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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.297 of 2014

and

M.P.No.1 of 2014

1. T.K.subramanian
2. P.Rajamani
3. Sasikala
4. J.Neminathan

... Petitioners

Vs.

1. The State Of Tamilnadu,
Rep. By Its Secretary,
Public Works Department,
Secretariat,
Fort St. George,
Madras-600009.
2. The District Collector,
Erode District
Erode.
3. The District Revenue Officer,
Erode District,
Erode.
4. The Superintending Engineer,
TANGEDCO,
Gobichettypalayam,
Erode District.
5. The Executive Engineer,
Public Works Department,
Bhavanisagar,
Sathyamangalam,
Erode District.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents from interfering with our right to draw water from Bhavani River for agricultural purpose except in accordance with law.



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For Petitioner : Mr.R.Jaya Prakash
For Respondents : Mr.T.Venkatesh Kumar [R1 to R3 & R5]
Special Government Pleader
Mr. Jai Venkatesh [R4]
for TANGEDCO.

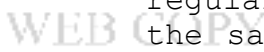
O R D E R

The relief sought for in the present writ petition is to forbear the respondents from interfering with the right of the petitioner to draw water for from Bhavani River for agricultural purposes.

2. The petitioners state that they are the agriculturist and they are using the river water for irrigation purposes and to irrigate the agricultural land in the village. The petitioners obtained permission from the 3rd respondent in the proceeding dated 10.06.1991, accordingly, pipelines were laid for transporting water. Consequently, electricity service connections have been provided for motor pumps. In view of the fact that the respondents restrained the petitioner from extracting river water through pipelines for irrigation purposes, the petitioner are constrained to move the present writ petition.

3. The petitioners themselves have stated that some farmers from Erode filed W.P.No.27852 of 2003 for a direction to the respondents therein to take action against the persons, who are drawing water illegally from the Kalingarayan Canal and Bhavani River to non-ayacut area. The writ petition was disposed of by order dated 08.10.2003, directing the authorities to take action against the illegal tapping of river water by many persons in that locality from Bhavani River.

4. The learned Special Government Pleader appearing on behalf of the Public Works Department made a submission that the distribution of water for irrigation purposes are being regulated by the Government and illegal tapping of water by farmers are identified and actions are initiated. In the present case, the electricity service connection was also disconnected. There are number of unauthorized pump sets installed in the banks of Bhavani river and they lift the water for agricultural purposes without the Government authorization or permission. The Revenue Department have collected the penal charges and the owners of the agricultural lands are unauthorisingly pumping the



5. It is contended that there is no scope for regularization of illegal laying of pipes for tapping water and the same would cause infringement of right to all other persons for the usage of river water. The High Court also during earlier occasion directed the authorities to verify the illegal tapping of water and take immediate action against those persons. Pursuant to the directions issued by the High Court, actions were initiated by the Competent Authorities. The TANGEDCO also filed a counter affidavit by stating that the electricity service connection provided in the premises of the petitioners was disconnected. In view of the fact that there are large scale allegations of illegal tapping of river water in that locality, the Government has taken actions for stopping all illegal tapping of water from Bhavani River.

47. Considering the factums established the following orders are passed:

(ii) The Executive Engineer, Public Works Department, Water Resource Organisation, Coimbatore; the Chief Engineer, Water Resource Organization, Coimbatore; the Superintending Engineer, Water Resource Organization, Coimbatore; the District Collector, Coimbatore; the District Collector, Tiruppur; the Tahsildar, Pollachi, Coimbatore, the Tahsildar, Kangayam, Tiruppur with the assistance of the Police department intensify the operations of tracing out illegal tapping of water in the entire locality and register criminal case if theft of water is identified or any mischief has been committed.



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(iii) The Executive Engineer, Public Works Department, Water Resource Organisation, Coimbatore; the Chief Engineer, Water Resource Organization, Coimbatore; the Superintending Engineer, Water Resource Organization, Coimbatore and the Police authorities on registration of criminal case communicate the same to the TANGEDCO authorities for effecting disconnection of electricity services.

