

(2025) 01 KAR CK 1590

In the Karnataka High Court, Principal Bench

Case No : Writ Petition No. 27303 Of 2023 (GM-RES-PIL)

Shankrappa Ambali

APPELLANT

Vs

State Of Karnataka & Ors

RESPONDENT

Date of Decision : 10-01-2025

Acts Referred:

Citation : (2025) 01 KAR CK 1590

Hon'ble Judges : H.P. Sandesh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

N.V. Anjaria, CJ

C.A.V.

1. Heard learned advocate Mr. Sanket Shankrappa Ambali for the petitioner, learned Additional Government Advocate Smt. Niloufer Akbar for respondent Nos.1 to 4 and learned advocate Mr. B.R. Prashanth for respondent No.5.

2. The present public interest petition is filed by the petitioner who claims to be a farmer by occupation as also the State President of the Karnataka Rait Sene which is a registered society of farmers. It is claimed that the petitioner fights for the farmers' rights.

2.1 The prayer advanced in this public interest petition is to direct the authorities to investigate the use of water in Naviluteertha reservoir and to form a competent committee to draft a scheme for use of water of the Naviluteertha reservoir based on ground analysis of demand for drinking water. It is prayed to mandatorily reserve a portion of water for irrigation in every season and to prohibit the use of water for industrial purpose.

2.2 Further prayer is made to direct the respondent-State to pay compensation to the farmers of the notified area of Malaprabha Irrigation Project based on the land holding, whenever the State fails to supply water for irrigation. The third

part of the prayer is to direct the respondents-authorities not to act in arbitrary manner and to pass necessary orders to stop the use of water in the Naviluteertha reservoir and its canal network for irrigation purpose.

3. The case pleaded by the petitioner is inter alia that Renuka Sagar Dam constructed across the river Malaprabha at Munolli Village, Savadatti Taluka of Belagavi District forms the Naviluteertha Reservoir. It was a project proposed by the Government of Bombay in the Second Five Year Plan of the State to provide irrigation facilities to three districts namely, Bijapur, Belgaum and Dharwad. The project was given administrative sanction by the State of Mysore on 27/28.11.1961, it was stated, after getting clearance from the Central Water and Power Commission.

3.1 The project seeks to irrigate 3,00,000 Acres of land. It is the grievance of the petitioner that although the project was designed for the purpose of extending irrigation facilities and irrigation water, gradually, the State authorities started using the reservoir for the purpose of providing drinking water to meet with the drinking water demand of Hubli-Dharwad twin cities and to fill the rural water tanks in the Malaprabha command area. It is stated that the interstate Mahadayi water dispute has its impact on balancing of the drinking water demand stress on the Naviluteertha reservoir.

3.2 It is further stated that respondent No.3-the District Commissioner, Dharwad, passed the order in August 2023 to release 0.907 TMC of water for drinking water purpose with a condition not to use the same for any other purpose. It was provided that if water is used for any other purpose, legal action will be taken and the unauthorised pump sets will be seized under the provisions of the Karnataka Irrigation Act, 1965.

3.3 The crux of the grievance is that the said reservoir was constructed for the purpose of irrigation which is now used for industrial purpose. It is alleged that in the name of providing drinking water, the water is diverted for industrial purpose. It is stated that any scientific analysis for demand of drinking water is not undertaken in order to justify the use of water for any purpose other than the irrigation.

3.4 It is alleged that in the guise of drinking water purpose, the respondents-authorities are conspiring to help the industries and on the other hand, deprived the farmers of irrigational water.

4. Learned advocate for the petitioner submitted with reference to Section 29 of the Karnataka Irrigation Act, 1965 that releasing the water for irrigational purpose is a statutory right and could not have been curtailed by the authorities by diverting the water from the reservoir to industrial or drinking purposes. Also relied on by learned advocate was the details of the water level in the reservoir as on 05.08.2023 and that of the previous year on 05.08.2022. The meeting dated 05.08.2023 held under the Chairmanship of the Regional Commissioner, Belagavi Division, regarding systematic use of water stored in Naviluteertha

reservoir only for drinking purpose was relied on for the various details of drinking water requirements than other fillings, to highlight that the entire purpose of the reservoir which was for irrigation, is tinkered with.

4.1 In response to the notice issued in the petition, the respondents entered appearance and filed the statement of objections/affidavit-in-reply. Learned Additional Government Advocate made submissions highlighting the contents and the contentions from the statement of objections.

4.2 About the dam water level as well as the allocation of water, it was stated thus,

"...during 1972, when the dam was being constructed, it was designed for 37 TMC and Full Reservoir Level (FRL) etc., were fixed as no guage date was available in those days for measuring the quantum of water. The quantum was calculated using Empirical formulae. The allocation of water for Malaprabha Project was 44 TMC. It was observed during 2008-09 that the dam was filled to its Full Reservoir Level only for 6 years from its completion. The Upper reaches of the Malaprabha catchment area (Khanapura Taluk of Belagavi District) receives a rainfall of 4000 mili meters, but catchment coming under chronically drought, hits Taluks of Bailhongal, Saundatti receives rainfall less than 500 mili meters. After studying the inflow details of Malaprabha (Navilutheertha) dam, 75% of dependable water yield works out to 27 TMC. Accordingly, for Malaprabha project, 27 TMC allocation of water was made in the Master Plan for Krishna basin project by the Water Resources Department, Government of Karnataka. As of now, water planning is done for 27 TMC only, which includes 24.234 TMC for irrigation, 0.201 TMC for drinking water, 0.015 TMC for industrial use and 2.550 TMC for evaporations losses."

