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WP No.31521 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25-04-2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.31521 of 2012

And

MP No.1 of 2012

K.Venkitachalam

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Represented by its Secretary,
Public Works Department,
Chennai-600 009.
- 2.The Chief Engineer (General),
Public Works Department,
Chepauk,
Chennai-600 005.
- 3.The Joint Chief Engineer (Irrigation),
Public Works Department,
Chepauk,
Chennai-600 005.
- 4.The Chief Engineer/PWD,
Water Resources Organisation,
Pollachi Region,



Town Hall,
Coimbatore-641 001.

5.The Executive Engineer/PWD,
Pollachi Division (P.A.P.),
Public Works Department (WRO),
Pollachi-3.

6.The Executive Engineer/PWD,
Thirumurthi Division (P.A.P.),
Public Works Department (WRO),
Udumalpet.

7.The District Collector,
Thiruppur.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents herein to divert 15.5% (which is the ratio of ayacut irrigated through Udumalai Main Canal under Parambikulam-Aliyar Project Irrigation Scheme) of the volume of water to Udumalai Main Canal out of the total volume of water released from Thirumurthi Dam for the second zone ayacuts.

For Petitioner : Mr.Kandhan Duraisami

For Respondents : Mr.S.Silambannan,
Additional Advocate General
Assisted by Mr.T.Arunkumar,
Additional Government Pleader
and Mr.M.Babu Barveez,



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Government Advocate.

ORDER

The writ on hand has been instituted to direct the respondents herein to divert 15.5% (which is the ratio of ayacut irrigated through Udumalai Main Canal under Parambikulam-Aliyar Project Irrigation Scheme) of the volume of water to Udumalai Main Canal out of the total volume of water released from Thirumurthi Dam for the second zone ayacuts.

2. The petitioner states that he is an Ayacutdar engaged in agricultural operations with the water supplied through Udumalaipet Main Canal and he is representing P.A.P. And Udumalai Main Canal Irrigation Agriculturists.

3. Thirumurthi Dam is one of the Dams covered under Parambikulam-Aliyar Project. Thirumurthi Dam could get 18 tmc in an year for irrigating 1,80,000 acres of land. The total area irrigated under Parambikulam-Aliyar Irrigation Scheme for the Second Zone is 94,201



acres. Of this, 14,582 acres of land is irrigated in the Second Zone from Udumalai Main Canal.

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4. Petitioner states that as per the provisions of Prambikulam-Aliyar Project (Regulation of Water Supply) Act, 1983 (Tamil Nadu Act 20 of 1993), water has to be supplied for irrigation for 4-1/2 months to 6 months (that is, 135 days to 180 days) for each of the four zones. Till the year 2002-2003, the Ayacut under the Parambikulam-Aliyar Project Scheme was getting water for irrigation of 67-1/2 days in a period of two years, that is, water was supplied for alternative seven days in shift system within a continuous period of 135 days in a block period of two years. This arrangement was in vogue since it requires a minimum period of 135 days to raise and harvest dry crops. Under this arrangement, dry crops were irrigated once in 14 days.

5. The grievance of the writ petitioner is that the respondents have provided excess water supply to the Parambikulam Canal, which cost deprivation to Ayacutdars in Udumalaipet Canal. This created some issues between the Ayacutdars and the writ petitioner approached the Authorities



to supply water in consonance with the provisions of the Act and the Rules.

Since no action was taken and the respondents have yielded the request of the Ayacutdars of Parambikulam Canal Project, the petitioner is constrained to move the present writ petition.

6. The learned Additional Advocate General appearing on behalf of the respondents objected the said contentions raised on behalf of the petitioner by stating that during the relevant point of time, there was shortage of water and and therefore, the Authorities have supplied the water by adopting a pragmatic approach and for the purpose of distributing the water in an equal manner.

7. In this regard, the respondents filed hydraulic statement of first zone first shift and made a submission that the action was taken during the relevant point of time to ensure equal distribution of water to all the Ayacutdars both at Parambkulam Canal and at Udumalaipet Canal.

8. That apart, the grievance raised by the petitioner relating to the year 2003-2004 and thereafter the Government also issued certain



guidelines and as of now, the respondents are following the guidelines.

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9. Let us now consider the Prambikulam-Aliyar Project (Regulation of Water Supply) Act, 1983, Section 3 of the Act, enumerates regulation of supply of water for agricultural purposes from Parambikulam-Aliyar Project. Sub Section (1) indicates that the Competent Authority by Notification regulate and the details are that the water received in accordance with the extent of 37715 acres of land in the Prambikulam Azhiyar Project comprised in four zones over the Schedule to the Act, which reads as under:-

“3. Regulation of supply of water. - (1)
Supply of water for agricultural purposes to the total extent of 3,77,152 acres of land in Parambikulam-Aliyar Project comprised in the four zones as specified in the Schedule of the Act from the Thirumurthy Reservoir shall be regulated by the Controlling Officer. In accordance with these rules and any notification that may be issued by the Government from time to time, under sub-section (1) of section 3 of the Act.



