

(2014) 09 AP CK 0099

Andhra Pradesh High Court

Case No: Writ Petition Nos. 10037 and 17128 of 2010

Annambhotlavaripalem
Ethipothala Padhakam
Abhivruddi Sangam

APPELLANT

Vs

Government of Andhra Pradesh

RESPONDENT

Date of Decision: Sept. 3, 2014

Acts Referred:

- Andhra Pradesh Irrigation (Construction and Maintenance of Water Courses) Act, 1965 - Section 2, 2(j), 4, 4(2), 4(2)(b)
- Constitution of India, 1950 - Article 14, 19, 21

Citation: (2015) 1 ALD 413 : (2015) 3 ALT 19 : (2015) ALT(Rev) 186

Hon'ble Judges: S.V. Bhatt, J

Bench: Single Bench

Advocate: M.R.S. Srinivas and A. Sudhakar Rao, Advocate for the Appellant; K. Sreedhara Murthy, Assistant Government Pleader, Advocate for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

S.V. Bhatt, J.

The petitioners assail the administrative sanction accorded for Rs. 45 crores accorded through G.O.R.T. No. 914, Irrigation and Command Area Development (Minor-I) Department, dated 07.08.2007 for construction of Gottipati Hanumantha Rao Diversion Scheme across Ogeru Vagu on the down stream of Chilakaluripet Road Bridge on NH-5 in Guntur District and also excavation diversion channel (link channel) to Peddavagu near Yanamadala Road Bridge in Yaddanapudi Mandal, Prakasham District (for short the project) and the consequential proceedings and declare them as illegal, arbitrary, unjust and violative of Articles 14, 19 and 21 of the Constitution of India.

2. The petitioners in W.P. No. 10037 of 2010 also assailed proceedings No. DCE(MI)/OTs-T2/7723/2005 dated 15.04.2006 of Engineer-in-Chief (AW)/2nd respondent.
3. The petitioners in these writ petitions are Yethipothala Pathakam Beneficiary Associations. A few of the petitioners are registered under the Societies Registration Act. The petitioners as societies claim to be supervising distribution of irrigation water to the farmers/ayacutdars of Yethipothala Pathakams operated on Ogeru Vagu (channel). The petitioners are on the down stream of the proposed project and in apprehension of either reduction of water inflows to the existing Ayacut or other common grievances, have filed the writ petitions voicing their objections against the construction of project.
4. Before advertent to the averments in respect of writ petitions, the following introductory facts and the purport of impugned actions are stated in brief.
5. The Executive Engineer, A.P.S.I.D.C. Limited, Ongole Division submitted proposals for Hydrological Clearance to the Gottipati Hanumantha Rao Diversion Scheme, across Ogeru Vagu on the down stream of Chilakaluripet Road Bridge by lift system for four schemes. Subsequently, after thorough and further investigation the proposal is forwarded for sanction of Hydrological Clearance for diversion scheme by water gravity. It is for implementation of the diversion scheme across Ogeru Vagu, proposal for Hydrological Clearance was submitted to the 2nd respondent and Hydrological Clearance was accorded through proceedings No. DCE (MI)/OT2-T2/7723/2005 dated 15.04.2006. The following conditions in the Hydrological Clearance are excerpted for clarity:
 - 1) The permission is accorded for an initial period of 5 (five) years, in terms of G.O.Ms. No. 195, I & CAD (IRR. II. 2) Dept. dt. 13.12.2002, subject: to the conditions laid down as per Annexure to G.O.Ms. No. 120, I & PD, dt. 18.11.1975 and the permission can be renewed for further period of each spells of 5 years taking the life of asset in to account in terms of G.O.Ms. No. 48, I & PD (PR. 1) Dept. dt. 31.01.1979.
 - 2) The URRs and LRRs should not be effected due to implementation of this scheme.
 - (3) xxxx
 - (4) xxxx,
 - (5) There should not be any utilization during RABI season under the L.I. Schemes.
 - (6) xxxx
 - (7) xxxx
 - (8) xxxx
 - (9) xxxx

(10) xxxx

11) The Hydraulic particulars of the diversion canal and Head works (Diversion weir) be got approved by this office in the first instance.

