

(2011) 08 GUJ CK 0074
In the Gujarat High Court
Case No : Writ Petition (PIL) No. 38 of 2011

Gaurav M. Pandit

APPELLANT

Vs

Chief Executive Engineer and Another

RESPONDENT

Date of Decision : 03-08-2011

Acts Referred:

Citation : (2011) 08 GUJ CK 0074

Hon'ble Judges : S.J. Mukhopadhaya, C.J.; J.B. Pardiwala, J

Bench : Division Bench

Advocate : Party in Person, for the Appellant; Krina Calla, Asstt. Government Pleader for Respondent 1 and 2, for the Respondent

Judgement

S.J. Mukhopadhaya, C.J.—The Petitioner in-person preferred public interest litigation for direction on the Respondents to release water through main gates of Dharoi Dam so as to ensure that water reaches Pethapur, in Dist. Gandhinagar. Further prayer has been made to direct the Respondents to ensure that from beginning of October till 1st of April each year and each month, information is given through local newspaper to the people about percentage-wise water distribution as made in each month so that the people come to know the input of water in the canal, which passes through Kantha Vistar.

2. According to the Petitioner, in good old days, the farmers of the Kantha vistar has seen the water of river Sabarmati flowing, though it may be thin and lean flow of water, but it was round the year. Even the little water which was flowing through Sabarmati was enough for drinking and growing grains, vegetables and beans in small patches of land on the river banks; and the life was wonderful; they rarely needed to use currency, but now water is no more in Sabarmati river for whole of the year though it flows only during the rainy season and in fact the farmers have become farm labourers of rich farmers.

3. The Petitioner has shown his sentiments by stating that Sabarmati river is like their mother; they have born in her lap; their marriage knots have been tied

there and their life is river, but the farmers are now working as labourers as during summer and most of the time, there is no water in the river. Some of the photographs have been enclosed to show that sand filled tunnel at Valasana and sub-canal in District Mehsana, gushing water in main canal through which the water flows to the highest level.

4. The Respondents were directed to respond to the problems highlighted by the Petitioner. In their affidavit, they have taken a plea that Dharoi dam was built in the year 1978 for the purpose of providing water facilities to a large number of districts nearby which has not yet been given to many of the places and also for releasing water from Dharoi dam to downstream portion of the dam into river Sabarmati.

5. Ms Krina Calla, learned AGP would submit that river Sabarmati originates from ranges of Aravalli hills in Udaipur in Rajasthan. The river has a total catchment area of 5540 sq.kms., out of which, 2901 sq.kms area falls in Rajasthan and remaining 2639 sq.kms. in Gujarat. At the end, the river meets the Arabian sea in the Gulf of Cambay. The main tributaries of Sabarmati river are Wakal river and the Sei Nadi, which also starts from Aravalli hills in Udaipur, Rajasthan and flows south westwards in courses generally parallel to the Sabarmati river.

6. She would further contend that Sabarmati river flows from west zone, its initial reach up to Dharoi dam site is 130 kms. and it drains an area of 5540 sq.kms. The river has a steep bed fall and comparatively high banks and it runs in a hilly area. From Dharoi to Ahmedabad, the river flows in a broad sandy bed with a fairly flat slope. To get an overall idea of origination of river Sabarmati and dharoi dam, number of maps have been enclosed with the writ petition.

7. It is informed that Sabarmati Reservoir Project (Dharoi) is constructed on Sabarmati river and is situated near village Dharoi, Taluka Satlasana, Dist. Mehsana. The salient features of the dam have been shown to the enclosure.

8. Sabarmati basin is a water deficit basin of North Gujarat. Normally, in 10 to 12 years period, high floods occur in one year. Therefore, the reservoir of the dam does not get fully filled for 10 to 12 years. Water scarcity and poor quality of water is general problem in the north Gujarat region. The rainfall is measured at Dharoi, Harnav, Dheroj, Khedbrahma, Jotasan and Said dam. Month-wise rain table from 1983 to 2010 is enclosed to suggest that minimum rainfall is there in the area.

