

2023 LiveLaw (SC) 838

IN THE SUPREME COURT OF INDIA

B.R. GAVAI; J., PAMIDIGHANTAM SRI NARASIMHA; J., PRASHANT KUMAR MISHRA; J.
MISCELLANEOUS APPLICATION NO. 3127/2018 IN C.A. NO. 2453/2007; 21-09-2023

THE STATE OF KARNATAKA BY ITS CHIEF SECRETARY

versus

STATE OF TAMIL NADU STATE OF TAMILNADU BY ITS CHIEF SECRETARY

Interstate Water Dispute - Supreme Court refuses to interfere with Cauvery Water Regulatory Committee (CWRC) Order directing Karnataka to release 5000 cusecs to Tamil Nadu.

(Arising out of impugned final judgment and order dated 16-02-2018 in C.A. No. 2453/2007 passed by the Supreme Court of India)

For Petitioner(s) Mr. Mukul Rohatgi, Sr. Adv. Mr. V. Krishnamurthy, Sr. Adv. Mr. G. Umapathy, Sr. Adv. Mr. P. Wilson, Sr. Adv. Mr. N. R. Elango, Sr. Adv. Mr. D. Kumanan, AOR Mr. Shyam Divan, Sr. Adv. Mr. S.S. Javali, Sr. Adv. Mr. Shashi Kiran Shetty, AG, Karnataka Mr. Mohan V. Katarki, Sr. Adv. Mr. R.S. Ravi, Sr. Adv. Mr. V. N. Raghupathy, AOR Mr. Mayank Jain, Adv. Mr. Sudipto Sircar, Adv. Mr. Aditya Bhat, Adv. Ms. Adoorya Bomakka Harish, Adv. Mr. S. Mahendran, AOR For Respondent(s) Mrs. Aishwarya Bhati, A.S.G. Mr. Wasim Quadri, Sr. Adv. Mr. Chanakya Dwivedi, Adv. Mr. Digvijay Dam, Adv. Mr. Ashok Panigrahi, Adv. Mr. Arvind Kumar Sharma, AOR Mr. C.S. Vaidyanathan, Sr. Adv. Mr. Aravindh S., AOR Mr. Abbas, Adv. Mr. Dushyant Dave, Sr. Adv. Mr. Rohit Sharma, Adv. Mr. Nikhil Purohit, Adv. Mr. Jatin Lalwani, Adv. Mr. Akshat Malpani, Adv. Ms. Ayushi Gaur, Adv. Mr. D. Kumanan, AOR Mr. R. Nedumaran, AOR Mr. V. N. Raghupathy, AOR Mr. Rajesh Mahale, AOR Mr. Ramesh Babu M. R., AOR Mr. K. V. Vijayakumar, AOR Mr. B. Balaji, AOR Mr. Anand Sanjay M. Nuli, Adv. Ms. Akhila Wali, Adv. Mr. Nanda Kumar K.B., Adv. Mr. Shiva Swaroop, Adv. Ms. Nandini Pandey, Adv. Mr. Dharm Singh, Adv. Mr. Suraj Kaushik, Adv. Mr. Agam Sharma, Adv. Ms. Nuli & Nuli Mr. Shailesh Madiyal, Adv. Mr. Mahesh Thakur, AOR Mr. Shivamm Sharma, Adv. Mrs. Geetanjali Bedi, Adv. Mr. Ranvijay Singh Chandel, Adv. Ms. Anusha R, Adv. Mr. M.P. Parthiban, AOR Ms. Priyaranjani Nagamuthu, Adv. Mr. R. Sudhakaran, Adv. Mr. T. Hari Haran Sudhan, Adv. Mr. Bilal Mansoor, Adv. Mr. Shreyas Kaushal, Adv. Mr. Subashchandra Sagar, Adv. Mr. Hemant Kumar Sagar, Adv. Mr. E.C. Vidyasagar, Adv.

ORDER

M. A. NO. 1871/2023 IN C.A. NO. 2453/2007 & M.A.....@ DIARY NO.38871/2023 IN C.A. NO. 2453/2007

1. M.A.....@ Diary No.38871/2023 is taken on Board.
2. Shri Mukul Rohatgi, learned senior counsel appearing for the State of Tamil Nadu, submits that though the Cauvery Water Regulation Committee (CWRC) in its meeting dated 28th August, 2023 has found that the State of Tamil Nadu, even after taking into consideration drought situation was entitled to release of water at the rate of 7200 cusec per day in the order, has abruptly reduced the water to 5000 cusec per day at Biligundulu. He further submits that the higher authority i.e. Cauvery Water Management Authority (CWMA) has also mechanically approved the decision of the CWRC.
3. As against this, Shri Shyam Divan, learned senior counsel appearing for the State of Karnataka, submits that as a matter of fact the decision directing release of water at the rate of 5000 cusec per day is against the interest of Karnataka. He submits that, as a matter of fact, taking into consideration the needs of State of Karnataka, the authorities ought not to have directed release of water at the rate of more than 3000 cusec per day.
4. Both the Authorities i.e. CWRC and CWMA consists of the various experts from the field of water resource management, agriculture etc. The CWRC while passing order dated 28th August, 2023 has taken into consideration various factors. Some of the factors that it has taken into consideration are -

- i. The distress conditions in Cauvery Basin had increased over the last fifteen days.
- ii. The percent departure over normal for the period 01.06.2023 to 27.08.2023 has more deficit in the upper catchment of the Cauvery Basin.
- iii. The reservoirs in the Cauvery basin in the State of Karnataka are mainly dependent on the South-West monsoon, period for which is more than 60% over and the reservoirs in the State of Tamil Nadu has also the advantage of second monsoon (North-East monsoon).
- iv. The live storage in the reservoirs in the State of Karnataka has depleted due to deficit rains and have to conserve water for meeting the drinking water needs of the city of Bengaluru, Mysuru and Mandya district etc. evaporation losses, environmental flow requirements etc. for whole of the remaining year and also irrigation in a reduced area.
5. After taking these factors into consideration, both the Authorities have directed the State of Karnataka to release water from Krishna Raja Sagara and Kabini put together so as to realize 5000 cusec per day of water at Biligundulu for the next fifteen days.
6. The Authorities would be regularly meeting at the interval of fifteen days to assess the situation for the relevant period and direct the release of water.
7. We are of the considered view that the factors which were taken into consideration by both the authorities cannot be said to be irrelevant or extraneous.
8. In that view of the matter, we are not inclined to interfere.

These applications are, therefore, rejected.

9. Pending applications, including application(s) for impleadment/intervention shall stand disposed of.

I.A. NOS. 84201/2022 & M.A. NO. 1869/2023 & REST OF THE MATTERS

List after two weeks.

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