

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17-05-2019

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

SUO MOTU CONTEMPT NO. _____ of 2019
in
W.P.Nos.28535 to 28539 of 2014 & etc., batch

- 1 M/s.Shanthi Aqua Farms
Plot No.16 4th Street,
I Floor, Federal Bank Building
Balaji Nagar, Anakaputhur
Rep. by its Proprietor Mr.Mahalingam
- 2 M/s.Sri Aqua Farms
S/o.No.385/2b1 Mamallapuram Salai,
Kuchikadu Village, Kuzhipanthandalam,
Thirukazhukundram,
rep. by its Proprietor, Mr.Venkatesh
- 3 M/s.Vc Water Company
Old S.No.313/9, New S.No.313/9 A2,
Plot.No.3 Pillaiyar Koil Second Street,
Self Help Industrial Estate,
Keelkattalai Tambaram Tk.
rep. by its Proprietor Mr.Chandra Sekar Raja
- 4 M/s.Sri Venkateswara Mineral Water,
Survey NO.151, No.154 Karanai Village,
Thirukallukundram , rep. by its
Proprietor Mr.Dillibai
- 5 M/s.Sri Arunachalam
Enterprises, S.No.56/2a No.15,
Sivagajalakshmi Garden, T.V.Nagar
Sriperumbudur Block, Mugalivakkam,
Sriperumbudur, rep. by
its Proprietor Mr.Venkatesan

Valluvar Nagar, Sithalapakkam, Chennai-126
rep. by its Proprietor Mrs.P.Thilagavathi

- 7 M/s.Gsk Aqua Minerals
92/1a, Rose Nagar, Kancheepuram Block
Kovilambakkam,
rep. by its Proprietor Mr.Sathish
- 8 M/s.Shri Raman Aqua
Industries, NO.2/2 Ponniamman Koil St.,
Vengapakkam Village, Thirukalukundram
rep. by its Proprietor Mr.Rajesh
- 9 M/s.Shanth Aqua Products,
No.1/534/A Mambakkam Main Road, Vengaivasal,
Medavakkam,
rep. by its Proprietor Mr. Balachander
- 10 M/s.Mahalakshmi Aqua Industry
Malai Street, No.28 Ponmar Village, rep. by
its Proprietor Mr.Packel Durai
- 11 M/s.Anush Aqua Farms
No.30, Gangaianman Koil Street, Polacheri
Village, rep. by its Proprietor Mr.Suresh
- 12 M/s.Sree Jothi Swaroop
Water Industry, S.No.406/1B Manamai Village
Thirukalukundram, rep. by its Proprietor
Mr.V.Balaji
- 13 M/s.Bee Cee Aqua Enterprises
S.No.428/1B1 Ponmar Village, Tirupurur Block
Chenglepattu Taluk, rep. by its Proprietor
Mr.B.Chitra
- 14 M/s.United Water and Food
Technologies, Venkadamangalam Main Road,
Ponmar, rep. by its Proprietor Mr.Venkatesh
- 15 M/s.Sivakumar Aqua Industries,
No.1 Forest Department Quarter
Main Road, Perumbakkam, rep. by its
Proprietor Mr.Sukumar

