

Dr. P.S. Vetrivelam vs The Government Of Tamil Nadu on 29 January, 2021

Author: K. Ramakrishnan

Bench: K. Ramakrishnan

Item Nos.

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

Original Application Nos. 181 of 2015, 13, 15, 17, 37 to 46, 57 to
60, 89 to 95 & 101 of 2016 (SZ)

(Through Video Conference)

IN THE MATTER OF:

Original Application No. 181 of 2015

Dr. P.S. Vetrivelam,
Padayachiyur,
Kalleripatta P.O,
(Via) Yethapur, Salem Dt. ... Applicant(s)

Original Application No. 13 of 2016(SZ)

V.Kalaiselvan,
Mariammankoil Vadakku Street,
Veeragoundanur PO,
Pethanaickenpalayam Taluk,
Salem Dt. ... Applicant(s)

Original Application No. 15 of 2016(SZ)

V. Duraisamy,
Padayachiyur,
Kalleripatti P.O, Yethapur,
Pethanaickenpalayam Taluk,
Salem Dt. ... Applicant(s)

Original Application No. 17 of 2016(SZ)

S. Ramkumar,
63, Ward No.12, Chinnamasamudramkudi Street,
Pethanaickenpalayam,
Salem Dt. ... Applicant(s)

Original Application No. 37 of 2016(SZ)

A.Selvaraj,

Vaithiyagoundan Puthur PO,
(Via) Valappadi, Salem Dt. ... Applicant(s)

Original Application No. 38 of 2016(SZ)

S. Jayapal,
75/52-A, Therku Street, Padayachiyur,
Kalleripatti P.O,
Pethanaickenpalayam Taluk,
Salem Dt. ... Applicant(s)

Original Application No. 39 of 2016(SZ)

K. Sudhakar,
205-A, 14-Ward, Abinavam,

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Yethapur PO,
Pethanaickenpalayam Taluk,
Salem Dt. ... Applicant(s)

Original Application No. 40 of 2016(SZ)

S. Selvakumar,
Kudi Street, Abinavam,
Yethapur PO, Salem Dt. ... Applicant(s)

Original Application No. 41 of 2016(SZ)

M. Palanisamy,
17-A, Perumalgoundar Street,
Valappadi PO & Tk, Salem Dt. ... Applicant(s)

Original Application No. 42 of 2016(SZ)

C. Marimuthu,
205-D, 14-Ward, Abinavam, Yethapur PO,
Pethanaickenpalayam Taluk,
Salem Dt. ... Applicant(s)

Original Application No. 43 of 2016(SZ)

A.Rajendran,
Belur Main Road, Padayachiyur,
Kalleripatti P.O,
Pethanaickenpalayam Taluk,
Salem Dt. ... Applicant(s)

Original Application No. 44 of 2016(SZ)

R. Anandhan,
15/14, Abinavam Agraharam, Yethapur,
Pethanaickenpalayam Taluk,
Salem Dt. ... Applicant(s)

Original Application No. 45 of 2016(SZ)

A.Ravanan,
Nadu Theru, Padayachiyur,
Kalleripatti P.O,
Pethanaickenpalayam Taluk,
Salem Dt. ... Applicant(s)

Original Application No. 46 of 2016(SZ)

P.Thirugnanasampantham,

Padayachiyur, Kalleripatti P.O, Yethapur,
Salem Dt. ... Applicant(s)

Original Application No. 57 of 2016(SZ)

R.P. Ramakrishnan,
54, Thuluva Palla Theru,
Pethanaickenpalayam,
Salem Dt. ... Applicant(s)

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Original Application No. 58 of 2016(SZ)

V. Godhanda Raman,
Mariammankoil Vadakku Street,
Veeragoundanur PO,
Puthiragoundapalayam Via,
Pethanaickenpalayam Taluk,
Salem Dt. ... Applicant(s)

Original Application No. 59 of 2016(SZ)

A.Kasi Vishwanathan,
Vaithiyagoundanputhur PO,
Valappadi Via , Salem Dt. ... Applicant(s)

