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M.K. BALAKRISHNAN & ORS.

v.

UNION OF INDIA & ORS.

(Writ Petition (C) No. 230 of 2001)

B

APRIL 28, 2009

[MARKANDEY KATJU AND H.L. DATTU, JJ.]

WATER:

Water shortage – Held: Without water, there can be no life – Article 21 of the Constitution of India guarantees the right to life to all persons living in India – There is shortage of water in the country for irrigation and drinking purpose – Central Government would forthwith constitute a committee to address the problems in this regard referred to in this Court's order dated 26-3-2009 which shall do scientific research on a war footing for solving the water shortage in the country – In particular, the Committee would do scientific research to find out inexpensive methods of converting saline water into fresh water, harnessing and managing rain water and flood waters, rain water harvesting, treatment of waste water into potable water, protection and preservation of wet lands etc.- The Court would monitor the case from time to time – Therefore, the matter would be listed on second Tuesday of every alternate month on which date progress report would be submitted by Chairman of the Committee – Constitution of India, 1950 – Article 21.*

**State of Orissa v. Govrnment of India & Anr. 2009 SCR 992; Delhi Water Supply & Sewage Disposal Undertaking and Anr. v. State of Haryana and Ors. 1996 (2) SCC 572 and Chameli Singh & Ors. v. State of U.P. & Ors. 1996 (2) SCC 549, referred to.*

Case Law Reference:

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|------------------|-------------|--------|
| 2009 SCR 992 | referred to | Para 7 |
| 1996 (2) SCC 572 | referred to | Para 7 |

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1996 (2) SCC 549 referred to Para 7 A

CIVIL ORIGINAL JURISDICTION : Writ Petition No. 230
of 2001.

Under Article 21 of the Constitution of India.

Parag P. Tripathi, ASG, Dr. Manish Singhvi, Manjit Singh, B
AAG, S.R. Singh, T.S. Doabia, Shyam Divan, Dr. Rajiv Divan,
V. Krishna Murthy, Gopal Sankaranarayanan, Radhakrishna
Kumar, Naresh Kumar, S.W. Faqidi (for Anuvrat Sharma), Anil
Kr. Jha, Sunita Sharma (for B.V. Balaram Das) Riku Sarma
(for Ranjan Mazumdar) (for M/s. Corporate Law Group), Avijit C
Bhattacharjee, Subrata Biswas, Rani Mishra (for Kamini
Jaiswal), Hemantika Wahi, Pinky Behera, K. Enatoli Sema,
Radha Shyam Jena, Naresh K. Sharma, Aruna Mathur, Vimal
Dubay (for M/s. Arputham Aruna & Co.) Khwairakpam Nobin
Singh, Ritu Raj Biswas, Manish Kumar (for Gopal Singh), D
Vikrant Singh Bais (for Vibha Datta Makhija), Milind Kumar,
R.S. Suri, Anjan Chkarborthy, Anana Sukumar, Neel Kamal
Dev Nath, Ranjan Mukherjee, Sumita Hazarika, R. Ayyam
Perumal, Ritu Raj (for Anil Shrivastav), K. N. Madhusoodhanan
(for M.K. Michael), R. Nedumaran, V.G. Pragasam, S.J. E
Aristotle, Prabu Rama Subramanian, P.V. Dinesh, Tabrez
Ahmad (for Anis Suhrawardy), Sanjay R. Hedge, Edward
Belho, P. Athuimei R. Naga, Vekiulie N. Kera, A. Subhashini,
Manoj Saxena, Rajnish K. Singh, Rahul Shukla, Arun R.
Pednekar, Danjay V. Kharde (for Asha G. Nair), T. Harish
Kumar, V. Vasudevan, Harikesh Singh (for Kamal Mohan F
Gupta), T.A. Khan, Arti Gupta (for D.A. Mahra) for the
appearing parties.

The following Order of the Court was delivered :

ORDER

1. On 26th March, 2009 we had passed a detailed order
relating to the problem of water shortage in our country and we
had issued notice to the Secretary, Ministry of Science &
Technology asking him to file a counter affidavit within four
weeks stating what measures have been taken to solve the H

A water problem in the country and for implementing the recommendations given by one of us (Hon'ble Mr. Justice Markandey Katju) in the decision in *State of Orissa v. Government of India & another* JT 2009(2) SC 233.

2. Despite having immense reservoirs of water in the form of the Himalayas in the North and the Arabian sea, Indian Ocean and the Bay of Bengal in the West, South and East of India, there are water shortages everywhere often leading to riots, road blocks and other disturbances and disputes for getting water. In many cities, in many colonies people get water for half an hour in a day, and sometimes not even that e.g. in Delhi, South India, Rajasthan, U.P., Madhya Pradesh, Orissa, Maharashtra, Northeast, etc.. In large parts of rural areas there is shortage of water for irrigation and drinking purpose. Rivers in India are drying up, ground water is being rapidly depleted, and canals are polluted. The Yamuna in Delhi looks like a black drain. Several perennial rivers like the Ganga and Brahmaputra are rapidly becoming seasonal. Rivers are dying or declining, and aquifers are getting over-pumped. Industries, hotels, etc. are pumping out groundwater at an alarming rate, causing sharp decline in the groundwater levels. Farmers are having a hard time finding ground water for their crops e.g. in Punjab. In many places there are serpentine queues of exhausted housewives waiting for hours to fill their buckets of water. In this connection John Briscoe has authored a detailed World Bank report, in which he has mentioned that despite this alarming situation there is widespread complacency on the part of the authorities in India.