- 1A , Azhikandeeswarar Nagar, M.K.Chavadi,
Okkiyam, Thoraipakkam , rep. by its
Proprietor Mr.V.Murali
- 17 M/s.Alagar Aqua Enterprises
NO.94, Tharapakkam Village, Kamachipuram
Block, Tharapakkam, Sriperumbudur, rep. by
its Proprietor Mr.Natarajan
- 18 M/s.Immanuel Aqua Farms
No.36, Mettu Street, Karaima Nagar
Kundrathu,r rep. by its Proprietor Mr.
Immanuel
- 19 M/s.Sri Balaji Aqua Farms
291/1b, Pillaiyar Koil Street,
Tirukalukundram Block, Nallur, rep. by its
Proprietor Mr.Karunakaran
- 20 M/s.Sakthi Aqua Industries
111/1A, Mambakkam Main Road, Madambakkam
rep. by its Proprietor, Mr.K.Kasinathan
- 21 M/s.Aqua Gold Mineral Water
Plot No.112 & 113, 1st Street, Ganesan Nagar
Kaspapuram, rep. by its Proprietor
Mr.Mariappan
- 22 M/s.Virutcham Water Products,
No.7, Sf No.789/1 Chetty Street, Koovathur,
Cheyyur, rep. by its Proprietor Mr.Balasubramanian
- 23 M/s.Sri Shanmuga Enterprises
Nookkampalayam Main Road, Perumbakkam ,
Chennai-100, rep. by Mr.M.Sasi Kumar
- 24 M/s.Abi Aqua Gold
S.No.31/,2 Murugesapuram, Rengasamy Street,
Zameen Pallavaram,
rep. by its Proprietor Mr.Sivan Raj
- 25 M/s.Kumars Aqua
1/95, Eswaran Koil Street, Ponmar Village
rep. by its Proprietor, Mr.P.T.Rajendran

No.81/1-b Madambakkam Main Road
Madambakkam, Chennai-126, rep. by its
Proprietor Mr.M.S.Maheswaran

27 M/s.A.V.M.Shanmugam Aqua
Industries, 1, Amman Koil Road,
Kovilancherry, rep. by its Proprietor,
Mr.M.S.Elangeswaran

28 M/s.Annai Minerals
S.No.353/4b7, Plot NO.7, Rajiv Gandhi Nagar,
Kovur Village & Post, Kannathur Block,
Sriperumbudur Tk.
rep. by its Proprietor Mr.T.Dasan

29 M/s.Thirukumaran Aqua Farm
No.37, Chrompet Road, Alandur, Nanmangalam
Taluk, rep. by its Proprietor Mr.G.Punnaimoorthy

30 M/s.Lakshmi Aqua Farms
261/2, Medavakkam Road, Kancheepuram Block ,
Mambakkam Village,
rep. by its Proprietor Mr.Venkat

31 M/s.Lt Aqua Industries
42/2, 3rd Cross Street Vengaivasal (Adinath
Avenue), St. Thomas Mount Block , rep. by its
Proprietor, Mr.T.Raj Kumar

32 Mathura Aqua Products
No.52, Ponniyamman Kovil St., Kundrathur
Block, Moulivakkam, rep. by its Proprietor
Mr.Vasanth

33 M/s.Star Aqua Products
3/267, Hasthinapuram Salai, Nanmangalam
rep.by its Proprietor Mr.Duraisamy

34 M/s.Vds Aqua Farm
S.F.No.6/1, Devaraj Rice Mill Street ,
Kovilancherry Road, Agaramthen Village
rep. by its Proprietor Mr.Duraisamy

