

ITEM NO.4

COURT NO.14

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

WRIT PETITION (CIVIL) Diary No(s). 25504/2024

GOVERNMENT OF NCT OF DELHI

Petitioner(s)

VERSUS

STATE OF HARYANA & ORS.

Respondent(s)

Date : 06-06-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA
HON'BLE MR. JUSTICE K.V. VISWANATHAN

(VACATION BENCH)

For Petitioner(s) Dr. Abhishekh Manu Singhvi, Sr. Adv.
Mr. Shadan Farasat, AOR

For Respondent(s) Mr. Lokesh Sinhal, Sr. A.A.G.
Mr. Aditya Sharma, AOR
Mr. Nikunj Gupta, Adv.

Mr. Vikramjeet Banerjee, ASG
Mr. N. Visakakurthy, AOR

Mr. Vaibhav Srivastava, AAG
Ms. Vineeta Tiwari, Adv.
Ms. Rajnandani Kumari, Adv.

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

1. This Writ Petition has been preferred by the Government of NCT of Delhi under Article-32 of the Constitution of India, seeking directions to be issued to the respondents particularly, respondent nos.1 and 2, who are the State of Haryana and the State of Himachal Pradesh respectively, to release surplus drinking water from the Hathnikund Barrage (HKB) for use by Delhi, who is at the downstream through the Wazirabad Barrage.

2. On 03rd June, 2024, this Court had passed the following order;

"In the course of hearing, all the parties agreed that there should be a non-adversarial approach to the problem of scarcity of water faced by the citizens of Delhi.

Dr. Abhishek Manu Singhvi, learned Senior Counsel appearing for the petitioner, Mr. Tushar Mehta, learned Solicitor General for India appearing for respondent No.1-State of Haryana and respondent No.3- Union of India along with Mr. Vikramjeet Banerjee, learned Additional Solicitor General who is also appearing for respondent No.3- Union of India, Mr. Vaibhav Srivastava, learned Additional Advocate General for the State of Himachal Pradesh agreed for an emergent meeting of Upper Yamuna River Board on Wednesday, the 5th June, 2024 to address the issue agitated in this petition and all other connected issues in right earnest so that the problem of scarcity of water for the citizen of Delhi shall be properly addressed.

Post the matter(s) on Thursday, the 6th June, 2024 along with the Minutes of the Meeting of the Upper Yamuna River Board and the suggested steps to be taken by all the stakeholders to solve the water crisis in Delhi.

The Note submitted by Mr. Tushar Mehta, learned Solicitor General for India is taken on record."

3. In compliance of the above order, the Upper Yamuna River Board (for short 'UYRB') convened its meeting on 05th

June, 2024 and discussed the issues concerning water crisis faced by the State of Delhi.

4. Two pertinent issues discussed in the said Meeting were the one related to the actualization of water sharing MoU between the State of Delhi and the State of Himachal Pradesh and other one related to the additional drinking water required by Delhi for addressing the present drinking water crisis and the way forward.

5. The discussion held in the Meeting is verbatim reproduced for ready reference;

II. Matter related to actualization of MoU between Delhi and Himachal Pradesh

The Board observed that Upper Yamuna River Board (UYRB) is already seized of the matter and the same was last discussed in the 61st meeting held on 13.12.2023. The UYRB has sought information regarding utilisation of Yamuna water in Himachal Pradesh (HP). HP had provided part information which was circulated to all the members. However, additional information required to examine the matter was sought from HP, which was received on 3.6.2024. Further clarifications were sought by UYRB Secretariat on 4.6.2024 which were received on the same day. The same has been circulated to all the Members. Haryana has contested the earlier data provided by HP. Haryana and other States sought additional time to examine the data now circulated by UYRB. Accordingly, Board observed that the issue needs detailed discussion after receipt of views from other Member States in the regular meeting of the Board. It was agreed that the bilateral MoU has long term implications, its impact on present crisis may not be relevant for immediate consideration.

III. Additional water required by Delhi for addressing the present crisis and way forward

The Chairman requested Delhi to make submission regarding their additional water requirement for addressing the present crisis. The representative from Delhi Government explained that the seven water treatment plants with installed capacity of 575 MGD (installed capacity of plant - 540 MGD and through additional facility for treatment of plant recycled water - 35 MGD) are dependent on water supplied from Yamuna / Ravi-Beas basins which are received in Delhi through canal system of Haryana and Yamuna river route. The average production of water from these plants was of the order of 568 MGD for the month of May 2024. They indicated that additional water amounting to 150 cusec through DD-8/Yamuna river route for period upto end of June 2024 or onset of monsoon, whichever is earlier, will help them in addressing the present crisis. Representative of Delhi Government thereafter requested Haryana to consider the request on humanitarian ground as Delhi is facing extraordinary and excessive demand of water due to ongoing heat wave condition. They also confirmed that as indicated in the petition, such an arrangement will not be taken as precedence in future.