(2) The Controlling Officer shall receive daily reports of readings as recorded at 8.00 a.m. pertaining to the past twenty-four hours regarding -

- (a) the reservoir water level;*
- (b) the inflow from its own catchment by the rise and fall method;*
- (c) the inflow through the contour canals;*
- (d) the outflow through the high level canal;*
- (e) the outflow through the common canal;*
- (f) the outflow through the Dhali Channel System; and*
- (g) the flow through the spillway/ river sluice and the readings of the tail and regulators of all the canals involved in the irrigation spell for the period.*

(3) Daily readings of rainfall shall also be received by the Controlling Officer from all stations in the ayacut area, namely, Palladam, Pongalur, Udumalpet, Dharapuram, Kundadam, Sultanpet and Kangeyam.

(4) Taking into consideration all these readings and the regulations detailed herein, the Controlling Officer shall adjust the regulation



before 9.00 a.m. every day or as frequently as required according to the actual needs so far as may be practicable:

Provided that during the floods, release of water may be done at frequent intervals to ensure minimum depletion consistent with the safety of the dam.”

10. Parambikulam-Aliyar Project (Regulation of Water Supply)

Rules, 1994, also defines 'supply of water to old Ayacut of Palar. Sub Rule (2) to Rule 6 of Parambikulam-Aliyar Project (Regulation of Water Supply) Rules, 1994 stipulates that “Release not exceeding 1,200 cusecs shall be drawn in the common canal feeding Parambikulam Main Canal and Udumalpet Canal. As far as possible, the outflow in the common canal shall be equal to the inflow from the contour canal or the flood flows of Palar when the contour canal is not functioning”.

11. The Act and the Rules unambiguously indicate that the distribution of water between Parambikulam Main Canal and Udumalpet Canal are to be done in the manner contemplated. The Act specified about the distribution of water and the Rules framed thereunder also provides



guidelines for the purpose of release of water to all the Ayacutdars in the equal manner.

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12. The Government Order issued in G.O.Ms.No.375, dated 21.04.1994 speaks about the Regulation of water supply from Parambikulam-Aliyar Project for agricultural purposes. As per the Government Order, the Parambikulam Main Canal is distributing water to 78417 acres of agricultural land and Udumalpet Canal is distributing water to 19397 acres of high level Canal, which is now 744 acres. Therefore, the capacity of the Canal water to be distributed to Ayacutdars of that locality and determined through the Statutes and the Rules in force. Therefore, the Authorities are bound to follow the same while distributing water to all Ayacutdars from Parambikulam Canal and Aliyar Canal.

13. The learned Additional Advocate General appearing on behalf of the respondents brought to the notice of this Court that the Rules to Tamil Nadu Farmer's Management of Irrigation Systems Act, 2000 also provides procedure for supply of water. Pursuant to the Act, water user Associations are constituted to monitor equal distribution of water as per the



guidelines.

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14. No doubt, the Rule 23 of the Rules to the Tamil Nadu Farmers Management of Irrigation Systems Rule, indicates the operational plan and water budgeting. However, it is a General Rule contemplated for distribution of water all the agriculturists across the State of Tamil Nadu. When Special Act is in force for distribution of water in Parambikulam-Aliyar Project, the Special Act and the Rules will prevail over and the four zones contemplated under the Parambikulam-Aliyar Project (Regulation of Water Supply) Act and the Rules framed thereunder is to be followed for distribution of water.

15. Regarding the water Management System, the Committee constituted under the Rules to the Tamil Nadu Farmers Management of Irrigation System Act is to be followed. Therefore, reference made by the learned Additional Advocate General regarding the Rule to Tamil Nadu Irrigation System need not be looked into, as far as the relief sought for in the present writ petition is concerned.



16. Proportionate distribution of water is to be made to the Ayacutdars of two Canals and any inequality or discrimination would result in infringement of the rights of the Ayacutdars. Thus the State is bound to follow the provisions of the Act and the Rules framed thereunder scrupulously.

17. As far as the relief sought for in the present writ petition is concerned, the respondents are bound to follow the Parambikulam-Aliyar (Regulation of Water Supply) Act and the Rules framed thereunder in the year 1994. Equal distribution of water for Parambikulam Canal Ayacutdars and Udumalpet Ayacutdars are to be ensured based on the said Act and the Rules to protect the rights of all the Ayacutdars of that locality. In the event of any violations of the provisions of the Act and the Rules, the aggrieved Ayacutdars shall approach the second respondent, who in turn shall adjudicate the complaint and accordingly, resolve the issues in the manner contemplated under the Statutes and the Rules in force.

18. With the abovesaid directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, the



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connected miscellaneous petition is closed.

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Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
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To

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Government of Tamil Nadu,
Public Works Department,
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S.M.SUBRAMANIAM, J.

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