35 M/s.S.S.B.Aqua Farms,
Vedhagiri Nagar, Ponmar, rep. by its
Proprietor, Mr.Selva Raj

- 36 M/s.Om Muruga Aqua Park
No.41, Nuthancherry, St. Thomas Mount Block,
Madambakkam, rep. by its Proprietor,
Mr.S.Kalidass
- 37 M/s.K.B.R.Aqua Water
S.No.40/1, Nuthanchery, Madambakkam,
rep. by its Proprietor Mr.Ethiraj
- 38 M/s.Thavanish Aqua Farm
No.335/1 Royal Garden, Kancheepuram Block &
TK, Medavakkam,
rep. by its Proprietor Mrs.R.Revathi
- 39 M/s.Chellam Aqua Industries,
5/280 B Sribaba Nagar, Medavakkam, rep. by
its Proprietor Mr.N.Santhosh
- 40 M/s.Annumaan Aqua Industry
29/2D4 Vaathiyaar Thottam, Near Indian Oil Petrol Bunk
Kancheepuram Block, Madurapakkam Panchayat,
Ponmar Post, Moolachery rep. by its
Proprietor Mr.M.Dinesh
- 41 M/s.S.R.K.Natural Products
No.61, Alapakkam Main Road, Maduravoyal
Chennai-95, rep. by its Proprietor
Mr.R.Senthilkumar
- 42 M/s.Yes.R.K.Health Products
Old No.9 / New No.45, C.R.Ramakrishnapuram,
L & T Colony, Phase-2, 2nd st., Virugambakkam
Chennai-92, rep. by its Proprietor Mr.R. SenthilKumar
- 43 M/S.Vickey Traders
No.63, GNT Road, Madhavaram, Chennai – 110
rep. by its Proprietor Mr.R. SenthilKumar
- 44 M/s.Sterling Aqua Products
No.63, Madurainaicken Street, Maduravoyal,
Chennai-95, rep. by its Proprietor Mr.Jeyakumar
- 45 M/s.Penguin Aqua Products,
147, Avadi Road, Veeraragapuram, Poonamallee
Taluk, Chennai-77,

rep. by its Proprietor Mr.Periyasamy

- 46 M/s.Britt Mineral,
2/397, Kannikoil Street, Sithalapakkam,
rep. by its Proprietor Mr.Murugan
- 47 G.G.K.Aqua Water Company,
277/14A, Mambakkam Village & Post,
Kancheepuram Block, Mambakkam rep. by its
Proprietor Mr.Gokul
- 48 M/s.Sri Vel Murgan Aqua Industries,
No.1/185 Navalur Main Road,
Thazhambur, rep. by its Proprietor
Mrs.B.Sarala
- 49 M/s.Victory Aqua Farms
S.No.238/4b1 b 238/4b1c, Duraisamy Salai
Ponmar, rep. by its Proprietor Mr.Sekar
- 50 M/s.JSSV Aquaa Techs
No.7/2b, Amman Koil Street, St. Thomas Mount
Block, Moolachery rep. by its Proprietor
Mr.K.Ganesan
- 51 M/s.Sathyam Water
No.1, Thirumalai Nagar Main Road, Sri Ambal
Nagar, Sembakkam,
rep. by its Proprietor Mr.Sekar
- 52 M/s.Nila Health Product Company,
Main Road, Nukkampalayam,
Perumbakkam Village, rep. by its Proprietor
M/s.K.Maria Selvi
- 53 M/s.Krupa Aqua Farms
No.23, Vengadamangalam Village, Ponmar Post ,
rep. by its Proprietor Mr.C.Kennedy
- 54 M/s.J.V.Aqua Industries
No.2/178 Service Road, Thandalam, rep. by
its Proprietor Mr.C.Kennedy
- 55 M/s.Floorance Aqua Farm
103, Kalathumedu Street, St. Thomas Mount
Block, Ottiyambakkam, rep. by its Proprietor

Mr.C.Kennedy

- 56 M/s.J.V.Aqua Farm,
488/17, Vedagiri Nagar, Ponmar, rep. by its
Proprietor Mr.C.Kennady
- 57 M/s.Sri.Nithya Aqua products,
No.27 Kikalthirpur Village, Vishar Road
Kancheepuram, rep. by its Proprietor
Mr.T. Moorthi
- 58 M/s.Aqua Vickey
286/3B, 1st Street, Bharathidasan Nagar
Mambakkam Road, Vengaivasal, rep. by its
Proprietor, Mr.Mariappan
- 59 M/s.Minerva Minerals,
Plot No.13, 14 No.3/60, Nookampalayam,
rep. by its Proprietor, Mr.C.T.Ganesh Kumar
- 60 M/s.A.Ve.Aqua Farms
Plot No.4 , Church Road, Injambakkam, rep. by
its Proprietor Mr.Mani Vasakam
- 61 M/s.Pandian Aqua Products
S.No.539/4, Bangalore High Road, Sithur
Village, Sunguvar Chatram , rep. by its
Proprietor Mr.Saravanan
- 62 M/s.Evn Aqua Farm
No.23, Vengadamangalam Main Road, Ponmar
rep. by its Proprietor Mr.E.Nagarajan
- 63 M/S. Aqua Spring India Pvt. Ltd.
No.3 Chinnandikuppam Road,
Vettuvanken,i rep. by its Proprietor Mr.RaviSankar
- 64 M/s.Nandini Industries
Plot No.1065, Maruthupandiar Avenue, Sunambu
Kolathur,s rep. by its Proprietor Mr.D.Baskar
- 65 M/s.Sri Nandini Aqua Products
1/523, Mambakkam Main Road, Veerapathram
Nagar, Vengaivasal, rep. by its Proprietor
Mr.D.Baskar

