

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(SOUTHERN ZONE BENCH, CHENNAI)**

ORIGINAL APPLICATION NO. 181 OF 2024(SZ)

In the matter of:

Tribunal on its own motion SUO MOTU based on the News Item in 'The Times of India', Chennai Edition dt: 20.05.2024, "Work on Checkdam in Kerala stokes TN farmers' fears".

-VS-

The Chief Secretary to Govt. of Tamil Nadu, Chennai and Ors.

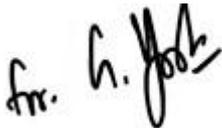
----Respondent(s)

**AFFIDAVIT FILED BY CHIEF ENGINEER, INTER STATE WATERS,
GOVERNMENT OF KERALA**

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Dated at Chennai on this the 27th day of January, 2026.



M/s. E.K.KUMARESAN

Standing Counsel for State Government of Kerala - NGT(SZ) Chennai Bench

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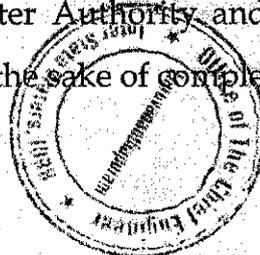
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**AFFIDAVIT FILED BY THE CHIEF ENGINEER, INTER STATE WATERS,
GOVERNMENT OF KERALA**

I, R. Priyesh, S/o, K.K. Raghavan, working as a Chief Engineer, Inter State Waters, Government of Kerala, Vikas Bhavan, Thiruvananthapuram-695 033, temporarily come down to Chennai, do hereby solemnly affirm and sincerely state as follows;

1. I submit that, the affidavit filed in the captioned Suo motu Original Application, contending that the Hon'ble National Green Tribunal (NGT) is bereft of jurisdiction to consider the same and that the same is not maintainable before the Hon'ble NGT, in view of the mandate of Article 262 of the Constitution of India and Sections 6A and 11 of Inter-State River Water Disputes Act, 1956 (ISRWD Act). The 3rd Respondent Kerala Water Authority are respondents in the Application. The State of Tamil Nadu and its officers have no conflict of interest with Kerala Water Authority and its officers and they are arrayed as the respondents only for the sake of completion of pleadings.



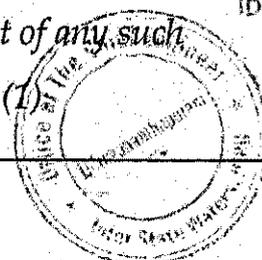
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2. I submit that the captioned Original Application has been registered suo motu by the Hon'ble National Green Tribunal based on a news report dated 20th of May, 2024 in the Times of India daily, which is titled "'Kerala Blocking water to TN farms': EPS writes to Stalin". The said news report is in relation to the construction of a new check dam in Vattavada in Kerala over Chilanthiyar river, a tributary of Pambar river in the Pambar river sub basin.

3. It is most humbly submitted that Pambar river is an east flowing inter-state river, which is a tributary of Cauvery river. At the very outset, it is submitted that this is essentially a dispute regarding the use and distribution of waters of an inter-state river. Article 262 of the Constitution of India empowers the Parliament to provide, by law, for the adjudication of any dispute or complaint with respect to the use, distribution or control of inter-state waters of any inter-state river or river valley. It further provides, by virtue of a non-obstante clause, that the Parliament may by law provide that neither the Supreme Court nor any other Courts shall exercise jurisdiction in respect of any such dispute or complaint. Article 262 of the Constitution of India is reduced herewith for easy reference:

(1) Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-State river or river valley.

(2) Notwithstanding anything in this 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)

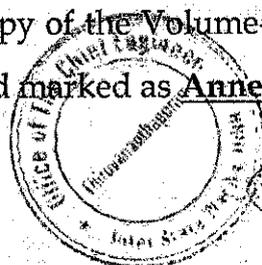


[Signature]
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4. I respectfully submit that, in exercise of the powers under Article 262 of the Constitution of India, the Parliament has enacted ISRWD Act. Section 11 of the said Act, a non- obstante clause, bars the jurisdiction of the Supreme Court or any other Court in respect of any water dispute which may be referred to a Tribunal under this Act. The Hon'ble Supreme Court, as per the judgment in Tamil Nadu Cauvery Neerppasana Vilaiporulgal Vivasayigal Nala Urimai Padhugappu Sangam v. Union of India and others (1990) 3 SCC 440, directed the Central Government to constitute an appropriate Tribunal for the adjudication of the Cauvery water dispute.

