



W.P(MD)No.20817 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.08.2023

CORAM :

**THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
and
THE HONOURABLE MR.JUSTICE P.VADAMALAI**

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A.Balamaniraj

... Petitioner

Vs.

- 1.The Additional Secretary
Government of Tamilnadu,
St. George Fort,
Chennai.
- 2.The Chief Engineer (PWD)
State Ground and Surface Water,
Resources Data Center,
Taramani,
Chennai - 600 113.
- 3.The District Collector
Thoothukudi District,
Thoothukudi.



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4.The District Revenue Officer
Thoothukudi District,
Thoothukudi.

5.The Project Director
Rural Development and Panchayatraj,
Office at Collector Office Campus,
Thoothukudi,
Thoothukudi District.

6.The Divisional Engineer (PWD)
Water Resources Center,
Tamirabarani Irrigation System,
Tirunelveli.

7.The Revenue Divisional Officer,
Thoothukudi,
Thoothukudi District.

8.The Tahsildar
Thoothukudi Taluk,
Thoothukudi District.

9.The Assistant Director (Panchayats),
Office at Collector Office Campus,
Thoothukudi,
Thoothukudi District.



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10.The Block Development Officer
Pudhukkottai Panchayat Union,
Thoothukudi District.

11.The Village President
Allikulam Village Panchayat,
Pudhukkottai Panchayat Union,
Thoothukudi District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to stop illegal transportation of the drinking water and to cancel the licenses, if any of private bore wells and to direct them to close permanently at Murugan Nagar area in Allikulam Panchayat, Thoothukudi Taluk and District by considering the petitioner's representation 01.07.2023.

For Petitioner : Mr.M.Solaisamy

For Respondents : Mr.P.Thilak Kumar, - for R1 to R9

Government Pleader

Mr.V.Sasi Kumar, - for R10 & R11

Additional Government Pleader



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ORDER

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

Heard Mr.M.Solaisamy, learned counsel for the petitioner, Mr.P.Thilak Kumar, learned Government Pleader appearing for the respondents 1 to 9 and Mr.V.Sasi Kumar, learned Additional Government Pleader appearing for the respondent 10 and 11.

2. The learned counsel for the petitioner submits that because of the illegal transportation of the drinking water from the private bore-wells, the water level is depleting. Allikulam Village is facing scarcity of water. The excessive extraction of the water from the bore-well needs to be stopped. According to the learned counsel except the three Districts in Tamil Nadu, such as, Chennai, Kancheepuram and Thiruvallur Districts, there is no legislation to regulate the extraction of water in the State.

3. The Division Bench of this Court under order, dated 04.10.2019 in W.P.No.15304 of 2019 with connected Writ Petitions had requested the State Government to bring out legislation to regulate the extraction of water in other parts of the Tamil Nadu also. The State Government has not yet implemented it.



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4. According to the learned counsel, the Water Resource Department has issued a Government Order on 28.03.2023, the committee is constituted and recommendation has been made to adopt the Ground Water Estimation Committee - 1997 Norms for estimation of the ground water resources in all the states. The directions are also issued to the Water Resources Department to take appropriate steps for rain water harvesting and artificial recharge schemes.

5. We have considered the submissions canvassed by the learned counsel for the petitioner.

6. We asked the learned Advocate for the petitioner whether any rule, regulation or executive instruction exists so as to bar an owner of the bore-well to extract water from his bore-well. The learned Advocate for the petitioner answered in the negative.

7. In the absence of any statute, regulations or executive instructions barring a person to extract water from his own bore-well, no prohibitory orders can be passed against the owner of the bore-well or the persons whom the bore-well owner had permitted to withdraw the water.



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8. It is not a case that from the public bore-wells, the unregulated water is being extracted. In case, it is the public well or public bore-well, the unregulated extraction of water takes place certainly, the petitioner can approach the authorities and the authorities can consider the grievance.

9. It is also not the case that the bore-well has been requisitioned by the Government

10. In the light of the above, the prayer as made cannot be granted. However, if the petitioner can lay hands on any executive instructions or a statute, then in that case, the petitioner may approach the authority concerned.

11. The Writ Petition stands disposed of. No costs.

[S.V.G., C.J.]

[P.V.M., J.]

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Index : Yes / No
Neutral Citation : Yes / No

RM



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