- 66 M/s.Sri Krishna Water Tech
No.3, Venkatesan Nagar, Enathur Road,
Kancheepuram Block, Enathur, Kancheepuram,
rep. by its Proprietor Mr.Lakshmi Narayanan
- 67 M/s.Everest Aqua Industries
114/2, Vengaivasal Main Road, Vengaivasal
rep. by its Proprietor Mr.S.Sahul Hameed
- 68 M/s.S.R.N.Aqua Products
Old No.73, New No.119, M.K.N.Road St.
Thomas Mount Block, Alandu,r rep. by its
Proprietor Mrs.Subha
- 69 M/s.Sri Vinayaga water Industries,
S.F.No.244/2a, 2b, 2b1 4a, No.43
Padur Village, Tiruporur Block,
Chenglepattu,
rep. by its Proprietor Mr.Sankar
- 70 M/s.V.S.P.Oil Mills
12, Bajanai Koil Street, Hastinapuram, rep.
by its Proprietor Mr.Nagarajan
- 71 M/s.Water Gate Foods &
Beverages, 27, Kizhakottaiyur, Thargas
Bajanai Koil Street, Melakottaiyur, rep. by
its Proprietor Mr.Prakash
- 72 M/s.Sri Lakshmi Waters
No.1 G.S.T.Road, Athangarai, Mamandur,
Maduranthagam Taluk, rep. by its Proprietor
Mr.Kumaravel
- 73 M/s.Pal Suganthi Aqua
No.81/2b, No.177, Madambakkam Mathura
Noothanjndri Village, rep. by its Proprietor
Mr.Rajan
- 74 M/s.Perinbam Aqua Farms
731/2, 731/4A Kutharipalaym Vellipalayam
Road, Annur Block, Mettupalayam Taluk ,
Coimbatore,
rep. by its Proprietor Mr.P.Pattu Jebaraj

8/1 VOC Street, Sholinganallur, rep. by its
Proprietor Mr.Raja Sekaran.

..Petitioners

vs

- 1 Mr.S.K.Prabakar, I.A.S.,
The Secretary to Government of Tamilnadu
Public Works (R2) Department
St. Fort George Chennai-600009.
- 2 Mr.Shambhu Karllollikar I.A.S.
The Chairman
Tamil Nadu Pollution Control Board, Guindy
Chennai-600 032.
- 3 Mr.C.Paul Prabhakar,
Regional Director,
The Central Ground Water Board,
Govt. of India-Ministry of Water Resources
South Eastern Coastal Region,
Rep. by its Regional Director, E-1 G-Block, Rajaji
Bhavan, Chennai-600 090.
- 4 Mr.S.Sampath,
The Chief Engineer
Public Works Department,
Water Research Organization
State Ground & Surface Water
Resources Data Centre, Taramani,
Chennai – 600 113.