12) The Hydrological clearance is further subject to the responsibility of the Superintending Engineer who furnished the gauge data as water availability despite deficit yield in the basin.

6. The proposals submitted by the Executive Engineer are considered by the Superintending Engineer and Chief Engineer. The 3rd respondent through letter No. DCE/MI)/OT2-T2/7723/2005 dated 30.04.2007 requested the 1st respondent to accord administrative sanction for the project. Through the instant letter, the 3rd respondent has considered the recommendations of Engineer-in-Chief dated 15.04.2006, the project details and stated the advantages of gravity flow irrigation and the 3rd respondent sent positive recommendations for consideration by the 1st respondent. The 1st respondent through G.O.R.T. No. 914 dated 07.08.2007 accorded administrative sanction as follows:

Construction of Gottipati Hanumantha Rao Diversion Scheme across Ogeru Vagu at the down stream side of Chilakaluripeta Road Bridge on NH-5 in Guntur District and excavation of diversion channel (Link Channel) to Peddavagu/Parchuru vagu near Yanamadala Road Bridge in Yaddanapudi (M) of Prakasam District for creating new Irrigation Potential to an extent of 4000 Acres and stabilizing 12630 Acres of ayacut under 15 Nos. of individual defunct existing Lift Irrigation Schemes with 50% supplementation with an estimated cost of Rs. 45.00 Crores (Rupees forty five crores only).

7. The amount sanctioned in para (1) above shall be chargeable to 4702-Capital out-lay on Minor Irrigation-MH (101) surface water-GH (11) Normal State Plan-SH (12) Construction and restoration of Minor Irrigation Sources-530 Major works-531 Other expenditure.

8. The Chief Engineer, Minor Irrigation, Hyderabad is requested to conduct borehole operations at the proposed anicut site and Major CM & CD work site and also obtain the working drawings from the CE., CDO before according technical sanction. He is also requested to take necessary action for posing this scheme to NABARD under P.Ms special package/RIDFXIII after completing the formalities like land acquisition, obtaining detailed working drawing and tendering process etc.

9. Hence, the writ petitions.

10. The petitioners pray for issuance of Mandamus to declare the impugned G.O. etc., as illegal, arbitrary and unconstitutional. About the details of project narrated above, the nature of administrative sanction obtained and the technical aspects involved in the decision making process, this Court is conscious of the fact that it does not have expertise to examine these details independently and cannot come to

an independent decision on the material submitted by both the parties. Secondly, this Court cannot sit in appeal on the issues canvassed against the impugned orders by the petitioners, as the same involves re-appreciation of the data relied upon by the respondents, either at the time of grant of hydrological clearance or administrative sanction for the project. These aspects are basically in the jurisdiction of 2nd and 3rd respondents. Unless and until the decision making process of the respondents is vitiated by total lack of material and suffers from mala fide exercise of discretion, this Court has to examine the material available on record by giving presumption to the acts of officials.

11. This Court directed production of original record by the respondents for examination and also material available in the matter of Hydrological Clearance issued by the 3rd respondent. The record is made available and for the limited purpose of appreciating whether the respondents have considered the broad spectrum of irrigation necessities of the locality, available irrigable water and the best use of available resources. Record is perused.

12. The averments in the writ petitions are similar. Reference to pleadings in writ petition No. 10037 of 2010 would sufficiently deal both the cases.