5. I submit that, consequently, Cauvery Water Dispute Tribunal (CWDT) was constituted by the Central Government on 02.06.1990. The CWDT passed its final award on 05.02.2007, that Pambar sub basin was subject matter of the proceedings before CWDT is clear from Volume-V of the CWDT award, particularly pages 175 to 186. The award discusses the various projects submitted by State of Kerala with regard to Pambar sub basin as well as domestic water and industrial water requirements from therein. The total water requirement of Kerala, inter alia, with regard to Pambar sub basin is discernible from the tabular column provided in page No. 183 of Volume-V of CWDT award. A true photocopy of relevant pages from Volume-V of CWDT award (pages 175 to 186) is produced herewith and marked as Annexure I.

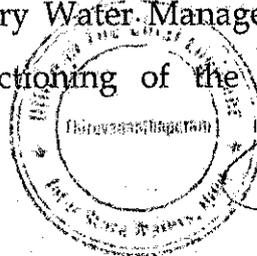
6. I submit that the final order and decision of the CWDT is discernible from Chapter 9 pages 237 to 245 of the Volume-V of the award, which, inter alia, awards allocation to State of Kerala with regard to Pambar sub basin discernible from Clause-VI (page 239). A true photocopy of the Volume-V of CWDT award (pages 237 to 245) is produced herewith and marked as Annexure II.



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7. I submit that the challenge against the CWDT award stands covered by the judgment of the Hon'ble Apex Court reported in (2018) 4 SCC 1, by which the allocation to State of Kerala was upheld, as made by the CWDT. The Hon'ble Apex Court, in the said judgment also directed that a scheme shall be framed by the Central Government, in terms of Section 6A of the ISRWD Act, so that the authority under the scheme could see to it that the decision of CWDT, as modified by the Hon'ble Supreme Court, could smoothly be made functional. It was also held that the purpose of framing the scheme was exclusively for implementation of the award. Consequently, the Central Government notified Cauvery Water Management scheme on 1st June, 2018, inter alia, constituting the Cauvery Water Management Authority (CWMA) and Cauvery Water Regulation Committee (CWRC), in terms of Section 6A of the ISRWD Act. Thus, the issue sought to be considered in the captioned suo motu Original Application stands concluded finally as per a binding judgment of the Hon'ble Apex Court.

8. I submit that, thus, it is crystal clear that Parliament, as empowered by Article 262 of the Constitution of India, has enacted ISRWD Act; that Section 11 of the said Act bars the jurisdiction of all courts other than the Tribunal formed for the purpose of deciding the water dispute; that CWDT was constituted by the Central Government as directed by the Hon'ble Apex Court; that the CWDT passed an award regarding allocation of Cauvery water; that the same included allocation of water with regard to Pambar sub basin also; that the CWDT award, in so far as it allocated water to the State of Kerala, was upheld as such by the Hon'ble Apex Court; that CWMA and CWRC has been constituted as part of the Cauvery Water Management Scheme in terms of Section 6A of the ISRWD Act; that the said authorities under the Cauvery Water Management Scheme is to decide with regard to the smooth functioning of the award as well as



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implementation of the same; and that the issue sought to be considered in this Original Application stands covered by a concluded and binding judgment of the Hon'ble Apex Court.

9. I submit that, going by Article 262 of the Constitution of India read with Sections 11 and 6A of the ISRWD Act, the Hon'ble NGT is bereft of jurisdiction to consider the captioned suo motu Original Application. Further, the subject matter does not amount to a substantial question relating to environment, as defined under Section 2(1)(m) of the NGT Act, arising out of implementation of any of the enactments specified in Schedule 1 of the NGT Act read with Section 14 therein. The subject matter is not in relation to any claim for relief or compensation to victims of pollution and other environmental damage arising under the enactments specified in Schedule 1 of the NGT Act or for restitution of property damage or of the environment. The subject matter is also not in relation to the appellate jurisdiction conferred on the NGT. On these counts also, the captioned Original Application is not liable to be entertained by the Hon'ble NGT.

Hence, in the interest of justice, all further proceedings in the captioned Original Application may be closed in the light of the aforementioned constitutional and legal bar for the Hon'ble National Green Tribunal to entertain and consider the same.

Solemnly affirmed at Chennai on
The 26th day of January 2026, and
Signed his name in my presence.



Before Me

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Kabini sub-basin. As such, single paddy crop during Mundakan season appears to be reasonable. As regards the demand of the State for second paddy crop, the same does not seem to be justified and the State may raise semi-dry crop during south-west monsoon with 1.25' delta. The reasonable requirement works out to 1.28 TMC.