9. It is informed that Sabarmati Reservoir Project (Dharoi) was filled for the first time in the year 1978. The reservoir capacity at full reservoir level height of 189.59 m is 907.832 million meter cube. Due to filling of reservoir, the silting in the reservoir normally takes place and as per sedimentation survey of Gujarat Research Engineering Institute, Vadodara during the year 2006, it was found that the reservoir capacity at full reservoir level has reduced to 813.137 million cubic meter. Thus the storage capacity of the reservoir has been reduced by 94.695 million cubic meter. This is a normal phenomenon and had been taken care of

during planning of the projects, a copy of which has been enclosed.

10. The State Government has given details of project planning as per which water to be released from reservoir for downstream riparian right was 30 cusecs for nine months, excluding the months of monsoon i.e. July, August and September including 15% transit losses. The quantity required for downstream riparian right was thus 2.59 million cubic feet per day. However, as per revised water planning from the year 1999, water to be released from reservoir for downstream riparian right was 50 cusecs for nine months i.e. from October to June which works out to 4.32 million cubic feet per day. A statement showing the water released per day for the downstream riparian right from 1978 to 2010 has been enclosed. It appears that Sabarmati reservoir project (Dharoi) was primarily planned to provide irrigation facility in Mehsana and Sabarkantha districts. During the planning stage, the Ahmedabad Municipal Corporation had agreed to become partner in the construction of Dharoi dam for the purpose of assured water supply to the Ahmedabad city. Subsequently, when Gandhinagar was made capital, Gandhinagar township Water Supply component was also included in the list of beneficiaries of Dharoi water. After careful consideration by the Government, the share of cost of Dharoi Head Works between water supply component and irrigation component were worked out as under:

A.M.C. - Gandhinagar - Irrigation - Total

52.10% - 4.15% - 43.75% - 100;

The same was approved by the Government by letter dated 19.7.1980. Subsequent to the completion of the project, National Water Policy was finalised in the year 1987. As per the approved National Water Policy by the Government of India, Ministry of Water Resources, New Delhi, in September 1987, the drinking water needs of human beings and animals were to be given first (priority) charge on any available water. After the first filling of Dharoi reservoir in the year 1978, it had come to the notice of the Government of Gujarat that the quality of drinking water utilised in many villages of Mehsana district had deteriorated due to fluoride content. The Sabarmati Reservoir Project (Dharoi) had become the only major source of clean potable water. Hence, it was decided by the Government to supply drinking water to the villages of Mehsana district from Dharoi reservoir. Subsequently, in the year 1992, requirement of water from Dharoi reservoir for regional water supply scheme for 559 villages and 8 semi urban areas of Mehsana district was approved by the State Government on 4.12.1992. The reservoir capacity of 2200 million cubic feet water for the drinking water is supplied annually, in addition to the said requirement, an additional 168 fluoride affected villages of Idar, Vadali taluka of Sabarkantha district are being supplied drinking water from Dharoi reservoir. The quantity estimated for this purpose works out to 7.44 million liter per day. The details of irrigation facility provided through RBMC, LBMC and submergence area during Kharif, Rabi and Hot weather season during the year 1979-1980 to 2009-2010 has been shown and enclosed as annexure to the reply affidavit from which it

appears that during the year 1993-94, the maximum irrigation of 40762 hectare was achieved with stored water of Dharoi reservoir.

11. After Narmada canal project, around 2002, the city of Ahmedabad is using water of river Narmada and since then the cities of Ahmedabad and Gandhinagar are not using the water of river Sabarmati of Dharoi dam. Therefore, water resources reserved for the Ahmedabad city can be utilised for irrigation to the areas in Mehsana, Patan and Sabarkantha district which is also the stand taken up by the State Government and the water supply demand for fluoride affected 559 villages and 8 semi urban areas of Mehsana and Patan districts would continue with the same.

