



WEB COPY

WP No.22861 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11-04-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.22861 of 2017

And

WMP No.24038 of 2017

P.Shanmugam

... Petitioner

Vs.

1.The District Collector,
Erode District.

2.The Tahsildar,
Erode.

3.The Assistant Executive Engineer,
Tamil Nadu Electricity Distribution Circle,
Mettukadai,
Erode.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the respondents from disturbing the petitioner from taking water from his Bore Well situated in R.S.No.114/2 of Moolakkarai Village and supplied it to feed the cattle and to irrigate the



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coconut trees belongs to the relatives and friends of the petitioner.

For Petitioner : Mr.M.Karthick for
Mr.I.C.Vasudevan

For Respondents-1 and 2: Mr.T.Arunkumar,
Additional Government Pleader.

For Respondent-3 : Mr.I.Syed Sibghatulla,
Standing Counsel for TANGEDCO.

ORDER

The Writ of Mandamus has been filed to forbear the respondents from disturbing the petitioner from taking water from his Bore Well situated in R.S.No.114/2 of Moolakkarai Village and supplied it to feed the cattle and to irrigate the coconut trees belongs to the relatives and friends of the petitioner.

2. The petitioner states that he owns agricultural land in R.S. No.114/2 of Moolakkarai Village, Erode District. A Bore Well exists in the said property and the petitioner is using the Well water for agricultural purposes.



3. At the request of the petitioner's relatives and his friends, the petitioner allowed them to take water from the said Bore Well by Tractor for the purpose of irrigating their standing coconut trees and for cattle in order to save them, since severe draught is prevailing in that area. The petitioner on humanitarian ground granted permission to use the Well water by his relatives and friends at free of cost.

4. The petitioner has been provided with Commercial Electricity Service Connection for the Bore Well and under those circumstances, the Authorities during Surprise Inspection found that the petitioner is supplying water for commercial purposes and receiving remuneration.

5. The Authorities have initiated action and thus the petitioner is constrained to move the present writ petition.

6. Usage of Well water for agricultural purposes in respect of the land belongs to the petitioner is permissible. If at all the petitioner is using the Well water for commercial purposes or selling the water to any other persons, then the petitioner has to obtain proper license from the



Competent Authorities.

7. The petitioner cannot sell the water for monetary gains without obtaining proper license from the Competent Authorities.

8. Regulation of ground water, grant of permission, inspection by the Authorities and the Monitoring Committee, are elaborately considered by this Court in the judgment dated 03.10.2018 in WP Nos.28535 to 28539 of 2014 etc. batch. The operative portion of the judgment, reads as under:-

“108. The Committee constituted is empowered to conduct surprise inspections in respect of the Ground Water extracted by the individuals and the establishments for commercial purposes and by violations of illegal extractions shall be viewed seriously and immediate actions are to be taken in accordance with law. The respondents / State may decide of charging for extraction of Ground Water for commercial usage and such a policy decision shall be considered in due course appropriately.

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 orders:

(1) The impugned order of regulation issued by the 1st respondent in G.O.Ms.No.142, dated 23.07.2014 is confirmed.

(2) The respondents are directed not to grant licence, No Objection Certificate (NOC) or permission for the commercial establishments / person to extract ground water for commercial usage in the absence of fixation of water Flow Meter on the Board outlet, which is to be inspected.

(3) The respondents are directed to inspect the functional quality and other established standards of the Flow Meters fixed by the persons, who all are applying for permissions / No Objection Certificate (NOC) and at the time of granting permission / No objection Certificate (NOC), the Flow Meter should be sealed properly by the respondents / Public Works Department



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(PWD) officials.

(4) The Flow Meter must be sealed in such a way to prevent any tampering by any person. Quantum of Water to be extracted by individuals, are to be fixed periodically as per the assessment to be made by the P.W.D. Authorities as per the Regulations.

(5) The respondents are directed to measure the quantum of water extracted by the establishments / persons by taking meter reading every Month and accordingly, the same is to be regulated.

(6) The respondents are directed to follow all other terms and conditions fixed for grant of licence / permission for Extraction of Ground Water for commercial usage as per the guidelines issued in G.O.Ms.No.142, Public Works Department dated 23.07.2014.

(7) The respondents are directed to register the Police complaint in the event of identifying any excess Extraction of Ground Water by tampering the Flow Meters sealed or by any other means by any 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 licence 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.



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(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 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 complaint / 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.”

9. In view of the above judgment, the petitioner cannot sell the water from his Bore Well to any other person or mis-utilise the same for personal gains or otherwise.



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10. The Authorities Competent are empowered to conduct inspection in respect of the usage of water by the petitioner from the said Bore Well.

11. With the abovesaid clarifications, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is also dismissed.

11-04-2023

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

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S.M.SUBRAMANIAM, J.

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