81. The statement below gives the details of water requirement of Bhavani sub-basin:-

Irrigation water requirement of Bhavani sub-basin

Area in 000 acres

Delta in feet

Water requirement in TMC

S. No.	Name of Project	Water demand as per Statement of Case	CCA	Area with delta (Assessed as reasonable)				Water requirement
				Khariff semi-dry & misc.	Mundakan	Pere- nnial crop	Total	
1	2	3	4	5	6	7	8	9
1.	Attappady	4.50	10.74	8.23 @1.98	3.71 @4.93	5.05 @6.20	16.99	0.71+0.80+ 1.36= 2.87
2.	Panthanthodu	1.10	4.20	-	1.60 @4.13	-	1.60	0.29
3.	Thudikki-Arali	1.20	2.22	1.98 @1.72	1.98 @4.93	-	3.96	0.15+0.42 =0.57
4.	Emergency requirement for plantation crops @ 5% of crop water requirement.	-	-	-	-	-	-	0.19
5.	Reservoir losses	-	-	-	-	-	-	0.32
	Sub-Total Maj. & Med. Proj.	6.80	17.16	10.21	7.29	5.05	22.55	4.24
6.	Minor Irrigation	1.50	-	-	-	-	10.26	1.28
	Total	8.30					32.81	5.52

Note: Reservoir losses have been taken to be 8% of the water requirement of the reservoir projects.

Pambar sub-basin

82. The State of Kerala have submitted demand for five projects in Pambar sub-basin out of which, one is hydel project and the remaining

four are irrigation projects. Only one project namely - Thalayar is a medium irrigation project and the remaining three viz. Chengalar, Vattavada and Chambakkad are minor irrigation schemes.

1. Thalayar Project

83. The CCA under Thalayar project is 5,483 acres with net irrigated area of 2,989 acres and gross irrigated area as 5,459 acres that is the intensity of irrigation being nearly 100% of CCA. The proposed cropping pattern is (i) Khariff paddy crop (Virippu) in 2,470 acres and (ii) Rabi paddy (Mundakan) also in 2,470 acres, besides sugarcane in 519 acres. As in the case of Bhavani sub-basin, the southwest monsoon in Pambar sub-basin is also weak, as such, it would be advisable to replace Virippu paddy and sugarcane by groundnut. The water requirement for this project would be 0.78 TMC. (Ref.: KL Vol. 20, Exh. 46).

2. Chengalar Project

84. The Chengalar is a tributary of Thalayar and in the lower reaches the latter joins Pambar. Pambar and Tenar join within Tamil Nadu territory to form Amaravathy river. The CCA under the project is 4,841 acres with gross irrigated area of 4,048 acres giving an intensity of 84% of CCA. The entire irrigated area is proposed under sugarcane crop which needs to be replaced by Mundakan paddy. The water requirement of this project would be 0.80 TMC. (Ref.: KL Vol. 21, Exh. 47).

3. Vattavada Project

85. The Vattavada is a tributary of Pambar. It originates in Kerala and enters Tamil Nadu where it is known as Tenar. The Vattavada project covers a CCA of 3,409 acres. The net irrigated area is 1,848 acres and

the gross irrigated area is 3,696 acres giving an intensity of irrigation as 108% of CCA. Two crops of paddy namely; Virippu and Mundakan are proposed under this project, these crops could be revised as groundnut and Mundakan paddy.

Although, the State has proposed the third vegetable crop during summer season in the entire area but the same cannot be permitted for obvious reasons. The areas under vegetable cultivation, if at all could be in those pockets of the ayacut where soil moisture is available and is supported by ground water. The water requirement under this project would be 0.52 TMC. (Ref. KL Vol. 19, Exh. 45)

4. Chambakkad Project

86. This is again a minor scheme which although covers an area of about 1,927 acres as of CCA but the area proposed under net irrigation is only 124 acres because bulk of area is under forest cover. This gives an annual intensity of 13% only of CCA. The net irrigated area is proposed to be sown twice under paddy crops namely; Virippu and Mundakan, which needs to be revised by groundnut & Mundakan paddy giving gross irrigated area as 248 acres. The water requirement in this project will be 0.03 TMC. Water for the third crop namely; summer vegetable cannot be permitted and the vegetable could be grown wherever feasible in those portions of the command, where soil moisture is available to be supported by ground water. It may be mentioned that under this minor irrigation scheme, no storage is proposed but water is to be directly lifted from the weir, though the extent of lift involved has not been indicated in

the project report. This project ought to have been included under minor irrigation schemes. (Ref: KL Vol. 18. Exh. 44)

