2025 INSC 1343

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL/ORIGINAL/INHERENT JURISDICTION

MISCELLANEOUS APPLICATION NO. 3127 OF 2018
IN
CIVIL APPEAL NO. 2453 OF 2007

THE STATE OF KARNATAKA
BY ITS CHIEF SECRETARY ....PETITIONER

VERSUS

STATE OF TAMIL NADU
BY ITS CHIEF SECRETARY & OTHERS ....RESPONDENTS

WITH

CONTEMPT PETITION (CIVIL) NO. 2210 OF 2018
IN
CIVIL APPEAL NO. 2453 OF 2007

WITH

MISCELLANEOUS APPLICATION NO. 93 OF 2022
IN
CIVIL APPEAL NO. 2453 OF 2007

WITH

MISCELLANEOUS APPLICATION NO. 1869 OF 2023
IN
CIVIL APPEAL NO. 2453 OF 2007

WITH

WRIT PETITION (CIVIL) NO. 914 OF 2023

WITH

MISCELLANEOUS APPLICATION NO. 1020 OF 2024
IN
CIVIL APPEAL NO. 2453 OF 2007

J U D G M E N T

B.R. GAVAI, CJI

MISCELLANEOUS APPLICATION NO. 3127 OF 2018 IN CA NO. 2453 OF 2007:

1. The present application has been filed by the State of Tamil Nadu with the following prayers:

> "(i) Stay the operation of the permission given by the Central Water Commission on 22.11.2018 to Karnataka Cauvery Neeravari Nigam Ltd., Bangalore, an instrumentality of State of Karnataka to go ahead with preparation of Detailed Project Report for Mekedatu Balancing Reservoir cum Drinking Water project;
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> (ii) Direct the Central Water Commission, Ministry of Water Resources, to withdraw the letter dated 22.11.2018 issued to the Managing Director, Cauvery Neervari Nigam Ltd., Bangalore, granting permission for preparation of the Detailed Project Report with regard to the proposed Mekedatu Balancing Reservoir cum Drinking Water project;
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> (iii) Restrain the State of Karnataka and its instrumentalities namely Cauvery Neervari Nigam Ltd., from proceeding further with the

> preparation of the Detailed Project Report with regard to the proposed Mekedatu Balancing Reservoir cum Drinking Water project, pursuant to the permission given by Central Water Commission on 22.11.2018;
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> (iv) Direct State of Karnataka and its instrumentalities to maintain *status quo* till the disposal of the present application; and
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> (v) Pass such further Order or any other Orders that this Hon'ble Court may deem fit and appropriate in the circumstances of the case."

2. The water sharing dispute between the State of Tamil Nadu and the State of Karnataka came to be finally decided by this Court on 16th February 2018 in ***Civil Appeal No. 2453 of 2007*** and other connected matters, titled as ***"The State of Karnataka by its Chief Secretary vs. State of Tamil Nadu by its Chief Secretary and Others***[1]***."***

3. This Court *vide* the said judgment and order has concluded various issues with regard to sharing of water between various States including the States of Karnataka, Tamil Nadu & Kerala and the Union Territory of Puducherry. It appears that in order to carry out the decree of this Court, the Union of India provided for the *Cauvery Water Management Scheme* consisting of

[1] **(2018) 4 SCC 1**

Cauvery Water Management Authority (hereinafter, "CWMA") and Cauvery Water Regulatory Committee (hereinafter, "CWRC") *vide* a notification dated 1st June 2018.

4. In pursuance to the said judgment and order of this Court, it appears that the State of Karnataka is proposing to construct a dam on the Cauvery River at Mekedatu under the project titled as *"Mekedatu Balancing Reservoir Cum Drinking Water Project"*.

5. On receipt of the request from the Government of Karnataka with regard to the aforesaid project, the Central Water Commission (hereinafter, "CWC") sought a report from the CWMA. It further appears that the said project was placed for consideration before the Screening Committee. The Screening Committee, after considering various factors *prima facie* was of the opinion that on satisfaction of certain conditions imposed in its report, which was prepared in the meeting held on 24th October 2018, the said project could go ahead.

6. It will be relevant to refer to the experts, who were present in the meeting of Screening Committee dated 24th October 2018:

S.No.	**Name & Designation & Office**	**Organisation/ Directorate**
1	Shri C K L Das	CE, PAO, CWC
2	Shri N. Mukherjee	Director, PA(S)

3	Shri Sureshwar Singh Bonal	Director, CA(I)-I
4	Shri S K Das	Director, HCD (NW&S)
5	Shri Kayum Mohammad	Director, CMMD (NW&S)
6	Dr D.R. Mohanty	Dy. Director, PA(S)
7	Shri A.K. Pandey	Dy. Director, ISM-1
8	Ms. Manjeet Kaur	Dy. Director, Hyd(S)
9	Shri Ashish Singh Kushwah	Assistant Director
10	Shri Budhbir Singh	Assistant Director
11	Shri Ashish Kr. Lohiya	Assistant Director

7. It appears that after the Screening Committee, in principle, found that the State of Karnataka can go ahead with the said project, the State of Tamil Nadu made a representation to the Ministry of Water Resources, River Development and Ganga Rejuvenation, on 31st October 2018, recording its objection to the recommendations of the Screening Committee.