13. The distance of Ogeru Vagu between Chilakaluripet and Pedanandipadu is about 20-25 KMs. The Superintendent Engineer, Nagarjuna Sagar Right Canal, O & M Circle, through proceedings dated 03.08.1995 determined while considering the sanction for lift irrigation scheme on Ogeru Vagu the flow of water as 755 cusecs as against 833 cusecs recommended by the Executive Engineer. Thereafter, Annambhotlavaripalem Lift Irrigation Scheme was sanctioned for lifting 54.84 cusecs for the benefit of Annambhotlavaripalem Yethipothala Pathakam Abhivruddi Sangam. In course of time, a few schemes for lift irrigation of water from Ogeru Vagu were sanctioned. It is averred that with the implementation and operation of all the Lift Irrigation Schemes, the available water is fully utilized and there is no increase in water inflows and, therefore, there is no scope for construction of a new project, much less a diversion project on the up-stream of Annambhotlavaripalem lift irrigation scheme etc.

14. The grievance of the petitioners is that the project sought to be implemented on the down side stream of Chilakaluripet Bridge at 20-25 KMs will affect the rights enjoyed by members of petitioner associations. The implementation of the project, as there is no increase of inflows, would certainly hamper the right of existing Ayacutdars under, as many as 18, lift irrigation schemes. The petitioners with a view to highlighting the illegalities and irregularities in the conditions imposed by the respondents have replied against each of the conditions set out in the recommendation/administrative sanction of the 1st respondent. As noted above, in the present writ petitions, I am not proposing to examine the technical feasibility or efficacy of water utilization available in the Vagu. Therefore, though the petitioners filed averments touching every aspect of the condition or circumstance considered

by the respondents, I am not adverting to these averments. As referred to above, the grievance of the petitioners is about their water rights vis--vis the Ayacut covered by the existing lift irrigation schemes. The petitioners urge that the impugned actions are violative of Section 4 of the Andhra Pradesh Irrigation (Construction and Maintenance of Water Courses) Act, 1965 (for short the Act). The legal objection stated is that the proposed activity of construction of diversion channel comes within the ambit of the Act and the respondents are under obligation to follow the procedure stipulated by Section 4(2) of the Act, which reads as follows:

Section 4: Power of Irrigation Officer to construct water-course suo motu or on application:-(1) Whenever an Irrigation officer considers suo motu or on the application of an ayacutdar that the construction of a water course, is expedient or necessary, he shall ascertain the most suitable alignment for the said water course and cause the land which in his opinion is necessary for the construction thereof to be marked out on the ground.

(2) He shall thereupon publish a notice in the prescribed manner in every village through which the water course is proposed to be taken specifying the extent of land which lies in such village and which has been marked out under sub-section (1) and requiring:-

(a) every owner who wishes to receive supply of water to his land through the water course or to make use of the watercourse for drainage purposes to make an application in that behalf to the Irrigation Officer within thirty days of publication of notice:

(b) every person likely to be affected by the construction of the water-course or interested in the land on which it is proposed to construct the water-course to submit his petition to the Irrigation Officer stating his objections to the proposed construction within sixty days of publication of the notice.

15. It is contended that the impugned G.O., though accords administrative sanction of funds to the project, should be issued after following the procedure set out in Section 4(2) of the Act, whereas the impugned actions are not preceded by notice, much less any recommendation in terms of Section 4(3) of the Act and the impugned actions are prima facie illegal and liable to be set aside.

16. It is further contended that the members of lift irrigation schemes have vested and recognized right of utilizing irrigable water from the sanctioned schemes. If the impugned actions are implemented, the members of petitioners/societies are affected adversely and without proper examination of the issue, for collateral reasons and without considering the available options, the project is implemented and for yet another reason, the impugned actions are liable to be set aside.