Pambar Hydro-electric Project

87. Besides the above four irrigation schemes, the State Government has submitted a project report for Pambar hydro-electric project which involves non-consumptive use of water from Pambar river to the extent of 5.6 TMC. However, an evaporation loss from the reservoir under this scheme is reported to be of the order of 0.1 TMC which will be consumptive use to be included in the water demand of the State. Since the bulk of the supply is non-consumptive and within the Cauvery basin, the same could be considered. However, since the water released downstream the Pambar river after generation of power is to flow to Tamil Nadu into their Amaravathy reservoir, the State of Kerala and Tamil Nadu shall have to jointly agree to the schedule of water releases from Pambar hydro-electric project so that it does not affect the irrigation lower down in an adverse manner. (Ref.: KL Vol. 35, Exh. 74).

Minor Irrigation Schemes

88. In the Statement of Case the Kerala Government has indicated water requirement for minor and small lift irrigation works as 0.6 TMC. (Ref.: page 32, para 2.11.9, item A-6). The State Government have furnished details of 21 minor irrigation schemes covering an area of 1,585 acres (say 642 ha) and they have also reported, that an area of 1,722 acres (say 698 ha) would be covered through sprinkler irrigation in tea estates. Thus total area of 3,307 acres (1,339 ha.) would be under minor irrigation works in

Pambar sub-basin. (Ref.: KL Vol. 25, Exh. 53, pages 93-97). In addition, there may be temporary diversions from small streams as in Kabini and Bhavani sub-basins for which data is not available.

Two paddy crops are proposed to be raised under minor and lift irrigation schemes for which delta of 4.48 ft. (1359.4 mm) and 4.34 ft. (1315.75 mm) has been demanded covering an area of 1585 acres (642 ha.), whereas for sprinkler irrigation in 1722 acres (698 ha.) with water delta of 0.49 ft. (150 mm) has been indicated. Thus the total requirement of water is indicated as 0.64 TMC. (Ref: KL Vol. 25, Exh. 53, page 91). In this sub-basin also, it would be reasonable to consider only single paddy crop in 1,585 acres and one semi-dry crop during south-west monsoon; besides sprinkler irrigation in 1,722 acres with a delta of 4.48', 1.25' and 0.49' respectively. This gives a water requirement of 0.44 TMC as against 0.64 TMC demanded by the State Govt.

89. The statement below gives the details of water requirement of Pambar sub-basin:-

Irrigation & Hydro-power water requirement of Pambar sub-basin

Area in 000 acre
Delta in feet
Water requirement in TM

S. No.	Name of Project	Water demand as per Statement of Case	CCA	Area with delta (Assessed as reasonable)			Water requirement
				Khariif semi-dry & misc.	Mundakan	Total	
1	2	3	4	5	6	7	8
1.	Thalayar	1.50	5.48	2.47 @1.72	2.99 @4.71	5.46	0.18+0.60=0.78
2.	Chengalar	0.60	4.84	-	4.05 @4.71	4.05	0.80
3.	Vattavada	0.30	3.41	1.85 @1.72	1.85 @4.71	3.70	0.14+0.38=0.52
4.	Chambakkad	0.60	1.92	0.12 @1.72	0.12 @4.71	0.24	0.01+0.02=0.03
5.	Emergency requirement for plantation crops @ 5% of crop water requirement	-	-	-	-	-	0.10
6.	Pambar H.E.	0.10	-	-	-	-	0.10
7.	Reservoir losses	-	-	-	-	-	0.18
	Sub-Total Maj. & Med. Proj.	3.10	15.65	4.44	9.01	13.45	2.51
8.	Minor Irrigation	0.60	-	-	-	4.89	0.44
	Total	3.70				18.34	2.95

Note: Reservoir losses have been taken to be 8% of the water requirement of the reservoir projects.

Domestic water requirement

90. For working out the domestic water requirement, the Assessors had taken the population census of 1991 into consideration and projections were made for the year 2051 i.e. the domestic water requirement, about 45 years from now was taken for making provisions. However, it has been decided to consider the projection for 2011 while considering the domestic and industrial water requirements. As regards the ratio of urban and rural population, about 70% of the projected population has been taken as rural and the remaining 30% as urban.

The State of Karnataka had raised a point that the projection should be static because Kerala is gradually going down in population growth; whereas the learned senior counsel for the State of Kerala emphasized that the sub-basin areas of Kabini, Bhavani and Pambar are located in high lands where gradually the people from the lower and middle level regions are migrating because of pressure on land in the lower and middle regions. As such, the decennial growth of population should not be disturbed and adopted as given in the States documents. Therefore, adopting that decennial increase rate, the population has been projected.

