

CASE NO.:
Original Suite 1 of 1997
Original Suite 2 of 1997

PETITIONER:
STATE OF KARNATAKA

Vs.

RESPONDENT:
STATE OF ANDHRA PRADESH & ORS.

DATE OF JUDGMENT: 25/04/2000

BENCH:
R.P. Sethi

JUDGMENT:

SETHI, J.

While agreeing with the main judgments of brother Pattanaik.J. in Original Suits Nos. 1 and 2 of 1997 and supplementary concurring judgment of brother Majmudar, J. in Original Suit No. 2 of 1997, I am persuaded to place on record some of my observations in addition, which have been necessitated on account of the unreasonable, unrealistic, motivated and contradictory attitudes adopted and changed from time to time by the riparian States of Krishna river basin, obviously under local pressures and political compulsions. It is hoped and expected from responsible representative governments of the States concerned that they would give due weight to the tremendous work done by the Krishna Water Disputes Tribunal and realise their constitutional obligations to the nation, being important and mighty Constituents of the Federation, the Union of India, keeping in view our observations in the judgment.

Water is a unique gift of nature which has made the planet earth habitable. Life can not be sustained without water. In the National Water Policy issued by the Government of India in 1987, it was declared that water is a prime natural resource, a basic human need and a precious national asset. Water, like air, is the essence for human survival. The history of water availability and its user is tied up with the history of biological evolution in all civilizations. It will not be wrong to say that not only the life started in water but rather water is life itself. It is essential for mankind, animals, environment, flora and fauna. There is no denial of the fact that in the ancient times water played an important role in the origin, development and growth of civilization all over the globe. Water is an important factor in the economic development of the countries which ultimately affects the social and human relations between the habitants. Planned development and proper utilization of water resources can serve both as a cause as well as an effect off the prosperity of a nation. Water on earth is available in the form of frozen snow, rivers lakes, springs, water ways, water falls and aqueducts, etc.

In this galaxy and the environment surrounding the earth, its hydrosphere segment mostly consists of water in the shape of oceans. Out of the total available water on earth 97.3% water is such which can not be utilised for the benefit of the humanity. Only 2.07 % water is available for consumption and mankind's utilization. Out of

this consumable water 30% is used for irrigation , 7% for domestic and 12% for industrial purposes. Rest of the water goes waste on account of mismanagement and the lack of facilities of better utilisation. Whereas water is scarce and limited, its users are numerous and ever increasing. With the development in the living standards of the people, the consumption of the water is increasing everyday without there being any corresponding increase in its total availability. According to an estimate in World Book Encyclopaedia, on an average a person needs about 60,600 ltrs. of water during his life time and in industrial countries like U.S.A. each person presently is using about 260 ltrs. of water every day. The consumption in our country is however much less. On account of the advancement in the technology and of civilization, water needs are increasing. In their quest to have comfortable life, people want more and more water. Facilities like ACs., garbage disposals, automatic washers and modern bathrooms, earlier considered as luxury are now deemed as necessities of life of a large human population.

India is one of the most fortunate countries endowed with enviable wealth of water resources. The average annual precipitation in this country is higher than that of any other continent in the world with the exception of South America. However, on account of meagre resources and lack of developmental facilities, India uses only 1/10th of the precipitation which it receives annually with the result that the rest of water goes waste into the sea. The sources of water in this country are either the frozen snow which melts in summer or accumulated water in dams during monsoon seasons which is utilised off that season. In the absence of proper water source management, great population of the people suffer every year on account of either the floods or droughts. Geographically, India has more than 20 major river basins. Some of those, such as Indus, Chenab, Ganga, Brahmaputra and Teesta, though originating from and flowing in India are yet in effect and essence, international rivers as they pass through the territories of other sovereign states. Despite independence for more than half a century, the country has not been in a position to construct more than 3000 large and small dams with the result that most of the water otherwise available in the country remains unutilised. Almost in all countries of the world, efforts are being made to regulate the user of water resources alongwith the user of the land resources. Water management is required to be viewed in the light of the land management. The law relating to water rights has undergone a sea change all over the world. International and inter-State disputes regarding the user of water are sought to be settled by recourse to the process of law in place of the old doctrine or settlement "by war or diplomacy". Water under all prevalent systems of law has been declared to be the property of the public and dedicated to their use, subject to appropriation and limitations as may be prescribed either under law or by settlement or by adjudication. The disputes relating to water management, its development and its distribution are to be considered not from rigid technical or legal angle but from the pre-eminently important humanitarian point of view as water wealth admittedly forms a focal point and basis for the biological essence and assistance of socio economic progress and well being of human folk of all the countries. In resolution of the disputes relating to development, management and distribution of the water reliance has to be placed upon the long usage, customs, prevalent practices, rules, regulation Acts and judicial decisions. There is no dispute that under the constitutional scheme in our country right to water is a right to life and thus a fundamental right. In India the importance of water is recognised under the constitution as is evident from Article 262, 7th Schedule List II Entry 17, List I, Entry 56, and Statutes like Inter-State Water Disputes Act, 1956 and Rivers Boards Act, 1956. The controversy, in the present proceedings, amongst the States of Maharashtra, Karnataka and Andhra Pradesh is with respect to the utilisation of the water of Krishna River which is the second largest

river in the Penninsular India. The river has a total length of 870 miles originating from Western Ghats near Mahabaleshwar and flows through parts of the aforesaid three States. The Krishna River Basin has an area of about one lakh sq.miles which directly affects about 39 million inhabitants of the three States. The water of this river has been the bone of contention between the riparian States for over a period of one and a half century. It was only in 1855 when the Krishna Delta Canal System was commenced to properly regulate the user of water of this river. After re-organisation of the States in November, 1956, the Central Water and Power Commission drew up scheme for re-allocation of Krishna Waters which was not accepted by the concerned States with the result that an Inter-State Conference was held in September, 1960 but as no settlement could be arrived at, the matter was ultimately referred to the Tribunal for adjudication which submitted its reports Exhibits PK1 and PK2 which have been elaborately dealt with in the main judgment.

From April, 1969, alongwith the undefined huge water, national assets being the public money has flown through the river into the Bay of Bengal on account of pending litigation. Despite huge expenditure incurred and momentous job performed by the Tribunal, the most acceptable solution regarding distribution of water was not accepted by the concerned States on pretexts and under the wrangles of technicalities. Even the States initially accepting the reports of the Tribunal have been changing their stands which resulted in keeping the matter alive, notwithstanding the consequential losses but obviously for the concerned States' convenience primarily actuated by political considerations and changes but apparently for proclaimed interests of their inhabitants.

The dismissal and disposal of the suits filed by the States of Karnataka and Andhra Pradesh and rejection of the plea raised by Maharashtra in its additional written statement would not settle the dispute or solve the problem but unfortunately will become the basis of new litigation between the States which is surely likely to adversely affect their inhabitants resulting in the wastage of the waters of Krishna which otherwise has been found in abundance. It is hoped that as and when action is initiated upon our judgment, the Tribunal or the authority appointed in consequence thereof, for the purposes shall expedite the matter and ensure that the most precious gift of nature - water and the public money is not wasted in uncalled for, avoidable and imaginary litigation. It is not disputed that in the absence of the Reservoir System under Scheme B as formulated by the Tribunal, a lot of water of Krishna is wasted and permitted to submerge in the Bay of Bengal. Let better sense prevail upon all concerned to ensure the safety of the river and proper utilisation of its water for the benefit of inhabitants of the Krishna River Basin.