



W.P(MD)No.17068 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.11.2022

CORAM:

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

**W.P(MD)No.17068 of 2017
and W.M.P(MD)No.13645 of 2017**

S.P.Muthu Raman

... Petitioner

vs.

- 1.The Secretary to the Government,
Public Works Department,
Secretariat,
St. George Fort,
Chennai – 600 009.
- 2.The State Water Resources Management Agency,
Represented by its Director / Member Secretary,
Swarma, Public Works Department,
Taramani,
Chennai – 600 113.
- 3.The District Collector,
Tirunelveli District,
Tirunelveli – 627 009.
- 4.The Chief Engineer,
Public Works Department,
Water Resource Organization,
Chepauk,
Chennai – 600 005.



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- 5.The Chief Engineer,
Public Works Department,
Water Resource Organization,
Madurai Region, Thallakulam,
Madurai – 2.
- 6.The Superintending Engineer,
Public Works Department,
Water Resource Organization,
Tamirabarani Division,
Palayamkottai Post,
Tirunelveli District – 627 002.
- 7.The Executive Engineer,
Water Resources Organization / PWD,
Tamirabarani Basin Division,
Tirunelveli – 627 002.
- 8.M/s.Madura Coats Private Limited,
Through its Managing Director,
Vickramasinga Puram,
Papanasam Mill Post – 627 422,
Ambasamudram Taluk,
Tirunelveli District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the respondents from supplying public trust property Tamirabarani river water to the 8th respondent based on his representation, dated 17.07.2017.

For Petitioner : Mr.T.Selvan

For RR 1 to 7 : Mr.S.P.Maharajan
Special Government Pleader

For R – 8 : Mr.N.L.Raja
Senior Counsel
for Mr.A.Saravana Kumar



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ORDER

(Order of the Court was made by **R.MAHADEVAN, J.**)

The prayer made in this Public Interest Litigation is to issue a writ of Mandamus forbearing the respondents 1 to 7 from supplying Thamirabarani river water to the eighth respondent by considering the petitioner's representation, dated 17.07.2017.

2.The case projected by the petitioner in the Writ Petition is as follows:-

The river Thamirabarani is a perennial river and its origin is in the Western Ghats. It starts at Papanasam in Tirunelveli District and ends at Punnakayal in Tuticorin District. It is not only the source of drinking water for the people of Tirunelveli and Tuticorin Districts, but also Virudhunagar and Ramanathapuram District. The eighth respondent is a thread and cloth manufacturing company and is situated on the foot of the Western Ghats. They have diverted the water from the Thamirabarani river water course and channel and are drawing through Kalakkad – Mundanthurai Tiger Reserve Forest area. The respondents 1 to 7 utilise water for public drinking



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purpose by way of infiltration wells situated at Thamirabarani downstream area, whereas the eighth respondent draws crore litres of water directly from the river at upper stream as well as lower stream. According to the petitioner, the eighth respondent company is the only company drawing water from the place where Thamirabarani originates and is discharging effluents to the same river at downstream area. Hence, the petitioner sent a representation, dated 17.07.2017 to the respondents 1 to 7 requesting to stop water supply to the eighth respondent. Since the same has not been considered till date, the petitioner has filed the present Writ Petition as a public interest litigation.

3.The learned counsel appearing for the petitioner has produced a plan showing the ways, in which the water is drawn from Thamirabarani river and submitted that the eighth respondent is taking a huge quantity of water than the permitted level, thereby causing much hardship to the general public. Hence the learned counsel prayed for appropriate direction to the respondent authorities to curtail the drawal of water by the eighth respondent from the river Thamirabarani.



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4.Upon notice, the seventh respondent filed a detailed counter affidavit, wherein it is *inter alia* stated that in view of the order dated 12.07.2022, passed in W.P(MD)No.8478 of 2017 which was filed by the eighth respondent and based on the recommendation of the sixth respondent, the eighth respondent is permitted to draw water from the river and hence, the writ petition filed by the petitioner based on apprehension, is not maintainable.

5.Denying the allegations made by the petitioner, the eighth respondent filed a counter affidavit stating *inter alia* that the eighth respondent has adopted the zero liquid discharge policy and reduced the need of water from 4 to 3 cusecs; considering all the aspects and pursuant to the order of this court in W.P(MD)No.8478 of 2017, dated 12.07.2022, the Government permitted the eighth respondent to draw water and that, the eighth respondent has not violated any statutory provision. Therefore, the writ petition filed by the petitioner on imaginary grounds, is liable to be dismissed.