As regards the drinking water requirement, although the State has demanded at a flat rate of 120 litres per capita per day (LPCD) for the entire population but it would be reasonable to bifurcate the demand between rural and urban areas. As such, for 30% urban population, the demand as placed by the State at 120 LPCD has been considered and for the rural population including live-stock, the requirement has been restricted to 70 LPCD of the population (human being 40 LPCD + cattle 30 LPCD). Working on the above norms, the drinking water requirement for Kabini, Bhavani and Pambar sub-basins comes to 0.97 TMC, 0.45 TMC and 0.11 TMC, total 1.53 TMC.

The above requirement would be the total quantum of water which would be initially drawn by the State from the river system; whereas the actual consumptive use out the above would be limited to only 20%. The rest 80% will gradually flow back into the system over period of time. Therefore, the allocated share would be limited to only 20% ie. 0.20 TMC,

0.09 TMC and 0.02 TMC, total 0.31 TMC for the three sub-basins.

Industrial water requirement

91. As regards industrial water requirement of Kerala, the existing industrial water use for different types of industries in Kabini sub-basin namely: small scale, large and medium scale, khadi village industries, sericulture etc. has been indicated by the State as 0.50 TMC (Ref: E-95, page 51-56). This requirement is assumed to increase by another 33% in quantity by the year 2011. Total requirement works out to $(0.52+0.17)$ 0.69 TMC. Although this quantity of 0.69 TMC will be initially lifted by the concerned authorities for different types of industries, the consumptive use out of that would be limited to only 2.5% (this norm was assumed by the Godavari Tribunal with the consent of the parties concerned – Ref: Further report of GWDT Chapter VII, Clause-III, page 25). Working on the above lines, the industrial water need for Bhavani sub-basin and Pambar sub-basin would be 0.21 and 0.26 TMC each, giving a total initial requirement of $0.69 + 0.21 + 0.26 = 1.16$ TMC, but the consumptive use which would be debitable to the share of the State would be limited to 2.5% of 1.16 TMC i.e. 0.04 TMC only. The rest will flow back over the time into the system.

Share in balance water

92. After providing water for various beneficial uses to all parties to the dispute, it transpired that there is saving of 45.08 TMC of water. This balance water is decided to be distributed in the proportion of 1991 in-basin population of the States of Kerala, Karnataka, Tamil Nadu and Union Territory of Pondicherry. While total in-basin population of the parties is

295.39 lakhs as mentioned elsewhere, Kerala's in-basin population is 9.87 lakhs (Kabini 6.05 + Bhavani 2.99 + Pambar 0.83). The share of Kerala in the balance water comes out to 1.51 TMC (Kabini 0.91 + Bhavani 0.45 + Pambar 0.15 = 1.51) which the State may use keeping in view States' own priorities in the public interest.

93. The overall water requirement of Kerala in respect of irrigation, domestic supply, industrial use and hydro-power is given in the following statement:-

Total Water Requirement of Kerala

S. No.	Particulars	CCA	Crop Area				Total	Water Requirement
			Virippu	Khariff semi-dry & misc.	Mundakan	Perennial Crop		
1	2	3	4	5	6	7	8	9
A	Irrigation:							
A-1	Major & Medium Projects							
	(i) Kabini sub-basin	119.49	66.60	-	57.65	-	124.25	16.88
	(ii) Bhavani sub-basin	17.16	-	10.21	7.29	5.05	22.55	4.24
	(iii) Pambar sub-basin*	15.65	-	4.44	9.01	-	13.45	2.51
	Sub-Total (A-1)	152.30	66.60	14.65	73.95	5.05	160.25	23.63
A-2	Minor Irrigation							
	(i) Kabini sub-basin	-	-	-	-	-	17.50	2.55
	(ii) Bhavani sub-basin	-	-	-	-	-	10.26	1.28
	(iii) Pambar sub-basin	-	-	-	-	-	4.89	0.44
	Sub-Total (A-2)	-	-	-	-	-	32.65	4.27
	Sub-Total -A (A-1+A-2)						192.90	27.90
B	Domestic Water Supply/ Consumptive use @ 20%							
	(i) Kabini Sub-basin	-	-	-	-	-	-	0.97/0.0
	(ii) Bhavani Sub-basin	-	-	-	-	-	-	0.45/0.0
	(iii) Pambar Sub-basin	-	-	-	-	-	-	0.11/0.0
	Total-B	-	-	-	-	-	-	1.53/0.0
C	Industrial Uses/ Consumptive use @ 2.5%							
	(i) Kabini Sub-basin	-	-	-	-	-	-	0.69/0.0
	(ii) Bhavani Sub-basin	-	-	-	-	-	-	0.21/0.0
	(iii) Pambar Sub-basin	-	-	-	-	-	-	0.26/0.0
	Total-C	-	-	-	-	-	-	1.16/0.0
D	Share in balance water							
	(i) Kabini Sub-basin	-	-	-	-	-	-	0.91
	(ii) Bhavani Sub-basin	-	-	-	-	-	-	0.45
	(iii) Pambar Sub-basin	-	-	-	-	-	-	0.15
	Total-D	-	-	-	-	-	-	1.51
	Total (A+B+C+D)							27.90 + 0.31 + 0.04 + 1.51 = 29.76 Say 30.00 TMC