.. Respondents

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Suo Motu Contempt Petition is filed under Article 215 of the Constitution of India, for the willful disobedience of the respondents against the common order passed in WP Nos.28535 to 28539, 29118, 31780, 32099, 33673, 34055, 34085, 34689 of 2014, 67, 4849, 9562, 9615 of 2015, 14262, 15704, 16301, 20639, 20649, 21544, 26822, 29162, 29703, 33094, 33658, 37957, 38180, 43014, 43473 of 2016,

434, 7206, 10934, 15037, 16127, 19777, 21145, 33162, 33879 of 2017, 1079, 2628, 3504, 7060, 7841, 14005, 19045 of 2018 dated 3.10.2018.

O R D E R

It is brought to the notice of this Court that the News Channel namely, "News 18 Tamil Nadu" broadcasted a detailed report gathered from various places, more specifically around Chennai City that large scale ground water is being stolen by few individuals and the illegally extracted ground water is transported through Water Tanker Lorries and sold to the public in general for huge amount of more than Rs.4,000/- to Rs.5,000/-. The report broadcasted by the above News Channel was exhaustive in nature and the repeated complaints given by the citizen at large as well as the persons having public interest were not even taken note of nor any complaint has been registered by the Competent Authorities, including police.

2. The TV Channel Reporters lamented that the people in Chennai City are struggling to get water and under these circumstances, the illegal extraction of water and selling the same for exorbitant prices are affecting the livelihood of the common man, more specifically, the middle class people as well as the below middle class people.

3. Undoubtedly, the scarcity of water in the City at present is the fact. However, regulation of extraction of ground water is of

paramount importance in order to provide equal distribution of water to all the citizen in a legalised manner. If the illegal extraction of water is permitted by the State, then the individuals, who all are commercializing the water sale by illegally extracting the ground water will escape from the clutches of law.

4. The State is duty bound to control these illegal activities and the elaborate judgment delivered by this Court in this regard in a batch of writ petitions in WP Nos.28535 to 28539 of 2014 etc., batch dated 3.10.2018 has been not implemented in its letter and spirit.

5. When the said judgment was posted under the caption "For Reporting Compliance", the Government Pleader informed this Court that the State has taken action and a Committee was constituted to regulate the extraction of ground water across the State. However, several months have lapsed and now illegal extractions are reported widely in newspapers more specifically, today i.e., 17.5.2019 in the "News 18 Tamil Nadu Channel".

6. The seriousness involved in this issue is of paramount importance. Water is life and there is no life without water. If the water is sold for an exorbitant price, it may not be possible for the common man to lead a peaceful decent life. Thus, it is duty mandatory on the part of

the State to ensure supply of water by regulating the same by avoiding illegal extraction for the purpose of selling the water for exorbitant price. Such an action is not only unconstitutional but is to be construed as a failure on the part of the State to honour the constitutional principles and further in violation of the judgment of this Court in W.P. Nos.28535 to 28539 of 2014 etc., batch dated 3.10.2018, cited supra.

7. This Court issued following directions to the respondents:-

(1) The impugned order of regulation issued by the 1st respondent in G.O.Ms.No.142, dated 23.07.2014 is confirmed.

(2) The respondents are directed not to grant licence, No Objection Certificate (NOC) or permission for the commercial establishments / person to extract ground water for commercial usage in the absence of fixation of water Flow Meter on the Board outlet, which is to be inspected.

(3) The respondents are directed to inspect the functional quality and other established standards of the Flow Meters fixed by the persons, who all are applying for permissions / No Objection Certificate (NOC) and at the time of granting permission / No objection Certificate (NOC), the Flow Meter should be sealed properly by the respondents / Public Works Department (PWD) officials.

(4) The Flow Meter must be sealed in such a way to prevent any tampering by any person. Quantum of Water to be extracted by

individuals, are to be fixed periodically as per the assessment to be made by the P.W.D. Authorities as per the Regulations.

(5) The respondents are directed to measure the quantum of water extracted by the establishments / persons by taking meter reading every Month and accordingly, the same is to be regulated.

(6) The respondents are directed to follow all other terms and conditions fixed for grant of licence / permission for Extraction of Ground Water for commercial usage as per the guidelines issued in G.O.Ms.No.142, Public Works Department dated 23.07.2014.