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6. Heard the learned counsel appearing for all the parties and perused the materials available on record.

7. It is the specific case of the petitioner that the supply of water from Thamirabarani river to the eighth respondent, causes serious prejudice to the people who are living in the Districts, where the river water course or channel is situated. However, the said allegation raised by the petitioner has been stoutly refuted on the side of the respondents 7 and 8 and according to them, based on the order of this court and as per the prescribed norms, the authorities are distributing water to the eighth respondent.

8. Earlier, the eighth respondent filed a Writ Petition in W.P(MD) No.8478 of 2017, challenging the order of the third respondent dated 20.04.2017 and forbearing the respondents from imposing any restriction on drawal of water by the eighth respondent. Considering the requirement of the eighth respondent company and the interest of District Administration of Water Management, this court, by order dated 27.04.2017, made an interim arrangement, which reads as follows:



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"8.In the said circumstances, there shall be an interim direction to the third respondent to permit the company to draw 50% of water from Thamirabarani River than what is originally provided by way of interim arrangement and it shall continue to be in operation till the order is varied or modified by this court. Upon the company approaching the second respondent, the second respondent is directed to initiative the consultative process by calling upon the company and District Administration forthwith and explore all possibilities for resolving the issue in the best interest of the parties concerned.

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10.It is made clear that parties are ultimately bound by any decision to be taken by the second respondent Agency after due appreciation of the claims of the company vis-a-vis the third respondent District Administration."

9.Thereafter, the aforesaid writ petition was disposed of, by final order, dated 12.07.2022, the relevant passage of which, is usefully extracted below:

"5.Such a recommendation has been made based on the petitioner's request. The petitioner is now following what is known as Zero Liquid Discharge (ZLD) policy, they have also upgraded their technology. As a result, the petitioner stated that they no longer require 1.66 cusecs per day of water from South Kodai Melalagian Channel. They have also reduced their original need from 4 cusecs to 3 cusecs. Since the petitioner had made such a submission, the Superintending Engineer, WRD, Thamirabarani Basin Circle, Tirunelveli, had also sent recommendation to the District Collector.

6.After hearing the learned Senior counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents, I am of the view that the final call has to be taken only by the third respondent. The third respondent will take into account all the relevant factors. It is well settled that the drinking water needs of the people rank paramount. Next would come agricultural requirements followed



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by industrial requirements. The learned Senior counsel would point out that 3 cusecs of water supply which they require is not only for meeting the industrial needs but also to cater to the needs of 3000 inhabitants residing in their township. The District Collector would take into account all these relevant factors including the recommendation made by the Superintending Engineer, WRD, Thamirabarani Basin Circle, Tirunelveli, dated 21.12.2021 and pass final order within a period of four months from the date of receipt of a copy of this order. Before passing final order, the petitioner will be given an opportunity of personal hearing. Till such final order is passed, the interim arrangement as directed by this Court vide order dated 27.04.2017 shall continue. In other words, the said order is made absolute. This writ petition is disposed of accordingly. No costs."

Based on the aforesaid order of this court, the respondent authorities are permitting the eighth respondent to draw water from the Thamirabarani River.

10. Such being the factual matrix, this court is of the view that the matter is now seized of by the third respondent / District Collector, Tirunelveli, and hence, it is for the third respondent, who shall consider the issue involved herein and pass appropriate orders, as directed by the learned Judge vide order dated 12.07.2022 in W.P(MD)No.8478 of 2017, after providing due opportunity of hearing to the petitioner as well as the eighth respondent. If the order passed by the third respondent is adverse to the petitioner, it is open to him to challenge the same in the manner known



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to law. It is also open to the eighth respondent to proceed further as per law, if the allegations raised by the petitioner are found to be false, on the basis of the order to be passed by the third respondent.

11. Accordingly, this writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

[R.M.D.,J.] & [J.S.N.P.,J.]
16.11.2022

Index : Yes / No

Internet : Yes

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J.SATHYA NARAYANA PRASAD,J.

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**ORDER MADE IN
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