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***IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 4931/2013 & CM Nos.11151/2013, 237, 4337,
4515, 7299, 7654/2015, 729, 730, 9620/2018

S.B. TRIPATHI

..... Petitioner

Through : Petitioner in person
Mr. Rakesh Kr. Khanna, Sr.
Adv. (appointed as amicus
curiae)

versus

GNCT OF DELHI & ORS

..... Respondents

Through : Mr. Satyakam, ASC-
GNCTD with Mr. Shashwat
Parihar, Adv. for R-1 & 2
Mr. Dayan Krishnan, Sr.
Adv. with Mr. Sumeet
Pushkarna and Mr. Syed
Yruj Abbas, Advs. and
Mr. Jagdish Arora (CE) for
R-3/Delhi Jal Board
Mr. Jagdeep Dhankhar and
Ms. Geeta Luthra, Sr. Advs.
with Mr. Anish Gupta, Ms.
Priyanka Parida and Mr.
Harsha, Advs. for R-4/State
of Haryana
Mr. Anil Grover, SC with
Mr. Jitendra Kr. Tripathi,
Adv. for R-NDMC
Mr. Sanjeev Sabharwal, SC-
DDA with Mr. Hem Kumar,
Ms. Simmee Kumari, Advs.
for R-DDA
Mr. Amit Mahajan, CGSC
for R-6/UOI

**CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE C.HARI SHANKAR**

**ORDER
13.03.2018**

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CM No.9620/2018

1. Notice.
2. Ms. Priyanka, learned counsel accepts notice on behalf of respondent no.4. Reply be filed within one week from today. Rejoinder thereto, if any, be filed before the next date of hearing. Liberty is given to all non-applicants to file reply, if any, within the same period.
3. The applicant-Delhi Jal Board is permitted to file rejoinder thereto before the next date of hearing.
4. List on 2nd May, 2018.

CM Nos.729-730/2018

5. Replies shall be positively brought on record within four weeks from today. Rejoinders thereto, if any, be filed before the next date of hearing.
6. List on 2nd May, 2018.

W.P.(C) 4931/2013

7. We are informed by Mr. Jagdeep Dhankar and Ms. Geeta Luthra, learned Senior Counsels who appear for the respondent no.4-State of Haryana that under the Memorandum of Understanding with the Delhi Jal Board, repairs to the Delhi Sub Branch Canal are to be carried out by the State of Haryana at the

cost of the Delhi Jal Board.

8. Mr.Dhankar, learned Senior Counsel makes a submission that despite repeated reminders, the Government of NCT of Delhi has failed to make payment for the same and that as on date, an amount of Rs.287 crores is due and payable as arrears and approximately a sum of Rs.30 crores has to be paid for the current repairs.

9. Mr. Dayan Krishnan, learned Senior Counsel who appears for the Delhi Jal Board vehemently disputes the claim of arrears. It is further submitted by Mr. Dayan Krishnan, learned Senior Counsel that the Delhi Government has sanctioned the estimated cost of Rs.28.16 crores for the purposes of lining and strengthening of the Delhi Sub Branch Canal. In view thereof, this amount has to be released to the State of Haryana. Let the payment be made immediately by the GNCTD and respondent no.3.

10. The respondent no.4 shall ensure that the repairs are undertaken in right earnest and at the earliest.

11. It appears that the water being supplied by the State of Haryana to the Carrier Line Canal (CLC) has to be to the extent of 719 cusecs per day. So far as the supply to Delhi is concerned, the State of Haryana has to supply 330 cusecs per day through the Wazirabad Water Treatment Plant and the Nangloi Water Treatment Plant.

12. So far as the supply of maintenance and continuity of the supply is concerned, Mr. Dayan Krishnan has drawn our attention to the order dated 19th December, 2014, the relevant portion whereof is extracted below :

“We have heard the learned counsel for the parties at length.

Mr Lahiri, appearing for State of Haryana, on instructions from Mr. Rajeev Verma (HSE-1), Chief Engineer, Yamuna Water Services Unit (South), states that as directed by this court the Munak CLC canal was commissioned on 01.12.2014. He further submits that the water being supplied to the Munak CLC canal is to the extent of 719 cusecs per day.

He further states that, apart from this, water is being supplied to Delhi through the Delhi branch to the extent of 330 cusecs per day for the Wazirabad WTP and the Nangloi WTP. In other words, water through the Munak CLC canal is being supplied almost to its full capacity which is 723 cusecs. They assured this court that they will continue to maintain this water supply till further orders.

Ms Anand, the learned ASG, appearing on behalf of Delhi Jal Board, states that the connection between the Nangloi and Bawana WTPs to the Munak CLC canal shall be made operational within two days. The Government of NCT of Delhi is directed to implement the decision of the Lieutenant Governor of Delhi taken on 09.07.2013 so as to make the connection between the Munak CLC canal and Dwarka Water

Treatment Plant operational.

