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Court : Karnataka

Decided On : Nov-25-2002

Reported in : 2003(2)KarLJ88

Judge : V. Gopala Gowda, J.

Acts : [Constitution of India](#) - Articles 131, 226 and 262; ;[Inter State Water Disputes Act, 1956](#) - Sections 4 and 5; [River Boards Act, 1956](#) - Sections 4(4)

Appeal No. : Writ Petition No. 40287 of 2002

Appellant : S. Nagaraja and anr.

Respondent : Union of India (Uoi) and ors.

Advocate for Pet/Ap. : S.P. Shankar and ;A.N. Hegde, Advs.

Disposition : Appeal dismissed

Judgement :

ORDER

V. Gopala Gowda, J.

1. The prayers sought for in this writ petition are.--

(a) To declare the Inter Water Dispute Act, 1956 and the [River Boards Act, 1956](#) are void and unconstitutional, the legislation traversing beyond Article 262 and

Entry 56 of Union List, when the Act included tributaries, if any, in Section 4(4) of the River Boards Act;

(b) To quash the constitution of Kaveri Water Dispute, Tribunal;

(e) To declare that the agreements of 1894 and 1924 relied on by respondent 3 as defunct, void and otiose, not being saved by Article 372(1) of the [Constitution of India](#).

2. Having regard to the nature of the reliefs sought for and the concurrent jurisdiction of Hon'ble Supreme Court under Article 32 of the [Constitution of India](#), learned Counsel for the petitioners was asked to make his submissions on the maintainability of this writ petition. On being heard, the matter was reserved for orders on 11-11-2002, Thereafter, since a memo was filed by the learned Counsel for the petitioner seeking to post the matter for further submissions, the matter was listed on 22-11-2002 and after hearing the Counsel for the petitioners, it was reserved for orders.

3. In support of the submission that this Court can entertain the present petition and it is maintainable, Mr. S.P. Shankar, learned Counsel for the petitioners relied upon the following decisions.--

(i) Kanubhai Brahmabhatt v. State of Gujarat, : [1987]2SCR314 , wherein it is held in paragraph 3 as under.--

'3. If this Court takes upon itself to do everything which even the High Courts can do, this Court will not be able to do what this Court alone can do under Article 136 of the Constitution, and other provisions conferring exclusive jurisdiction of this Court. There is no reason to assume that the concerned High Court will not do justice. Or that this Court alone can do justice. If this Court entertains writ petitions at the instance of parties who approach this Court directly instead of approaching the concerned High Court in the first instance, tens of thousands of writ petitions would in course of time be instituted in this Court directly. The inevitable result will be that the arrears pertaining to matters in respect of which this Court exercises exclusive jurisdiction under the Constitution will assume more alarming

proportions..... Again it is as important to do justice at this level, as to inspire confidence in the litigants that justice will be meted out to them at the High Court level, and other levels. Faith must be inspired in the hierarchy of Courts and the institution as a whole. Not only in this Court alone. And this objective can be achieved only by this Court showing trust in the High Court by directing the litigants to approach the High Court in the first instance. Besides, as a matter of fact, if matters like the present one are instituted in the High Court, there is likelihood of the same being disposed of much more quickly, and equally effectively, on account of the decentralisation of the process of administering justice. We are of the opinion that the petitioner should be directed to adopt this course and approach the High Court'.

(ii) P.N. Kumar v. Municipal Corporation of Delhi, : [1988]172ITR624(SC) . In that case, the Supreme Court declined to entertain the writ petition filed directly before it for the 10 reasons assigned in paragraph 2.

(iii) Ramesh Kumar Sharma v. State of Punjab, 1986(Supp.) SCC 537. In that case, the writ petition dismissed by the High Court in limine was held not proper and remanded the case holding that the questions raised deserved hearing on merits.

4. Mr. S.P. Shankar invited the attention of this Court to various provisions of the statutes mentioned in the prayers to contend that this Court can entertain the present petition. It is not necessary to refer or advert to all those aspects since the writ petition is liable to be dismissed for the reasons mentioned hereinafter.

5. The reliefs sought for relate to water dispute between two or more States. Under Clause (c) of Article 131 of the [Constitution of India](#), the Supreme Court has got exclusive original jurisdiction in such matters. Such being the position, this Court has no jurisdiction to entertain this writ petition.

6. Already the dispute relating to Kaveri river water is seized before the Supreme Court. Hence, it is not proper for this Court to entertain this writ petition.

7. In view of exclusive original jurisdiction of Supreme Court under Article 131(c) of the Constitution, the decisions relied upon by the learned Counsels for the petitioners have no application to this case.

8. Writ petition stands dismissed with liberty to the petitioner to approach the Supreme Court, if so advised.

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