Original Application No. 60 of 2016(SZ)

P. Muthukrishnan,
55, Thuluva Palla Theru,
Pethanaickenpalayam,
Salem Dt. ... Applicant(s)

Original Application No. 89 of 2016(SZ)

K. Dhanasekar,
Kalleripatti, Yethapur,
Salem Dt. ... Applicant(s)

Original Application No. 90 of 2016(SZ)

S. Muniraj,
Kalleripatti, Yethapur,
Salem Dt. ... Applicant(s)

Original Application No. 91 of 2016(SZ)

G. Rukkumani,
Chinnamasamudram,
Pethanaickenpalayam Tk,
Salem Dt. ... Applicant(s)

Original Application No. 92 of 2016(SZ)

P. S. Rathinam,
41, Kottaimedu,
Padayachiyur, Kalleripatti P.O,
(Via) Yethapur, Pethanaickenpalayam Tk,
Salem Dt. ... Applicant(s)

Original Application No. 93 of 2016(SZ)

T. Kandasamy,
Kalleripatti P.O,
Yethapur,
Salem Dt.

... Applicant(s)

Original Application No. 94 of 2016(SZ)

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A.Singaravel,
279/3, Belur Main Road,
Padayachiyur, Kalleripatti P.O,
Pethanaickenpalayam Tk,
Salem Dt.

... Applicant(s)

Original Application No. 95 of 2016(SZ)

S. Shanmuga Sundaram,
Kalleripatti P.O,
Yethapur (Via),
Salem Dt.

... Applicant(s)

Original Application No. 101 of 2016(SZ)

P. Sabareesha Raja @ P. Sabareesakrishnan,
Kalyanagiri, Kalleripatti P.O,
Yethapur, Salem Dt.

... Applicant(s)

Vs

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Public Works Department,
Fort St. George, Chennai 600009.

2. Engineer in Chief,
PWD, Chepauk, Madras-5.

3. Chief Engineer, PWD/WRO,
Sarabanga Dvn. Trichy.

4. The District Collector, Salem.

5. The Executive Engineer,
Public Works Department,
Sarabanga Basin Dvn.
Namakkal.

6. The Revenue Divisional Officer,
Attur, Salem Dt.

...Respondent(s) in all OAs

Judgment reserved on: 24.12.2020

Judgment uploaded on: 29.1.2021

CORAM:

HON BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER

HON BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER

For Applicant(s): Mr. M. Vaidyanathan

For Respondent(s): Mr. S.R. Rajagopalan,
Additional Advocate General along with
Mr. M. Mani Gopi for R1 to R6

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Whether judgment is allowed to be published on the Internet: Yes/No
Whether judgment is to be published in the All India NGT Reporter/Yes/No

JUDGMENT

Pronounced by Justice K. Ramakrishnan, Judicial Member The above cases were filed by the applicants seeking compensation for the loss sustained by them on account of non-availability of required water due to construction of dams, preventing the water coming to Vashista Nadhi.

2. The applicants are agriculturists having landed properties along the said river and depending upon the river water for their agricultural operations, apart from using for drinking purpose. The details of each applicant and the description of their property, survey number, place, nature of plant and amount of compensation claimed are listed below in a tabular form, instead of narrating the same separately, to avoid repetition and for brevity:

Sl Application Name of Description Nature of Compensa No No. Applicant of
property Cultivation tion amount Affected claimed (Rs) 1 181/2015 Dr.P.S.Vetri Patta
Nos. 3750 50 Lakhs selvan 231, 77, 176 Arecanut 301, 397 & Trees, 350 417- Kalya
Coconut Nagari Trees Revenue Village, Patta No.229 Of Kottavadi Village, Salem
Dist.

2	13/2016	V. Kalai	Patta No.	400	5,00,000
		Selvan	1197 of	Arecanut	
			Puthira	Trees	
			Goundan		
			Palayam		
			Village,		

Pethanaick

Enpalayam

Tk, Salem

Dt.