Note: *Includes 0.10 TMC reservoir losses in Pambar H.E. project.

94. It would be seen that the area of 53,400 acres as existing under minor irrigation during the year 1972 has now come down to 32,650 acres. In this connection, it may be mentioned that some of the existing minor irrigation area has got covered under the proposed medium irrigation projects in all the three sub-basins. In this context, it would be pertinent to refer to the remarks of the Expert Committee in Exh. B-1, page 19, which are reproduced as under:-

“The bulk of the ayacut under the existing and future minor irrigation schemes in Kerala is taken to be ultimately merged in the ayacut under their proposed major and medium irrigation projects.”

95. Further, it would be seen that in the Kabini sub-basin, water requirement has been worked out as 19.43 TMC including reservoir losses for irrigation covering a gross area of 1,41,760 acres, for Bhavani sub-basin irrigation water requirement is 5.52 TMC covering a gross area of 32,800 acres and for Pambar sub-basin, water requirement is 2.95 TMC covering a gross area of 18,340 acres. The reasonable water requirement of Kerala for irrigation works out to 27.90 TMC covering a gross area of 1,92,900 acres (1,41,760 + 32,800 + 18,340). The total water requirement of Kerala for all beneficial uses works out to 29.76 TMC, Say 30.00 TMC.

It is clarified that the Tribunal is only allocating water based on the needs which have been worked out keeping in view the various projects of Kerala regarding water requirement. This does not amount to sanction of any project by the Tribunal; as such clearance of the project under the

requirement of law, i.e. clearance under Forest and Environment Act, etc. needs to be obtained by the State Government in respect of not only irrigation but for any developmental activity affecting the forest area or environment.

96. The sub-basinwise break-up of water requirement would be as under:-

	<u>Irrigation</u>	<u>Drinking</u>	<u>Industry</u>	<u>Share in balance water</u>	<u>Total</u>
(i) Kabini sub-basin	19.43	0.20	0.02	0.91	20.56
(ii) Bhavani sub-basin	5.52	0.09	0.01	0.45	6.07
(iii) Pambar sub-basin	2.95	0.02	0.01	0.15	3.13

Since water accounting shall be done at inter-State contact points the allocation should be preferably be made in whole numbers, thereby the share of each sub-basin shall be as under:

Kabini sub-basin	21 TMC
Bhavani sub-basin	6 TMC
Pambar sub-basin	<u>3 TMC</u>
Total	<u>30 TMC</u>

97. The State of Kerala has been allocated a total of 30 TMC of water as indicated above. The State of Kerala may take some time to utilize its full allocated share and some unutilized water from its share will be flowing in Kabini, Bhavani and Amaravathy reservoirs. The claim of Tamil Nadu was that it was cultivating prior to 1974, an area of second crop 1,82,500 acres in the old delta, 23,200 acres in Lower Coleroon Anicut System and

46,600 acres under Cauvery Mettur Project, and further 28,500 acres for double crop in non-delta area, totaling 2,80,800 acres (Ref: Tamil Nadu Statement No.5 dated 13.8.2004, No. 1-C dated 5.10.2004 and Response of the State of Tamil Nadu to the reports of the Assessors). We had not taken note of this claim of Tamil Nadu for the purpose of apportionment. In view of this, the unutilized water from Kerala's share is being permitted to be used by Tamil Nadu, till such time Kerala uses its allocated share of water. The temporary arrangement of use by Tamil Nadu of the unutilized water from the share of Kerala shall not confer any right whatsoever on Tamil Nadu.

