

KACHCHH JAL SANKAT NIVARAN SAMITI & ORS.

v.

STATE OF GUJARAT & ANR.

I.A. NO. 5 OF 2011

IN

(Special Leave Petition (Civil) No(s).5822 of 2006)

JULY 22, 2011

[MARKANDEY KATJU AND CHANDRAMAULI KR.
PRASAD, JJ.]

WATER Disputes:

Narmada Waters – Allocation of to Kachchh district – Construction of Kachchh Branch canal – Interim application in an SLP seeking to appoint a Committee of experts to consider alternative systems of mode of conveyance of Narmada waters through Kachchh Branch canal to the region of Kachchh – HELD: The prayer for allocation of adequate water in Kuchchh district is not one which can be a matter of judicial review – It is for the executive authorities to look into this matter – There must be judicial restraint in such matters – The Court is not inclined to grant any of the prayers made in the interlocutory application – Application dismissed – Interlocutory applications.

Divisional Manager, Aravali Golf Club & Anr. Vs. Chander Hass & Anr. 2007 (12) SCR 1084 = (2008) 1 SCC 683- relied on.

Case Law Reference:

2007 (12) SCR 1084 relied on para 4

CIVIL APPELLATE JURISDICTION : I.A. Nos. 5-6 of 2011.

IN

SLP (Civil) No. 5822 of 2006.

A From the Judgment & Order dated 04.10.2005 of the High Court of Gujarat at Ahmedabad in Special Civil Application No. 3358 of 1999.

R.S. Suri, N.L. Ganpathi, K.S. Prasad, Chanchal Kumar Ganguli for the Petitioners.

B Shyam Diwan, Hemantika Wahi, Ashwini Kumar for the Respondents.

The following order of the Court was delivered

O R D E R

C Heard learned counsel for the applicant(s)/petitioner(s).

D This interlocutory application for directions is filed in the special leave petition. The special leave petition has been filed against the judgment of the Gujarat High Court dated 04.10.2005 dismissing the writ petition filed by way of Public Interest Litigation. The prayer in the Writ Petition related to the alleged grievance of meagre allocation of water from Sardar Sarovar Dam by the State Government of Gujarat to the district of Kuchchh which is alleged to constitute 1/4th of the total area of the State of Gujarat and is alleged to be a drought prone district.

E By means of the impugned judgment the Division Bench of the High Court dismissed the writ petition holding that there are no judicially manageable standards for adjudication for allocation of water in favour of any region within the State. The Government is the best judge to decide how much water should be released from the Narmada Canal to Kuchchh and how much water is to be left for other regions. All these decisions require delicate balancing and consideration of complex social and economical considerations which cannot be brought under the judicial scrutiny. In fact, the State Government has accepted the decision of the Narmada Water Disputes Tribunal which cannot be said to be arbitrary.

H Now, this interlocutory application for interim directions has

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been filed with the following prayers :-

(a) to appoint a committee comprising of experts to go into the pros and cons of various alternative systems of mode of conveyance of Narmada waters through Kachchh Branch Canal to the region of Kachchh with reference to cost benefit ratio and other relevant aspects and be further please to direct the committee to submit a detailed report in this regard to the Hon'ble Court, and this Hon'ble Court be further pleased to pass further appropriate orders on receipt of such expert report.

(b) restrain the respondents from commencing the construction of proposed Kachchh Branch Canal until the aforesaid exercise is completed by this Hon'ble Court.

(c) direct the respondents to consider the relative cost advantage among various methods for transportation of water through Kuchchh Branch Canal.

(d) direct the respondents to consider the relative cost advantage in transporting water through Kuchchh Branch by pipeline as suggested by CWC.

(e) direct the respondents to present facts and figures on the basis of which the decision to transport the water through Kuchchh Branch Canal has been arrived at by the respondents."

We are of the opinion that the prayer for allocation of adequate water in Kuchchh district is not one which can be a matter of judicial review. It is for the executive authorities to look into this matter. As held by this Court in *Divisional Manager, Aravali Golf Club & Anr. Vs. Chander Hass & Anr.* (2008) 1 SCC 683, there must be judicial restraint in such matters.

For the reasons above stated, we are not inclined to grant any of the prayers made in the interlocutory application. The interlocutory application is dismissed accordingly.

R.P.

Interlocutory Application dismissed.