



W.P.(MD)No.10691 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED :20.03.2023

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.10691 of 2016

and

W.M.P.(MD).Nos.8291 & 8292 of 2016

Messrs.Athanur Enterprises
Rep by its Sole Proprietrix-
Mrs.S.Abirami
No.322/2, Kumbakonam Thanjavur Main Rod,
Thirupalaturai,
Papanasam, Tamilnadu 614 205.

... Petitioner

Vs.

- 1.The Secretary to Government of Tamilnadu
Public Works (R2) Department,
St Fort George,
Chennai 600 009.
- 2.The Chairman,
Tamil Nadu Pollution Control Board,
Guindy, Chennai 600 032.
- 3.The Central Ground Water Board,
Government of India-Ministry of Water Resources,
South Eastern Coastal Region,
Rep by its Regional Director,
E-1, G-Block, Rajaji Bhavan,
Besant Nagar, Chennai 600 090.



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4.The Chief Engineer,
Public Works Department,
Water Research Organization,
State Ground & Surface Water Resources Data Centre,
Taramani,
Chennai 600 113.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the entire records in connection with the impugned G.O.(Ms).No.142, Public Works (R2) Department, dated 23.07.2014, of the first respondent and quash the same.

For Petitioner :Mr.K.Hemakarhikeyan

For Respondents :Mrs.D.Farjana Ghoushia
Special Government Pleader for R1 and R4

:Mr.Vijayakumari Natarajan for R2

:No appearance for R3

ORDER

By this writ petition, the petitioner challenges G.O.(Ms).No. 142, Public Works (R2) Department, dated 23.07.2014, which relates to the extraction of ground water. In a batch of writ petitions of which W.P.No28535 of 2014 (*M/s.Shanthi Aqua Farms and others v. The Secretary to Government of Tamilndu, Public Works (R2) Department and*



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others) was the lead case, the Principal Bench of this Court disposed of the writ petitions in terms of directions issued in paragraph No.109 thereof.

Paragraph No.109 is as follows:

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



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(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 (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



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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.

(11) Each Monitoring Committee appointed by the District Collector concerned, shall consists minimum of five persons and the Committee is



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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



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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.

2. Learned counsel for the petitioner and learned Special Government Pleader submit that this writ petition is squarely covered by the above decision. Although the said decision has been assailed before the Division Bench, the said decision holds the field as on date.

3. Accordingly, this writ petition is disposed of in terms of the directions issued in paragraph No.109 of the order dated 03.10.2018 in W.P.



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(MD).No.28535 of 2014, etc. batch. There shall be no order as to costs.

Consequently, connected W.M.P.(MD).Nos.8291 & 8292 of 2016 are closed.

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NCC :Yes/No

Internet :Yes/No

Index :Yes/No

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SENTHILKUMAR RAMAMOORTHY, J.

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