



W.P(MD)No.14190 of 2011

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date of Reservation	07.08.2023
Date of Pronouncement	16.08.2023

CORAM

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P(MD)No.14190 of 2011
and
M.P(MD)Nos.1, 2, 3 and 4 of 2011

1.TNPWD Senior Engineers Association,
Represented by
Er.R.V.S.Vijayakumar,
Former Chief Engineer, WRO, Tamil Nadu PWD &
State Vice President Tamil Nadu PWD
Senior Engineers Association,
S/o.R.V.Subramanian,
C-112 Sundarar Street, Alagappan Nagar,
Madurai-625 003.

2.TNPWD Senior Engineers Association,
Rep. by Er.S.R.Rengan,
Former Chief Engineer, PWD,
D-1, Jeyabharat Housing Unit-4,
Aruppukottai Main Road,
Avaniyapuram, Madurai-625 012.

: Petitioners

[2nd petitioner impleaded vide order dated 20.08.2019
in W.M.P.(MD)No.14427 of 2019]

Vs.

1.Home Secretary,
Ministry of Home Affairs,
North Block, Central Secretariat,
New Delhi-110 001.



W.P(MD)No.14190 of 2011

- 2.The Secretary,
Ministry of Environment and Forests
Government of India,
Paryavaran Bhavan,
CGO Complex, Lodi Road,
New Delhi.
- 3.The Secretary,
Ministry of Water Resources (Proper),
Room No.623, Shram Shakti Bhavan,
New Delhi-110001.
- 4.The Chief Secretary,
Government of Tamil Nadu,
Fort St. George,
Chennai-600 009.
- 5.The Secretary,
Public Works Department,
Government of Tamil Nadu,
Fort St. George,
Chennai-600 009.
- 6.The Chief Secretary,
State of Kerala,
Tiruvanathapuram.
- 7.The Director General of Police,
State of Kerala,
Tiruvanathapuram.
- 8.The Chief Engineer,
P.W.D., Madurai Region,
WRO, Thallakulam,
Madurai-2.
- 9.The District Collector,
Collectorate,
Theni District, Theni.
- 10.The Superintendent of Police,
Theni District, Theni.

: Respondents



W.P(MD)No.14190 of 2011

Prayer:

WEB COPY

Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to remove the encroachments in the Mullai Periyar Dam area in between 136 and 155 ft on the basis of the representations dated 03.12.2011.

For Petitioners : Mr.Vasanth
for M/s.T.Lajapathi Roy & Associates

For Respondents : Mr.P.Thilak Kumar
Government Pleader

ORDER

D.BHARATHA CHAKRAVARTHY, J.

This Writ Petition is filed by the Tamil Nadu PWD Senior Engineers Association represented by Mr. R.V.S.Vijayakumar and Mr.S.R.Rengan. The prayer of the petitioners in Public Interest Litigation is that a direction should be given to the respondents, namely, the Home Ministry, Ministry of Environment and Forests, Government of India and other authorities of the Central Government as well as the authorities of the State of Tamil Nadu and Kerala on the basis of the report of the Industrial Security Inspection team of the State of Tamil Nadu. The team had inspected and recommended that certain encroachments in the dam area are to be removed which include replacing the cadre of Kerala police personnel with the Central Industrial Security Force. It is the further



W.P(MD)No.14190 of 2011

case of the petitioners that repeatedly mobs are damaging the gate and other TNEB facilities at the Mullai Periyar Dam site.

2. The entire issue raised by the petitioners' Association though in Public Interest Litigation, squarely falls within the ambit of the inter-state dispute between the State of Tamil Nadu and Kerala. This writ petition was filed in the year 2011. Subsequently, the issue has been settled by the Constitution Bench of the Supreme Court of India in exercise of its powers under Article 131 of the Constitution of India, by its Judgment reported in **(2014) 4 MLJ 177 (SC)** in **State of Tamil Nadu Vs. State of Kerala and Another** which squarely covers all the issues relating to the structure and safety of the dam and the activities of the State of Tamil Nadu are clearly defined. A Supervisory Committee has also been appointed with due powers, which ensures the apprehensions expressed by the petitioners are redressed by the Committee then and there. It is essential to reproduce paragraph 223 of the said Judgment which reads as hereunder:

“....223. The powers and functions of the Supervisory Committee shall be as follows:

(i) The Committee shall supervise the restoration of FRL in the Mullaperiyar dam to the elevation of 142 ft.

(ii) The Committee shall inspect the dam periodically, more particularly, immediately before the monsoon and



W.P(MD)No.14190 of 2011

during the monsoon and keep close watch on its safety and recommend measures which are necessary. Such measures shall be carried out by Tamil Nadu.

(iii) The Committee shall be free to take appropriate steps and issue necessary directions to the two States - Tamil Nadu and Kerala – or any of them if so required for the safety of the Mullaperiyar dam in an emergent situation. Such directions shall be obeyed by all concerned.

(iv) The Committee shall permit Tamil Nadu to carry out further precautionary measures that may become necessary upon its periodic inspection of the dam in accordance with the guidelines of the Central Water Commission and Dam Safety Organisation...”

3. In view thereof, no relief can be granted in the present writ petition and no further relief is also necessary and accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.] [D.B.C., J.]

16.08.2023

NCC : Yes / No
Index:Yes/No
Internet:Yes/No
sji



W.P(MD)No.14190 of 2011

To:

- 1.Home Secretary,
Ministry of Home Affairs,
North Block, Central Secretariat,
New Delhi-110 001.
- 2.The Secretary,
Ministry of Environment and Forests
Government of India,
Paryavaran Bhavan,
CGO Complex, Lodi Road,
New Delhi.
- 3.The Secretary,
Ministry of Water Resources (Proper),
Room No.623, Shram Shakti Bhavan,
New Delhi-110001.
- 4.The Chief Secretary,
Government of Tamil Nadu,
Fort St. George,
Chennai-600 009.
- 5.The Secretary,
Public Works Department,
Government of Tamil Nadu,
Fort St. George,
Chennai-600 009.
- 6.The Chief Secretary,
State of Kerala,
Tiruvanathapuram.
- 7.The Director General of Police,
State of Kerala,
Tiruvanathapuram.
- 8.The Chief Engineer,
P.W.D., Madurai Region,
WRO, Thallakulam,
Madurai-2.



W.P(MD)No.14190 of 2011

9.The District Collector,
Collectorate,
Theni District, Theni.

10.The Superintendent of Police,
Theni District, Theni.



WEB COPY



W.P(MD)No.14190 of 2011

S.S.SUNDAR, J.
AND
D.BHARATHA CHAKRAVARTHY,J.

sjj

Pre-Delivery Order made in
W.P.(MD)No.14190 of 2011
and
M.P(MD)Nos.1, 2, 3 and 4 of 2011

16.08.2023