4.2.1 It was the further stand of the authorities that modified project for Rs.162.09 crores was approved by the Government of Karnataka by the order dated 04.02.1980. It was with a view to provide fullest utilization of the available water and to provide irrigational facilities on the Left Bank of the river to the districts of Belagavi and Bagalkot for irrigating about 2.132 lakh hectares of land. The revised cost estimate of the project was obtained for Malaprabha project and various Lift Irrigation Schemes were acted upon by utilizing 27 TMC of water in Krishna basin which was approved by the Government.

4.2.2 The affidavit-in-reply mentions the Detailed Project Report dated 07.10.2009 as to utilization of water in the Malaprabha project, extracting the relevant part as under,

"(1) The water for irrigation, drinking purpose and Industrial use is being utilized as per the allocation of 27 TMC made to Malaprabha project in the Master Plan for Krishna basin project by the Water Resources Department, Government of Karnataka. As such now, the water planning is done for 27 TMC only which includes 24.234 TMC for irrigation, 0.201 TMC for drinking water, 0.015 TMC for Industrial use and 2.550 TMC for evaporation losses. Presently, the drinking

water demand has increased and hence, the water for drinking purpose is given first priority as per the increase in population, which demand will definitely increase in future.

(2) The water users for Co-operative Societies along with a Mahamandala i.e. Apex Level Federation of Societies are formed as per the Irrigation Act, 1965 Chapter-IX A Section 62(A)."

4.2.3 The following is further given out in the affidavit,

(a) A meeting was held on 05.08.2014 under the Chairmanship of the Regional Commissioner, Belagavi, to plan out the strategy to meet with the immediate drinking water demands. Pursuant to the decision taken, release of the water to the extent of 0.907 TMC for drinking purpose was ordered.

(b) On 20.09.2023, the Irrigation Consultation Committee held a meeting, wherein also the scarcity of the storage of water in the Malaprabha dam was considered. It was decided to release the water for drinking purpose as per the demand through Renuka Lift Irrigation Scheme (RLIS) Canal and Malaprabha Right Bank Canal to the extent of 1.00 TMC for fifteen days.

(c) Again, a meeting of the Irrigation Consultation Committee was convened on 04.11.2023 and again it was decided to release the water for drinking purpose for filling tanks and groundwater charging in view of the demand through Singarkoppa Lift Irrigation Scheme Canal and Malaprabha Right Bank Canal.

4.2.4 A press note dated 04.11.2023 was issued in light of the aforesaid decisions by the Member Secretary of the Irrigation Consultation Committee informing the farmers not to start sowing operations in view of depletion of the water level.

4.2.5 It is stated that right from the date of construction in the year 1973 till the year 2024, the Malaprabha dam has reached its full level only on nine occasions in the last fifty years. The water calculation for utilization of the water for the next year is done depending upon the post monsoon situation and the availability of water in the reservoir. It is further stated that having regard to the availability of water stored in the Malaprabha dam during the year, the Expert Committee, in consultation with the farmers and their representatives, decided about the modalities for use of the water of the Malaprabha reservoir considering the priority for drinking purpose, for irrigation purpose and for industrial use.

5. The Malaprabha river rises in the Western Ghats at an altitude of 793 meters for about 16 kms. of Jamboti in Belagavi District of Karnataka State. This river flows towards the East and thereafter, in the North-East direction to join Krishna river at an elevation of about 488 meters about 306 kms. from its source. The total catchment area of Malaprabha and its distributaries is 11,549 sq.kms. A project was taken up for construction of a storage dam at Peacock Gorge near Manoli and a Right Bank Canal to irrigate about 1.22 lakh hectares in the scarcity tracts of Navalagund, Naragund and Ron Taluks. The project was named as

Malaprabha Project, originally approved at an expense of Rs.20 crores as per the Government Order dated 27.11.1961.

5.1 In light of the facts stated in the reply, it could be seen that the respondents have been managing and chalking out the mechanism for utilizing the water from the reservoir depending upon priority area where the water is to be supplied and considering the availability vis-a-vis the need of the water. Committees are formed for releasing the water for irrigation combined with drinking water. At the end of the monsoon, the situation is assessed, the availability of water in the reservoir is ascertained and the demand is considered.

5.2 The Malaprabha Dam is a multipurpose dam whose water is used for irrigation, drinking and industrial purposes having regard to the priorities set in this regard depending upon the availability of the water. It was stated also that every such action of the management in the Irrigation Department is guided by the Karnataka Irrigation Act, 1965.

5.3 It is to be observed that in making such expert decisions, the farmers are also involved and their interest and welfare is also safeguarded. The farmers are informed in advance about the availability of the water.

5.4 If in a given point of time, the experts in the water management give priority to use the water for drinking purposes, the decision could not be faulted, for, it is taken after assessing the merits of the attendant aspects and after going through the relevant considerations of priority, need and the availability of the water in the reservoir. The drinking water becomes the first priority followed by irrigation and thereafter for industrial use in a given year.

5.5 For all the above reasons, it is clear that the respondents-authorities have been attending to the water management aspects for utilizing the water for different purposes from the reservoir. The water management is undoubtedly an expert field where the expert's views have to be implemented by looking into the ground realities and by supplying to the needs which may arise for consumption of water for drinking purposes and for irrigation purposes in proper ratio.

5.6 If the portion of the water from the reservoir is released for drinking purpose, any unlawfulness does not arise in such action. Such action could not be branded arbitrary when guided by the germane considerations for proper water management and due water utilization. Even otherwise, as stated above, the allocation of water for different purposes such as, drinking, irrigational or industrial is an expert management. There are no judicially manageable criteria in this regard.

6. For all the aforesaid reasons, the public interest petition is not liable to be entertained. The reliefs could not be granted.

7. The petition is dismissed.