12. It appears that an Expert Committee has already been formed under the Water Resources Department of the Government of Gujarat, which after detailed study has decided to expand the existing command area in Mehsana, Patan and Sabarkantha districts with the use of saved water the command area on RBMC 23887 hectare and LBMC 6500 hectare had been extended as suggested by the Committee headed by Dr C.C. Patel, Chairman of Water Committee. The Government has decided cancellation of partnership of beneficiaries like Ahmedabad Municipal Corporation's Water Supply, Ahmedabad Electricity Company's Water Supply, Thermal Power Station Water Supply and Gandhinagar Township Water Supply by Government letter dated 26.2.1998.

13. The Irrigation Department is presently not releasing any water from Dharoi Dam directly in river Sabarmati due to the following reasons:

(a) The river up to the dam site has total catchment area of 5540 sq.kms., out of which 2900 sq.kms. falls in Rajasthan (52.37%) and remaining 2640 sq.kms. in Gujarat. Catchment area is generally water scarce area and number of water conservation structures have been constructed in recent years in upstream of the reservoir;

(b) After construction of dam in year 1978, the dam had filled up to full reservoir level and had spilled, only ten times during the period from 1978 to 2010 (33 years)

(c) Approximately, more than 735 villages are getting drinking water supplied from Dharoi Dam which include the villages situated the downstream of the dam. Riparian right holders are thus getting direct benefit from reservoir, instead of the river.

(d) Villages along the river banks of Kheralu and Vijapur taluka of Mehsana district and Vadali and Idar Talukas of Sabarkantha district are supplied drinking water directly from Dharoi dam and also irrigation facilities through canals which they were not getting before the construction of dam.

(e) For recharging river bed and surrounding areas a Lakaroda weir near Prantij across Sabarmati was constructed. Considering water from free catchment area below dharoi dam, other new recharge structure are also under investigation and

planning stage.

(f) The total catchment area at Dharoi project site on river Sabarmati is 5540 sq.kms.. The total catchment area at Wasana Barrage site in the downstream of Ahmedabad city is 10619 sq.kms.. Thus free catchment area below Dharoi up to Ahmedabad works out to 5079 sq.kms.. The Sabarmati river water in the downstream of Dharoi dam from this 5079 sq.km. are being utilized for the benefit of downstream people.

In addition to this, the Government had constructed various projects like Lakroda project a recharge structure, Guhai project for irrigation purpose, Sujlam Suflam canal for recharge purpose etc. were completed in the free catchment area below Dharoi Project.

(g) The Sabarmati river is nota perennial river. Normally the river flows are observed during monsoon monthly only. During post monsoon months the river remain dry. However, the villages on the bank are able to get better facility for drinking, irrigation and protection against flood which they were not getting before the dam was constructed.

14. It is stated that command area has been increased from time to time to see that the people get fresh and clean drinking water throughout the year.

15. From the aforesaid facts, it will be evident that number of steps have already been taken by the State Government and drinking water is now being supplied in the area, including the area of the Petitioner. Earlier planning in many cases could not be proved to be beneficial, the quantity of water being minimum and there being very high losses nearly 24% to 87% during different non-monsoon months between Dharoi dam and Ahmedabad, the distance of which is nearly 160 kms.. Therefore, the State Government has decided and is supplying the water to farmers through canal system, which is suggested to be a better solution by the Committee.

16. In view of such fact that water is now supplied, though it may be through canal system and the grounds as shown for non-supply of water through the river in question, particularly the content of fluoride in the area through which it passes, we find that no separate order is required to be passed. Appropriate steps have already been taken and it is expected that if the water content is increased during the rainy season or through any other canal like Narmada Water River canal, as per the recommendation of the committee, the State will act and supply more pure water for benefit of the farmers.

17. In view of such stand taken by the Respondents, no further order is required to be passed in this case.

18. The writ petition stands disposed of.