



WEB COPY

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2019

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P.No.18672 of 2010

and

M.P.No.1 of 2010

Bhavani Aatru Neer Pasana Vivasayigal Sangam
regd . Society No.189/2003
represented by its Vice President
Aalangombu Post,
Mettupalayam Taluk,
Coimbatore District

... Petitioner

/vs/

1. State of Tamil Nadu,
rep. by Secretary to Government,
Public Works Department,
Fort St. George, Chennai 600 009.

2.State of Tamil Nadu
rep. by Secretary to Government,
Revenue Department,
Fort St. George, Chennai 600 009.

3. The Chief Engineer (irrigation),
Public Works Department,
Chepauk, Chennai 5.

4. The District Collector,
Coimbatore District,
Coimbatore.

5. The Superintendent Electrical Engineer(O & M)
Coimbatore Distribution Circle-North,
Tamil Nadu Electricity Board,
Tatabad, Coimbatore.

6. Illuppanatham Grama Nugarvor,
Pathukappu Mayam (Regd.No.5/2006)
rep. by its President R.Kannappan,
NO.6/60, Annadasampalayam,
Sirumugai - 641 302,
Coimbatore District.

... Respondents

(R6 impleaded as per order dated 04.07.2018
in M.P.1/11 in W[18672/10)



PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents 1 to 4 to grant permission for lift irrigation for agricultural purpose from Bhavani River to the members of the petitioner's association in respect of their patta agricultural lands situated at Nellithurai Village, Thekkampatti Village, Odanthurai Village, Sikkadasampalayam Village, Jadayampalayam Village, Pallayapalayam Village, Eeluppanatham Village, Irumbarai Village and Sirumugai Village (neighbouring villages) on the basis of various orders of the respondents herein.

For Petitioner : Mr. V.Arun

For Respondents :Mr.R.Govindasamy,
Spl. G.P., for R1 to R4

: Mr.S.K.Rameshwar,
for R5

: No appearance, for R6

O R D E R

This writ petition has been filed seeking a direction to the respondents 1 to 4 to grant permission for lift irrigation for the agricultural purpose from the Bhavani river to the members of the petitioner's association.

2. According to the petitioner, the petitioner Association is a registered association consisting of farmers residing in nine villages at Mettupalayam Taluk and they are totally depending upon Bhavani river for irrigating their lands, and all the members of the petitioner are small farmers. Since their lands are situated in the banks of the Bhavani river, which is in higher level from water level, the water from river will not flow into their lands due to such elevation, and they can only irrigate their lands by way of lift irrigation. Earlier Government had given permission to various similarly placed agriculturist for lift irrigation in that area. Based on that the petitioner Sangam have also given representations to the respondents to grant permission to use lift irrigation to draw water from Bhavani River. Earlier, the third respondent Chief Engineer has collected particulars from the members of the petitioner and sent the same to the first respondent Government, thereafter, the Government has called the petitioner for enquiry on 22.01.2014, but so far no order has been passed. Hence, the present writ petition has been filed.



3. The third respondent, Chief Engineer filed a counter affidavit stating that a proposal has been sent to the Chief Engineer, PWD/WRO, Pollachi Region, Coimbatore, vide Superintending Engineer, PWD/WRO., Bhavani Basin Circle, Coimbatore in Lr.No.417cE/07/dated 02.11.2007 to consider the request of the petitioner at the Government level. But, the proposal has been returned by the Chief Engineer, Coimbatore for want of additional particulars, vide Chief Engineer's Lr.No.10622/06, dated 20.12.2007 and the additional particulars are being collected by the Field Officers. It is also stated that the prayer sought for by the petitioner can be considered only by the Government, as the Government is the competent authority to grant permission and the Chief Engineer has no authority for the same.

4. Heard both sides and perused the materials available on records carefully.

5. Even though the petitioner Sangam sought for a larger prayer seeking permission to grant a lift irrigation, on a perusal of the records, it could be seen that the petitioner's application is still under process and yet to reach the Government level, who is the authority to grant permission. At this stage, the learned counsel for the petitioner fairly submitted that, it is suffice that the Government may be directed to consider the petitioner's representation and pass suitable orders.

6. Considering the request, as the proposal is still pending with the third respondent and it was not sent to Government, the third respondent is directed to send the proposal to the first respondent within a period of four weeks from the date of receipt of a copy of this order. Thereafter, the first respondent is directed to consider the petitioner's request and pass suitable orders, after giving opportunity to the petitioner, within a period of eight weeks thereafter. Till the Government pass orders, the respondents are directed to maintain status-quo as on date.

7. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

mrp



To

1. The Secretary to Government,
Public Works Department,
Fort St. George, Chennai 600 009.
2. The Secretary to Government,
Revenue Department,
Fort St. George, Chennai 600 009.
3. The Chief Engineer (irrigation),
Public Works Department,
Chepauk, Chennai 5.
4. The District Collector,
Coimbatore District,
Coimbatore.
5. The Superintendent Electrical Engineer(O & M)
Coimbatore Distribution Circle-North,
Tamil Nadu Electricity Board,
Tatabad, Coimbatore.

+lcc to Mr.V.Arun , Advocate SR.No. 95360

+lcc to Mr.R.Thanjan , Advocate SR.No. 96383

W.P.No.18672 of 2010

A.SK(18/12/2019)