

Devender Solanki Vs. D.D.a and anr

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Court : Delhi

Decided On : Jan-31-2013

Judge : V. K. Jain

Appellant : Devender Solanki

Respondent : D.D.a and anr

Judgement :

* % + IN THE HIGH COURT OF DELHI AT NEW DELHI Judgment reserved on:

24. 01.2013 Judgment pronounced on:

31. 01.2013 W.P.(C) 6833/2012 DEVENDER SOLANKI Petitioner Through: Mr. Madhu Sudhan Bhayana, Adv. versus D.D.A AND ANR Respondents Through: Mr. Sumeet Pushkarna and Mr. D.P. Senwal, Advocates for DJB
CORAM: HON'BLE THE CHIEF JUSTICE HON'BLE MR. JUSTICE V.K. JAIN V.K. JAIN, J.

1. The grievance of the petitioner is that the residents of Sectors 20 to 25 of Rohini Residential Scheme, which have been developed by respondent No. 1Delhi Development Authority, are not being provided water by respondent No. 2Delhi Jal Board, as a result of which they have to procure water from private vendors or from DDA through water tankers. According to the petitioner, the residents of these areas, besides paying water bills to DDA, are also incurring expenditure of about Rs 1,000/- per month on obtaining water from private sources and the

supply of water by DDA through tankers is erratic, besides being inconvenient since water has to be carried by bucket through staircase. The petitioner is, therefore, seeking writ or directions to respondent to provide adequate regular water supply in the morning as well as in the evening, with proper water pressure to the residents of Sector 20 to 25, Rohini, Village Pooth Kalan. The petition is also seeking a direction to the respondents to arrange for adequate number of water tankers with pumping arrangement till complete infrastructure for regular water supply is in place.

2. In its affidavit, respondent No. 2, Delhi Jal Board, has stated that in terms of Delhi Jal Board Act, 1998, it is the responsibility of the developing agency, which, in this case is DDA, to develop internal system of the colony. It is further stated in the reply that usually water supply is given at a single point indicated by the developing agency to Delhi Jal Board, which, in many cases, takes over the system from the developing agency, after the internal infrastructure is fully complete. It is alleged that in the present case, the infrastructure work in Phase-III, Rohini is yet to be completed and it is expected that an underground reservoir boosting pumping the station which is likely to be commissioned by March, 2013 in Sector 23 or Rohini, would improve the water supply to areas in question. It is further stated that water supplied at the booster pumping station, underground reservoir would have to be water saved from curtailment in the other areas of region. According to Delhi Jal Board, its Haiderpur Water Treatment Plant is presently working at optimal capacity and it is giving bulk supply to DDA from 4.00 AM to 9.00 AM and then from 5.00 PM to 09.00 PM.

3. In its counter-affidavit, respondent No.1DDA, has stated that water supply scheme for Sector 20 to 25 was approved by MCD in the year 1992 and while doing so, Delhi Jal Board propose to construct Twin Command Tank of 3.75 MGD (Million Gallon per day) capacity each in Sector 33. It is further stated that DDA laid peripheral water line and constructed the underground reservoir in the year 2002. It is also stated that same could not be made operational on account of unavailability of water from Delhi Jal Board to cater the needs of residents of Sector 20 to 25, which are now fully developed sectors. It is further stated in the absence of commissioning of these command tanks, two interim underground

