

ATMA LINGA REDDY AND ORS. V. UNION OF INDIA AND ORS.

Aastha Bhowmik***INTRODUCTION**

The Indian constitution provides a unique understanding of legal principles concerning fundamental rights, administrative decisions, legislative frameworks and judicial interpretations. This is because it confers to enrich and enlighten the citizens with the correct application of the judgements with proper inclusion of several dimensions in the matters of proper implementation and subsequently interprets it with other acts to formulate the best policies and complete justice for the citizens of the country but the court may find itself in a situation creating a judicial restriction on the scope and eventually limiting the judiciary's role. Our country is vast in terms of its geographical distribution with the vast stretch of lands and rivers added to its cultural, social and economic significance it creates a significant impact among the citizens of our country. The distribution of river bodies all over the landscape has been considered a contentious issue that has led to several disputes in the past years. With the scarcity of water in a few states and over-flooding issues in other regions, the constitution has essentially provided us with the Water Dispute Act to make it easier for aggrieved citizens to align with their rights and justice in a speedy and fair trial. The act is the INTERSTATE WATER DISPUTE ACT, of 1956 an Act of the Parliament of India enacted under Article 262 of the Constitution of India on the eve of the reorganization of states on the linguistic basis to decide the water disputes that may arise in the use, control, and distribution of an interstate river or river valley. The act was included under Article 262 which empowers the parliament to provide a framework for adjudicating disputes concerning interstate water or river valleys. Eventually, there have been several times when the scope of judicial intervention in inter-state water disputes and its respective application even in terms of Pro-bono application or PIL submission has been questioned and laid down in front of the apex court which restricting the judiciary's position on its jurisdictional framework concerning the water disputes and role of water tribunals. As ruled down article 131 can't be invoked in water disputes when specific mechanisms like the water dispute tribunal exist. Thereby, the usage of such contemplation questions the encroachment of the very principle of "Ubi Jus Ibi" (where there is a right, there must be remedy) in connection with the locus standi of private

*BA LLB, FOURTH YEAR, UNIVERSITY OF NORTH BENGAL- DEPARTMENT OF LAW.

individuals as whether this rule is undermining citizens right under article 32 and subsequently questioning the scope of article 21. The question now lies in whether the scope of such an application balances the fundamental rights and the judicial limitations. This paper, through the lenses of the case ATMA LINGA REDDY AND ORS. V. UNION OF INDIA AND ORS, will be highlighting whether such an application is a judicial limitation or a respectful and significant interplay between constitutional rights, legislative frameworks and judicial authority within the ambit of the Interstate Water Dispute Act.

FACTS OF THE CASE

This public interest litigation was instituted by Mahbubnagar district residents in Andhra Pradesh. They sought a halt order on the construction of a Mini Hydro Power Project at the Rajolibanda Diversion Scheme (RDS), which they believed would decrease drinking and irrigation water available to them. The RDS draws water from the Tungabhadra River, a tributary of the Krishna River, near Rajolibanda village in Raichur district, Karnataka. The RDS canal has a length of 89 miles(143 km) along with a water discharge capacity of 850 cusecs of water. It is an over 50-year-old constructed canal by Nizam of Hyderabad. Immediately after 1956 when the states were reorganised 26-27 miles of the RDS canal with an ayacut of 5900 acres fell within Karnataka and the remaining 63 miles of the canal and an ayacut of 87000 fell within Andhra Pradesh. The petitioners stated that RDS caters needs of drinking and irrigation water in Mehboobnagar District, which is a drought-prone area of the State of Andhra Pradesh. It is alleged that 40,000 farmers out of which 30,000 are small and marginal farmers are completely dependent on the said canal for drinking, irrigation, sanitation, and other domestic purposes. According to the petitioners this deprivation violated their right to life under Article 21 as it included the right to access basic requirements like water. The petitioners pleaded that the State of Karnataka has acted illegally and without the authority of law in granting and approving the Power Project in favour of Sree Swarna Energy Limited- a private party. The said project has deprived the residents and farmers of the District Mehboobnagar of the State of Andhra Pradesh of the adequate water supply required for drinking purposes and irrigation facilities. The petitioners, for the greater interest of the public, are therefore constrained to move this Hon'ble Court under Article 32 of the Constitution. Further, it was averred that The Power Project would continue in operation for thirty years from the date of commissioning of the powerhouse and by the term of the agreement, thereafter would be handed over to the State of Karnataka. But in the agreement