3	15/2016	V. Durai	Patta No.	270	6,00,000
		samy	351,	Arecanut	
			Kalyanagiri	Trees & 10	
			Village,	Coconut	
			Salem Dt.	trees	
4	17/2016	S.Ram	Patta No.	200	5,00,000/-
		Kumar	531 of	Arecanut	
			Chinnama	Trees & 25	
			Samudram	Coconut	
			Village,	Trees	
			Pethanaick		
			Enpalayam		
			Tk, SalemDt		
5	37/2016	A.Selvaraj	Patta Nos.	4,000	50,00,000/-
			744, 166,	Arecanut	
			799, 798,	Trees	
			259 of		
			Abinavam		
			Village,		
			Pethanai		
			Ckenpalayam		

			Tk, SalemDt		
6	38/2016	S. Jayapal	Patta No.	650	15,00,000/-
			460, 462	arecanut	
			Kalyanagiri	Trees & 10	
			Village,	Coconut	
			SalemDt	Trees	
7	39/2016	K.Sudhakar	Patta No.845	700 areca	10,00,000/-
			Puthiragoun	Nut trees &	
			Danpalayam	40 coconut	
			Village, Petha	Trees	
			Naickenpala		
			Yam Tk,		
			Salem Dt		
8	40/2016	S.Selva	Patta No.685	721 areca	10,00,000/-
		Kumar	Abinavam	Nut trees &	
			Village,	99 coconut	
			Pethanaick	Trees	
			Enpalayam		
			Tk, Salem Dt		
9	41/2016	M.Palani	Patta No.742	1,400 areca	20,00,000/-
		samy	Abinavam	Nut trees &	
			Village,	100 coconut	
			Pethanaick	Trees	
			Enpalayam		
			Tk, Salem Dt		

10	42/2016	C. Mari	Patta No.431 1,400 areca 20,00,000/-		
		Muthu	Abinavam	Nut trees &	
			Village,Petha 125 coconut		
			Naicken	Trees	
			Palayam Tk,		
			Salem Dt.		
11	43/2016	A.Rajendran	Patta Nos.	700	14,00,000/-
			185, 289,	arecanut	
			380 & 311	Trees	
			Of Kalyana		
			Giri Village,		
			Pethanaicken		
			Palayam Tk,		
			Salem Dt		
12	44/2016	R. Anandhan	Patta No.719 2,000		15,00,000/-
			Abinavam	Coconut	
			Village, Petha	Trees	
			Naickenpala		
			Yam Tk,		
			Salem Dt		
13	45/2016	A.Ravanan	Patta No.285 700		14,00,000/-
			291,380,311 arecanut		
			Kalyanagiri	Trees	
			Village,		
			Pethanaicken		
			Palayam Tk,		

Salem Dt.

14 46/2016 P.THIRUGNA Patta No.135,2,500 areca 40,00,000/-

NA SAMPAN 168, 224, Nut trees &
THAM 248 & 394 300 coconut
Kalyanagiri Trees
Village,Petha
Naickenpala
Yam Tk,
Salem Dt.

15 57/2016 R.P. RAMA Patta No.50 2065 areca 44,00,000/-

KRISHNAN Of Errasamu Nut trees &
Thiram & 27 coconut
383, 360,289 Trees
& 385 of
Olappady
Village,
Salem Dt.

16 58/2016 V.GODHAND Patta No.845 700 10,00,000/-

ARAMAN 6950,1197 arecanut
Of Puthira Trees & 40
Goundapala Coconut
Yam village, Trees
Salem Dt

17 59/2016 A.KASI Patta No.781 3,500 coco 38,00,000/-

		VISHWA	Abinavam	Nut trees	
		NATHAN	Village, Pethanaicken Palayam Tk, Salem Dt		
18	60/2016	P.MUTHU	Patta No.472 2334	44,00,000/-	
		KRISHNAN	Of Errana Aricanut Samuthiram Trees & 20 Village & 383 Coconut 183 of trees Olapady Village, Salem Dt.		
19	89/2016	K.DHANA	Patta No.320 1400 arecan	10,00,000/-	
		SEKAR	Kalleripatty Ut trees Village, Pethanaicken Palayam Tk, Salem Dt.		
20	90/2016	S.MUNIRAJ	Patta No.249 1400	25,00,000/-	
			Of Kalleri Arecanut Patty village, trees Pethanaicken Palayam Tk, Salem Dt		

