



WEB COPY

WA No. 316 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-03-2025

CORAM

THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

WA No. 316 of 2024

and

CMP.No.1952 of 2024

1. Chennai Metro Water Supply and Sewerage Board,
Rep. by its Managing Director, 1, Pumping Station Road,
Chintadripet, Chennai - 600 002.

2.The Controller Of Finance,
Finance Department, Chennai Metro Water Supply and
Sewerage Board,
1, Pumping Station Road, Chintadripet, Chennai - 600 002.

3.The Area Engineer XI,
Chennai Metro Water Supply and sewerage Board,
1, Pumping Station Road, Chintadripet, Chennai - 600 002.

Appellant(s)

Vs

Sakthi Nagar Residents Welfare Association,
Rep. by its Secretary, M. Selvaraj, Regd. Office at 9/29, 3rd
Street, Somasundaram Avenue, Sakthi Nagar, Porur,
Chennai - 600 116.

Respondent(s)



PRAYER

Writ appeal filed under Clause 15 of Letters Patent to set aside the order

W.P.No. 25452 of 2015 dated 11.04.2022.

For Appellant(s): Mr.Paul Sunder Singh
Standing Counsel for CMWSSB

For Respondent(s): M/s. P.Srividhya

ORDER

(Order of the Court was made by S.M.Subramaniam J.)

Writ order dated 11.04.2022 passed in W.P.No.25452 of 2015 is under challenge in the present intra court appeal.

2. The respondent Association instituted the writ petition challenging the demand notice dated 13.04.2015 issued to the respondent Association fixing the monthly water charges for domestic connection at Rs.150/- for Porur Town Panchayat area.

3. It is not in dispute that prior to the year 2011, the subject property was falling within the territorial jurisdiction of Porur Town Panchayat.

Subsequently, Porur Town Panchayat has been merged with Greater Chennai



WEB COPY

and Government issued orders to that effect. Thus, the basic amenities including water connections and supply are brought under the control of the Chennai Metropolitan Water Supply and Sewerage Board. After merger of Panchayat area within the Chennai City Corporation, the Government amended Section 87 of the Chennai Metropolitan Water Supply and Sewerage Act, 1978 (hereinafter referred to as 'the Act'). The amendment was notified in Tamil Nadu Government Gazette on 23.02.2012 giving effect to the amendment with effect from 25.10.2011. The amendment notified reads as under:

Act No.8 of 2012

An Act further to amend the Chennai Metropolitan Water Supply and Sewerage Act, 1978.

Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Sixty-third year of the Republic of India as follows:-

1. (1) This Act may be called the Chennai Metropolitan Water Supply and Sewerage (Amendment) Act, 2012.

(2) It shall be deemed to have come into force on the 25th day of October 2011.

2. To section 87 of the Chennai Metropolitan Water Supply and Sewerage Act, 1978, the following proviso shall be added, namely:-

"Provided that all taxes, fees and duties, in respect of water supply and sewerage services as levied by the local authority concerned before the date of the such extension, shall be deemed to have been levied by the Board under the provisions of this Act and shall continue to be in force accordingly, until such taxes, fees and duties are revised, cancelled or superseded by anything done or any action taken under this Act."



WEB COPY

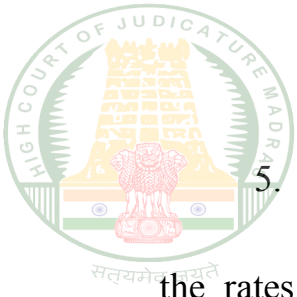
3. (1) The Chennai Metropolitan Water Supply and Sewerage (Amendment) Ordinance, 2012 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

(By order of the Governor)

4. The amendment under Section 87 of the Act remains unchallenged.

As per the amendment, the Chennai Metropolitan Water Supply and Sewerage Board is empowered to collect water charges prevailed prior to the date of merger by the Panchayat. Accordingly, the respondent Association was paying water charges from the year 2008 onwards. When an amendment has been brought in to collect the charges which were prevailing prior to the merger of Panchayat area to Chennai Corporation area, the said amendment is to be given effect to and the demand notice challenged in writ petition cannot be interfered with. The demand notice has been issued in consonance with Section 87 of the Act and therefore, the relief allowing the respondent association to pay water charges applicable to Chennai area cannot be granted.



5. The Writ Court while considering the issues made observation that the rates have been escalated from Rs.50/- to Rs.75 as an adhoc measure.

WEB COPY

Therefore, the respondent Association shall continue to remit the charges at the prevailing rate for three months and in between the new schedule of rates must be arrived by the Board in a scientific manner. The writ Court has made a finding that the water charges to be recovered must be standardised and finalised in an uniform manner. The prevailing rates are causing discrimination amongst the residents in Chennai City area and the residents of the newly added area by incorporating the Panchayat area into urban area.

6. When statute contemplates rate to be recovered towards water charges, in the absence of any challenge made, High Court cannot modify the charges. Fixing of water charges is the policy decision to be taken by the Government and the Board. The expenditure involved, charges to be recovered are administrative decisions to be taken by way of policy and therefore, the fixation of water charges is falling beyond the realm of the powers of Judicial review conferred on the High Court under Article 226 of the Constitution of India.



WEB COPY

7. However, if any such rates are causing discrimination or such charges are otherwise fixed based on certain additional expenditure or otherwise are to be assessed by the Government in consultation with the Water Supply Board. Such an exercise cannot be undertaken by the writ Court. Mere change of rate for erstwhile Panchayat area cannot be a ground to set aside the demand notice nor the High Court can fix rate regarding water and sewerage charges. It depends on various factors including technical assessment etc., which all are to be undertaken by the Board in consultation with the experts.

8. Therefore, this Court is of the considered opinion that the charges as applicable to be recovered. However, the discrimination, if any, may be taken into consideration for the purpose of fixing rates in an uniform manner, so as to redress the grievances of the public and by adopting a pragmatic approach.



With the above observations, the order dated 11.04.2022 passed in

W.P.No.25452 of 2015 is set aside and the Writ Appeal stands **allowed**. No

costs. Consequently, connected miscellaneous petition is closed.

(S.M.SUBRAMANIAM J.) (K.RAJASEKAR J.)

20-03-2025

veda

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. Chennai Metro Water Supply and
Sewerage Board,
Rep. by its Managing Director,
1, Pumping Station Road,
Chintadripet, Chennai - 2.

2. The Controller Of Finance,
Finance Department, Chennai Metro Water Supply and Sewerage Board,
1, Pumping Station Road, Chintadripet, Chennai - 2

3. The Area Engineer XI,
Chennai Metro Water Supply and sewerage Board,
1, Pumping Station Road, Chintadripet, Chennai - 02



WEB COPY

WA No. 316 of 2



S.M.SUBRAMANIAM J.
AND
K.RAJASEKAR J.
veda

WA No. 316 of 2024

20-03-2025