

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA
CWP No.494 of 2018
Decided on: 31.10.2018

Surinder Singh ChauhanPetitioner.

Versus

State of H.P. & othersRespondents.

Coram

The Hon'ble Mr. Justice Surya Kant, Chief Justice

The Hon'ble Mr. Justice Ajay Mohan Goel, Judge

Whether approved for reporting?

For the petitioner: Mr.Shrawan Dogra, Senior Advocate with Ms.Nishi Goel, Advocate.

For the respondents: Mr.Ashok Sharma, Advocate General with Mr.J.K. Verma, Mr.Adarsh K. Sharma and Mr.Nand Lal Thakur, Additional Advocate Generals, for respondents-State.

Mr.B.N. Misra, Advocate, for respondents No.5 to 14.

Mr.Munish Datwalia, Advocate vice Mr.R.S. Verma, Advocate, for respondents No.15 to 25.

Surya Kant, Chief Justice (Oral)

The petitioner as well as the private respondents are residents of Village Bhuila, Post Office Panog, Tehsil Kotkhai, District Shimla. The petitioner's grievance in the instant writ petition pertains to the sanctioning of drinking water supply connection and its execution in terms of the letter dated 7th February, 2018. He also seeks a restraint order from disconnecting drinking water supply connection granted to him in

consequence to the sanction letter dated 7th February, 2018. The petitioner further seeks a direction to the Department to keep his drinking water supply connection from smaller tank located down below the old tank at village Bhuila and increase the volume and capacity of the said smaller tank, if need be.

2. Since the controversy re: supply of drinking water got expanded beyond the claim of the petitioner, namely, it became an issue qua all the residents of village Bhuila, this Court vide self-speaking order dated 30th August, 2018, constituted a Committee comprising (i) Sub Divisional Magistrate, Theog; (ii) Executing Engineer, IPH Division Jubbal; and (iii) Sub Divisional Officer (IPH), Kotkhai, who in turn were directed to convene a meeting of all the elected public representatives, including Pradhan, Up- Pradhan, Ward Members of the area as also the officials of the IPH Department for ascertaining as to how best the water available in terms of the existing scheme can be distributed equally amongst all the residents of the area/beneficiaries. The Committee was further directed to examine the possibility of augmenting availability of water on short term basis, till such time the scheme, as envisaged by the Government is augmented.

3. Still further, direction was issued to the Committee to ascertain “the position with regard to the existing illegal water

connections, if any”, but not to disconnect the same without leave of the Court.

4. It further appears that pursuant to subsequent directions, the above stated Committee was directed to visit the site and submit a comprehensive report to the Court.

5. In deference to the subsequent directions dated 27th September, 2018, Sub Divisional Magistrate, Theog, has submitted a report dated 8th October, 2018 and it will be useful to reproduce para 1(b) (c) and (d) of the report which are to the following effect:

“(b) That the Committee inspected the upper Bhuila Water storage Tank alongwith its distribution system. Twenty No's of water connections have been given from Upper Bhuila Storage Tank. The Committee observed that water supply is enough and the distribution system of water in the area is not correct. The reason for the same is as observed deficiency of staff in the department. The Photo of the spot is annexure A and list of water connection is annexure B.

(c) That the committee inspected the Lower Bhuila Water Storage Tank alongwith its distribution system and it is observed that water supply is enough and the distribution system of water in the area is not correct. There is Eight Houses. Three Nos of water

connections have been given from upper Bhuila Storage Tank and five connections have been given from Lower Bhuila Water Storage Tank. The photo of the spot is annexure C.

(d) That the committee inspected the Bareon Ghat Water Storage Tank alongwith its distribution system and it is observed by the committee that distribution system of water in the area is not correct. The notices to the ground staff have been issued by the Junior Engineer I&PH Sub-Division Kotkhai with the direction to Check and maintain the proper water distribution system in the area. The photo of the spot is annexure D.”

6. The Committee has further given the following suggestions for improvement of water distribution in the area:-

- “i. That the water distribution system should be regulated through electronic means by the higher officers of the IPH department.
- ii. That the ground staff of the IPH should work under the supervision of the Gram Panchayats.
- iii. That the rationing of water should be made and date time and day should be fixed for the area for purpose of distribution of water.
- iv. That all illegal connection should be disconnected.
- v. That to meet out the water scarcity in the area Smaller Check dams on the Giri River

and other sources should be built which can provide uninterrupted water supply to the area. vi. That mostly people stressed for water during spray season in the orchards. It is therefore suggested that for the purpose of spray and other Horticulture and agriculture purposes the rain water harvesting structures and reuse of domestic waste water is required to be promoted in the area.”

7. It thus emerges out from the report of the Committee that there are two Water Tanks i.e. Upper Bhuila Water Storage Tank and the Lower Bhuila Water Storage Tank. The water supply in both the tanks appears to be sufficient, but the Committee has found fault in the distribution system. In this regard, the measures suggested by the Committee for improvement of water distribution system become relevant.

8. We see no reason as to why the I&PH Department should not give effect to the measures suggested by the Committee, as reproduced above {except measure (i) for the time being} and take all necessary steps to ensure equitable distribution of water to all the residents/beneficiaries in the area and also take steps for augmenting the additional water for that purpose.

9. As regards the illegal water connections, there can be no exception, but to direct that all illegal connections be removed/disconnected, forthwith and water supply should be ensured only to such beneficiaries in whose favour a connection has been legally released.

10. Though the Committee alongwith its report has appended Annexure B containing the list of persons/consumers having legal water connections but if it is found that any such consumer is also using the water in deviation of the sanctioned connection, the authority shall be at liberty to take all remedial actions to prevent the misuse of legal connection.

11. It goes without saying that every consumer having legal water connection should be supplied sufficient water on equitable and proportionate basis so that no resident of the area has any grievance and for that purpose, if need be, legal connection can be shifted from lower Bhuila Water Storage Tank to upper Bhuila Water Storage Tank and vice versa. If the problem of water supply to any residents still remains unsolved despite implementation of the above stated measures or the steps taken by the authorities, such residents, including the petitioner, shall be at liberty to approach appropriate Forum for redressal of their grievances.

12. The writ petition is disposed of in above terms. All the interim orders also stand vacated/modified. Pending application(s), if any, also stand disposed of.

**(Surya Kant),
Chief Justice**

**(Ajay Mohan Goel),
Judge**

October 31, 2018
(vt)