



W.P.(MD) No.2606 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.07.2022

CORAM:

**THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
THE CHIEF JUSTICE
and
THE HON'BLE MRS.JUSTICE S.ANANTHI**

W.P.(MD) No.2606 of 2020

M.Rajesh Kumar

... Petitioner

vs.

1. The District Collector,
Tirunelveli District,
Tirunelveli.
2. The Chief Engineer,
Public Works and Water Resources Department,
Madurai Zone,
Tallakulam,
Madurai-625 002.
3. The Executive Engineer,
Public Works and Water Resources Department,
Sittarkottam,
Tenkasi,
Tenkasi District.



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4. The Assistant Executive Engineer,
Water Resources Management,
Near EB Office,
Valliyur-627 117,
Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondents to provide necessary shutter in Nallapethan Tank of Thalapathisamuthiram Village Part II, Nallankulam, Nanguneri Taluk, Tirunelveli District, for irrigation purpose, based on the petitioner's representation dated 02.12.2019.

For Petitioner : Mr.V.Sasikumar

For R1 & R4 : Mr.D.Sadiq Raja

Additional Government Pleader



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ORDER

[Order of the Court was made by The Hon'ble The CHIEF JUSTICE]

The writ petition has been filed to seek a direction on the respondents to provide a shutter at Nallapethan Tank.

2. It is submitted that there are five channels of canal out of which four are having shutters leaving Nallapethan Tank, effecting the irrigation of the field. In view of the above, a representation was made to the respondents to put a shutter so as to channalise the water in a proper manner. If the shutter is put on Nallapethan Tank, then, the respondents would also be in a position to appropriately release the water to the extent of the requirement of the agriculturists in the area in question.

3. Learned Additional Government Pleader appearing for the respondents submits that the representation given by the petitioner to seek a shutter on the Tank is nothing but an



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impractical proposition. The shutter which exists on four Tanks to channelise the water is not required on the fifth Tank. It is further submitted that the sufficient water is released for irrigation though it may be subject to availability of the water from the dam and other Tanks. Thus, release of water for the irrigation is subject to its availability and sufferance therein is not to one village but remains to all the connected villages. In view of the above and otherwise, a decision to put a shutter on a Tank or not remains in the domain of the expert. His prayer is accordingly to dismiss the writ petition as it is otherwise motivated to settle the score with the Cousin using one of the Tanks' water and now a civil suit has also been filed though subsequent to the writ petition.

4. We have considered the submissions of the parties and perused the records.



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5. The issue as to where shutter is to be put or where such mechanism should not be evolved remains in the domain of the administration on the advice of the experts. The Court is not an expert on the subject so as to issue a direction on the respondents to put a shutter on the Tank in question, it is more so when the representation and the writ petition filed by the petitioner do not disclose the quantity of the water released and flow in the tank in question and the shortfall thereupon for the irrigation of the land of the village in question.

6. A vague statement of fact regarding non availability of the required quantity of water cannot be taken for issuance of a direction having serious consequences. The distribution of the water in a proper manner remains under the administrative control and accordingly, if the experts have not opined for putting shutter in the tank in question, we would not involve and issue a direction in the nature sought for by the petitioner. The issue is



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however left open for the respondents to consider, but we are not giving any direction to put a shutter on the tank in question, rather, appropriately a decision may be taken under the advice of the experts for the aforesaid.

7. With the above direction, the Writ Petition is disposed of.
No costs.

[M.N.B., C.J.] [S.A.I., J.]
29.07.2022

Index : Yes / No
Internet : Yes / No
bala/ssl

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and
S.ANANTHI, J.

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ORDER MADE IN
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