documents were already verified. During the year 2018, right from January 2018 to April 2018, surprise inspections were made and 18 water tanker lorries were seized transporting water without valid permit or license and handed over to the respective police stations.

The Assistant Commissioner of Police, Madhavaram and Puzhal have been addressed to provide necessary Police assistance to seal the functioning of water companies extracting ground water illicitly through borewells vide letter No.2542/2016/A1/dated 28/4/2018. Surprise inspection was held on 5/5/2018 in the area and found that M/s. Sriram Aqua Minerals (1) and M/s. M.J.Aqua minerals (2) are engaged in sucking water from bore wells and as such, the above two companies were sealed and water unit M/s. Pushpam Aqua found to be involved in extracting of ground water through Jet Motor and as such the motor pumps were seized with Jet Motor and the plant was sealed. It is necessary to stated that RDO, Ambattur had conducted a

review meeting on 17/5/2018 along with Revenue Department, Pollution Control Board, Fire Service Department, TWAD and TNEB to take stringent action on the functioning of units in extraction of ground water and transporting of water illegally. Before the review meeting, individual notices were issued to all the water units on 16/5/2018 itself under the T.N.Ground water (Development and Management) Act, 2003 (Tamil Nadu Act 3 of 2003) asking the units to submit 9 types of certificates including NOC, Licences etc., within 3 days as specified in the notice, failing which the companies will be sealed and the notices were served in person to 35 water companies. Since the companies have not come forward to produce the relevant documents, certificates/NOCs/Licences in full shape, action was taken to close the companies and put seals on 19/5/2018 the presence of Police officials, Department Officers and revenue officials concerned including VAOs and Village Assistants concerned. Out of 41 companies/units, 4 units are already not functioning and they were already closed. 23 units were sealed on 19/5/2018 except 14 units which are covered by Hon'ble High Court proceedings. Photographs taken during this exercise are enclosed and submitted before the Hon'ble Court for perusal in support of the action by the Tahsildar, Madhavaram. List of cases covered by High Court proceedings is enclosed for favour of kind information.

Madhavaram Taluk was categorised into Semi-Critical Zone in 2011 by the central Ground Water Board and the Tamil Nadu Water Supply and Drainage Board based on the Extraction rate; therefore, presently Madhavaram Taluk is in category - B. The G.O.(Ms) No.113/PW (R2) Department, dated 9/6/2016 affirms that in Semi-Critical and Safe Blocks "Notified as B category Blocks", all the schemes should be formulated through the State ground and Surface Water Resources Data Centre of the Water Resources Department and the Chief Engineer, State Ground and Surface Water Resources, Data Centre would issue No Objection Certificate for ground water clearance.

5. Mr.S.Kamalesh Kannan, Government Advocate, submitted that few water units have submitted their applications, to obtain license to the Tahsildar, Madhavaram and that the same would be forwarded to the Revenue Divisional Officer, Ambattur. On perusal of the said documents, companies which are eligible would be issued with license.

6. Learned Government Advocate further submitted that action has been taken on the representation, dated 28/3/2018, of the writ petitioner, A.Dhanraj. Since the representation has been fully complied with, nothing survives in the writ petition.

7. In view of the submission made by the learned Government Advocate, writ petition is dismissed. No costs.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

mvs.
To

1. The District Collector
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2. The Tahsildar
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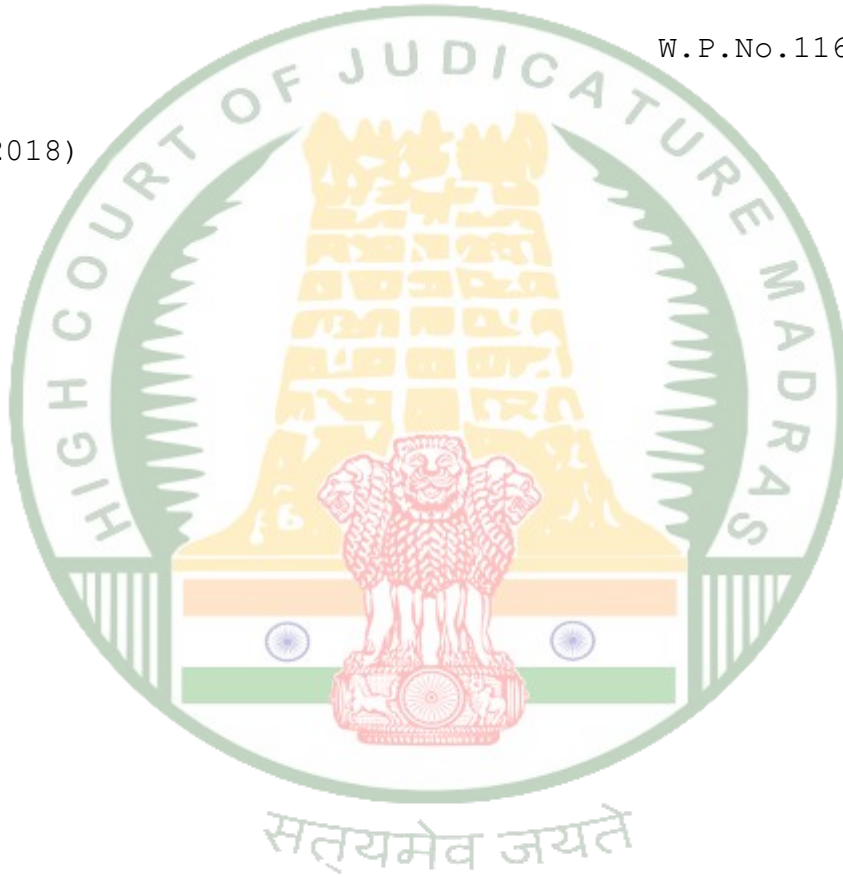
and Sewage Board
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7. The Senior Engineer
Tamil Nadu Electricity Board
Vyasarpadi
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+ 1 cc to MR. N.Ramesh, Advocate Sr.56698
+ 1 cc to Mr.Arunmozhi, Advocate Sr.56604
+ 1 cc to the Government Pleader Sr.56448

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