17. The 5th respondent filed counter affidavit. It is stated by the 5th respondent that hydrological clearance is issued after comprehensively assessing the data/details of

available water yield in the Ogeru Vagu and the requirements of upper and lower riparian rights were taken note in the comprehensive analysis of examining the suitability of the project. It is replied that according to the latest study and from the data available in this behalf, the Engineer-in-Chief has found surplus/sufficient water for allotment to the proposed project. With the implementation of the project, it is affirmed that the rights of lower riparian enjoyers will not be affected. The hydrological clearance granted has taken note of possible objections from the existing lift irrigation beneficiaries under various schemes and to allay fears of lower riparian rights, suitable conditions have been imposed while granting hydrological clearance. The imposition of conditions by the 2nd respondent should not be misunderstood as clearance is granted without proper ascertainment of the project details. As the petitioners have stated their view on each one of the conditions, the 5th respondent by way of reply places before the Court the stand of the department on these conditions. I have not considered the objections of petitioners condition-wise in detail. I am not adverting to the reply of the respondents as well. According to the respondents, the scheme has been administratively approved after thorough investigation undertaken by the department. The proposal for the project has been pending from 1995-1997 to create irrigation potential to an extent of Ac. 4000 ID Khariff, stabilizing Ac. 12630 in 15 defunct lift irrigation schemes, and the project envisages providing drinking water to a few villages en route. The respondent explains the anomaly in the communication of Superintendent Engineer dated 03.08.1995 on the available irrigable water and submits that the project is undertaken by excavation of diversion channel (link channel) to Peddavagu which has more technical feasibility and maximum utilization of water than the previous proposal. It is stated that the opposition for implementation of the projects is motivated. Subsequently, the Government accorded administrative sanction for the following lift irrigation schemes.

On Nakka vagu:

On Ogeru Vagu:

18. With a view to resolving the issue, a meeting with the stake holders was conducted to explain the manner and mode of implementation of the project. The petitioners are motivated and they are pursuing writ remedy without proper grievance. The respondent asserts that Ogeru Vagu mainly depends on regeneration water from N.S.P. Ayacuts. The existing schemes are working with 12 hours pumping of water. If the Ayacuts suffer from critical situations, the demand operation can be scheduled for 12 hours for 50% Ayacuts and another 12 hours for other 50% Ayacuts. It is stated that the effective and efficient manner of distribution would enhance the utilization of available water. The respondent on the legal objection replies that Section 4 of the Act is not applicable in the implementation of the scheme. The project sanction provides for land acquisition for canal and at the time of acquisition, the procedure will be followed. The technical sanction is yet to

be obtained and before proceeding further in the implementation of project, the writ petitions are filed. It is clarified that the project is a diversion scheme to carry water to Parchuru Vagu and does not pass through the lands or Ayacuts of petitioners.

19. The petitioners filed reply joining issue with material averments in the counter affidavit.

20. I have perused the reply. In my opinion, this Court need not refer to the averments in the reply affidavits, for the issues for decision are fully taken note of by the Court while disposing of the writ petitions.

21. From the above material/averments, the following points arise for consideration of this Court.

a) Whether the petitioners have right u/s 4 of the Act to insist upon notice before administrative sanction is accorded and whether Section 4 is applicable for implementation of the project?

b) Whether the administrative sanction of Rs. 45 crores for implementation of project is legal and sustainable from the material available on record?

22. Sri M.R.S. Srinivas and Sri A. Sudhakar Rao, learned counsel for the petitioners have reiterated the stand taken in the affidavits and contended that the orders impugned are based on without material; that the respondents failed to take note of the rights of beneficiaries of existing schemes; that the implementation would disturb the longstanding use of water by the ryots, and that at any rate the issuance of impugned G.O./proceeding without notice to the members of the petitioner associations has vitiated the action and are liable to be set aside. The learned counsel relied on the decision reported in M. KISTIAH V R.D.O.

23. On the other hand, Sri K. Sreedhara Murthy, learned Assistant Government Pleader submits that the respondents have considered every minor detail in the matter and the record evidences consideration. The 2nd respondent is the competent authority in terms of G.O.Ms. No. 87 Irrigation and CAD (Projects Wing-COD) Department dated 12.08.2002 for grant of hydrological clearance. The 2nd respondent considered the material available on record and taken note of the existing and operating lift irrigation schemes. To ensure continuity of rights of lower riparian ryots, suitable conditions are incorporated. Thus, the rights of existing lift irrigation scheme beneficiaries are not affected in any manner and the writ petitions are de void of merits.

