
(1998) 05 AHC CK 0109

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 19754 of 1998

S.K. Garg

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 28-05-1998

Acts Referred:

Constitution of India, 1950 — Article 21, 226

Citation : (1998) 2 UPLBEC 1211

Hon'ble Judges : M. Katju, J;I.M. Quddusi, J

Bench : Division Bench

Advocate : Ravi Kant, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

M. Katju, J.—The English poet Colerige in his poem "The Ancient Mariner" wrote "Water, water everywhere but not a drop to drink."

2. This is precisely the plight of the people of Allahabad which has been highlighted in this writ petition. Despite two mighty rivers, the Ganga and Yamuna, at whose confluence the city is situated, a large number of colonies and the people living there have been hardly getting even a drop of water for days on end, and even in the places where water comes, it very often trickles for hardly 15 minutes or so in a day, and people have to rush with their buckets to get some. It is indeed distressing that even after 50 years of independence the people of this country are not getting water to drink, what to say of food. This writ petition has been filed by an Advocate of this Court, Sri S.K. Garg, who is the Vice President of Bar Association, High Court, Allahabad as a Public Interest Litigation for suitable directions to ensure regular supply of water to the citizens of Allahabad.

3. In paragraph 7 of the writ petition it has been stated that for the last several years the town has been witnessing acute water shortage, and it is indeed lamentable that a city, which is situate at the confluence of two major rivers of

the country, the Ganga and the Yamuna, is reeling under agony of shortage of water supply. It has been alleged that several localities in the city such as Rani Mandi, Mutthiganj, Malviya Nagar Badshahi Mandi, Attrasuiya, Kalyani Devi, Meerapur, Allahpur, Daraganj, New Katra Mumfordganj, Rajrooppur, Preetamnagar, Gariwan Tola, Baluaghat, Mahabiran Lane, Rajendra Nagar, Sohbatibagh, Malakraj, Bairahana, Roshanbagh, Beli Road, Civil Lines etc. are having no water supply for days together, while in other places the water hydrants remain unattended and uncapped and consequently gallons of water, which is so basic and vital for human life, goes waste. In large number of localities water supply is so low and scanty that the residents are using their own resources, namely, lifting the water by attaching the main lines with water pumps etc. It is alleged in para 8-A of the writ petition that in one of the Judges' colonies, water has not been supplied for almost 1 1/2 days, En para 9 of the writ petition it is alleged that the World Bank has sanctioned crores of rupees for establishing a second water works and supply of water through the rivers, hut it appears that the aforesaid amount has either not been utilised for the aforesaid purpose or has been diverted for some other use. As a result of it, the work on the proposed second water works has not so far commenced. It is also alleged that even the existing water works is drying up. It is alleged that there are four large underground water tanks at Khusroobagh, out of which three are not functioning. Only one tank is functioning and that tank too is full of filth and mud which is the cause of spreading jaundice, gastro-enteritis and other epidemics." In para 11 of the writ petition it is stated that the Jal Sansthan has installed some tube wells and hand pumps for supply of water, but they arc out of order. Water drips in drops from these hand pumps. A long queue is the usual scene at these handpumps and it has become routine for the public to wake up early in the morning and rush with their buckets to form the queue at the hand pump where one has to stand for hours before one can get only one bucketful of water. In para 12 of the writ petition it is alleged that most of the tubewells are out of date and out of order. The water pumps at Ashok Nagar and Rajapur are not supplying water for the last about one week. The water pump at Mayo Hall is also not functioning properly. In para 13 of the writ petition it is stated that due to lack of electricity the water pump often goes off and, as such these tube wells also go out of action.

4. The Supreme Court in Chameli Singh and others etc. Vs. State of U.P. and another, while dealing with Article 21 of the Constitution has held that the need for a decent and civilised life includes the right to food, water and a decent environment. The Supreme Court further observed" (at p. 1053, Para 7 of AIR):

"In any organised society, right to live as a human being is not ensured by meeting only the animal needs of men. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions which inhibit his growth. All human rights are designed to achieve this subject. Right to live guaranteed in any civilised society implies the right to food, water, decent environment, education, medical care and shelter. These are basic human rights

known to any civilised society. All civil, political, social and cultural rights enshrined in the Universal Declaration on Human Rights and convention or under the Constitution of India cannot be exercised without these basic human rights."

5. Similarly in Delhi Water Supply and Sewage Disposal Undertaking and another Vs. State of Haryana and others, the Supreme Court observed : "Water is a gift of nature. Human hand cannot be permitted to convert this bounty into a curse, an oppression. The primary use to which water is put being drinking, it would be mocking nature to force the people who live on the bank of a river to remain thirsty." The Supreme Court further observed that "drinking is the most beneficial use of water and this need is so paramount that it cannot be made, subservient to any other use of water, like irrigation. So the right to use of water for domestic purpose would prevail over other needs."