(7) The respondents are directed to register the Police complaint in the event of identifying any excess Extraction of Ground Water by tampering the Flow Meters sealed or by any other means by any person. The case must be registered Under Section 379 of Indian Penal Code (IPC). In addition, if the water is wasted for causing wrongful loss, then Section 425 of the Indian Penal Code (IPC) will also attract.

(8) The respondents are directed to suspend the licenses by issuing show cause notices and by providing an opportunity to the persons, who have involved in the offence of theft or violation of all other conditions stipulated in the Government Regulations, or if a criminal case is registered. If any person is convicted, then he shall be permanently debarred from getting licence for Extraction of Ground Water.

(9) The District Collectors of all the Districts in the State of Tamil Nadu are directed to issue suitable directions / orders to the

Revenue Divisional Officer, Tahsildars and all other officials concerned to inspect and monitor the Extraction of Ground Water by the persons for commercial usage.

(10) The District Collectors of all the Districts are directed to constitute monitoring committees to monitor the Extraction of Ground Water by the individuals for commercial purposes.

(11) Each Monitoring Committee appointed by the District Collector concerned, shall consists minimum of five persons and the Committee is empowered to monitor the Extraction of Ground Water for commercial purposes by the individual persons and commercial establishments.

(12) The Monitoring Committee shall consists of the following persons:

(i) The District Environmental Engineer from Pollution Control Board of the State of Tamil Nadu.

(ii) One qualified Public Works Department (PWD) Engineer from Water Resources Department.

(iii) The Assistant Director of Zoology and Mining of the State Government.

(iv) The Revenue Divisional Officer of the concerned locality.

(v) One nominee from the office of the Chief Engineer, Central Ground Water Board of the

Government of India.

(13) The Monitoring Committee is entitled to collect proofs and documents in respect of the Extraction of Ground Water illegally and excessively by any person and submit a complaint / report to the District Collector concerned, who in turn, after verifying the same, shall register a complaint with the Jurisdictional Police for registering a criminal case under the provisions of Indian Penal Code (IPC).

(14) It is needless to State that, only in the event of compliance of the regulations and conditions imposed in this order, the persons / establishments shall be allowed to extract the Ground water for commercial usage or for commercial purposes.

(15) The 1st respondent / Secretary, Public Works Department is directed to issue a consolidated instructions in this regard based on the order passed in the present writ petitions to all the District Collectors, enabling them to implement the Court orders promptly.

8. The copy of the judgment was already communicated and it was informed to this Court that a Committee was constituted to regulate the ground water extraction as the groundwater is an asset of our Great Nation and no individual has got any right to extract water without getting proper permission from the Competent Authorities of the State.

9. The Mines and Minerals, Water etc., beneath the earth are the national properties and thus, it is duty mandatory on the part of the State to regulate all such Mines and Minerals, Water etc.

10. In the judgment, cited supra, this Court considered the issue in relation to the theft of water from the earth. Relying on the judgments as well as the provisions of the Indian Penal Code specifically issued a direction to the respondents "to register the Police complaint in the event of identifying any excess Extraction of Ground Water by tampering the Flow Meters sealed or by any other means by any person. The case must be registered Under Section 379 of Indian Penal Code (IPC). In addition, if the water is wasted for causing wrongful loss, then Section 425 of the Indian Penal Code (IPC) will also attract".

11. In spite of the specific directions issued by this Court and in spite of the large scale complaint filed by the public at large and the broadcasting of theft of water and selling of the potable water for the exorbitant price are not even looked into nor suitable actions are taken by the Competent Authorities of the State. Thus, this Court is inclined to initiate suo motu contempt against the respondents for the non-implementation of the judgment of this Court dated 3.10.2018 as well as allowing few individuals to commit such illegalities in violation of the

judgment as well as the constitutional principles. Thus, the respondents are directed to answer the following questions:-

(1) What are all the actions initiated by the State to regulate the extraction of groundwater beneath the earth?