24. The learned Assistant Government Pleader submits that Section 4 of the Act has no application to the case on hand and there is no requirement in law to give notice to all the persons likely to be affected in the implementation of an irrigation project, much less at the stage of obtaining administrative sanction. The petitioners are joining issue in construction of project without appreciating the scope and object of

administrative sanction accorded by the 1st respondent through impugned G.O. The learned Assistant Government Pleader further submits that the project is on the upstream of the Lift Irrigation Schemes of petitioner associations, and if the diversion of water through link channel is undertaken, these channels will not be passing through the lands of members of petitioner associations to make any grievance. The rights of members of the petitioner associations are to the limited extent of deriving water from the ongoing lift irrigation schemes and the petitioners cannot object to optimum utility of available water in Vogeru Vagu. It is finally submitted that this Court ought not sit in appeal on the administrative sanction for Rs. 45 crores to construct the project, as the respondents who have jurisdiction and expertise are satisfied with the proposal to establish the project. To prima facie satisfy the Court, the record is produced and the record evidences sufficient material/data on the conclusions recorded by the competent authority. The learned Assistant Government Pleader relied upon the decision in Ponnaboyina Narasimham and Others v. Government of A.P., irrigation department and others

Point (a):

25. Briefly stated, the case of petitioners is that the orders impugned are violative of statutory requirements u/s 4 of the Act. In other words, the petitioners complain that even before administrative sanction is accorded to the project, the respondents should have put on notice the persons who are affected by the construction of the project. The construction of project would deprive the members of petitioner associations their enjoyment of water which is already granted in implementation of existing irrigation schemes.

26. The learned Assistant Government Pleader, on the other hand, contends that reference either to Act or Section 4 thereof is unavoidable. The implementation of irrigation projects for maximum utilization of resources is not dependent upon the willingness of Ayacutdars or beneficiaries of a scheme. Both from the tenor of objection and reply, it is clear the issue depends upon the consideration of the extent of applicability of the Act.

27. The Act provides for construction and maintenance of water sources in the Ayacut, irrigation works and matters connected therewith.

28. Section 2 the Act defines:

(a) Ayacut in relation to an irrigation work means all the lands which are entitled to irrigation under the irrigation work; (b) Ayacutdar means owner of land in an ayacut;

(c) Construction includes extension, improvement or alteration of water course:

(d) xxxxx

(e) xxxx

(f) Irrigation work includes

- (i) all rivers and natural streams or parts thereof;
- (ii) all lakes and other natural collections of water or parts thereof;
- (iii) all tanks, wells, tube wells, reservoirs, ponds, kuntas, streams, madugus used for the supply or storage of water for purpose of irrigation;
- (iv) all canals, channels, anicuts, dams, embankments, weirs, sluices, groins, kuntas, and other works other than escape channels connected with, or auxiliary to irrigation works referred to in sub-clauses (i) to (iii)
- (v) all drainage channels, the water of which is utilized for the purpose of irrigation;
- (vi) all lands used for the purpose of irrigation works referred to in sub-clauses (i) to (v): and
- (vii) all buildings, machinery, fences, gates, roads and other erections occupied by, or belonging to, the Government are connected with an irrigation work;

Which are owned, maintained, constructed or controlled by the Government.

Section 4 reads as follows: Power of Irrigation Officer to construct water-course suo motu or on application:-(1) Whenever an Irrigation officer considers suo motu or on the application of an ayacutdar that the construction of a water course, is expedient or necessary, he shall ascertain the most suitable alignment for the said water course and cause the land which in his opinion is necessary for the construction thereof to be marked out on the ground.

(2) He shall thereupon publish a notice in the prescribed manner in every village through which the water course is proposed to be taken specifying the extent of land which lies in such village and which has been marked out under sub-section (1) and requiring:-

(a) every owner who wishes to receive supply of water to his land through the water course or to make use of the water-course for drainage purposes to make an application in that behalf to the Irrigation Officer within thirty days of publication of notice: (b) every person likely to be affected by the construction of the water-course or interested in the land on which it is proposed to construct the water-course to submit his petition to the Irrigation Officer stating his objections to the proposed construction within sixty days of publication of the notice.

