

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

I.A. No. 1 in I.A. No. 5 & I.A. Nos. 5-6 in  
ORIGINAL SUIT NO. 3 OF 2002

STATE OF TAMIL NADU

Plaintiff (s)

VERSUS

STATE OF KARNATAKA & ORS.

Defendant(s)

(for directions and office report)

Date: 04/02/2013 These IAs were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA  
HON'BLE MR. JUSTICE J. CHELAMESWAR  
HON'BLE MR. JUSTICE MADAN B. LOKUR

For Plaintiff(s)

State of Tamil Nadu

Mr. C.S. Vaidyanathan, Sr. Adv.  
Mr. Guru Krishna Kumar, A.A.G.  
Mr. Subramoniam Prasad, Adv.  
Mr. G. Umapathy, Adv.  
Mr. C. Parmasivam, Adv.  
Mr. B.Balaji, Adv.

For Defendant (s)

State of Karnataka

Mr. F.S. Nariman, Sr. Adv.  
Mr. Anil B. Divan, Sr. Adv.  
Mr. S. Vijay Shankar, Adv. Gen.  
Mr. Mohan V. Kararki, Adv.  
Mr. V.N. Raghupathy, Adv.  
Mr. Brijesh Kalappa, Adv.  
Mr. S.C. Sharma, Adv.  
Mr. Ranvir Singh, Adv.

State of Kerala

Mr. Ramesh Babu M.R., Adv.

Mr. G. Prakash ,Adv. (Not Present)

Mr. H.P. Raval, A.S.G.  
Mr. S. Wasim A. Qadri, Adv.  
Ms. Rashmi Malhotra, Adv.  
Mr. D.S. Mahra, Adv.  
Mr. Alok Kumar, Adv.  
Mr. Shreekant N. Terdal ,Adv

U.T., Puducherry

Mr. V.G. Pragasam ,Adv

UPON hearing counsel the Court made the following

O R D E R

There is conflicting stand of the two States - Tamil Nadu and Karnataka - on the issue of standing crop.

According to Tamil Nadu, as of today, 6 Lakh Acres of its delta region is under single samba paddy crop. 3 Lakh Acres of this area will require two wetting and the remaining 3 Lakh Acres one wetting and in all the requirement of water for this crop is 9 TMC.

In the affidavit filed by Karnataka today, it is stated that about 40% of the area has already been harvested. In 50% of the area the crop is ready for harvest. As regards remaining 10% of the area, it is stated that it is at the stage of physiological maturity and even in this area no water is required as the crop is in maturity stage.

Having regard to the above controversy, we are of the view that the Chairman, Central Water Commission (CWC) may be requested to appoint an Expert Committee of three members who shall visit the subject area - delta region of Tamil Nadu comprising of Thiruvavoor, Tanjavur and Nagapathanam districts and report to this Court about the status of paddy crop in that area latest by February 6, 2013 before the Court closes.

In the meanwhile, Tamil Nadu may release 2 TMC water from its storage to save the standing crop. It is made clear that irrespective of the report that may be given by the Expert Committee, Karnataka shall have to release 2 TMC of water to replenish Mettur.

The Registry shall send this order to the Chairman, CWC by e-mail as well as inform him telephonically forthwith.

The final decision was given by the Cauvery Water Disputes Tribunal (CWDT) on February 5, 2007. The final decision has not been notified so far. On January 4, 2013, this Court noted the agreement of concerned States that they did not have any objection to the final decision by CWDT being notified without prejudice to their rights and contentions raised in the pending Appeals. This Court also noted the statement of Mr. H.P. Raval, learned Additional Solicitor General that the final decision by the Central Government for publication is expected by January 31, 2013.

We are informed by Mr. Raval that Chief Secretary, Karnataka has communicated to the Government of India that he would need orders from the concerned functionaries of the State and communicate the same to them but it has not been done so far.

Be that as it may, we are of the view that there was no necessity of entertaining any further request from Karnataka insofar as publication of the final decision by CWDT was concerned as Karnataka had expressly stated before this Court that it does not have any objection to the final decision by CWDT being notified.

Section 6 of the Inter State River Water Disputes Act, 1956 mandates the Central Government to publish the decision of the Tribunal in the official gazette. Although no time frame is provided for publication of such decision by the Tribunal, but in absence thereof, publication has to be done within reasonable time. Since more than five years have already elapsed, we direct the Central Government to publish in official gazette the final decision given by CWDT dated February 5, 2007 as early as may be possible and in no case later than February 20, 2013.

Needless to say that publication of the final decision of CWDT in official gazette shall be without prejudice to the pending proceedings.

List the matter on February 7, 2013.

(Rajesh Dham)  
Court Master

(Renu Diwan)  
Court Master