



W.P(MD)No.11273 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.11273 of 2015

and

M.P.(MD)No.1 of 2015

A.S.Karunakaran

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
rep. by its Secretary,
Fort St.George,
Chennai.
- 2.The District Collector,
Virudhunagar,
Virudhunagar District.
- 3.The Tahsildar,
Sivakasi Taluk,
Sivakasi,
Virudhunagar.
- 4.The Revenue Divisional Officer,
Sivakasi Taluk,
Sivakasi,
Virudhunagar District.
- 5.The Aanaiyur,
1st Grade Panchayat,
Rep. by its President,
Satchiyapuram,



W.P(MD)No.11273 of 2015

Sivakasi Taluk,
Virudhunagar District.

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6.Vinothini

7.The Secretary to Government,
Water Resources Department,
Government of Tamilnadu,
Fort St.George, Chennai.
(R7 is suo motu impleaded vide order
dated 25.07.2023)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents 1 to 5 to forbear the 6th respondent from extracting ground water for commercial purpose in the land at survey No.50/2, Annaiyur Village, Sivakasi Taluk, Virudhunagar District within the time that may be stipulated by this Court.

For Petitioner : Mr.E.Marees Kumar

For Respondents : Mr.J.Ravindran
Additional Advocate General
assisted by Mr.D.Gandhiraj
Special Government Pleader for R1 to R4 & R7

: Mr.S.Kishore Kumar for R5

: Mr.N.Tamilmani for R6

ORDER

Heard the learned counsel for the writ petitioner and the learned Additional Advocate General assisted by the learned Special Government Pleader for the official respondents.



W.P.(MD)No.11273 of 2015

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2. The allegation of the petitioner is that sixth respondent has been extracting ground water for commercial purpose from the petition mentioned patta land. Since it was submitted that the sixth respondent had been indulging in extraction of water without permission from the authorities, interim injunction was granted on 31.07.2015. The petitioner's counsel states that in view of the grant of interim order, the drawal of water has ceased.

3. When the matter was taken up for final hearing, the learned Special Government Pleader instructed by Thiru.Vinayaham, Assistant Geologist, Water Resource Department, Virudhunagar states that Sivakasi has been categorized as 'semi critical zone'. The learned Special Government Pleader also draws my attention to the order dated 03.07.2019 made in W.P.(MD)No.706 of 2019. Paragraph Nos.17 & 18 of the said order read as follows:-

“17. After having gone through all these proceedings, it become clear that, the issue has been settled, as number of Government Orders time and again were issued by the Government, as stated supra. The validity of almost all the Government orders referred to above, has also been upheld by various decisions of this Court. The governing law, as of now, is, these Government orders referred to above and under the Government order, the Panchayat Union blocks except Chennai City, have been categorised under four categories referred to above. The Panchayat Union, namely, Ottapidaram, where the petitioner's land is located, he draws water from the Bore Wells in that land, which comes under the category of semi critical and



W.P(MD)No.11273 of 2015

from that area, if at all the petitioner wants to draw water, he has to apply for necessary no objection certificate to the authorities and once he makes an application to the satisfaction of the authorities within the meaning of the categorisation made, as has been stated in the said G.Os., the application would be decided on merits and a decision would be taken thereon either to grant no-objection certificate or reject it.

18. Without even resorting to such method of applying to the authorities to get no objection certificate/license, the petitioner cannot independently run the Bore Wells and draw water continuously for commercial purposes. Such kind of continuous drawal of ground water without any no objection certificate/license definitely can be prohibited and therefore, the respondents cannot be directed to remove the seal put up by the authority, as has been sought for by the petitioner. Therefore, the prayer sought for by the petitioner deserves to be rejected. Accordingly, it is rejected. However, it is open to the petitioner to make an application to the respondents under the relevant Government orders for getting no-objection certificate or permission, as the case may be and once such application is made, the same shall be considered by the respondents, who is empowered to decide such application, on merits and in accordance with law, ie., within four corners of the governing law, that has been made in the above referred G.Os.”

4. I am inclined to dispose of the present writ petition on the same lines. So long as the sixth respondent has not obtained prior permission from the competent authority, the sixth respondent is restrained from drawing ground water from the petition mentioned survey number for commercial purposes. The sixth respondent can of-course move the competent authority and get No



W.P(MD)No.11273 of 2015

Objection Certificate / permission for drawing ground water from the petition mentioned patta land for commercial purpose. When the sixth respondent approaches the Government seeking permission, final order shall be passed by the competent authority only after putting the writ petitioner on notice. The petitioner will be entitled to offer his objection.

5. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

14.08.2023

Index : Yes / No
Internet : Yes/ No
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W.P(MD)No.11273 of 2015

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G.R.SWAMINATHAN, J.

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W.P(MD)No.11273 of 2015

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