itself, there is a stipulation for renewal at the option of the company for a further period of twenty years. Thus, virtually, the power project has been assigned to an individual operator and put in the hands of private management for a period of half a century.

LEGAL ISSUES

- Whether the writ petition filed under Article 32 of the constitution is maintainable or not?
- Whether the given bar on the jurisdiction of the courts under Article 262 and Section 11 of the Interstate Water Disputes Act, 1956 to resolve water disputes maintainable or not?
- Whether the petitioners have locus standi in the matters of water disputes as the private individuals are denied to seek redressal from the supreme court which is done to maintain separation between individual grievances and aggrieved state disputes.

OBSERVATION OF SUPREME COURT

The court articulated several observations concerning the legal frameworks governing interstate water disputes. The court pointed to Article 262 of the Constitution, stating that Parliament has the power to enact laws regarding the exercise of jurisdiction of disputes concerning state river waters. *“Notwithstanding anything in the Constitution, Parliament may by law provide that neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint as is referred to in clause (1)”* It referred to the Inter-State River Water Disputes Act, 1956, establishing a framework for the adjudication of such disputes. The court reiterated that disputes over inter-state water cannot be litigated in the High Courts or the Supreme Court under Articles 226 and 32, respectively, reinforcing the fact that Article 262 is designed to prevent judicial interference in water disputes. The court emphasized that the Supreme Court has been barred under section 11 and article 262 of the Constitution to take into the matters of water dispute. The court further pointed out Section 11 of the Act, which creates an express bar to the jurisdiction of any court over water disputes referred to a tribunal, which strengthens further the conclusion that such matters must be resolved within the statutory framework without judicial intervention. The Supreme Court merely reiterates that it has no jurisdiction to adjudicate the matter because the Krishna Water Disputes Tribunal had jurisdiction over water-sharing issues between Karnataka and Andhra

Pradesh. The petitioners have sought to raise their grievance with respect to the Mini Hydro Power Project and the diversion of water by a writ petition under Article 226 of the Constitution of India. Thereby, Article 32 was thus impermissible. The Court further noted that Article 131 grants the Supreme Court original jurisdiction where there is a dispute between states or between states and the Union. However, with Article 262 and the Water Disputes Act in view, the Supreme Court held that the provisions of Article 131 had to be harmonized with the regime of exclusions provided under Article 262. What ensued was an effective embargo that disputes regarding inter-state rivers could not be brought before the original jurisdiction of the Court. Along this, such an affidavit was provided on behalf of the respondent company which supported the position asserting that the project was a “run-off river scheme” meaning that it did not use water for its purposes and would give energy only when the surplus was available in the downstream side from anicut spilling over to compensate requirements irrigation during outfalls. The court held that it was not illegal as the Krishna Water Disputes Tribunal had granted permits for the use of the waters for the generation of power subject to certain conditions so the plea of petitioners that the project would cause loss to the rights of water of Andhra Pradesh was nullified and came to be rejected. The court further warned that PIL (public interest litigation) must not be used to serve political issues and should not abuse the judicial process as such disputes can't be challenged in the court as the project had already been approved by the State of Karnataka and had progressed significantly by spending nearly upto 9.40 crores.