6. In an earlier decision in AIR 1991 420 (SC) the Supreme Court had held that right to pollution free water is a part of the right to life guaranteed by Article 21 of the Constitution.

7. In para 17 of the writ petition the petitioner has given various suggestions for improving the water supply system in the city relying on the decision of this Court in Essential Services and Consumers Association v. Jal Sansthan, Allahabad 1987 UPLBEC 150 : (1987 All LJ 446). In our opinion the right to get water is part of the right to life guaranteed by Article 21 of the Constitutions but a large section of citizens of Allahabad are being deprived of this right. Without water the citizens of Allahabad are going through terrible agony and distress particularly in this hot season when the temperature goes upto 46 or 47 degree celsius. Without water the people are bound to die in large numbers due to dehydration and heat stroke and in fact many have died already.

8. In this connection it is pertinent to quote the great Hindi Poet Rahim who wrote :

^fgeu ikuh jkf[k,] fcu ikuh lc lwu A ikuh x, u mrjS] eksrh ekuq" k pwu AA**

9. In view of the aforesaid facts and circumstances we direct that a Committee (to be called the Allahabad Water Committee) be set up immediately to look into this problem and decide on ways and means to solve it. The Chairman of this committee will be Sri S.N. Verma, Senior Advocate of the Allahabad High Court and the member shall be as follows:

1. Shri S.K. Garg, Advocate and Vice President of the High Court, Bar Association.
2. Sri Pradeep Kumar. Additional Chief Standing Court.
3. The District Magistrate, Allahabad.
4. The Senior Superintendent of Police, Allahabad.
5. Mukhya Nagar Adhikary, Nagar Nigam, Allahabad.
6. Chief Engineer, Jal Nigam, Allahabad.

7. Vice Chairman, Allahabad Development Authority, Allahabad.
8. General Manager, Jal Sansthan, Allahabad.
9. Chief Medical Officer, Allahabad.
10. Shri Hari Shankar Dwivedi, Incharge "Dainik Jagran", Allahabad.
11. Additional Chief Engineer, Zonal, U.P.S.E.B. Allahabad.
12. Such other members as nominated by the Chairman.

This Committee shall meet on the dates, time and place decided by the Chairman and the members shall attend the meetings and shall take up and discuss the measures for providing water to the citizens of Allahabad and solving their problem in this connection on a war footing. Since the matter involve technical expertise, the Committee shall consult technical (expert) also in this regard. If any complaints made by the citizens of any locality in Allahabad that they are not getting water, Committee will look into it and do the needful. The Committee shall meet within a week from the date of this order, and thereafter also at least once a fortnight, throughout the month of May, June and July upto the break of the monsoons. We make it clear that this is the peak of summer when the citizens are almost living in a furnace, and therefore the problem must be attended to urgently.

10. The Committee should consider and decide not only the immediate remedial steps which can be taken in this connection but also the long term remedial steps. Various suggestions have been made to us e.g. setting up a French well in the middle of the Ganges and Jamuna river of the Rind set up in Baroda and Ahmadabad, the establishment of a second waterworks towards the Ganges river, etc. we are not making any comment on these suggestions as we are not technical persons. The committee set up by us may consider these and other suggestions, and, may consult technical people in this connection.

11. We further, direct the authorities concerned to repair the existing tubewells and handpumps which are out of order within a week from today, failing which this Court will take a serious view of the matter. We also direct that the water which is supplied for drinking purposes should be tested regularly by chemical analysts to find out whether it is potable and does not contain any germs or harmful chemicals.

12. Although his petition was confined to Allahabad also we have been informed that the citizens in many other cities and towns in U. P. also are suffering due to water shortage, and hence we recommend that similar Water Committees be set up in those cities and towns also by the District Magistrates of the districts concerned. These Committees should not merely have bureaucrats as its member but also responsible members of the public e.g. lawyers, teachers, scientists, engineers, businessmen etc. In a democracy citizens should also be involved in solving their own problems.

13. The Committee shall submit its interim progress report by 17-7-98 when the case will be listed as part heard before this bench, and on that date the General Manager, Jal Sanstha, Allahabad will attend the Court personally to reply to any queries of the Court.

14. We also direct the State Government to provide all assistance to ensure compliance with this order.

15. Copy of this order shall be sent by the Registrar of this Court to the authorities concerned. A copy will also be given within 24 hours to learned counsel for the petitioner and to Sri S.N. Verma, Senior Advocate free of costs.