21	91/2016	G.RUKKU	Patta No.801 1400	2,00,000/-
		MANI	Of Chinnama Arecanut	
			Samudram trees	
			Village,	
			Pethanaicken	
			Palayam Tk,	
			Salem Dt	
22	92/2016	P.S.RATHI	Patta No.240 840	50,00,000/-
		NAM	Of Kalyana arecanut	
			Giri village, Treet & 50	
			Pethanaicken Coconut	
			Palayam Tk Trees	
			Salem Dt	
23	93/2016	T.KANDA	Patta No.125 1560	10,00,000/-
		SAMY	Of Kalyana Arecanut	
			Giri village, trees	
			Pethanaicken	
			Palayam Tk,	
			Salem Dt	
24	94/2016	A.SINGARA	Patta No.185,700	20,00,000/-
		VEL	16,380 of Arecanut	
			Kalyanagiri Trees & 20	
			Village, Coconut	
			Pethanaicken trees	
			Palayam Tk,	

Salem Dt

25 95/2016 S.SHASNMU Patta No.250 750 10,00,000/-

GA SUNDA Of Kaslleri Arecanut
RAM Patti Trees &
Village, 30

Pethanaicken Coconut

Palayam Tk, Trees

Salem Dt.

26 101/2016 P.SABAREE Patta No.48, 8,000 60,00,000/-

SHARAJA @ 78,130,44, Arecanut
P.SABAREE 448,450 of Trees &
SAKRISHNANKalyanagiri 300

Village, Coconut

458 of trees

Kottavadi

Villasge,

Pethanaicken

Palayam Tk,

Salem Dt.

3. The common case of the applicant in all these cases was that there are two rivers viz, Kariakoill river, commencing from Kalvarayan Hills and Anaimaduvu river, commencing from Kattukottai Reserve Forest, which join together at a particular point to be called as „Vashista Nadhi . The upper reaches of Vashista Nadhi, starting from Kottavadi ayacut to Peddanaickenpalayam ayacut, which is the impacted area,

was considered to be a very fertile area consisting of about 2,500 acres of agricultural land which has been classified as „wet lands“ by the Government where cultivation of perennial crops such as arecanut and coconut, annual crops such as sugarcane, banana and tapioca and seasonal crops such as paddy was undertaken by the local residents having small extent of such cultivable land which was the prime source of their livelihood.

4. The water has been diverted from these rivers through anaicuts and depending on this water; specific agricultural practices were being followed in that area. Due to the non availability of water subsequent to the construction of anaicuts, water scarcity was caused and thereby livelihood of the local people had come to a standstill. They formed an association by name Vashista Nadhi Beneficiaries Society in order to protect the interest of the riparian land owners of the said rivers.

5. The trouble started at the time when the Government issued two G.Os through G.O.No.841 and 983 in the year 1982 through the first respondent sanctioning construction of reservoirs viz., Kariakoil dam along Kariakoil river and Anaimaduvu dam along Anaimaduvu river at a point about 20 km before the water reached the impacted area of Vashista Nadhi.

These Government Orders were issued in spite of advisory letters dated, 14.5.1980 and 8.7.1980 issued by the Board of Revenue stating that the construction of the reservoirs will be detrimental to the ayacut area which is not adequately supplied with water even now and recommending that the scheme had to be dropped.

6. Opposing the construction of the two reservoirs, two writ petitions were filed before the Hon ble High Court of Madras by the ayacutdars in the impacted area as W.P.No.5452 of 1983 by the Kalyanagiri Ayacutdars Association and W.P.No.3479 of 1983 by the association of Aycutdars of Peddanaickenpalayam which is one of the most affected lowest downstream seeking to quash the above G.Os as it would amount to diversion of water from the impacted area and consequently depriving the area of accustomed supply of water for cultivation and domestic purpose.

