

- (1) The Central Government shall, within four weeks from today, set up, by notification in the Official Gazette, an Empowered Committee comprising of Hon'ble Dr. A.S. Anand, former Chief Justice of India, as the Chairman;
- (2) The Empowered Committee shall consist of five members, including the Chairman. The other four members shall be -
- (a) one member to be nominated by the State of Tamil Nadu in consultation with the Chairman.
- (b) one member to be nominated by the State of Kerala in consultation with the Chairman.
- (c) Two renowned technical experts not connected with the dispute to be nominated by the Central Government in consultation with the Chairman.

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- (3) The Central Government shall set up the Committee and also appoint a Member Secretary, in consultation with the Chairman, within two weeks from today.
- (4) The Central Government shall make available the necessary infrastructure to facilitate the working of the Committee, and shall bear all expenses thereof, including those relating to remuneration of the members of the Committee.
- (5) We would request the Committee to hear parties to the suit on all issues that will be raised before them, without being limited to the issues that have been raised before us, and furnish a report, as far as possible, within six months from their constitution.

List this matter for directions on 20th September, 2010.

[Charanjeet Kaur] [Pushap Lata Bhardwaj]
Court Master Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

ORIGINAL SUIT NO. 3 OF 2006

State of Tamil Nadu Plaintiff

Versus

State of Kerala & Anr. Defendants

O R D E R

We have heard Mr. K. Parasaran, learned Senior Counsel for State of Tamil Nadu, and Mr. Harish N. Salve, learned Senior Counsel for State of Kerala, at some length. Regard being had to the nature of controversy, we are of the opinion that before we proceed further in this case, it would be appropriate to call for a report from an Empowered Committee on all the issues that arise in relation to the Mullai Periyar Dam and the concerns raised by both the States in relation thereto.

It may be noticed that apart from the legal and constitutional issues, inter alia, the real grievance that concerns the State of Tamil Nadu is of not being able to increase reservoir level of Mullai Periyar Dam to 142 feet.

The concern of the State of Kerala, on the other hand, appears to be relating to the safety of the Dam. While the State of Tamil Nadu had submitted that in the

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present suit they seek invalidation of the Kerala Irrigation and Water Conservation (Amendment) Act, 2006 that seeks to override the judgment of this Court in the previous case, the State of Kerala had submitted, amongst other things, that there are genuine concerns as to the safety of Mullai Periyar Dam, and that they have also offered to build a new Dam at their cost which will ensure that there is no fall in the water drawls of the State of Tamil Nadu, and that their law is valid.

Before we consider the matter further, we direct as under:

(1)The Central Government shall, within four weeks from today, set up, by notification in the Official Gazette, an Empowered Committee comprising of Hon'ble Dr. A.S. Anand, former Chief Justice of India, as the Chairman;

(2)The Empowered Committee shall consist of five members, including the Chairman. The other four

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(a) one member to be nominated by the State of Tamil Nadu in consultation with the Chairman.

(b) one member to be nominated by the State of Kerala in consultation with the Chairman.

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(c) Two renowned technical experts not connected with the dispute to be nominated by the Central Government in consultation with the Chairman.

(3) The Central Government shall set up the Committee and also appoint a Member Secretary, in consultation with the Chairman, within two weeks from today.

(4) The Central Government shall make available the necessary infrastructure to facilitate the working of the Committee, and shall bear all expenses thereof, including those relating to remuneration of the members of the Committee.

(5) We would request the Committee to hear parties to the suit on all issues that will be raised before them, without being limited to the issues that have been raised before us, and furnish a report, as far as possible, within six months from their constitution.

The Committee shall frame its own procedure and issue appropriate directions as to the hearings as well as venue of its sittings. The Registry shall make a set of the record of this case, and transmit it to the Committee for its assistance. The Committee is free to receive such further evidence as it considers appropriate.

Needless to clarify that the legal and constitutional issues, including the validity of the amendment Act, 2006

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are matters that would be considered by us.

List this matter for directions on 20th September, 2010.

.....J.
[D.K. JAIN]

.....J.
[B.SUDERSHAN REDDY]

.....J.
[MUKUNDAKAM SHARMA]

.....J.
[R.M.LODHA]

.....J.
[DEEPAK VERMA]

New Delhi ,
February 18, 2010.