DECISION OF COURT

The Court held that no public would be entitled to file a public interest litigation (PIL) in the matter concerning the sharing of water of any inter-state river and ensured that the hydroelectric project at Rajolibanda in Raichur by the Karnataka government is not illegal. The petition under Article 32 of the Constitution is not maintainable and is liable to be dismissed, no further action is called for. While pronouncing judgment, the operative part of the judgement was read out which said that the states should be the party in a river water disputes. It was further advocated that Article 262 is an enabling provision and confers the power of Parliament to enact legislation that should provide for adjudication of such disputes or complaints, barring the jurisdiction of all Courts, including the Supreme Court. Article 131 of the Constitution which confers powers upon the Central Government or any State Government to institute a suit in this Court on Original Side in certain cases cannot be relied upon for inter-State water disputes

considering Section 11 of the Act. Moreover, the issue of constriction of the Mini Hydel Project squarely comes within the purview of the Tribunal envisaged under the Act and the matter is sub judice. Hence, this writ petition was dismissed.

ANALYSIS

Inter-state water disputes are highly sensitive issues revolving around the key complexity of several questions of federalism, regional disparities and cultural disputes. To avoid the hassle of prolonged litigation and political tensions which will eventually cause the delay of trial the framers of the constitution and parliament created a separate mechanism where specialised tribunals would handle the matters and proceed necessarily. Art 262(2) of the constitution has given the authority to bar the jurisdiction of courts including the Supreme Court over interstate water disputes which is not restricting but rather to ensure smooth and speedy justice by respectfully blending both the authorities. Followed by parliament enacted section 11 of the Inter-State Water Dispute Act, 1956 which mentions that no courts including the Supreme Court shall have jurisdiction over any matter that has been referred to a tribunal for adjudication under the act. In previous judicial precedents, the Supreme Court has dismissed the petition filed under Article 32 seeking a resolution to the Cauvery Dispute Act. And in the Krishna water dispute tribunal is already dealing with a water dispute concerning the Rjolibanda Diversion Scheme (RDS) for such the matter falls under the ambit of the tribunal, not the Supreme Court. Next, on the question of whether the petitioners or private individuals have locus standi to raise or agitate the inter-state Water Disputes Act. Locus standi means the legal standing or capacity of a party to bring a suit before the court. In public law matters, especially under Article 32, for the enforcement of fundamental rights, the court has readily expanded locus standi to embrace PILs- Public Interest Litigations-which entitle concerned citizens and organizations to approach the court on behalf of the public. But this locus standi expansion has limits, more so in matters whose subject matters are regulated by statute. In inter-state water dispute cases, the courts are not open to individuals or third parties; instead, it is open to the State governments that have an interest in the dispute. This principle was established to maintain order and efficiency in dealing with highly sensitive disputes that affect multiple states. The Interstate Water Dispute Act restricts private individuals from referring matters of water disputes to a tribunal rather than allowing the state government to do so. As it was led down only States are the primary stakeholders in inter-State water disputes and no third parties have a direct role in the process. A comprehensive reading of

the abovementioned provisions provides us with positive inference regarding the proper framework led down by the constitutional makers where they have essentially corporated the balance between constitutional rights, legislative frameworks and judicial authority. Hence in my opinion the application of Article 262 followed by the application section 11 under the inter-state Water Dispute Act doesn't limit the judicial role rather it enhances proper and speedy methods for the proper serve of justice with correct judicial pronouncements. It effectively elevates the very idea embodied around Article 21 to provide justice to the citizens once they are aggrieved.

CONCLUSION

An analysis of the case in all its enclosures has brought us to the following learnings and understandings—the legal framework that is made under the inter-state water dispute is framed to ensure that such disputes are adjudicated by specialised tribunals through a properly established judicial process to maintain the balance between the fundamental rights and judicial limitations. The application of Article 262 is an enabling provision and empowers Parliament to enact a law providing for adjudication of such disputes or complaints, excluding the jurisdiction of all Courts including the Supreme Court. Article 131 of the Constitution which enables the Central Government or a State Government to institute a suit in this Court on its Original Side in certain cases also cannot be invoked in inter-State water disputes given Section 11 of the Act.

REFERENCES

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5. *State Of Karnataka Vs. State Of Andhra Pradesh* (2000) 9 SCC 572
6. Constitution of India 1950, Art 131
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