(3) The Irrigation Officer shall also send copies of the notice to every person known or believed to be the owner of the land through which the water-course is proposed to be taken and to the District Collector for publication in the Andhra Pradesh Gazette.

(4) The Irrigation Officer where he is not the Revenue Divisional officer shall, as soon as may be after the expiry of the period specified in the notice, make a report to the Revenue Divisional Officer regarding the proposed water-course together with a

plan showing the alignment thereof and objections, if any, received by him.

29. The Act defines ayacut as the agricultural lands entitled to irrigation under the irrigation work.

30. The owner of an agricultural land in an Ayacut is the Ayacutdar. The works, namely, extension, improvement, or alteration of water course are included within the meaning of construction. The irrigation work within its fold comprehensively defines major, minor and ancillary distributary systems in an irrigation work. Water course is a field channel provided to receive water from the outlet of an irrigation work and conveys water to lands included within the Ayacut of the irrigation work, which is maintained at the cost of Government and includes subsidiary channels etc.

31. Section 4 of the Act confers power on Irrigation Officer to construct water course either on an application or suo motu for supplying water to the Ayacut and take steps to have the land necessary for the said purpose. It is in the context of construction of water course the Irrigation Officer publishes a notice in the prescribed manner in every village through which the water course is proposed to be taken, specifying the extent of land which has been earmarked in each village. Every owner of land intending to receive water or use the water course for drainage purpose makes an application within 30 days of publication of notice. Section 4(2)(b) of the Act provides for submitting objections to the Irrigation Officer on the proposed construction, namely, water course within 60 days of publication of notice. Section 4(3) and (4) of the Act refers to further stages in the matter with which we are not concerned in the writ petitions.

32. In Ponnaboyina Narasimhams case (2000 (6)ALT 596) (supra) the scope and applicability of Section 2(j) and Section 4 of the Act to other than water course is considered. The relevant paras are as follows:

A reading of these provisions makes it abundantly clear that the procedure contemplated thereunder would be applicable in respect of construction of a water-course and not a tank or any other source of irrigation. Water-course has been defined in Section 2(j), which reads as follows:

Water course means a field channel which receives supply of water from the outlet of an irrigation work and conveys water to lands included within the ayacut of that work and which is not maintained at the cost of the Government and includes all subsidiary works connected with any such channel except the sluice or outlet through which was supplied from irrigation work to such channel.

33. This definition makes it clear that water course means a field channel used to conveying water from the source of irrigation works like a tank etc., to lands included within the ayacut of the said irrigation works. The petitioner has not stated anywhere in the affidavit that his lands are sought to be acquired for construction of any irrigation channels as defined in Section 2(j) of the Act. What has been averred is

that steps are being taken for construction of a tank. A tank obviously is a source of irrigation where water is collected and by no stretch of imagination a tank can be considered as a water channel. In fact, water channel is the means by which water from a tank is conveyed to the fields to be irrigated. Thus, there is nothing placed before this Court to show that any steps have been taken by the respondents for acquiring the lands of the petitioners for construction of any water channel.