3. In our opinion it is science alone which can solve this problem (as well as the other gigantic problems facing the country).

4. India has a strong heritage of science. With the aid of science we had built mighty civilizations thousands of years ago when most people in Europe (except in Greece and Rome) were living in forests. We had made outstanding scientific discoveries and inventions in the past (see Will Durants' 'The

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Story of Civilization : Our Oriental Heritage). However, we subsequently took to the unscientific path of superstitions and empty rituals, which has led us to disaster. The way out therefore for our nation is to once again turn to the scientific path shown by our ancestors – the path of Aryabhatta and Brahmagupta, Sushrut and Charak, Ramanujan and Raman. A B

5. It is indeed sad that a country like India which scientifically solved the problem of town planning 6000 years ago in the Indus Valley Civilization and which discovered the decimal system in Mathematics and Plastic Surgery in Medicine in ancient times, and is largely managing Silicon Valley in U.S.A. today has been unable to solve the problem of water shortage till now. In our opinion there is no dearth of eminent scientists in the field who can solve this problem, but they have not been organized and brought together and not been requested by the Central and State Governments to do their patriotic and sacred duty to solve this problem, nor given the facilities for this. C D

6. In our opinion the right to get water is a part of the right to life guaranteed by Article 21 of the Constitution. In this connection, it has been observed by the Court in *Delhi Water Supply & Sewage Disposal Undertaking and Anr. v. State of Haryana and Ors.* 1996(2) SCC 572 : E

“Water is a gift of nature. Human hand cannot be permitted to convert this bounty into a curse, an oppression. The primary use to which water is put being drinking, it would be mocking nature to force the people who live on the bank of a river to remain thirsty”..... F

7. Similarly in *Chameli Singh & Ors. v. State of U.P. & Ors.* 1996(2) SCC 549 this Court observed :

“.....Right to live guaranteed in any civilized society implies the right to food, water, decent environment, education, medical care and shelter. These are basic human rights known to any civilized society. All civil, political, social and cultural rights enshrined in the Universal Declaration of Human Rights and Convention or H

A under the Constitution of India cannot be exercised without these basic human rights.”.....

8. We, therefore, direct the Central government to forthwith constitute a Committee to address the problems referred to in our order dated 26th March, 2009 which shall do scientific
B research on a war footing for solving the water shortage in most parts of our country because of which our people are suffering terribly. Without water there can be no life, as the Hindi poet Rahim wrote, and Article 21 of our Constitution guarantees the right to life to all persons living in India.

C 9. The Central Government is, therefore, directed to form this Committee to address the water shortage problem at the earliest, latest within two months from today. This Committee shall have the Secretary, Union Ministry of Science & Technology as its Chairman. Amongst the members of the
D Committee will be the Secretary, Union Ministry of Water Management. The other members of the Committee will be scientists specialized in the field of solving water shortage problems nominated by the Chairman of the Committee and they are requested to take help from foreign scientists
E specialized in this field. The members of the Committee should regard this work as a patriotic duty, and the entire people of India including N.R.Is. settled abroad should help this Committee.

10. The Committee is directed to do scientific research
F on a war footing to solve the water shortage in the country. In particular the Committee shall do the following:

(a) Scientific research on a war footing to find out inexpensive methods of converting saline water into fresh water. This will be very useful in the coastal
G states because the sea has almost an infinite amount of water reserves and the only problem is to find out an inexpensive methods to convert it into fresh water. The present methods like distillation, reverse osmosis etc. are very expensive methods and cannot be afforded by a poor country like India.
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Hence we have to find out inexpensive methods
and this is only possible by scientific research.

(b) Scientific research to find out methods of harnessing
and managing monsoon rain water and also to manage
the flood waters and also to do research in rain water
harvesting, and treatment of waste water so that it may be
recycled and available as potable water.

© Any other methods or suggestions including for
matters for protection and preservation of wet
lands and matters connected thereto.

11. This Committee should be given all the financial,
technical and administrative help by the Central and State
Governments for this purpose. The Committee is requested to
do patriotic duty to the nation in this connection, and by
scientific research to find out the ways of solving the water
shortage problem in the country. The help and advice of foreign
scientific experts and/or Indian scientists settled abroad who
are specialized in this field may also be taken, since the solution
to the problem will not only help India but also foreign countries
which are facing the same problem, some of which may already
have progressed significantly in this area.

12. In our opinion, this is absolutely essential now because
the whole country is reeling under acute shortage of water as
referred to in our order dated 26th March, 2009, some details
of which have been given in the said order.

13. We propose to monitor this case from time to time.
For this purpose this matter will be listed on the second Tuesday
possibly of every alternative month. List again on the 11th
August, 2009, on which date a progress report will be submitted
before us by the Chairman of the Committee who is requested
to be personally present before us. Thereafter the case will be
listed on the 20th October, 2009 and so on.

14. The Registry of this Court shall send a copy of this
order to the members of the Committee mentioned above.

R.P.

Writ Petition adjourned.