8. After considering the report of the Screening Committee, the CWC *vide* letter dated 22nd November 2018, permitted the State of Karnataka to prepare a Detailed Project Report (hereinafter, "DPR"). It will be relevant to note that in the communication dated 22nd November 2018, the CWC specifically directed the State of Karnataka to take into consideration

various objections raised by the State of Tamil Nadu while preparing the DPR. It was further directed that since the State of Karnataka has proposed to execute the said project for implementation of the Award of Cauvery Water Disputes Tribunal (hereinafter, "CWDT"), as modified by this Court, the acceptance of the DPR by the CWMA would be a *pre-requisite* for consideration of the DPR. It was further directed that the DPR would be prepared in due consultation with the Central Electricity Authority (hereinafter, "CEA") and the concerned units of CWC. It is further to be noted that *vide* the said communication, the CWC forwarded the comments of the specialized directorates of CWC and CEA, which were to be duly complied with while preparing the DPR.

9. In this factual background, the applicant has approached this Court.

10. We have heard Shri Mukul Rohtagi, learned Senior Counsel appearing for the State of Tamil Nadu and Shri Shyam Divan, learned Senior Counsel along with Shri Shashi Kiran Shetty, learned Advocate General appearing for the State of Karnataka. We have also heard Shri Aravindh Selvaraj, learned counsel appearing for the Union Territory of Puducherry.

11. Shri Rohatgi, learned Senior Counsel appearing on behalf of the State of Tamil Nadu, submits that by constructing a dam, the State of Karnataka is, *in fact*, doing something which will amount to the modification of the Award passed by the CWDT, as modified by this Court. It is submitted that by the Award, which is finally merged into the judgment and order of this Court, the State of Tamil Nadu is entitled *to "uncontrolled flow of water"*. It is submitted that in the Cauvery basin, the State of Karnataka has already constructed Krishnarajasagar Dam and various other dams. It is further submitted that if the proposed dam is constructed, the right of the State of Tamil Nadu for the uncontrolled flow of water would be adversely affected. He, therefore, submitted that the State of Karnataka does not have a right to construct a dam at Mekedatu.

12. Shri Rohatgi further submitted that the State of Karnataka is in the habit of utilizing much more water than the amount to which it is entitled to as per the Award of CWDT, as modified by this Court. He further submitted that in the last fifty years the State of Tamil Nadu was required to approach this Court as well as the Union of India, on several occasions, so as to prevent the State of Karnataka from over utilizing the water.

13. Shri Divan, the learned Senior Counsel and Shri Shetty, the learned Advocate General, appearing on behalf of the State of Karnataka, *on the contrary*, submit that what the State of Karnataka is intending to do is only utilization of the water allotted to it, as per the Award of the CWDT, as modified by this Court. It is further submitted that the State of Karnataka is completely within its right to utilize the water allotted in its share in the *best possible manner*. It is, therefore, submitted that even after the Mekedatu Dam is constructed, the uncontrolled flow of water towards the State of Tamil Nadu and the Union Territory of Puducherry would not be affected.

14. We have considered the rival submissions and perused the material placed on record.

15. At this stage, what is being done by the State of Karnataka in view of letter/order dated 22nd November 2018 passed by the CWC is only permitting the preparation of a DPR, and that too, after taking into consideration the objections of the State of Tamil Nadu and the remarks of concerned directorate of CWC and CEA. It is also to be noted that the CWC has further directed that the *prior approval* of the CWMA as well as the CWRC would be a pre-requisite for consideration of the said DPR.

16. In that view of the matter, we find that the present application has been filed at a premature stage as the final decision by the CWC, with respect to the Mekedatu Dam, would be taken only after consideration of the DPR as well as the opinions of CWMA and CWRC.

17. In any case, it is to be noted that on an earlier occasion also, the dispute between these two States, in the Monsoon of 2023, had come up before this Court in a Miscellaneous Application bearing No. 3127 of 2018. The said matter was considered by a three Judge Bench of this Court, to which, one of us (B.R. Gavai, J, as he then was) was a party.