reservoirs of 50,00,000/- gallon capacity were constructed, one in sector 33 and other in sector 34. Delhi Jal Board water from the underground reservoir in Sector 11 is collected in the underground reservoir of Sector 24 in the morning from 5.00 AM to 9.00 AM and in the evening from 05.00 PM to 09.00 PM. This water, according to DDA, is 1/10th of the proposed requirement of 7.5 MGD per day and the underground reservoirs are hardly able to meet the requirement of these sectors. 5 tubewells were constructed along with Yamuna Canal in Sectors 28 & 29 and the water from the said tubewells is collected in these underground reservoirs from Sector 30, constructed by DA and from the underground reservoirs water line has been laid up to Sector 33. According to DDA, the water is collected in the morning and in the evening and supplied to residents of Sector 20 to 22 in rotation. This is also the case of the DDA that from the underground reservoir, a 6 kilometer C.I. pipeline has been laid for supplying water of underground to Sector 33. Alongwith the said stretch, several unauthorized colonies have sprung up which draw huge water, without paying any charges and several attempts to disconnect such unauthorized constructions have failed in the past. It is further alleged that tubewell water collected in Sector 33 is supplied from 06.00 AM to 9.00 AM to Sector 22 with one hour break in between for refilling the tank and in the evening from 06.00 PM to 10 PM to Sector 20 & 21 with an hour break for refilling the tank. DDA also claims to be supplying water through tanks in different pockets of Sector 22 to 22 to augment the shortfall. It is conceded by DDA that this water is hardly sufficient to meet the requirement of the residents. It is also alleged in the reply of DDA that the residents start using Online Booster when water reaches their pocket, as a result of which the residents at the far end of the pockets get little or no water at all. It is stated in the reply that Delhi Jal Board water from underground reservoir of Sector 11 is collected in the underground reservoir of Sector 24 in the morning from 5.00 AM to 09.00 AM and in the evening from 5.00 PM to 08.00 PM. In between, tubewell water from underground reservoir of Sector 30 is collected from the underground reservoir of Sector 24 and this water is supplied to different pockets on different pockets on alternate days. It is submitted that the population of these sectors having increased manifold, and the quantum of water being released from Sector 11 underground reservoir being same or rather reduced due to new connections from the same feeding line, i.e.,

one for Hotel Crowns Plaza and another for Rithala Village, besides, two resettlement colonies, there is deprivation of water to the genuine taxpayers and this problem has aggravated on account of Delhi Jal Board issuing an order denying water from their underground reservoir to the tankers having Haryana registration. It is also stated in the reply of the DDA that Delhi Jal Board has assured the Public Grievance Commission that they would operationalize their Haiderpur Plant by February, 2013 and water would be supplied to command tank of DDA at Sector 33. It is claimed by DDA that once the command tank is made operational, water woes will be over.

4. In *Subhash Kumar vs. State of Bihar* [1991 (1) SCC 598], the Supreme Court held that the right to life which is a fundamental right under Article 21 of Constitution of India includes the right to enjoyment of water. The same view was taken by the Supreme Court in *State of Karnataka vs. State of Andhra Pradesh (Allmatis case)* [2000 (9) SCC 572]. In *Narmada Bacho Andolan vs. Union of India* [2000 (10) SCC 664], while reiterating that water is the basic need for survival of human beings and is part of the right to life and human rights as enshrined in Article 21 of the Constitution Supreme Court observed that all people have the right to have access to drinking water in quantum and of a quality equal to their basic needs. It is thus a settled legal proposition that every citizen has a fundamental right to have adequate water for drinking purposes and the State is under constitutional obligation to ensure supply of drinking water to them. In fact, India is a party to the Resolution of the United Nations Organization passed during the United Nations Water Conference in 1977 which, inter alia, reads as under: All people, whatever their stage of development and their social and economic conditions, have the right to have access to drinking water in quantum and of a quality equal to their basic needs.

5. Thus, there can be no two opinions that the respondent is under an obligation to provide drinking water in reasonable quantity, required by the residents of these sectors of Rohini Residential Scheme. We are conscious of the fact that the availability of water to Delhi Jal Board may be limited, but then the water which is available for being supplied to the citizens should be distributed in a manner which is fair and reasonable to all the residents of the city. Of course, the citizens also

need to use water judiciously and in a reasonable manner, avoiding wastage wherever possible. Any waste of drinking water, which is already in scarcity, is bound to result in dwindling the supply of drinking water to the needy persons and, therefore, concerted efforts not only on behalf of the State and its agencies, but also on behalf of the citizens are necessary so that scarcity of water in the city can be minimized to the extent it is possible. We would like to emphasize that right to drinking water being a fundamental right of the citizens and the State being under an obligation to provide the same to them, paucity of funds cannot be a ground to deny this basic necessity to them. In any case, this is not the case of the respondents that they do not have the funds to ensure adequate supply of drinking water to the residents of these sectors of Rohini Residential Scheme.

6. It is not the case either of Delhi Jal Board or of Delhi Development Authority that the residents of Sectors 22 to 25 of Rohini Residential Scheme are getting adequate supply of water. The plea taken by Delhi Jal Board in its reply is that an underground reservoir, booster pumping station, to be commissioned in Sector 23 by March 2013, will bring about improvement in the water supply in the area in question. This by itself is an admission that the residents of these areas are not getting adequate supply of drinking water. As far as DDA is concerned, it has clearly stated in its reply that the water supply in this area is hardly sufficient to meet the requirements of the residents and the population in these sectors having increased manifold, there has been reduction in supply of water to them. This is also not the case of Delhi Jal Board that the residents of these sectors are getting as much water as the persons residing in other colonies of Delhi are getting. DDA claims to be supplying water in these sectors through water tankers. This is yet another admission of the fact that the residents of these sectors are not getting adequate supply of water through municipals taps.