7. The first respondent filed a letter dated 1.8.1983 before the Hon ble High Court of Madras in W.P.No.3479 of 1983 giving the details of the quantity of the water utilised in the anaicut stating that there would be surplus water available at the Peddanaickenpalayam anaicut even after utilizing the water in the seven anaicuts along the Vashista Nadhi including Peddanaickenpalayam anaicut. It was categorically mentioned in the letter that the construction of reservoirs had been proposed only for utilizing the surplus water without affecting the existing flow of water through Vashista Nadhi. The term „surplus water“ used in the said letter indicates that the surplus water available after feeding the seven anaicuts in the impacted area including Peddanaickenpalayam anaicut and nothing more. Recording the contents of the letter, the two writ petitions were closed by the common order dated 5.7.1991, giving liberty to the applicant to approach the High Court by filing fresh writ petition.

8. After the disposal of the writ petitions, the construction of the two reservoirs was completed in the year 1992 and became operational in the year 1993. As against the letter dated 1.8.1983 filed by the first respondent before the Hon ble High Court of Madras, the entire water flowing along the Karaikoil river and Anaimaduvu river was impounded at the two reservoirs, substantially reducing the flow of water in the two rivers beyond the point of reservoirs, thereby depriving the impacted area of the water for agricultural purpose and impacting even the drinking water needs of the residents of the impacted area.

9. To the understanding of the applicants, the Public Works Department did not issue any Government Order for stoppage of water in Karaikoil and Anaimaduvu reservoirs. For the past 22 years, there were no specific guidelines for the utilisation of water from the two reservoirs. At the time of commissioning of reservoirs or within a reasonable period of time thereafter, draft rules were supposed to have been framed by the respondents for the proper functioning and utilisation of the reservoirs and the regulation of water flow. But that was never done. This has resulted in substantial depletion of ground water level in that area.

10. So several representations were given for the purpose of mitigating the situation but no action was taken. Since 1993, the stretch of the river beyond the point of convergence of Karaikoil and Anaimaduvu rivers which were passing through the impacted area had almost dried up due to the stoppage of water flow except certain amount of water released for two to ten days at a time and that too at sparing intervals. Such small quantity of water ranges between 15 and 30 Mcft never reached the impacted area and also the illegal sand mining in the area resulted in drying up of the river bed in the area.

11. A writ petition was filed by the applicant in O.A.181/2015 before the High Court of Madras as W.P.No.3631 of 1994 seeking to stop illegal quarrying of the river sand in the impacted area and the same was dismissed on 25.8.1994. A writ appeal was filed as W.A.No.73/1995 against the said order and the same was disposed of by the Hon ble High Court, after placing on record the Government Pleader s submission that the Collector had issued instructions to the local Revenue Officer to ensure that no illegal quarrying of river sand took place in that area and in addition the Government Pleader also submitted that the police authorities were also instructed to ensure that no illegal quarrying of sand took place in that area. These submissions would be sufficient to safeguard the interest of the applicant in that writ petition. In spite of the undertaking given before that Hon ble High Court based on which the writ appeal was disposed of, the illegal sand mining was continuing unabated which resulted in serious depletion of ground water level in that area and it also affected even the existing flow of water.

12. The applicant in O.A.181/2015 also filed another writ petition as W.P.No.1929/1996 seeking to forbear the respondents from proceeding with the new construction of reservoirs, projects and irrigation channels across Vashista Nadhi. The writ petition was dismissed by the Hon ble High Court with a direction to the applicant in that case to submit a representation before the authorities raising these issues. Though several representations were sent to the concerned authorities by the applicant in O.A.181/2015 and others, no response had been received from the concerned authorities.

