

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.: 394 of 2007.

Reserved on: 13.11.2007.

Decided on: 30.11.2007.

Lekh Ram.	Petitioner.
Versus			
State of H.P. & Others.	Respondents.

Coram:

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting?¹ No.

For the Petitioner: Ms. Seema Guleria, Advocate.

For Respondents No.1 to 3: Ms. Meenakshi Sharma, Deputy Advocate General.

For Respondent No.4: Mr. B.C. Negi, Advocate.

Rajiv Sharma, Judge:

The brief facts necessary for the adjudication of this petition are that the petitioner had applied to the department of Irrigation and Public Health in the year 1991 for sanction of water connection for his house in village Banwi. Consequently, the sanction was granted in favour of the petitioner by the Executive Engineer, Irrigation and Public Health Division No.2, Shimla on 7.2.1992. According to the petitioner, the connection sanctioned in his favour was disconnected by the then Junior Engineer, Shri Babu Ram, Irrigating and Public Health Division No.1, Shimla-9. The petitioner made several representations including to the

Whether reporters of local papers may be allowed to see the judgment? No.

Governor on 18.12.1992, 26.2.1993 and 11.5.1993 respectively. He also made a representation to the Chief Secretary for restoration of his water connection on 13.1.1993. In sequel to the representation made by the petitioner to the Irrigation and Public Health Minister, vide an U.O. Note No.PS/IPH-Min/94, dated 20.9.1994 approval was accorded in favour of the petitioner and the Executive Engineer, Irrigation and Public Health Division No.1 was directed to do the needful by restoring the connection. When the needful was not done even after the U.O. letter dated 24th September, 1994, the petitioner made a representation to the authorities including the Minister of Irrigation and Public Health. The petitioner applied afresh for water connection which was duly approved by the Assistant Engineer as well as by the Junior Engineer. The petitioner could not lay down the pipe line due to financial constraints and his prayer for enlargement of time was rejected. The petitioner made representation to the Irrigation and Public Health Minister on 15.3.2000. He made fresh representation to the Executive Engineer on 4.4.2004. Ultimately, vide letter dated 17th January, 2006 the water connection was sanctioned to him on 7.2.1992 was renewed and the Assistant Engineer was directed to release the connection immediately after completing all the codal formalities. In sequel to letter dated 17.1.2006, the petitioner had deposited the security amount on 24.2.2006. Despite the issuance of letter dated 17.1.2006 and deposit of the security, the water connection was not restored, which led the petitioner to making a representation again to the Irrigation and Public Health Minister. The Special Private Secretary to the Irrigation and Public Health Minister vide two communications, dated 22.8.2006 and 18.9.2006 directed the Executive Engineer, Irrigation and Public Health Division No.1, Shimla to take necessary action with regard to water connection. It appears that the water connection was not restored, which led the petitioner to make

fresh representation to the Executive Engineer on 2.11.2006 as well as issuance of legal notice to the Secretary, Irrigation and Public Health, the Executive Engineer, Irrigation and Public Health, Division No.1 and the Junior Engineer, Irrigation and Public Health Section, Jubbar Hatti, dated 1st December, 2006.

Ms. Seema Gularia, Advocate had strenuously argued that once the water connection was released in favour of the petitioner which was sanctioned on 7.2.1992 and renewed in the year 1998 and subsequently on 17.1.2006 pursuant to which the security amount was also deposited on 24.2.2006, the respondents were bound to release the connection from Gravity Water Supply Scheme (GWSS, Banwi). The learned Advocate General had strenuously argued that though as per the interim orders passed by this Court on 30.3.2007, the water connection of the petitioner has been restored from Gravity Water Supply Scheme, Banwi, but in fact, the department is ready and willing to release the connection to the petitioner from Lift Water Supply Scheme, Jubbar Hatti. Mr. Bipin Negi had adopted the arguments of the learned Advocate General and had additionally submitted that the Gram Panchayat, Banwi had already passed a resolution on 9.5.2007 to the effect that due to scarcity of water, no new water connection may be provided to the persons from the Gravity Water Supply Scheme, Banwi.

I have heard the learned counsel for the parties and perused the record.

What cumulatively emerges from the pleadings of the parties is that the petitioner had submitted the application for water connection in the year 1991 which was duly sanctioned on 7th February, 1992. It appears that the petitioner had faced certain difficulties when the Junior Engineer dis-connected the petitioner's connection in the month of November, 1992. He made several representations to the authorities.

