



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.07.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.7409 of 2020

and

W.M.P. (MD)No.6860 of 2020

K.Muthu @ Mohan

... Petitioner

Vs.

1.The District Collector,
Pudukkottai District,
Pudukkottai.

2.The Tahsildar,
Alangudi Taluk, Alangudi,
Pudukkottai District.

3.The Block Development Officer,
Thiruvarankulam Panchayat Union,
Thiruvarankulam,
Pudukkottai District.

4.The President,
Detchinapuram Panchayat,
Thiruvarankulam Panchayat Union,
Pudukkottai District.

... Respondents

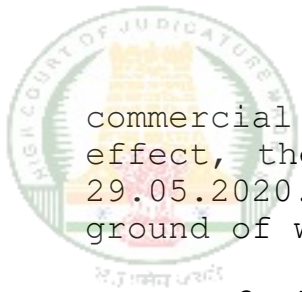
Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of certiorari, call for the impugned records on the file of the 4th respondent comprised in his proceedings Oo.Ka.No.01/2020, dated 29.05.2020 and quash the same.

For Petitioner	: Mr.J.Selvarajan
For R1 to R3	: Mrs.S.Srimathy, Special Government Pleader.
For R4	: Mr.G.karuppasamy Pandian

O R D E R

Heard the learned counsel for the petitioner, learned Special Government Pleader appearing for the respondents.

2.The petitioner is a permanent resident of Palavakkam Village, Alangudi Taluk, Pudukkottai District. The petitioner is aggrieved by the communication of the fourth respondent banning



commercial exploitation and transportation of ground water. To this effect, the fourth respondent has issued the impugned notice dated 29.05.2020. The petitioner's counsel challenges the same on the ground of want of jurisdiction.

3.The petitioner's counsel would point out that the impugned communication has been issued under Tamil Nadu Ground Water (Development and Management) Act, 2003. He would also point out that the statute itself had been repealed and it is no longer holding the field.

4.The learned Special Government Pleader states that there cannot be any dispute on this. But then, the learned counsel for the Panchayat would draw my attention to Section 143(A) of Tamil Nadu Panchayats Act 1994 -which reads as follows:

"...[143-A.Grant of Permit to sink well.-

(1) No person shall, either himself or through any person on his behalf, engage in sinking any well in the panchayat village for any purpose without obtaining a permit from the executive authority:

Provided that this sub-Section shall not apply for sinking of well for domestic purpose:

Provided further that this sub-Section shall not apply to the revenue villages specified in the Schedule to the Chennai Metropolitan Area Groundwater (Regulation) Act, 1987 (Tamil Nadu Act 27 of 1987).

(2)Any person desiring to sink a well shall apply to the executive authority for grant of permit for this purpose and shall not proceed with any activity connected with such sinking of well, unless a permit has been granted by the executive authority.

(3)Every application for grant of permit shall be made in such form and contain such particulars as may be prescribed, and shall be accompanied by such fee not exceeding five thousand rupees as may be prescribed.

(4)On receipt of an application under sub-Section(2), the executive authority may grant, subject to such conditions and restrictions as it may specify, a permit authorising sinking of well or refuse to grant such permit:

Provided that no permit shall be refused unless the applicant has been given an opportunity of being heard.

(5)The decision regarding the grant or refusal to grant the permit shall be intimated by the executive authority to the applicant within such period as may be prescribed.

(6)Any person aggrieved by the decision of the

executive authority under sub-Section(5) may, within



such period and in such manner as may be prescribed, appeal to such authority as may be specified by the Government, by notification, in this behalf.

(7)The owner of every well in use or disuse shall follow such safety measures as may be prescribed]..”

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5. I posed a specific question as to when the bore well in question was sunk. The petitioner's counsel states that the bore well in question was sunk in the year 2017. Section 143(A) was introduced into the statute in the year 2014 itself. But then, permission of the panchayats is not required for the purpose of using the well for domestic use. If the petitioner exploits the ground water for commercial consideration, then Section 143(A) will come into play. The petitioner's counsel also produced the G.O.Ms.142, Public Works (R2) Department, dated 23.07.2014, which has laid down the requirements for management on the ground water for issuance of no objection certificate.

6.It is brought to my notice that the batch of writ petitions was filed and by order dated 03.10.2018, W.P.Nos.28535 to 28539 of 2018 were disposed and it was directed that the District Collector will constitute the monitoring committee comprising the following persons.

“(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.”

7.The petitioner's counsel rightly pointed out that the District Collector, is the competent authority to issue NOC of the petitioner is in need of NOC, he will have to approach the said authority. As on date, the petitioner has no intention to exploit the ground water resources for any commercial purpose. His intention is only to use it for domestic purpose alone. The said submission is taken on record and the impugned communication is quashed as lacking in jurisdiction. But then, I make it clear that if the petitioner resorts to commercial exploitation of the ground water without getting NOC from the competent authority, the Panchayat President can very well take action under Section 143(A) of Panchayats Act. With this liberty, the order impugned is quashed and this Writ



Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

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/ /2020

Sub Assistant Registrar(CS)

das

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The District Collector,
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SPU (28.07.2020) 4P 5C