



W.P.No.24432 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.24432 of 2023

and

W.M.P.No.23872 of 2023

S.Deivasigamani

... Petitioner

Vs.

- 1.The Principal Secretary to Government,
Public Works Department,
The Secretariat,
St. George Fort,
Chennai - 600 009.
- 2.The Chairman Cum Managing Director,
TANGEDCO,
6th Floor, TANTRANSO Building,
No. 144, Anna Salai,
Chennai -600 002.
- 3.The Commissioner,
Hindu Religious And Charitable Endowments Department,
No. 119, Uthamar Gandhi Road,
Chennai -600 034.
- 4.The Engineer-In-Chief,
(Water Resources And Organization), &
Chief Engineer (General), Public Works Department,
Chepauk -600 005.



W.P.No.24432 of 2023

5.The District Collector,
The District Collectorate,
Erode.

6.The Chief Engineer,
Water Resources And Organization And
Public Works Department,
Town Hall, Coimbatore.

7.The District Revenue Officer,
Office Of The District Revenue Office,
Erode District.

8.The Superintending Engineer,
TANGEDCO, EDC/ Gobi,
Tiruppur Road, Vettaikarankovil,
Nagadevanpalayam Post, Gobichettipalayam,
Erode District - 638 476.

9.The Revenue Divisional Officer,
Office of The Revenue Divisional Officer,
Gobichettipalayam.
Erode District.

10.The Divisional Engineer,
Department of Highways,
Office of The Divisional Engineer,
Moolapalayam,
Erode District - 638 002.

11.The Assistant Commissioner,
Hindu Religious And Charitable Endowments Department,
Erode Zone,
Erode.

12.The Executive Engineer,
TANGEDCO, Gopichettipalayam,
EDC/Gobi,
Erode District.



W.P.No.24432 of 2023

- 13.The Inspector of Police,
Economic Offences Wing,
State Bank Road,
Erode District.
- 14.The Assistant Divisional Engineer,
Highways Department,
(Construction And Maintenance)
Bhavani, Erode District.
- 15.The Assistant Executive Engineer,
Public Works Department,
Anthiyur, Erode District.
- 16.The Tahsildhar,
Anthiyur Taluk,
Erode District.
- 17.The Block Development Officer,
Block Development Office,
Anthiyur Taluk,
Thavuttupalayam,
Anthiyur, Erode District.
- 18.Kaalingaraayan Paasana Madhagu Vivasaya Sangam,
Rep By Its Member Palanikumar,
Kuttampalayam, Naduppaalayam, Kodumudi,
Erode District -638 151.
- 19.Bhavani Nathipasanavivasayeegal Sangam,
Rep By Its President,
Mr. Subithalapathi,
No. 232, Kacheri Street,
Thadapalliarakankottai,
Gobichettipalayam, Eroder- 638 452.
- 20.K.K. Sreerangan,



W.P.No.24432 of 2023

21.Shree Mahasakthi Neeryettra Paasana Vivasayeegal Sangam,

Represented By Its Members,

N. Subramani,

S/O. Nallasamy,

Puliyamarathottam,

Anthiyur Colony,

Michaelpalayam Post, Anthiyur,

Erode -638 501.

22.Executive Engineer,

Bhavanisagar Dam Division,

Bhavani - 638 451.

23.Assistant Executive Engineer,

Water Resources And Organization And

Public Works Department,

Bhavani Division,

Bhavani - 638 301

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the Respondent nos. 1 to 17 herein to take necessary legal actions in the light of the petitioners representation dated 04.08.2022 and the report which is to be filed by the aforementioned independent committee, within a time frame fixed by this Hon'ble Court.

For Petitioner : Mr.Meiyappan Mohan

For Respondents : Mr.T.Venkatesh Kumar, Spl.G.P.
[for R.1, 4, 6, 14, 15, 17, 22 & 23]

: Mr.U.Baranidharan, AGP
[for R.5, 7, 9, 10 & 16]



W.P.No.24432 of 2023

: Mr.K.Karthikeyan, Govt. Advocate
(AR CCE) [for R.3 & R.11]

: Mr.I.Syed Sibghtulla, S.C. for
TANGEDCO, for [R.2, 8 and 12]

: Mr.S.Vinoth Kumar, Govt. Advocate
(Crl.Side) [for R.13]

: Mr.K.Sudhakar [for R.19]

: Mr.N.Manokaran [for R.20]

: No appearance [for R.17 and 21]

ORDER

The writ of mandamus has been instituted to direct the respondents 1 to 17 to take necessary legal actions based on the petitioner's representation dated 04.08.2022.

2. The petitioner states that he is a farmer and doing agricultural activities in his lands in S.F.No.382/2 situated in Nagalur Village for the past several decades. The petitioner raised several allegations relating to theft and misuse of water from Bhavani river in Erode District.

3. Water is being capable of stolen and therefore, theft of water is an



W.P.No.24432 of 2023

offence under the Indian Penal Code. That being the legal position, theft of

water at no circumstances be permitted by the authorities. Water is life.

Equal distribution of water is paramount.

4. In the present case, distribution of water for irrigation ought to be made based on the Act, Rules and Regulations or the Government orders in force. No Ayacutdars / Agiruculturists can be permitted to commit theft or misuse of water or extract water in an illegal manner by laying pipelines or by using motor pumps.

