

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

ORIGINAL SUIT NO.3 OF 2009

STATE OF HARYANA

Petitioner(s)

VERSUS

STATE OF PUNJAB & ORS.

Respondent(s)

(With appln(s) for permission to file lengthy list of
dates,impleadment,exemption from filing O.T. and office report)

Date: 20/01/2014 This Suit was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD
HON'BLE MR. JUSTICE PINAKI CHANDRA GHOSE

For Petitioner(s) Mr. Vinod A. Bobde, Sr. Adv.
Mr. K.K. Lahiri, Adv.
Mr. Ejaz Maqbool, Adv.
Mr. Shivendra Dwivedi, Adv.
Ms. Tanima Kishore, Adv.

Mr. Manjit Singh, AAG
Mr. Tarjit Singh, Adv.
Mr. Vinay Kuhar, Adv.
Ms. Nupur Choudhary, Adv.

For Respondent(s) Mr. R.S. Suri, Sr. Adv.
Mr. Mohan V. Katarki, Adv.
Mr. Jagjit Singh Chhabra, Adv.
Mr. Vinay K. Shailendra, Adv.
Mr. Arun Kathpalia, Adv.

Mr. Yashraj Singh Deora, Adv.
For M/S Mitter & Mitter Co.

Mr. Mohan Jain, ASG
Mr. Mohit Garg, Adv.
Ms. Richa Pandey, Adv.
Mr. D.S. Mahra, Adv.
Mr. Arvind Kumar Sharma, Adv.

Mr. Ahok Mathur, Adv.
Ms. Shilpa Datta, Adv.

Mr. J.S. Attri, Sr. Adv.
Mr. Varinder Kumar Sharma, Adv.
Ms. Priyanka Bharihoke, Adv.

Mr. S.S. Shamsbery, AAG
Ms. Ruchi Kohli, Adv.

UPON hearing counsel the Court made the following
O R D E R

After having heard the learned counsel for the parties, the following issues are framed :

- (1) Whether the suit under Article 131 of the Constitution of India is maintainable against defendant No.2(ii) BBMB which is a statutory body?
- (2) Whether the suit as filed by the State of Haryana is maintainable under Article 131 of the Constitution of India?
- (3) Whether the disputes raised by the Plaintiff, State of Haryana are 'water disputes' and therefore, whether the suit is barred by Article 262 of the Constitution of India read with Section 11 of the Inter-State River Water Disputes Act, 1956?
- (4) Whether the suit is liable to be dismissed for delay and/or laches?
- (5) Whether the State of Punjab has the exclusive legal right to undertake any Project in its territory for producing hydro power by non-consumptive use of water with reference to Entry 17 of List II - State List of the Seventh Schedule to the Constitution of India?
- (6) Whether the Plaintiff State of Haryana has at all any legal right to a share in the power generated from the Anandpur Sahib Hydrel Project, Thein Dam Project, UBDC Stage-II and Shahpur Kandi Hydrel Scheme situated in the territory of the Defendant State of Punjab, as alleged?
- (7) Whether the Punjab Re-organization Act, 1966 contemplates administration, operation and maintenance by BBMB of the projects namely Madhopur Headworks, Thein/Ranjit Sagar Dam Project and Shahpur Kandi Dam Project? If not, whether a direction can be issued commanding the defendant Union of India to entrust the administration, maintenance and operation of such projects?
- (8) Whether having regard to the historical, factual and legal background of the use of waters of the three Eastern Rivers by the concerned States under the administration, operation and maintenance of all projects by a neutral agency, namely BBMB under the Punjab Reorganisation Act, 1966, the projects being unilaterally undertaken by Punjab by excluding participation of other states should be undertaken, administered, operated and maintained by BBMB or any other neutral, central agency?
- (9) Whether the State of Haryana has no right to claim any share in the power generated or proposed to be generated from the projects in question since non-consumptive usage are not accountable as alleged by Defendant No.2 with reference to Entry 17 of List II-State List of the Seventh Schedule to the Constitution of India?
- (10) Whether the State of Haryana is entitled to all or any of the reliefs prayed for in the suit?
- (11) Whether pursuant to the Inter State Agreement dated 29th January, 1955, entered into between the States for allocation of surplus Ravi Beas Waters, State of Jammu and Kashmir is entitled to 0.65 Million Acres Feet ("MAF") of water supplies from River Ravi in addition to pre-partition utilization of 0.04 MAF from the same river?
- (12) Whether the legal right of the State of Jammu and Kashmir vested vide the agreement dated 20.01.1979 entered into between the State of Punjab and State of Jammu and Kashmir in furtherance of the Inter State Conference of 1955, for discharging its obligations regarding sharing of water of River Ravi can be enforced?
- (13) Whether the entitlement of the State of Jammu and Kashmir is terminated with the enactment of the Punjab Termination of Agreement Act, 2004 when the right to the water of River Ravi to the State of Jammu and Kashmir in fact originates from the Inter State Conference of 1955 and precluded from the definition of "Agreement" under Section 2 (b) of the Punjab Termination Act, 2004, which reads as, "all Agreements relating to the Ravi Beas waters including the Agreement dated 31.12.1981 signed by the Chief Ministers of the States of Punjab, Haryana and Rajasthan".
- (14) Whether Section 4 of the Punjab Termination of Agreements Act, 2004 can come in the way of the entitlement of the State of Jammu and Kashmir, when it in operation, as a matter of fact, rescinds the obligation of the State of Punjab arising out of any agreement.

Therefore, even if Section 4 is made applicable to the State of Jammu and Kashmir, it only does away with the agreement dated 20.01.1979 and not the entitlement of the State of Jammu and Kashmir under the Inter State Conference dated 29.01.1955.

(15) Whether the State of Jammu and Kashmir has suffered losses in agricultural produce due to the erratic releases from the Ranjit Sagar Dam by the State of Punjab, thus depriving the State of Irrigation facilities over the years.

(16) Whether the non construction of Shahpur Kandi Barrage by the State of Punjab has led to losses in terms of production of food grains in the command area of the Ravi Canal, which amounts to approximately Rs. 250.00 Crores per annum at the current price level which for 25 years works out to be Rs.6250 crores approximately.

(17) Whether the denial of power component generated from the Ranjit Sagar Project has further added to the miseries of the State of Jammu and Kashmir which is already reeling under acute power shortages and is purchasing the same from outside agencies at the penal rate of Rs. 9/unit at peak load demand/requirement.

(18) Whether by virtue of the Punjab Termination of Agreements Act, 2004 and the clarification given through Letter dated 10th December, 2009 by the Special Secretary, Government of Punjab, Department of Irrigation & Power, Chandigarh to Central Water Commission stating that the allocated supply of 0.69 MAF of water to J&K State is not at all affected by the Punjab Termination of Agreements Act, 2004, does not stand legal scrutiny at being divergence with the said Act, which does not specifically exclude the State of Jammu and Kashmir from its purview?

(19) Whether the State of Himachal Pradesh is entitled to protect its existing rights and interest on its share from Ranjit Sagar Dam/Thein Dam project as per provisions of the agreement dated 19.1.1979 signed and executed between State of Himachal Pradesh and State of Punjab?

(20) Whether the State of Himachal Pradesh is entitled to protect its legitimate right of co-basin partner State in the projects mentioned by the Plaintiff State of Haryana in its second amended plaint?

The affidavits of evidence be filed within eight weeks from today.

List this matter thereafter before Mr. Sunil Thomas, Registrar of this Court for cross-examination of the witnesses.

(Sanjay Kumar)

Court Master | (Indu Satija)
Assistant Registrar