



WEB COPY

W.P.No.15011 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and**

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.15011 of 2020

and

W.M.P.Nos.18692 and 18693 of 2020

1. K.C.Kulandasamy
2. P. Ramasamy
3. R. Periyasamy @ appukutti
4. S.Palanisamy
5. S. Ponnusamy
6. N. Mohanraj
7. R. Thangavel
8. Velusamy
9. Loganathan
10. Duraisamy
11. A.Samiyappan
12. M. Shanmugasundaram
13. O. N. Palanisamy
14. P. Balamani
15. P. Saminathan

... Petitioners



Vs.

WEB COPY

1. State of Tamil Nadu,
Rep. by its Additional Chief Secretary to Government
Revenue Disaster Management Department,
Secretariat, Chennai 09
2. The Commissioner of Land Administration,
Chepauk, Chennai 05.
3. The Collector,
Erode District, Erode.
4. The Assistant Executive Engineer (W.R.D),
Public works Department Lower Bavani Basin ,
Sub Division No III, Kangayam 638 701.
5. The Assistant Engineer,
Public Works Department Irrigation Section (W.R. D),
Chennimalai 638 051, Erode District.
6. The Tahsildar,
Perundurai Erode, District.
7. The Junior Engineer (O and M),
West Pudupalayam TANGEDCO,
Chennimalai 638 051 Erode District.
8. The Executive Engineer,
TANGEDCO Erode Road,
Perundurai, Erode District.
9. C.Duraisamy
[R9 impleaded vide order dated 25.03.2024
made in W.M.P.No.8034 of 2021]

... Respondents



WEB COPY

W.P.No.15011 of 2



Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed in G.O. (Ms) No. 496, Revenue and Disaster Management Department Land Disposal Wing (LD. 6 (2) Section dated 16.09.2020 on the file of the 1st respondent confirming the order passed in Na. Ka. 3824 / 2019 / Vul dated 04.03.2019 on the file of the 3rd respondent quash the same and direct the respondents to permit the petitioners to continue their agricultural operation by using electric motor pump sets and the pipelines laid within the water spread area of the reservoir of Noyyal orathupalayam Reservoir as in the case of other agriculturists.

For Petitioner	: Mr.S.Doraisamy
For R1 to R6	: Mr.A.Selvendran, Special Government Pleader
For R7 & R8	: No appearance
For R9	: Mr.M.Karthick

ORDER

(Order of the Court was made by **S.M.SUBRAMANIAM, J.**)



WEB COPY

W.P.No.15011 of 2



The Writ Petition has been filed for calling for the records relating to the order passed in G.O. (Ms) No. 496, Revenue and Disaster Management Department Land Disposal Wing (LD. 6 (2) Section dated 16.09.2020 on the file of the 1st respondent confirming the order passed in Na. Ka. 3824 / 2019 / Vul dated 04.03.2019 on the file of the 3rd respondent quash the same and direct the respondents to permit the petitioners to continue their agricultural operation by using electric motor pump sets and the pipelines laid within the water spread area of the reservoir of Noyyal orathupalayam Reservoir as in the case of other agriculturists.

2. Equal distribution of water for irrigation to all Ayacutdars is to be ensured by the Government. The Government is empowered to regulate the water distribution for irrigation, drinking and for other purposes. Such policy decisions taken by the Government are to be scrupulously followed. Illegal tapping of water through pipelines are impermissible. All such illegal tapping of water would result in infringement of right to equal distribution to all Ayacutdars and other water users. It is the duty mandated on the Government to regulate the distribution, since water is life and the preserving the same is of paramount importance.



WEB COPY

3. In the present case, the learned counsel for the writ petitioner, Mr.S.Doraisamy would submit that permission was granted to the writ petitioner to extract water through pipelines. Subsequently, on account of construction of Dams and expansion of agricultural lands etc., the water distribution policy had underwent many changes. Therefore, the water regulation cannot be a static policy and to be changed on need basis.

4. In the present case, the Government has passed an order in G.O (Ms) No.496, Revenue and Disastrous Management Department dated 16.09.2020 providing details regarding the distribution of water. The revision petition filed by the writ petitioner was also considered by the Government.

5. The allegation that the writ petitioner has erected an electric motor in the Noyal River and carried water to the agricultural lands through pipelines was accepted by the Government. It is not in dispute that the permission was granted to the writ petitioner in the year 1980. In view of the fact that Dam was constructed and water distribution required changes, the



Government took a decision to prevent all such extraction of water through pipelines for agricultural purposes. At the outset, the policy regarding the distribution of water underwent changes and therefore, the writ petitioner cannot claim any right based on the permission granted in the year 1980. 44 years lapsed. Admittedly, many changes occurred regarding the usage of water and distribution of water for irrigation purposes. Therefore, the Government also rejected the claim of the writ petitioner for extension of permission to extract water through pipelines.

6. The learned counsel for the writ petitioner, Mr.Doraisamy would contend that several other persons are also illegally extracting water through pipelines from Noyal River by using free electricity service connection. Having decided the issue against the writ petitioner for extraction of water through electric motor by using free electricity service connection, the respondents are directed to conduct complete inspection of such extraction of water with or without permission through electric motors by using free electricity service connection and remove all those pipelines and disconnect free electricity service connection for unauthorized usage. The respondents 3 to 8 are directed to conduct inspection in respect of extraction of water



WEB COPY

through pipelines from Noyal River and remove the same and ensure equal distribution of water to all. Such an action is directed to be completed within a period twelve weeks from the date of receipt of a copy of this order.

7. Having taken a decision, the respondents must ensure equal distribution of water to all the Ayacutdars in that locality and water from Noyal River are to be utilized for other purposes as per Government schemes and policies. The writ petitioner cannot seek permission for extraction of water through pipeline based on the permission granted in the year 1980. In view of the changed circumstances and on account of efflux of time and considering the fact that the water distribution policy of the Government underwent many changes, we are not inclined to interfere with the order of the Government, which is under challenge in the present Writ Petition.

8. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

(S.M.S.,J.) (K.R.S.,J.)
25.03.2024

skr

3/3



Index : Yes
Speaking order

WEB COPY

W.P.No.15011 of 2



To

1. The Additional Chief Secretary to Government of Tamil Nadu,
Revenue Disaster Management Department, Secretariat, Chennai 09
2. The Commissioner of Land Administration,
Chepauk, Chennai 05.
3. The Collector, Erode District, Erode.
4. The Assistant Executive Engineer (W.R.D),
Public works Department Lower Bavani Basin ,
Sub Division No III, Kangayam 638 701.
5. The Assistant Engineer,
Public Works Department Irrigation Section (W.R. D),
Chennimalai 638 051, Erode District.
6. The Tahsildar, Perundurai Erode, District.
7. The Junior Engineer (O and M),
West Pudupalayam TANGEDCO,
Chennimalai 638 051 Erode District.
8. The Executive Engineer, TANGEDCO Erode Road,
Perundurai Erode District.



WEB COPY

W.P.No.15011 of 2



S.M.SUBRAMANIAM, J.
and
K.RAJASEKAR, J.

skr

W.P.No.15011 of 2020

25.03.2024
3/3