34. The legal objection is considered in the above analysis. The project is constructed on the down stream of Ogeru Vagu of Chilakaluripet Road Bridge on NH-5. The petitioners are enjoyers of water from Lift Irrigation Schemes operated on the down stream of Ogeru Vagu. The excavation of diversion channel as shown in the legend (plan) goes and the confluence is into Peddavagu. Once the project, particularly the excavation channel, is on the upstream of the lands of petitioners, the insistence of notice or consideration of objections by referring to Section 4 of the Act does not arise. Further, in the counter affidavit, it is categorically stated that the diversion scheme to carry water to Peddavagu does not pass through the lands or Ayacut of the petitioners. In the considered opinion of this Court, the respondents are not under obligation to issue notice u/s 4 of the Act to the Ayacutdars of various lift irrigation schemes on the down stream of Ogeru Vagu. The requirement of Section 4 of the Act should also be interpreted as limiting only to the extent of construction of a water course for supply of irrigation water from an irrigation work through the lands of Ayacutdars and nothing else. Even these elements are not attracted to the grievance of petitioners, for the excavation channel passes through other survey numbers. In the light of foregoing discussion, the point is answered against the petitioners and in favour of respondents. The decision reported in M. KISTIAHs case 1972 (1) A.P.L.J 363 (supra) is not applicable to the facts of the present case and distinguishable on the principle of law that arises for consideration.

Point (b):

35. The scope of judicial review vis--vis the grievance of the petitioners is borne in mind while considering the point for consideration and decision. The narration of petitioners case is manifested into three factual grievances, namely (a) that there is no surplus water for getting diversion to Peddavagu, (b) that the details on regeneration or addition of available irrigable water suffer from contradictions, and (c) that there are no gauge meters to arrive at actual water quantity in Vogeru Vagu and the administrative sanction is given without sufficient basis.

36. On the other hand, the case of the respondents is that on receipt of request for construction of the project, the Executive Engineer, APSIDC Division, Ongole, has undertaken a detailed study of gauge readings on Vogeru Vagu from the year 1991. The requirement of water for implementing the existing lift irrigation schemes and upon consideration of total data, the balance yield left over in Vogeru Vagu after Pedanandipadu Road Bridge, is arrived at 67.48 cusecs. It is stated that by maximum

utilization of available water in Vogeru Vagu not only additional Ayacut is brought under cultivation, but steps to provide drinking water to a few more villages can be implemented. No doubt, the petitioners stoutly deny the data and the details placed before the Court by the respondents. The competent authority is the Engineer-in-Chief for grant of hydrological clearance. The recommendation of the Executive Engineer of APSIDC was considered by the Superintendent Engineer and Chief Engineer. Both the authorities, from the data/details made available with the proposal, were satisfied with the availability of additional water for starting the subject excavation diversion scheme to augment water in Peddavagu. The proposal has been accepted and subject to conditions the hydrological clearance has been granted. The apprehensions of the petitioners about reduction of available water to existing lift irrigation schemes are taken care by the conditions.

37. The administrative sanction has further directed to protect the interest of lower riparian rights.

38. The petitioners ought to concern themselves about the assured water in the schemes operated in their area. The larger issue of facilities or irrigation and further distribution of water without impairing the rights of petitioners, is certainly in the technical and administrative realm of respondents. The respondents are the custodians of the data/details in the locality and aware of the local irrigation facilities and necessity for expansion of irrigation work etc. After going through the objections and also the record, namely, from the proposal dated 03.03.2005 of Executive Engineer till grant of Hydrological Clearance, I have no difficulty in giving primacy of opinion to the decision making process of respondents and hold that the objections of the petitioners are untenable. Point (b) is answered in favour of respondents and against the petitioners.

39. The establishment of any project, much less the project assailed in the writ petitions, is required to be taken up and completed in right earnest within the time schedule to ensure avoidance of cost escalation etc. In the case on hand, in the opinion of this Court, while parting with the matter, it is noted that the petitioners have made the administrative sanction subject to adjudication of a non-existing grievance for decision and obtained stay of all further proceedings and stopped implementation of project. This stoppage definitely would result in excess costs, loss of time and loss of enjoyment of water by the beneficiaries under the project. This Court would have certainly put the petitioners to terms while dismissing the writ petition but for the fact that the petitioners consist of members who are agriculturists and in apprehension of losing assured water for irrigation, the remedies are pursued without motives. Hence, terms are not considered while deciding the issues.

40. There are no merits in the writ petitions. The writ petitions are dismissed. No order as to costs.

41. Miscellaneous petitions pending, if any, in these writ petitions shall stand closed.