The Irrigation and Public Health Minister directed the Executive Engineer on 20.9.1994 for restoration of the connection. The petitioner's application for renewal of the connection was duly approved by the Assistant Engineer and the Junior Engineer on 29.9.1998 and 9.10.1998, but despite that the connection was not restored in favour of the petitioner. Ultimately, vide letter dated 17.1.2006 the Executive Engineer, i.e. respondent No.2 directed the Assistant Engineer, Irrigation and Public Health Sub-Division No.1, Shimla to renew the connection immediately after completing the codal formalities. The petitioner had deposited the security amount on 24.2.2006. Once the letter dated 17.1.2006 had been issued by the Executive Engineer, Irrigation and Public Health Division No.1 and the petitioner had deposited the security amount, the connection was to be restored. The petitioner was constrained to approach the Irrigation and Public Health Minister again. The Minister sent two communications to the Executive Engineer on 22.8.2006 and 18.9.2006 and despite that the connection was not restored. This Court vide order dated 30th March, 2007 had directed the restoration of the connection. It has come in the reply filed by respondents No.1 to 3 that the order dated 30th March, 2007 was complied with and the petitioner is getting the water from Gravity Water Supply Scheme, Banwi. The learned Advocate General has submitted that though the water supply to the petitioner has been restored, but there is scarcity of water in the Gravity Water Supply Scheme, Banwi and the petitioner can be released connection from new Scheme, i.e. Lift Water Supply Scheme, Jubbar Hatti. The Gravity Water Supply Scheme, Banwi is only 250 meters away from the petitioner's residence and Lift Water Supply Scheme, Jubbar Hatti is at a distance of about 4 Kms. from the residence of the petitioner. The petitioner had already laid down the pipe line from the Gravity Water Supply Scheme, Banwi

and is getting regular water from the said source. The petitioner cannot be made to spend a hefty amount again to lay down the pipe line from Lift Water Supply Scheme, Jubbar Hatti which is at a considerable distance from the petitioner's residence.

It is also contended by the learned Advocate General that the Gravity Water Supply Scheme, Banwi has been handed over to the Gram Panchayat and it has no control over it. This submission of the learned Advocate General is not sustainable for the simple reason that the petitioner was sanctioned the water connection from Gravity Water Supply Scheme, Banwi in the year 1992 and the Scheme was handed over to the Gram Panchayat thereafter. Though the sanction was accorded in favour of the petitioner on 17.2.1992, but the supply was disrupted in the month of November, 1992. It was directed to be restored at the instance of the Minister of Irrigation and Public Health on 20.9.1994. The connection was directed to be renewed as duly approved by the Assistant Engineer and Junior Engineer on 29.9.1998 and 9.10.1998. Once the sanction has been accorded in the year 1992 which was renewed on 29.9.1998, 9.10.1998 and in the year 2006, the plea that there is scarcity of water cannot be accepted at this belated stage. The very fact that the sanction has been accorded and renewed in the year 1993 and 1998 as well as on 17.1.2006, presupposes that there is no scarcity of water in the Gravity Water Supply Scheme, Banwi. The petitioner had complied with all the conditions imposed while sanctioning the water connection including depositing the security amount on 24.2.2006. Intriguingly all the authorities, i.e. Assistant Engineer and Executive Engineer and the Irrigation and Public Health Minister had directed the restoration of the connection, but for the reasons best known, it was not restored except with the intervention of this Court on 30th March, 2007. Once the orders are passed by the

competent authorities, they are to be implemented punctually. Non-implementation of the orders by the subordinate authorities may lead to chaos. The authorities have to go by rule-book instead of being prejudiced or biased by the resolutions passed by the Gram Panchayats. The petitioner has placed sufficient material on record that certain persons who are inimical to him including his uncle are not in favour of granting water connection from Gravity Water Supply Scheme, Banwi. The respondents No.1 to 3 are required to implement the orders wholly uninfluenced by the resolution passed by the Gram Panchayat dated 9.5.2005.

Consequently, the writ petition is allowed in view of the observations made hereinabove. The respondents are directed to restore the water supply to the petitioner from Gravity Water Supply Scheme, Banwi permanently. The respondents No.1 to 3 are permitted to take the assistance of the police if the villagers of Gram Panchayat, Banwi cause any hindrance in the implementation of the judgment. The petitioner is also held entitled to costs quantified at Rs.5,000/-.

November 30, 2007.
(sck)

(Rajiv Sharma),
Judge.