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W.P.No.20700 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.20700 of 2023
and
W.M.P.No.22907 of 2023

K.Dhatchayani

.. Petitioner

VS

1.The Chief Engineer,
Water Resource Department (WRD),
State Ground and Surface Water Resource Data Centre,
Tharamani, Chennai – 600 113.

2.The Executive Engineer,
Water Resource Department (WRD),
Ground Water Division, Tharamani,
Chennai – 600 113.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus to direct the respondents to take action against the illegal construction of borewell and extraction of huge quantity of ground water from property in S.Nos. 133/1 (2 Acres 16 cents) & 133/2A (24 cents) situated at Chembarambakkam Village, Poonamallee Taluk, Thiruvallur District by considering the petitioner's representation dated 15.03.2023 within the time stipulated by this Court.

For Petitioner : Mr.AR.Balaji

For Respondents : Mr.Stalin Abhimanyu
Additional Government Pleader

ORDER

Read this order in continuation of and in conjunction with order dated 07.06.2024 that reads as follows:-

"This matter is listed today under the caption



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'for clarification'. After hearing the parties, order dated 04.06.2024 is recalled and the following order is passed.

2.This writ petition has been filed seeking a writ of mandamus directing the respondents to inspect and ascertain the quantum of illegally removed mineral and take appropriate action for illicit transportation of sand from the property in S.Nos.133/1 (2 Acres 16 cents) and 133/2A (24 cents) at Chembarambakkam Village, Poonamallee Taluk, Thiruvallur District ('land'/'land in question').

3.The respondent has filed a counter dated 13.10.2023, wherein at paragraphs 6 to 8 they state as follows:

'6.With regards to the averments made in para 7, I respectfully submit that the 3rd Respondent has not obtained any permission from the authorities, to extract and selling the Groundwater through tanker lorries. Abstraction of groundwater without obtaining any permission for commercial purposes is illegal. I respectfully submit that as per G.O. (Ms.) No.142 Public Works (R2) Department, dated 23.07.2014, 1st Respondent is the competent authority for issuing the No Objection Certificate for drawal and transportation of groundwater for Packaged Drinking Water Units, Industries, Infrastructures, etc in Semi Critical and Safe Firkas (as per recent categorisation G.O. (Ms.)No.15 Water Resources (R1) department dt:28.03.2023). However, there is no provision in the G.O. (Ms.) 142 for sale of raw Groundwater through tanker lorries.

7.I respectfully submit that the petition was received in this office on 21.03.2023 and accordingly field inspection was carried out. From the field inspection, it is known that the 3rd Respondent is illegally extracting groundwater and selling through tanker lorries.

8.I respectfully submit that regulation of groundwater in the District is monitored by the District Monitoring Committee in the respective Districts headed by District Collector who is the Chairman of the Committee.

Honourable High Court of Madras



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W.P.No.28535 to 28539 of 2014 and etc.,
batch cases order dated 03.10.2018 as
detailed below:-

The Executive Engineer and Assistant Director (Geology), Ground Water Division, State Ground and Surface Water Resources Data Centre concerned is the Member. Any violation committed by the licensee / illegal extraction will be inspected by Committee Members and factual report will be submitted to the Chairman of the District Monitoring Committee. Based on the report, action will be taken by the District Monitoring Committee to seal the unit and to take criminal action as mentioned in para 109(13) of the order.

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 under the provisions of Indian Penal Code (IPC).

The report on the facts of this illegal extraction communicated on 09.10.2023 to the Thiruvallur District collector who is the chairman of District level monitoring committee.'

4.Learned Additional Government Pleader is unaware as to the present status of the matter and whether any action has been taken by the Collector, Thiruvallur District after 09.10.2023 when the report of the illegal extraction was intimated to him.

5.It is incumbent that the report of the illegal extraction of water be acted upon immediately. Hence, necessary action will be initiated forthwith, if not already done.

6.Since the District Collector is not a party to this order, a copy of this order shall be communicated to him forthwith for necessary action by the learned Additional Government Pleader. Orders will be passed within a period of four weeks from today, in line with the principles of natural justice and in accordance with law.

7.List on 05.07.2024 'for compliance'."



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2. Compliance report has been filed by R2 that reads as

follows:-

"1. I am the Executive Engineer, Water Resource Department, Ground Water Division, Tharamani, Chennai – 113 and as such I am well acquainted with the facts of the case. I am the 2nd Respondent herein and I am competent to file this Compliance report.

2.I respectfully submit that the Petitioner has filed this Writ Petition, seeking to direct the Respondents to take action against the illegal extraction of ground water.

3. I respectfully submit that the Hon'ble High Court of Madras in its Interim Order dated 07.06.2024 direct's the District Collector / Chairman of the District Level Monitoring Committee for Ground Water, Thiruvallur to take necessary action. Accordingly the same has been communicated to the District Collector / Chairman of the District Level Monitoring Committee for Ground Water, Thiruvallur along with field inspection report on illegal extraction of Ground Water through water tankers / tanker lorries by Mr.T.D.Shankar in the premises mentioned by the petitioner on 08.07.2024 (Annexure I).

4.It is submitted that the District Collector, Thiruvallur has convened the District Level Monitoring Committee meeting on 15.07.2024. Based on the deliberations, the District Collector, Thiruvallur has decided and passed orders vide proceedings Rc.No.1419624/U1/2024 dated 16.07.2024(Annexure II) to seal the borewells and disconnect the electricity connection.

5. It is submitted that the borewells were sealed by the officials (Revenue Divsional Officer, Thiruvallur, Tahsildar, Poonamallee, Executive Engineer, Water Resources Department) on 18.07.2024 and the photographs are enclosed as the annexure – III.

6. It is submitted that the Interim Order passed by the Hon'ble High Court of Madras 07.06.2024 is



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hereby complied."

3. Petitioner expresses satisfaction with the level of compliance.

4. Recording the contents of the status report dated 22.07.2024, this writ petition is closed. No costs. Connected miscellaneous petition is closed.

22.07.2024

Index:Yes/No
Neutral Citation:Yes
ssm

To

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Water Resource Department (WRD),
State Ground and Surface Water Resource Data Centre,
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- 2.The Executive Engineer,
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Ground Water Division, Tharamani,
Chennai – 600 113.



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DR. ANITA SUMANTH,J.

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