Chapter 9

Final Order and Decision of the Cauvery Water Disputes Tribunal

The Tribunal hereby passes, in conclusion the following order:-

Clause-I

This order shall come into operation on the date of the publication of the decision of this Tribunal in the official gazette under Section 6 of the Inter-State Water Disputes Act, 1956 as amended from time to time.

Clause-II

Agreements of the years 1892 and 1924:

The Agreements of the years 1892 and 1924 which were executed between the then Governments of Mysore and Madras cannot be held to be invalid, specially after a lapse of about more than 110 and 80 years respectively. Before the execution of the two agreements, there was full consultation between the then Governments of Madras and Mysore. However, the agreement of 1924 provides for review of some of the clauses after 1974. Accordingly, we have reviewed and re-examined various provisions of the agreement on the principles of just and equitable apportionment.

Clause-III

This order shall supersede –

- i) The agreement of 1892 between the then Government of Madras and the Government of Mysore so far as it related to the Cauvery river system.

ii) The agreement of 1924 between the then Government of Madras and the Government of Mysore so far as it related to the Cauvery river system.

Clause-IV

The Tribunal hereby determines that the utilisable quantum of waters of the Cauvery at Lower Coleroon Anicut site on the basis of 50% dependability to be 740 thousand million cubic feet-TMC (20,954 M.cu.m.).

Clause-V

The Tribunal hereby orders that the waters of the river Cauvery be allocated in three States of Kerala, Karnataka and Tamil Nadu and U.T. of Pondicherry for their beneficial uses as mentioned hereunder:-

i)	The State of Kerala	-	30 TMC
ii)	The State of Karnataka	-	270 TMC
iii)	The State of Tamil Nadu	-	419 TMC
iv)	U.T. of Pondicherry	-	<u>7 TMC</u>
			726 TMC

In addition, we reserve some quantity of water for (i) environmental protection and (ii) inevitable escapages into the sea as under:-

i)	Quantity reserved for environmental protection.	-	10 TMC
ii)	Quantity determined for inevitable escapages into the sea.	-	<u>4 TMC</u> 14 TMC
	Total (726 + 14)		740 TMC

Clause-VI

The State of Kerala has been allocated a total share of 30 TMC, the distribution of which in different tributary basins is as under:

(i) Kabini sub-basin	-	21 TMC
(ii) Bhavani sub-basin	-	6 TMC
(iii) Pambar sub-basin	-	3 TMC

Clause-VII

In case the yield of Cauvery basin is less in a distress year, the allocated shares shall be proportionately reduced among the States of Kerala, Karnataka, Tamil Nadu and Union Territory of Pondicherry.

Clause-VIII

The following inter-State contact points are identified for monitoring the water deliveries:

- (i) Between Kerala and Karnataka : Kabini reservoir site
- (ii) Between Kerala and Tamil Nadu
 - a) For Bhavani sub-basin : Chavadiyoor G.D.site

It is reported that Chavadiyoor G.D. Site was being earlier operated by the State of Kerala which could be revived for inter-State observations.

- b) For Pambar sub-basin : Amaravathy reservoir site
- (iii) Between Karnataka and Tamil Nadu : Billigundulu G.D.site/ any other site on common border
- (iv) Between Tamil Nadu and Pondicherry : Seven contact points as already in operation

Clause-IX

Since the major shareholders in the Cauvery waters are the States of Karnataka and Tamil Nadu, we order the tentative monthly deliveries during a normal year to be made available by the State of Karnataka at the inter-State contact point presently identified as Billigundulu gauge and discharge station located on the common border as under:-

<u>Month</u>	<u>TMC</u>	<u>Month</u>	<u>TMC</u>
June	10	December	8
July	34	January	3
August	50	February	2.5
September	40	March	2.5
October	22	April	2.5
November	15	May	<u>2.5</u>
			192 TMC

The above quantum of 192 TMC of water comprises of 182 TMC from the allocated share of Tamil Nadu and 10 TMC of water allocated for environmental purposes.

The above monthly releases shall be broken in 10 daily intervals by the Regulatory Authority.

The Authority shall properly monitor the working of monthly schedule with the help of the concerned States and Central Water Commission for a period of five years and if any modification/adjustment is needed in the schedule thereafter, it may

be worked out in consultation with the party States and help of Central Water Commission for future adoption without changing the annual allocation amongst the parties.

Clause -X

The available utilisable waters during a water year will include the waters carried over from the previous water year as assessed on the 1st of June on the basis of stored waters available on that date in all the reservoirs with effective storage capacity of 3 TMC and above.

