



W.P(MD)No.1639 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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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.1639 of 2012

and

M.P(MD)No.1 of 2012

Er.A.Kanagasabapathy

: Petitioner

Vs.

1.Government of Tamil Nadu,
Rep. by Chief Secretary,
Fort St. George,
Chennai-09.

2.The Secretary to Government,
Public Works Department,
Government of Tamil Nadu,
5th Floor, M.S.Building,
Fort St. George,
Chennai-9.

3.The District Collector,
Theni District, Theni.

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

5.The Chief Engineer,
Public Works Department, WRO,
Madurai Region, Thallakulam,
Madurai-2.

: Respondents



W.P(MD)No.1639 of 2012

Prayer:

Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to regulate the entry of Kerala Politicians and other people and assure the safety of the Mullai Periyar Dam under the occupation and the enjoyment of the respondent Government in coordination with the required agencies and establishments.

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

For Respondents : Mr.P.Thilak Kumar
Government Pleader

ORDER

D.BHARATHA CHAKRAVARTHY, J.

The petitioner, Mr.A.Kanagasabapathy, has filed this writ petition as a Public Interest Litigation directing the Government of Tamil Nadu to regulate the entry of Kerala Politicians and other people and assure the safety of Mullai Periyar Dam under the occupation and enjoyment of the Government of Tamil Nadu in coordination with the required agencies and establishments and for further or other orders.

2. It can be seen that the Mullai Periyar Dam is located in Kerala.

There was an inter-state dispute whereby the State of Kerala had



W.P(MD)No.1639 of 2012

apprehensions regarding the safety of the Dam and its capacity to withstand if water is stored up to the level of 142 feet which was necessary for storage and flow of water into Tamil Nadu through the tunnel built from the dam site. Ultimately, the dispute was decided by the Constitution Bench of the Hon'ble Supreme Court of India in exercise of powers under Article 131 of the Constitution of India, by the Judgement in ***State of Tamil Nadu Vs. State of Kerala and Another*** reported in ***(2014) 4 MLJ 177 (SC)*** in and by which, the Hon'ble Supreme Court of India answered the issues in favour of the State of Tamil Nadu by holding that the dam was stable to hold water upto the level of 142 feet and appointed a Supervisory Committee for restoration up to the elevation of 142 feet and the committee shall also periodically inspect the dam, more particularly before the monsoon and during the monsoon and keep a close watch on its safety and recommend measures which are necessary. Any such measures which are recommended by the Supervisory Committee shall be carried out by the State of Tamil Nadu. The Committee is also free to take appropriate steps and issue necessary directions to the two States-Tamil Nadu and Kerala or any of them for the safety of Mullai Periyar Dam in an emergent situation. The Committee is also empowered to permit the State of 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



W.P(MD)No.1639 of 2012

Central Water Commission and Dam Safety Organisation. For ready reference paragraph 223 of the Judgment is extracted 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 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. Therefore, it can be seen that the apprehensions expressed by the petitioner that there may be threat on account of the assembling of



W.P(MD)No.1639 of 2012

members of political party near the dam are all unfounded and the safety of the dam is ensured by the Hon'ble Supreme Court of India.

Accordingly the Supervisory Committee and both the Governments of State of Tamil Nadu and Kerala have been taking adequate care of the dam. Therefore, the writ petition filed as Public Interest Litigation filed by the petitioner cannot be entertained and its accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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

16.08.2023

NCC : Yes / No
Index:Yes/No
Internet:Yes/No
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To:

- 1.The Chief Secretary,
Government of Tamil Nadu,
Fort St. George,
Chennai-09.
- 2.The Secretary to Government,
Public Works Department,
Government of Tamil Nadu,
5th Floor, M.S.Building,
Fort St. George,
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- 3.The District Collector,
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W.P(MD)No.1639 of 2012

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5.The Chief Engineer,
Public Works Department, WRO,
Madurai Region, Thallakulam,
Madurai-2.

Pre-Delivery Order made in
W.P.(MD)No.1639 of 2012
and
M.P(MD)No.1 of 2012

16.08.2023