18. A perusal of the order dated 25th August 2023, passed in the aforesaid Miscellaneous Application, would reveal that it was the contention of the State of Tamil Nadu therein that as per the orders passed by the CWRC and CWMA, the water which was to be supplied to the State of Tamil Nadu, was not being supplied by the State of Karnataka.

19. *On the contrary*, it was submitted by the State of Karnataka in the said Miscellaneous Application, that more water than what was ordered by the CWMA had already been discharged. It was further submitted that it takes three days' time for the

water to travel from State of Karnataka to the border of both the States at the measuring point at Biligundulu.

20. It was also the contention of the State of Tamil Nadu therein that the orders passed by the CWMA were prejudicial to their interest. *Per contra*, it was the contention of the State of Karnataka therein that in fact the orders passed by CWMA were favourable to the State of Tamil Nadu and prejudicial to their interest.

21. It can also be seen that this Court had clearly observed in the order dated 25th August 2023 passed in the said Miscellaneous Application that "*we do not possess expertise in the said matter*". The Court had also recorded the statement of Ms. Aishwarya Bhati, learned Additional Solicitor General appearing in the said matter for Union of India, that the meeting of CWRC was scheduled on 28th October 2023 for considering the issue regarding the discharge of water for the next fortnight. She had submitted that, thereafter, the matter would go before CWMA. This Court had, therefore, directed the CWMA to submit a report as to whether the directions issued by it, for discharge of water, have been complied with or not.

22. The said Miscellaneous Application, thereafter, came up

before this Court on 21st September 2023. A grievance was raised by Shri Rohatgi, who was also appearing at that stage for the State of Tamil Nadu, that even after taking into consideration the drought condition, the State of Tamil Nadu was entitled to receive water to the tune of 7,200 cusec per day, but the same was abruptly reduced by CWRC to 5,000 cusec per day as could be seen at Biligundulu, which is the measuring point. It was submitted that even the CWMA had mechanically approved the decision of the CWRC.

23. As has been done today, the State of Karnataka on that day also seriously disputed this and submitted that the CWRC and CWMA had, *in fact*, erred in directing release of 5,000 cusec per day, whereas, as a matter of fact, it should not have directed release of more than 3,000 cusec of water per day.

24. After recording the submissions of the parties, this Court *vide* order dated 21st September 2023 in the said Miscellaneous Application, observed that after taking all the relevant factors into consideration, the CWRC had passed an order, which was affirmed by the CWMA and which had directed the State of Karnataka to release water from Krishnarajasagar and Kabini put together, so as to release 5000 cusec per day of water at

Biligundulu. This Court had further directed the authorities to regularly meet at the interval of 15 days to assess the situation for the relevant period and direct the release of water. This Court further observed that since both the CWRC and the CWMA are the bodies of experts, which have been constituted to ensure proper implementation of the Award passed by the CWDT, as modified by this Court, the factors that were taken into consideration by them cannot be said to be irrelevant or extraneous.

25. In that view of the matter, we reiterate what was observed by this Court *vide* order dated 25th August 2023 that we do not possess expertise in this field. This Court time and again has observed that the courts should refrain from entering into the areas which can be best looked after by the experts in that field. It would, therefore, be appropriate that even for the present matter the issues are dealt with by the experts.

26. A perusal of the material placed on record would reveal that the directions of the CWC are based upon the suggestions and recommendations of the experts' body. Not only that but the DPR to be prepared by the State of Karnataka would be considered by the CWC only if the CWMA approves of the same, inasmuch

as, the letter dated 22nd November 2018 states that the prior approval of the CWMA would be a prerequisite for consideration of the DPR.

27. In that view of the matter, we find that the present application, when the expert body is in seisin of the matter, is totally misconceived.

28. In any case, we find that the State of Karnataka would be bound to release the water, as directed by the CWMA, which will be measured by the CWC at the measuring point of Biligundulu. If the State of Karnataka fails in complying with the directions issued by this Court, then it faces the risk of committing the Contempt of this Court.

29. It cannot be disputed that every State is free to utilise water allotted to its quota in the manner it finds to be in the best interest of the State. No other State has a right to interfere with the decision regarding the management and use of water allotted to a particular State unless by such act the water allotted to that State is reduced. As already discussed hereinabove, the CWMA and CWRC are the body of experts which will have to ensure that the water allotted to the State of Tamil Nadu reaches as per the Award of the CWDT, as modified by this Court, at the measuring

point at Biligundulu.

30. Needless to state that in the event the DPR is approved by the CWC, the parties would be at liberty to take such steps as are permissible in law.

