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W.P.No.2460 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2024

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.2460 of 2024

and

W.M.P.Nos.2690 & 2691 of 2024

K.Selvaraj

... Petitioner

Vs.

- 1.The Chief Engineer,
Public Works Department,
Water Resources Organisation,
Town Hall, Coimbatore,
Coimbatore District.
- 2.The Superintending Engineer,
Public Works Department,
Water Resources Organisation,
Parambikulam Basin Circle,
Pollachi, Coimbatore District.
- 3.The Executive Engineer,
Public Works Department,
Water Resources Organisation,
Thirumoorthy Division, Udumalpet,
Tiruppur District.

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the 3rd respondent in his Letter No. Va.Pa/Va.A/Ko.0/464M/2023, dated 30.10.2023 and quash the same and consequently directing the respondents to construct sub sluice in nearby tail and agricultural land situated in S.No.102, 105, 107, 272 and 106 Naranapuram Village, Dharapuram Taluk, Tiruppur District at their cost.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.N.Naveen Kumar
Government Advocate

ORDER

The application submitted by the petitioner to construct sub-sluice in the tail end agricultural land situated in S.No.107, Naranapuram Village, Dharapuram Taluk, Tiruppur District at the cost of the petitioner is under challenge in the present writ petition.

2. The petitioner owns agricultural land in Naranapuram Village, Dharapuram Taluk, Tiruppur District and cultivating agricultural crops.

3. Mr.C.Prakasam, learned counsel appearing on behalf of the



petitioner would submit that the petitioner is unable to get water for irrigation purposes and only in the event of constructing sub-sluice, the water flow will reach the agricultural land belongs to the petitioner. The application submitted in this regard was rejected. Thus, the present writ petition came to be instituted.

4. The counter affidavit filed by the Executive Engineer, Parambikulam Aliyar Project, Water Resources Division reveals that Ponnapuram Village Water Users Association responded as follows. Mr.Selvaraj, Ponnapuram-Puthur Branch canal which off taking into Udumalpet canal requested to build a new sluice. A total ayacut area of 1231.36 acres are irrigated under Ponnapuram Village Water Users Association down stream side Sluice No.21. Therefore, if a new sluice is now constructed, then it will be difficult for us to get enough water for irrigation. So our ayacut farmers bound by the Ponnapuram Village Water Users Association will protest and tend to hold protests. It is pertinent to mention that there is a possibility of law and order problem and resolution cannot be passed. Also, it will be very difficult for our Irrigation Department to manage water as other farmers, who are bound by the Ayacut will request to construct a new sluice, if the permission is granted



for the construction of a new sluice at any place in the Udumalpet canal and the Ponnapuram-Puthur Branch canal.

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5. It is further submitted that another tail-end Association, Puthur Village Water Users Association Ponnapuram-Puthur Branch Canal, which off taking into Udumalpet canal, receives a ayacut area total of 1597.59 acres of irrigation for Puthur Village Water Users Association also requested to construct a new sluice down stream side of Sluice No.21 as requested by the petitioner. Therefore, if we construct a new sluice now, it will be difficult for them to get enough water for irrigation. So our ayacut farmers who are bound by the Association using Puttur village water users will protest and tend to hold protests. There is a possibility of law and order problem and resolution cannot be passed. Also, it will be very difficult for our Irrigation Department to manage water as other farmers who are bound by the Ayacut will request to construct a new sluice. It is further submitted that no permission should be granted for the construction of a new sluice at any place in the Udumalpet Canal and Ponnapuram-Puthur Branch Canal.

6. Pertinently, the authorities of Water Resources Department states



that there are objections from many Ayacutdars for construction of additional sub-sluice, which would cause prejudice to the Ayacutdars in that locality. No doubt, the authorities have to ensure equal distribution of the water to all the Ayacutdars.

7. However, such distribution is subject to availability of water, topography of agricultural lands and other mitigating factors. It requires an expert assessment and High Court in exercise of the powers of judicial review cannot direct the authorities to construct additional sluice or otherwise for distribution of water and such an exercise must be done by the expert engineers in the Water Resources Department.

8. It is for them to make an assessment. On some occasions, it is possible that some Ayacutdars may not get water on account of certain other reasons cannot be considered by the Courts. It is not as if the agricultural lands situate in vast extent and distribution of water is a greater task to the authorities and therefore, it is for the Government to regulate the water distribution for irrigation by forming guidelines.



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9. The guidelines are in force. Therefore, this Court cannot issue any direction for construction of sub-sluice as requested by the petitioner. Consequently, this Writ Petition stands dismissed. No costs. Connected Miscellaneous Petitions are closed.

05.04.2024

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes

To

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S.M.SUBRAMANIAM, J.

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