



W.P.No.11875 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2022

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

W.P.No.11875 of 2017

and

M.P.No.12798 of 2017

M/s.Anaithuthu Makkulukkana
Ambethkar Samooga Sevai Arakkattalai,
Rep by its Managing Trustee,
Mr.S.Punitha Kumar,
No.7, David Street, Mission Compound,
Katpadi, Vellore District – 632 007.

... Petitioner

Vs

- 1.The District Collector,
Office of the Vellore District Collectorate,
Vellore, Vellore District.
- 2.The Revenue Divisional Officer,
Vellore, Vellore District.
- 3.The District Food Protection Officer,
Food Preservation and Medical
Control Department,
Office of the District Collectorate,
Sathavachari, Vellore District.



W.P.No.11875 of 2017

WEB COPY

4.Tharapadavedu Muthamil Nagar
Welfare Association,
Rep by its President,
Mr.Vasudevan
1st main Road, Muthamil Nagar,
Tharapadavedu, Vellore Municipality,
Vellore – 632 007.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the respondents 1 to 3 to restore the Water Supply by removing the seal, sealed by the 2nd respondent in the bore-well of petitioner and thereby allowing the petitioner Trust to supply drinking water at free of cost.

For Petitioner : Mr.S.Arokia Maniraj

For Respondents : Mr.Naveen Kumar
Government Advocate
for R1 to R3
Mr.W.M.Abdul Majeed
for R4

ORDER

This writ petition has been filed for a mandamus to direct the first to third respondents to restore the water supply by removing the seal affixed by the second respondent in the bore-well of the petitioner.



W.P.No.11875 of 2017

WEB COPY

2. The learned counsel for the petitioner submits that the second respondent has sealed the bore-well of the petitioner without issuing any notice to the petitioner and therefore the petitioner is entitled for relief.

3. The facts on record indicates that the petitioner had earlier filed three or four writ petitions either by himself or through his spouse. Though the petitioner claims that the water was being supplied free, the facts on record indicates that the petitioner was extracting the ground water and packing well with seal, without obtaining necessary permission from the concerned Authorities including the Food Safety Authority/Food Protection Officer under the Food Safety Act, 2006 and under the Water (Prevention and Control of Pollution) Act, 1974.

4. The facts on records also indicates that earlier an enactment was in force, which was titled as Tamil Nadu Ground Water Development and Management Act, 2003. However, the act was repealed in the year 2013 by Tamil Nadu Ground Water (Development and Management) Repeal Act, 2013. Thus, there was a vacuum, as far as tapping of the



W.P.No.11875 of 2017

ground water in the State. However, it has been brought to the attention of this Court that the Government has issued a Government Order in G.O.Ms.No.142, Public Works Department dated 23.07.2014. The vires of the above Government order was also challenged before this Court in a batch of writ petitions, which was came to be disposed by this Court vide order dated 03.10.2018 in W.P.Nos.28535 to 25839 of 2018 etc., batch rendered in **M/s.Shanthi Aqua Farms and others Vs. The Secretary to Government of Tamil Nadu, Public Works (R2) Department, St.Fort George, Chennai – 600 009 and others.**

5. This Court after considering the law on the subject settled by the Hon'ble Supreme Court has laid down the following guidelines. The relevant portion of the guidelines laid down by this Court in Paragraph No.109 & 110 is reproduced below:-

“109.Coming to the regulatory part of the Extraction of Ground Water, all these commercial establishments, as discussed in the aforementioned paragraphs, implementation of the regulations are certainly imminent and the same is lacking on account of proper Mechanism and guidelines. Thus, this Court is inclined to pass the following order:



WEB COPY



W.P.No.11875 of 2017

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 license 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



WEB COPY



W.P.No.11875 of 2017

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 compliant/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.

110.With these observations and directions, all these writ petitions are disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.”

6. Considering the above, I am inclined to dispose this writ petition by directing the respondents to pass a fresh order on merits and



W.P.No.11875 of 2017

in accordance with the above mentioned Government Order and the order of this Court dated 03.10.2018 laid down the guidelines of the Hon'ble Courts, within a period of four weeks from the date of receipt of a copy of this order.

7. Needless to state, before passing such order, the petitioner as well as the private respondent shall be heard.

8. This writ petition stands disposed of with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

25.11.2022

Index : Yes/No
Speaking/Non-Speaking Order

jas



WEB COPY



W.P.No.11875 of 2017

To

- 1.The District Collector,
Office of the Vellore District Collectorate,
Vellore, Vellore District.
- 2.The Revenue Divisional Officer,
Vellore, Vellore District.
- 3.The District Food Protection Officer,
Food Preservation and Medical
Control Department,
Office of the District Collectorate,
Sathavachari, Vellore District.
- 4.Tharapadavedu Muthamil Nagar
Welfare Association,
Rep by its President,
Mr.Vasudevan
1st main Road, Muthamil Nagar,
Tharapadavedu, Vellore Municipality,
Vellore – 632 007.



WEB COPY



W.P.No.11875 of 2017

C.SARAVANAN, J.

jas

W.P.No.11875 of 2017
and
M.P.No.12798 of 2017

25.11.2022