(iv) The Executive Engineer, Public Works Department, Water Resource Organisation, Coimbatore; the Chief Engineer, Water Resource Organization, Coimbatore; the Superintending Engineer, Water Resource Organization, Coimbatore; the District Collector, Coimbatore; the District Collector, Tiruppur; the Tahsildar, Pollachi, Coimbatore; the Tahsildar, Kangayam, Tiruppur are directed to blacklist the persons / farmers against whom criminal cases are registered, from availing the Government Welfare Schemes of Agriculture loan, subsidies for Seeds, Fertilizer etc., with the assistance of Agriculture and Horticulture Departments.

(v) The Executive Engineer, Public Works Department, Water Resource Organisation, Coimbatore; the Chief Engineer, Water Resource Organization, Coimbatore; the Superintending Engineer, Water Resource Organization, Coimbatore; the District Collector, Coimbatore; the District Collector, Tiruppur shall seek the assistance of respective Superintendent of Police for nabbing the offenders through local Police officials, informers and by operating drone cameras.

(vi) The respective official respondents are directed to issue appropriate instructions to all their respective subordinates for effective co-ordination of all the Government departments concerned for controlling the theft of water and mischief which are offences under IPC.

(vii) In order to ensure effective implementation of the directions issued by this Court as above, this case is directed to be listed under the caption "For Reporting Compliance" on 25.01.2022 before this Court.

7. In respect of the Bhavani River also, this Court had an occasion to deal with the allegations of the illegality of tapping of water in W.P.No.31515 of 2016 dated 20.10.2021, and the relevant portion reads as under:



17. Therefore, in view of the facts and circumstances, this Court is inclined to pass the following orders:-

(1) The relief, as such, sought for in the present writ petition stands rejected.

(2) The respondents 1 to 6, 11 and 12 are directed to consider and formulate a policy to regulate distribution of water for irrigation and other purposes, if not already formulated, in a judicious manner and such a policy is to be formulated taking into consideration the public interest involved.

(3) The respondents 1 to 6, 11 and 12 are directed to conduct periodical inspections regarding illegal extraction of water either through pipelines or through any other mode by anybody and in the event of identifying any such illegal extraction of water, criminal case is to be registered and all such persons involved in such illegalities must be prosecuted in the manner known to law.

(4) The respondents 1 to 6, 11 and 12 are directed to consider the claim of R-13 for regulation of unregistered ayacuts by following the procedures as contemplated

8. In respect of the other writ petitions filed in the matter, the Water Resource Department implemented the said Judgment and issued circulars to the Competent Authorities for initiation of all appropriate actions including registration of Criminal Cases and disconnection of electricity service connection. In the event of identification of illegal tapping of water from the river, the said circular issued by the Superintending Engineer shall be applied to the case of the Bhavani River also, more specifically, the directions issued by this Court in W.P.No.10545 of 2015 dated 06.01.2022 is to be followed in respect of the allegation of illegal tapping of water in Bhavani River and all other rivers across the State of Tamil Nadu in order to effectively control the illegal tapping of water. Therefore, the respondents in the present writ petition are directed to implement the directions issued by this Court in W.P.No.10545 of 2015 dated 06.01.2022 in all respects and to ensure that the illegal tapping of water is effectively controlled and no permission is granted for any such tapping of water in violation of the schemes or the rules in force. The respondents are directed to issue appropriate instructions to all the Subordinate Authorities in line of the directions issued by this Court in W.P.No.10545 of 2015 dated 06.01.2022, within a



period of four week from the date of receipt of a copy of this Order.

9. With the above directions, this writ petition stands disposed of. No costs. Consequently the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

shr/ska

To

1. The Secretary,
The State Of Tamilnadu,
Public Works Department,
Secretariat Fort St. George,
Madras-600009.
2. The District Collector,
Erode District Erode.
3. The District Revenue Officer,
Erode,
District Erode.
4. The Superintending Engineer,
TANGEDCO,
Gobichettypalayam,
Erode District.
5. The Executive Engineer,
Public Works Department,
Bhavanisagar, Sathyamangalam,
Erode District.

+1cc to Mr.R.Jayaprakash, Advocate, S.R.No.7493

W.P.No.297 of 2014
and M.P.No.1 of 2014

PMK (CO)
SU (28/02/2022)