31. In that view of the matter, we are not inclined to entertain this application and the same is rejected.

32. Pending application(s), if any, shall stand disposed of.

MISCELLANEOUS APPLICATION NO. 1869 OF 2023 IN CIVIL APPEAL NO. 2453 OF 2007:

1. This application has been filed by the State of Tamil Nadu with the following prayers:

> "1. Direct Karnataka and its instrumentalities, namely, Bangalore Water Supply and Sewerage Board (BWSSB), to comply with the decision of the Tribunal as affirmed by this Hon'ble Court and ensure that 80% of the flows drawn from Cauvery river and its tributaries to meet the drinking water supply of Bangalore city as regenerated flows from domestic use is returned after treating the said water, to the Cauvery River system;
>
> 2. Direct the State of Karnataka and its instrumentalities, namely, Bangalore Water Supply and Sewerage Board (BWSSB), not to transfer the non-consumptive use of the water, drawn from Cauvery Basin/Cauvery River including its tributaries for drinking water supply to Bangalore City, to the adjoining Pennaiyar river basin.

> 3. Direct the State of Karnataka and its instrumentalities, namely, Bangalore Water Supply and Sewerage Board (BWSSB), to treat the non-consumptive use of the water, drawn from Cauvery basin/Cauvery River including its tributaries for drinking water supply to Bangalore City, to the specified standards before letting into the Cauvery River.
>
> 4. Direct the CWMA to monitor the quantum of water drawn for meeting the drinking water supply requirements of Bangalore Metropolitan City from Cauvery River/ Cauvery basin as a source, and
>
> 5. Direct the CWMA also to monitor the quality and quantity of non-consumptive use of drinking water drawn for Bangalore Water Supply returned to Cauvery basin; and
>
> 6. Pass such other and further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

2. It is the grievance of the applicant/State of Tamil Nadu that the State of Karnataka is not complying with the Award passed by the CWDT as affirmed by this Court *vide* judgment and order dated 16th February 2018 in ***State of Karnataka*** *(supra)*. A direction is, therefore, sought by the State of Tamil Nadu to the State of Karnataka not to transfer the non-consumptive use of the water drawn from Cauvery basin/Cauvery River including its tributaries.

3. The CWC is an apex body with regard to the disputes between states in respect of sharing of water. Insofar as the

water in the Cauvery Basin is concerned, the dispute between the States of Tamil Nadu, Karnataka & Kerala and the Union Territory of Puducherry has been finally decided by this Court in the judgment passed in ***State of Karnataka*** *(supra)*. For implementation of the Award passed by CWDT, as modified by this Court, the Union of India has provided for the Cauvery Water Management Scheme consisting of CWMA and CWRC *vide* notification dated 1st June 2018. If the applicant/State has any grievance with regard to the non-implementation or improper implementation of the aforementioned judgment and order passed by this Court, the State is always at liberty to approach the CWC, CWMA or CWRC.

4. We clarify that, in the event, the CWC and CWMA are approached by the applicant/State, the said authorities would take a decision in accordance with law as expeditiously as possible.

5. The present application is disposed of in the above terms.

6. Pending application(s), if any, shall stand disposed of.

MISCELLANEOUS APPLICATION NO. 93 OF 2022 IN CIVIL APPEAL NO. 2453 OF 2007 & MISCELLANEOUS APPLICATION NO. 1020 OF 2024 IN CIVIL APPEAL NO. 2453 OF 2007:

These applications stand disposed of in view of the judgment and order of even date passed by this Court in Miscellaneous Application Nos. 3127 of 2018 & 1869 of 2023 in Civil Appeal No. 2453 of 2007.

CONTEMPT PETITION (CIVIL) NO. 2210 OF 2018 IN CIVIL APPEAL NO. 2453 OF 2007:

This Contempt Petition stands disposed of in view of the judgment and order of even date passed by this Court in Miscellaneous Application Nos. 3127 of 2018 & 1869 of 2023 in Civil Appeal No. 2453 of 2007.

WRIT PETITION (CIVIL) NO. 914 OF 2023:

1. This Public Interest Litigation has been filed for proper implementation of the judgment of this Court passed in ***State of Karnataka*** *(supra).*

2. As has already been observed by us in the judgement and order of even date passed by this Court in Miscellaneous Application Nos. 3127 of 2018 & 1869 of 2023 in Civil Appeal

No. 2453 of 2007 that the Cauvery Water Management Authority (CWMA) and Cauvery Water Regulatory Committee (CWRC) are bodies constituted by the Union of India for proper implementation of the aforesaid judgment and order, no orders are necessary in this Writ Petition and the same is, accordingly, disposed of.

3. Pending application(s), if any, shall stand disposed of.

.....CJI
(B.R. GAVAI)

.....J.
(K. VINOD CHANDRAN)

.....J.
(VIPUL M. PANCHOLI)

NEW DELHI;
NOVEMBER 13, 2025.