13. Thereafter, the applicant in O.A.181/2015 filed another writ petition as W.P.34578/2002 seeking to issue direction for maintaining free flow of water in Vashista Nadhi from the above said two reservoirs. That writ petition was dismissed based on the assurance given by the respondents that there would be better and proper management of water. Though a writ appeal was filed as W.A.1150/2003 against that order, the same was also dismissed by the Hon ble High Court.

14. But however, the following things were noted while dismissing the writ appeal:

(a) There is unauthorised pilferage of water from reaching the impacted area.

(b) Recorded the assurance given by the respondents that all steps would be taken by them to check and eradicate such things so that water would reach the last point of the impacted area.

(c) To see that the water management is done on a scientific basis under the supervision of the expert in that field.

15. The Hon ble High Court has omitted to note the following aspects:

"That the project proposals and the several discussions that had ensued between the departments of the government prior to the preparation of the project report for the construction of the two reservoirs never formed part of the project report for the construction;

That this had come to the knowledge of the applicant and other affected persons in the impacted area only years later after several representations had been sent seeking information;

That had the proposals and discussions been considered, incorporated in the project report and implemented, the interests of the residents in the impacted area would have been safeguarded;

That the project report purportedly proceeds on the basis that the Kariakoil and the Anaimaduvu rivers terminate at the point of confluence and that no river exists thereafter; and That as per the report there was abundance of surplus water available in the river after the point of confluence and the reservoirs had been proposed only in order to tap the excess water after satisfying the needs of the old ayacutdars including those in the impacted area."

16. In spite of several representations given regarding regulation of water in a scientific manner, no attempt was made for publishing Draft Rules. The draft rules were framed by the Public Works Department for Karaikoil reservoir in September, 2005 and sent to the District Collector for his concurrence. Again in 2011 draft rules were framed for Karaikoil reservoir by the Public Works Department which was also forwarded to the District Collector, Salem for his concurrence and the

same was not seen the light of the day for the reasons best known to the authorities and they were awaiting for the final approval of the draft rules. The draft rules took the consideration of the statement made by the first respondent before the Hon ble High Court in the year 1983 and the intention of the Hon ble High Court in permitting construction of reservoirs on the condition that the needs of the residents of Vashista Nadhi minor basis viz., impacted area would be satisfied. Although 23 years had lapsed after the reservoirs became operational, draft rules were not framed so far.

17. On account of the non availability of water, there were lot of impact on human, water, agriculture, environment, ecology, ground water level, ground water level, river bed, plant and animal for want of sufficient water. Since there was no proper action taken by the authorities, the applicant in O.A.181/2015 filed an application before the Tamil Nadu State Human Rights Commission as SHRC No.2882/2014 showing the actions and inactions on the part of the respondents as gross violations of human rights of the residents of the impacted area.

18. The Revenue Department filed counter statement along with action taken report. The Executive Engineer, Sarabanga Division, Namakkal also filed report of enquiry conducted by the Principal Secretary, PWD on 23.6.2014 and after hearing the application, the Tamil Nadu State Human Rights Commission found that the Commission has jurisdiction to entertain the issue regarding preservation of environment is of national importance and significance as a natural consequence of

(i) deprivation of water is a breach of human right;

(ii) a holder of riparian rights over lands naturally irrigated by natural flowing rivers has a right to the natural flow of the river water;

(iii) unjustified deprivation of such water which was enjoyed by them is a breach of human rights;

(iv) the level of ground water table in the impacted area is directly related to the quantum of water flowing in the area and any action or inaction that results in the unjust deprivation of the ground water table to the residents of the area who have a right to the same is a breach of human rights.

19. In the report of the enquiry conducted by the Principal Secretary, P.W.D, it is stated that pending framing of rules and regulations for the operation of these dams, the water is released as per the project report prepared. But in fact the same did not take into consideration of the water requirement of the impacted area. In fact the existence of the impacted area has been concealed in the project report prepared. This aspect of the project report forced the ayacutdars of Kalyanagiri and Peddanaickenpalayam to file writ petitions as W.P.No.5452 & 3479/1983 in which the Government filed the letter dated 1.8.1983 explaining the stand of the Government in relation to the ayacutdars of the impacted area. On the basis of which the writ petition was disposed of.