5. Equal distribution of water for irrigation purposes have to be made by following the Rules and Regulations in force. The Government has already formed regulations to regulate the water for irrigation from rivers. The water being utilized for various purposes and it is to be regulated by the Department of Water Resources Organisation, Government of Tamil Nadu with the assistance of the Revenue Authorities, Public Works Department Authorities and the Police Authorities.

6. Many instances of stealing of water illegally through pipelines and by using motor pumps are noticed by the authorities. In some cases, the authorities have colluded and allowed the agriculturists to extract water



W.P.No.24432 of 2023

through pipelines and by using heavy motor pumps. All such persons involved in such illegal activities are liable to be prosecuted and criminal cases are to be registered as per the directions issued by this Court in a similar case in ***W.P.Nos.10545 of 2015 and 957 of 2016 dated 06.01.2022.***

Directions issued in the said case are as under:-

“47. Considering the factums established the following orders are passed:

(i)The Executive Engineer, Public Works Department, Water Resource Organisation, Coimbatore; the Chief Engineer, Water Resource Organization, Coimbatore; the Superintending Engineer, Water Resource Organization, Coimbatore are directed to review the permission granted for extraction of water by private individuals and reassess the situations prevailing and accordingly regulate the same in accordance with the Government policy in force.

(ii)The Executive Engineer, Public Works Department, Water Resource Organisation, Coimbatore; the Chief Engineer, Water Resource Organization, Coimbatore; the Superintending Engineer, Water Resource Organization, Coimbatore; the District Collector, Coimbatore; the District Collector, Tiruppur; the Tahsildar, Pollachi, Coimbatore, the Tahsildar, Kangayam, Tiruppur with the assistance of the Police



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W.P.No.24432 of 2023

department intensify the operations of tracing out illegal tapping of water in the entire locality and register criminal case if theft of water is identified or any mischief has been committed.

(iii) The Executive Engineer, Public Works Department, Water Resource Organisation, Coimbatore; the Chief Engineer, Water Resource Organization, Coimbatore; the Superintending Engineer, Water Resource Organization, Coimbatore and the Police authorities on registration of criminal case communicate the same to the TANGEDCO authorities for effecting disconnection of electricity services.

(iv) The Executive Engineer, Public Works Department, Water Resource Organisation, Coimbatore; the Chief Engineer, Water Resource Organization, Coimbatore; the Superintending Engineer, Water Resource Organization, Coimbatore; the District Collector, Coimbatore; the District Collector, Tiruppur; the Tahsildar, Pollachi, Coimbatore; the Tahsildar, Kangayam, Tiruppur are directed to blacklist the persons / farmers against whom criminal cases are registered, from availing the Government Welfare Schemes of Agriculture loan, subsidies for Seeds, Fertilizer etc., with the assistance of Agriculture and Horticulture Departments.

(v) The Executive Engineer, Public Works Department, Water Resource Organisation, Coimbatore;



W.P.No.24432 of 2023

the Chief Engineer, Water Resource Organization, Coimbatore; the Superintending Engineer, Water Resource Organization, Coimbatore; the District Collector, Coimbatore; the District Collector, Tiruppur shall seek the assistance of respective Superintendent of Police for nabbing the offenders through local Police officials, informers and by operating drone cameras.

(vi)The respective official respondents are directed to issue appropriate instructions to all their respective subordinates for effective co-ordination of all the Government departments concerned for controlling the theft of water and mischief which are offences under IPC.

(vii)In order to ensure effective implementation of the directions issued by this Court as above, this case is directed to be listed under the caption ?For Reporting Compliance? on 25.01.2022 before this Court.”

7. In the present case, the petitioner states that several such illegalities, brought to the notice of the competent authorities, are not looked into properly. Thus, the petitioner is constrained to move the present writ petition. The Government implemented the order and issued various circulars regulating the water distribution for irrigation purposes.

8. With reference to the complaint, Mr.N.Manokaran, learned



W.P.No.24432 of 2023

counsel appearing on behalf of the private respondents would submit that the respondents are not extracting water illegally and they have been granted permission by the competent authorities.

9. In this regard, the official respondents are bound to verify the correctness of the permission and extraction of water and regulate the same in consonance with the rules and regulations. If any permission has been granted illegally, such permissions are to be cancelled. If the permission are granted in accordance with the regulation, that alone is to be permitted. Any such permission should not cause infringement of the right of other Ayacutdars /Agriculturists for equal distribution of water for irrigation purposes. Grant of permission for extraction of water should not affect the rights of other agriculturists in that locality. Therefore, equal distribution of water must be ensured by the competent authorities and all the illegalities, irregularities regarding usage of water for irrigation and other purposes are to be regulated in the manner known to law by the authorities. In the event of any collusion on the part of the authorities of the Government Department, they are liable to be prosecuted under criminal laws as abettors, apart from initiating departmental disciplinary proceedings under the service rules. The respective District Collectors are bound to monitor



W.P.No.24432 of 2023

the activities of utilization of water for irrigation and other purposes and
illegalities are to be immediately addressed and the offenders are to be
prosecuted in the manner known to law.

10. Accordingly, the writ petition stands disposed of. No costs.
Consequently, connected miscellaneous petition is closed.

(sha)
Index : Yes
Speaking Order
Neutral Citation : Yes

26.04.2024

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- 2.The Chairman Cum Managing Director,
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W.P.No.24432 of 2023

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WEB COURT

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W.P.No.24432 of 2023

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WEB COPY

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W.P.No.24432 of 2023

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W.P.No.24432 of 2023

S.M.SUBRAMANIAM. J.,

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W.P.No.24432 of 2023

26.04.2024