Clause-XI

Any upper riparian State shall not take any action so as to affect the scheduled deliveries of water to the lower riparian States. However, the States concerned can by mutual agreement and in consultation with the Regulatory Authority make any amendment in the pattern of water deliveries.

Clause-XII

The use of underground waters by any riparian State and U.T. of Pondicherry shall not be reckoned as use of the water of the river Cauvery.

The above declaration shall not in any way alter the rights, if any, under the law for the time being in force, of any private individuals, bodies or authorities.

Clause-XIII

The States of Karnataka and Tamil Nadu brought to our notice that a few hydro-power projects in the common reach boundary are

being negotiated with the National Hydro-Power Corporation (NHPC). In this connection, we have only to observe that whenever any such hydro-power project is constructed and Cauvery waters are stored in the reservoir, the pattern of downstream releases should be consistent with our order so that the irrigation requirements are not jeopardized.

Clause-XIV

Use of water shall be measured by the extent of its depletion of the waters of the river Cauvery including its tributaries in any manner whatsoever; the depletion would also include the evaporation losses from the reservoirs. The storage in any reservoir across any stream of the Cauvery river system except the annual evaporation losses shall form part of the available water. The water diverted from any reservoir by a State for its own use during any water year shall be reckoned as use by that State in that water year. The measurement for domestic and municipal water supply, as also the industrial use shall be made in the manner indicated below:-

Use	Measurement
Domestic and municipal Water supply	By 20 per cent of the quantity of water diverted or lifted from the river or any of its tributaries or from any reservoir, storage or canal.
Industrial use	By 2.5 per cent of the quantity of water diverted or lifted from the river or any of its tributaries or from any reservoir, storage or canal.

Clause-XV

If any riparian State or U.T. of Pondicherry is not able to make use of any portion of its allocated share during any month in a particular water year and requests for its storage in the designated reservoirs, it shall be at liberty to make use of its unutilized share in any other subsequent month during the same water year provided this arrangement is approved by the Implementing Authority.

Clause-XVI

Inability of any State to make use of some portion of the water allocated to it during any water year shall not constitute forfeiture or abandonment of its share of water in any subsequent water year nor shall it increase the share of other State in the subsequent year if such State has used that water.

Clause-XVII

In addition, note shall be taken of all such orders, directions, recommendations, suggestions etc, which have been detailed earlier in different chapters/volumes of the report with decision for appropriate action.

Clause XVIII

Nothing in the order of this Tribunal shall impair the right or power or authority of any State to regulate within its boundaries the use of water, or to enjoy the benefit of waters within that State in a manner not inconsistent with the order of this Tribunal.

Clause-XIX

In this order,

- (a) "Normal year" shall mean a year in which the total yield of the Cauvery basin is 740 TMC.
- (b) Use of the water of the river Cauvery by any person or entity of any nature whatsoever, within the territories of a State shall be reckoned as use by that State.
- (c) The expression "water year" shall mean the year commencing on 1st June and ending on 31st May.
- (d) The "irrigation season" shall mean the season commencing on 1st June and ending on 31st January of the next year.
- (e) The expression "Cauvery river" includes the main stream of the Cauvery river, all its tributaries and all other streams contributing water directly or indirectly to the Cauvery river.
- (f) The expression "TMC" means thousand million cubic feet of water.

Clause-XX

Nothing contained herein shall prevent the alteration, amendment or modification of all or any of the foregoing clauses by agreement between the parties.

Clause-XXI

The State Governments of Kerala, Karnataka, Tamil Nadu and Union Territory of Pondicherry shall bear the expenses of the Tribunal in the ratio of 15:40:40:5. However, these parties shall bear their own costs before this Tribunal.

Sd/-
Sudhir Narain J.
MEMBER

Sd/-
N. S. Rao J.
MEMBER

Sd/-
N. P. Singh J.
CHAIRMAN

New Delhi
5th February 2007

**BEFORE THE HON'BLE NATIONAL
GREEN TRIBUNAL
(SOUTHERN ZONE BENCH, CHENNAI)**

**ORIGINAL APPLICATION NO. 181 OF
2024**

In the matter of:
Tribunal on its own motion SUO MOTU
based on the News Item in 'The Times
of India', Chennai Edition dt:
20.05.2024, "Work on Checkdam in
Kerala stokes TN farmers' fears".

-VS-

The Chief Secretary to Govt. of Tamil
Nadu, Chennai and Ors.

----Respondent(s)

**AFFIDAVIT FILED BY CHIEF
ENGINEER, INTER STATE
WATERS, GOVERNMENT OF
KERALA**

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