7. DDA claims in its reply that its policy is to lay down the sewerage pipes and water pipes, as approved by the Civic Authorities, at the time of developing the area and Civil Authorities have failed to take over the water supply lines due to their own failure. DDA claims that Delhi Jal Board is deliberately not taking over the water supply in this area. On the other hand, Delhi Jal Board claims that the infrastructure work for Phase II of Rohini is yet to be completed. During the course

of arguments, the learned counsel representing Delhi Jal Board submitted that water and sewage facilities of Sectors 22 to 25, Rohini are yet to be handed over to them by DDA. Delhi Jal Board has placed on record a copy of the minutes of the meeting held on 13.7.2012 which was attended not only by the officers of Delhi Jal Board, but also by the officers of Delhi Development Authority. The minutes show that Chief Engineer, Rohini of DDA requested Member (WS) of Delhi Jal Board to expedite the exercise of handing over /taking over of water sewerage facility of Sectors 22 to 25 of Rohini, who decided that physical handing over/ taking over of water sewerage system shall be done once underground reservoir/ booster pumping station facility in Sector-22 was commissioned and the water supply network was tested at its designed capacity. The minutes of the meeting held on 23.10.2012 would show that the representatives of the Residents Welfare Association complained about acute water shortage for Pocket-8 of Sector 24 of Rohini and shortfall in water supply was conceded by the representative of DDA, who sought increase in bulk supply to DDA from the underground reservoir/ booster pumping station in Sector-11. The officers of Delhi Jal Board attributed shortage of water to curtailment of production at Haiderpur Water Treatment Plant due to less receipt of raw water from Haryana, though they have claimed that Haiderpur Water Treatment Plant was now running at its optimum capacity.

8. It is not for us to find out in these proceedings as to whether delay in handing over/ taking over of water facilities is attributable to Delhi Development Authority or to Delhi Jal Board. Both being the agencies of the State, are duty bound to identify and remove the bottlenecks in the system and ensure adequate and smooth supply of drinking water to the residents of these sectors, since it is an admitted position that the water supply to these areas is certainly deficient. Once these facilities are taken over by Delhi Jal Board, it would be for the said agency to augment and ensure sufficiency of water to the residents of these sectors. If there is any deficiency in the water lines and/or underground reservoir constructed by Delhi Development Authority, it would be duty bound to remove such deficiencies and handover water infrastructure laid by it to Delhi Jal Board. Till the time, the water lines in the locality are taken over by Delhi Jal Board and adequate supply of water is ensured, Delhi Jal Board should supply water to the residents of these localities through water tanks having pumping arrangements and the costs of

hiring such water tankers should be borne by Delhi Development Authority, which is the developer of these residential sectors.

9. We, therefore, dispose of the writ petition with the following directions: The Chief Secretary, Delhi shall hold a meeting with Vice Chairman of Delhi Development Authority and CEO of Delhi Jal Board and shall identify within four weeks the deficiencies, if any, in the water infrastructures provided by Delhi Development Authority. Such deficiencies, if any, shall be removed by Delhi Development Authority within such time as Chief Secretary may stipulate in this regard. On removal of deficiencies, if any, the water facilities in these areas shall forthwith be taken over by Delhi Jal Board which shall ensure adequate supply of drinking water to the residents, treating them at par with other colonies where water supply is being provided by Delhi Jal Board. The Chief Secretary shall also decide, in consultation with Delhi Jal Board and Delhi Development Authority as to how many water tanks having pumping facilities need to be engaged to meet the shortfall in supply of water to the residents of these colonies till the water facilities are taken over by Delhi Jal Board. Though the tanks for supply of water to the residents will be engaged by Delhi Jal Board, the expenditure incurred in this connection shall be borne by Delhi Development Authority. The Chief Secretary shall also identify the deficiencies, if any, in water supply infrastructure provided by Delhi Jal Board in these localities and those deficiencies will be removed by Delhi Jal Board within such time as the Chief Secretary may stipulate in this regard.

V.K.JAIN, J CHIEF JUSTICE JANUARY 31 2013 bg/rd

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