Haryana indicated that similar extraordinary heat wave conditions are also prevailing in their State leading to excessive demand for water both in rural and urban areas. Therefore, it will be difficult to consider any additional release from Haryana at this juncture. Further that Haryana does not have any surplus water to share with Delhi without compromising on their requirement.

After deliberations, Board recommended that to meet the drinking water requirement during the present summer season before the onset of monsoon or 30th June, 2024, whichever is earlier, Delhi Government may send a formal request to Haryana Government for consideration to release 150 cusec of additional water on humanitarian ground through DD8/CLC/DSB.

6. The above discussion recorded by the Board would clearly reveal that the members/ stake holders who had

participated in the Meeting, have not contradicted or disputed the fact that there is an extraordinary heat wave condition in Delhi due to which there is an acute shortage of drinking water.

7. Although, the Board records that the State of Haryana is also facing a similar heat wave condition as in Delhi, but there is no material placed before us to make out that there is an acute drinking water crisis in Haryana.

8. The Board eventually recommended that to meet the additional drinking water requirements during the present Summer Season, 2024 before the onset of Monsoon on 30th June, 2024, whichever is earlier, the Government of Delhi may send a formal request to the Government of Haryana for consideration to release 150 Cusec of additional drinking water on humanitarian ground through DD8/CLC/DSB. Thus, it can be culled out that the Board itself was of the tentative view that Delhi needs approximately 150 cusecs of additional drinking water to deal with the shortage of drinking water in view of the on going heat wave condition.

9. Mr. Vaibhav Srivastava, learned Additional Advocate General representing the State of Himachal Pradesh, has produced before us a chart showing Yamuna Waters Allocation Consumptive Use and Surplus Available in respect of Himachal Pradesh. The said document was supplied to the learned AAG by Ms. Anju Sharma, Engineer-in-Chief, Jal Shakti Vibhag, Himachal Pradesh, who was one of the members in the Meeting, which was convened by (UYRB) on 05.06.2024,

and this document was also produced before the Board. Mr. Vaibhav Srivastava, learned AAG would, on instructions, submit that the State of Himachal Pradesh is ready to release the surplus water.

10. The breakup of the surplus water available with the State of Himachal Pradesh is provided in the said document according to which, between the period from March, 2024 to June, 2024, 137 Cusec of surplus water is available with the State of Himachal Pradesh. Since, the State of Himachal Pradesh has no objection and is ready and willing to release the surplus drinking water available with it, we direct that the State of Himachal Pradesh shall release 137 Cusecs of surplus drinking water available with it from the upstream so that the water reaches Hathnikund Barrage (HKB) and reaches Delhi through Wazirabad.

11. As and when the surplus drinking water is released with prior information/ intimation to the State of Haryana by the State of Himachal Pradesh, the State of Haryana shall facilitate the flow of the surplus drinking water so released by the Himachal Pradesh to Hathnikund Barrage (HKB) and to Wazirabad so that the water reaches Delhi uninterruptedly and is made available to the citizens of Delhi for meeting drinking water requirement..

12. We are conscious of the fact that since there is an acute water crisis in Delhi, there should be no wastage of water by the Delhi Government for which, we record the following suggested measures as has been recommended in the

Meeting convened by the Upper Yamuna River Board which are as hereunder;

- a. Separating commercial water supply from domestic water supply and curtailing such use during crisis period in particular industrial and recreational uses.
- b. Use of recycled water for secondary uses such as gardening, car washing etc.
- c. Improving efficiency in water distribution and uses.
- d. Lining of raw water conveyance channels for long distance water transfer including use of closed conduit wherever feasible to bring down conveyance losses. In particular, urgent action is needed for the Delhi Branch/ Delhi Sub Branch which will bring down losses substantially (of the order of 25%).

13. Considering the urgency in the matter, we direct the State of Himachal Pradesh to release the surplus drinking water by tomorrow i.e. on 07th June, 2024 with prior intimation to the Haryana Government. The UYRB shall measure the excess water which comes to Hathnikund Barrage (HKB) for its onward supply to Wazirabad and then to Delhi with sincere required assistance by the State of Haryana.

14. A status report in compliance to this Order be submitted to this Court by UYRB by 10th June, 2024 (Monday). The learned senior counsel/ learned counsel for the parties shall also

submit their respective compliance affidavits by the same day
i.e. by 10th June, 2024.

15. List the matter on 10th June, 2024.

(NISHA KHULBEY)
SENIOR PERSONAL ASSISTANT

(POONAM VAID)
COURT MASTER (NSH)