At the request of Mr Khanna, the learned amicus curiae, we are impleading the Union of India, through the Ministry of Water Resource, as respondent no.6. The amended memo of parties be filed within three days.

Court notice shall go to the standing counsel of Union of India.

Renotify on 06.02.2015.

Dasti.”

(Emphasis supplied)

13. In order to obviate any controversy and disputes between the respondent nos. 3 and 4 regarding the supply which was actually being effected, several steps have been taken in these proceedings. Mr. Rakesh Kr. Khanna, learned amicus curiae was directed to conduct inspections of the water supply to facilitate the recording of the quantum of water on 27th March, 2015. On the 27th of March, 2015, the fixation of flow meters was directed and the following order was recorded :

*“We have heard the learned counsel for the parties at length. Mr Rakesh Khanna, the learned amicus curiae, has **submitted that the best method of measuring the flow of water is by using the Ultra Sonic Flow Meter.** Mr Dayan Krishnan, the learned senior counsel appearing on behalf of Delhi Jal Board has stated that the said flow meters shall be procured at the cost of the Delhi Jal Board. Consequently, such flow meters shall be fixed at RD 28236 of the Munak*

CLC. Parallel to it, a flow meter shall also be placed at the Delhi subbranch. Mr Rakesh Khanna may also in his wisdom require placement of flow meters at other points in the territory of Delhi. These flow meters shall be placed within two weeks. Thereafter the measurements shall be done on a continuous basis and shall be logged so that representative measurements can be taken by Mr Khanna at different intervals of time. On such occasions, the Superintending Engineer of the Haryana Irrigation Department and the Superintending Engineer of the Delhi Jal Board shall be present. The complete log shall be placed before this court on the next date of hearing.

Renotify on 01.05.2015.

In the meanwhile existing arrangements shall continue.

The learned counsel for the parties may request Mr Rakesh Khanna to examine any part of the canal at a time convenient to him. Interim order, if any, to continue. Dasti.”

(Emphasis by us)

14. The parties had informed satisfaction and resolution of most of the issues on account of placing of ultrasonic flow meters on the 28th of May, 2015 in the following terms :

“The report submitted by Mr R.K. Khanna, the learned amicus curiae, is taken on record. We have been taken through the report and we find that Mr Khanna has painstakingly prepared the

*report and has made several visits to the various sites of two canals. We express our gratitude to him for the effort put in by him. **We are informed by the counsel that by placement of the Ultra Sonic Flow Meters most of the issues have been resolved and as of now Delhi is getting the extent of water as stipulated in our earlier orders. Mr Khanna has also shown us several photographs which indicate that the Delhi Sub-Branch canal is under extreme dis-repair because of the age of the canal. Mr Khanna requests that this matter be monitored for some more time.***

*Consequently, we are renotifying this matter on 11.09.2015. **The current position with regard to the supply of water shall continue in the meantime.***"

(Emphasis by us)

15. The above narration would show that by the orders dated 19th December, 2014; 27th March, 2015 and 28th May, 2015, this court had specifically directed the respondent no.4-State of Haryana to ensure continuity of the supply of water in the above terms. These orders have not been modified or varied till date.

16. Difficulties are expressed by Mr. Dayan Krishnan, learned Senior Counsel appearing for the Delhi Jal Board-respondent no.3 regarding maintenance of the water supply and it is contended that the situation will remain critical on account of the ensuing summer season.

17. The above narration and the orders recorded by this court would show that Mr. Rakesh Khanna, learned amicus curiae has rendered laudable assistance to this court as amicus curiae, by ensuring control and the regulation of the water supply. We would request Mr. Khanna, learned Senior Counsel and amicus curiae to scrutinise the supply of water which is being provided by the State of Haryana to Delhi. The previous orders regarding the inspection to be conducted by the amicus curiae and presence of the officials of respondent nos.3 and 4 and any other person would be complied with.

18. We further direct that given the sanction accorded by the competent authority approving the amount for the repair of the Delhi Sub Branch Canal and the imperative nature of the work involved, Govt. of NCT of Delhi/ Delhi Jal Board-respondent no.3 to forthwith remit the amount thereof to the State of Haryana.

19. We are informed by Mr. Sandeep Taneja, Chief Engineer of the State of Haryana that the entire process of issuance of tenders till acceptance thereof would require a period of one month. Immediately, on receipt of the amount from the Govt. of NCT of Delhi/Delhi Jal Board-respondent no.3, the respondent no.4/State of Haryana shall ensure that the process of award of tender for effecting the requisite repairs to the Delhi Sub Branch Canal, is commenced forthwith and is completed in any case within the stated period of four weeks from today.

20. It cannot be sufficiently emphasised that the requirement of affecting the repairs to the water carrying canal requires attention at the highest level inasmuch as the present condition is stated to be causing loss and wastage of precious water which is badly needed by the citizens of this city.

21. List on 2nd May, 2018.

Dasti under signature of the Court Master.

ACTING CHIEF JUSTICE

C.HARI SHANKAR, J

MARCH 13, 2018/kr