



WEB COPY

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2021

CORAM

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.13056 of 2019

in

WMP.Nos.13187 & 13188 of 2019

1. S.J.Vasudevan

2. V.Sri Mahalakshmi

.. Petitioners

Versus

1. The Secretary to Government,
Public Works (R2) Department,
Secretariat, Chennai.

2. The District Collector,
Salem District.

3. The Executive Engineer,
Public Works Department,
Salem District.

4. The Executive Engineer,
TANGEDCO,
Salem District.

5. The Revenue Divisional Officer,
Sankagiri Taluk,
Salem District.

6. The Tahsildar,
Sankagiri Taluk,
Salem District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the proceeding in Na.Ka. No. 705/2019 (C) dated 08.04.2019 signed and issued by the 5th respondent and quash the same as null and void and consequently permit the petitioners herein to continue use the ground water for their own agricultural activities, household needs and business entities carried on by their family through the bore well situated in S.No.141/2 B1A at Sankagiri Taluk, Salem District.

For Petitioner : Mr.G.Mahar Amutha Surya
<https://hcservices.ecourts.gov.in/hcservices/>

For Respondents: Mr.R.Gokula Krishnan
Government Advocate



O R D E R

The petitioners have filed the present petition seeking to quash the proceeding in Na.Ka.No.705/2019 (C) dated 08.04.2019 signed and issued by the 5th respondent.

2. The case of the petitioners is that they are having 26 acres of agricultural land along with two bore well at S.No.141/2 B1A, Sankagiri, Salem district; they are doing agriculture in their lands situated and running a hotel in the name and style as ''Sri Saravana Bhavan, Sri Vasudev Mahaland and Sri Mahalakshmi Function Hall''. Further, the petitioners are providing drinking water to the general public in the said locality.

3. While so, the fifth respondent had issued a notice dated 27.03.2019 to the petitioners, stating that they are extracting ground water at Sankagiri and selling water for commercial purpose using 30 HP electricity connection without any valid license in their agricultural land at Sankagiri. Hence, they sought 15 days time to file their reply. However, the fifth respondent granted only seven days time to submit reply, but they have not given with details regarding source of the complaint as well as a copy of the complaint. Nevertheless, the petitioners have submitted their reply on 05.04.2019. Not being satisfied with the explanations submitted by the petitioners, the fifth respondent has passed the impugned order dated 08.04.2019 directing the Revenue authorities to disconnect the electricity connection in respect of the said land belongs to the petitioners and also directing the Block Development Officer, Sankagiri Taluk to verify and confirm as to whether the petitioners are exploiting water source through the bore-well or not. If the petitioners are violating the impugned order, the Block development officer has to inform the jurisdictional police station for taking appropriate action against the petitioners. Challenging the same, the present writ petition has been filed.

4. The learned counsel for the petitioners submitted that the petitioners were using water only for the agricultural purpose. The fifth respondent without considering the explanations submitted, passed the impugned order, which is unreasonable and untenable, and disconnected the electricity service connection in the petitioners' land, for which day to day agricultural activities are being affected. Therefore, the learned counsel prays to quash the impugned order and allow this writ petition.

5. The learned Government Advocate appearing for the respondents submitted that the first to third respondents have filed their counter-affidavit stating that as per Government Order in G.O. (Ms) No.142, Public Works (R2) Department, dated 23.07.2014 the Chief Engineer is empowered to issue no objection certificate[NOC] for extraction and transportation of ground water. But, in this case, the petitioners have not



obtained any NOC from the concerned department for extraction and transportation of the ground water for commercial purpose. Therefore, this Court may reject the claim of the petitioners.

6. Heard Learned Counsel appearing on either side, and perused the materials placed on record.

7. A perusal of the impugned order reveals that how danger the situations is in the complainant's village and how the petitioners have made use of the water scarcity. Under the guise of helping the villagers by giving free water supply, the petitioners are indulging in large scale extraction of the ground water and enriching themselves by selling the same.

8. The Government have passed an order in G.O. (Ms) No.257, Public Works Department, dated 01.10.2018, wherein the Government directed the Revenue authorities to categorize the revenue firkas as over-exploited, critical, semi-critical, safe and saline/poor quality based on the estimation of the dynamic ground water resources. The fifth respondent, in the impugned order, has mentioned that the Sankagiri Taluk falls under over exploited area. Such being the case, the petitioners are indulging extraction of ground water without obtaining any prior permission for over a period of eight years i.e., nearly a decade.

9. This Court is aghast with the manner, in which the petitioners have played to the gallery by taking the ground water using the water scarcity prevailing in the said (complainant's) village. Therefore, this Court does not find any ground to disregard with the reasons mentioned in the impugned order for disconnecting the electricity connection and consequential directions.

10. In the result, this Writ Petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-IX)

//True copy//

Sub Assistant Registrar

Rli

To

1. The Secretary to Government
Public Works (R2) Department,
Secretariat, Chennai.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The District Collector,
Salem District.



3. The Executive Engineer,
Public Works Department,
Salem District.

4. The Executive Engineer,
TANGEDCO,
Salem District.

5. The Revenue Divisional Officer,
Sankagiri Taluk,
Salem District.

6. The Tahsildar,
Sankagiri Taluk,
Salem District.

+1cc to Government Pleader SR.No.58993

W.P.No.13056 of 2019
in WMP.Nos.13187 & 13188 of 2019

PMK(CO)
GMY(31/01/2022)



WEB COPY