(2) What are all the actions initiated against the illegal extraction of groundwater beneath the earth, including the extraction of groundwater from the private properties?

(3) What are all the actions taken against the complaints sent by the public at large regarding the theft of water from the lakes, water resources, agricultural lands and other public properties as well as from the private properties?

(4) What are all the actions taken by the State in respect of illegal utilisation of agricultural power supply for the purpose of extraction of groundwater and to sell the water for exorbitant prices to the public at large?

(5) What are all the actions taken by the State in respect of extraction of groundwater through the deep bore wells in an illegal manner without getting permission from the Competent Authorities?

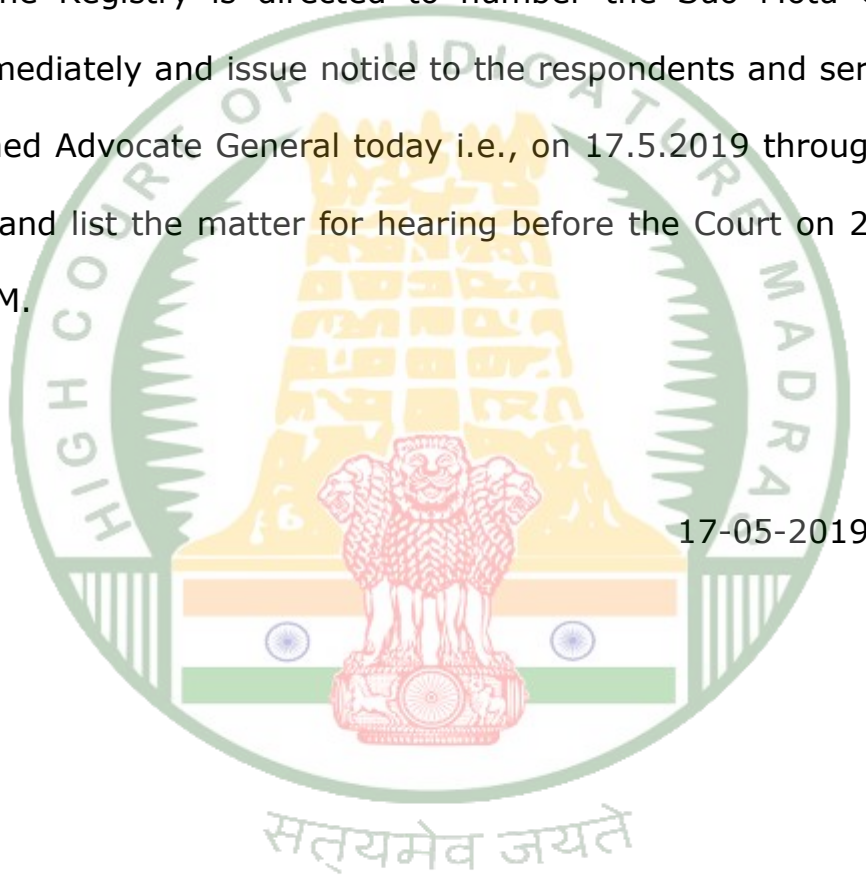
(6) The respondents are directed to answer the above points with reference to the judgment of this Court passed in W.P. Nos.28535 to 28539 of 2014 etc., batch dated 3.10.2018 and explain as to why the respondents should not be punished for committing willful disobedience of the judgment of this Court

S.M.SUBRAMANIAM, J.

Svn

(7) The Registry is directed to number the Suo Motu Contempt Petition immediately and issue notice to the respondents and serve notice to the learned Advocate General today i.e., on 17.5.2019 through Special Messenger and list the matter for hearing before the Court on 20.5.2019 at 11.30 A.M.

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Suo Motu Contempt
Petition No. _____ of
2019
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W.P.Nos.28535 to 28539
of 2014 & etc., batch