20. Tamil Nadu State Human Rights Commission, while disposing of the matter by order dated 19.12.2014 issued the following recommendations:

Given the urgency of the situation, it is strongly recommended that the Secretary to the Government, Public Works department/Engineer in Chief/Chief Engineer pass an interim order for the operation of the two reservoirs. This interim order should ensure that the flow of water in both the impacted rivers - Anaimaduvu and Kariyaail is always maintained until the requirements of the residents of the impacted region are fully met i.e., till it flows up to the Pethanaickanpalayam anaicut and then overflows. This was the intention of the 1983 Government Letter mentioned. This order should be passed immediately and water be released from the two reservoirs. The draft rules governing the two reservoirs should reflect the following:

A monitoring station at Pethanaickanpalayam should be set up to monitor the flow of water from the Pethanaickanpalayam anaicut. Water management shall be done on a scientific basis under supervision of a person who is an expert in the field.

Natural flow of water in both impacted rivers should be maintained at all times until requirements of the direct and indirect old ayacut lands are met and water starts to surplus to Pethanaickanpalayam anaicut. Draft rules of both reservoirs should be prepared according to the above recommendations and both reservoirs should have similar rules. Both the draft rules shall mention the names of all the old anaiuts upon Pethanaickanpalayam anaicut and also mention the extent of irrigation clearly. This is necessary to give clarity to the extent of old anaicut lands and avoid confusion at a future date.

A riverbed sluice should be provided in both the reservoirs or there must be a foolproof mechanism to release water directly to the river. The Salem District Collector should pass suitable orders to prevent illegal water pilferage upstream from the applicant in accordance with the directions of the Hon'ble High Court, Madras in .A.1150/2003. Electricity Board officials should be given strict instruction to take appropriate action and to report to the Commission within 30 days on any action taken or proposed to be taken.

The Salem District Collector should pass suitable orders to prevent illegal sand quarrying in the riverbeds of the impacted rivers in accordance with the undertaking given to the High Court of Madras in W.A.73/95. The Public Works Department and the Salem District Collector should file a report with the Commission within 30 days on action taken or proposed to be taken in order to effect (1) to (5) above.

There has been delay of over 22 years in the implementation of draft rules to govern the operation of the two reservoirs. This is an extraordinary and unreasonable delay.

21. It is alleged in the applications that the respondents had not complied with the recommendations issued by the Tamil Nadu State Human Rights Commission. However, they issued G.O.No.60 dated 9.2.2015 directing the release of water from Karaiakoil reservoir for a period of 16 days from 10.2.2015. According to the applicant, this G.O was issued by the first

respondent fully knowing that water from Karaikoil reservoir, likely to be released would not reach the impacted area so as to cater to the needs of the people in that area.

22. Thereafter, the applicant in O.A.181/2015 sent a letter dated 20.2.2015 to the Tamil Nadu State Human Rights Commission, bringing to their notice regarding the above G.O and the conduct of the respondent based on which the commission had issued Lr.No.2882/2014/SHRC dated 23.2.2015 to the first respondent, calling upon them to implement the recommendations in its letter and spirit. But inspite of that, they have not implemented the same. According to the applicant in O.A.181/2015, on account of the construction of the check dam and also reservoir, the natural flow of water in Kariakoil and Anaimaduvu rivers had been prevented and thereby it had become dry and on account of the same, the ground water level in that area had been depleted, causing acute water scarcity in that area, thereby affecting the environment which in turn causing damage to the cultivation made by the applicants. Since the respondents did not comply with the directions of the State Human Rights Commission, the Vashista Nadhi Beneficiaries Committee represented by the applicant in O.A.181/2015 filed another writ petition as W.P.12779/2015 for giving direction to implement the recommendations and the same was pending.

23. The applicant narrated the nature of land and the type of cultivation made and the nature of damage caused and estimated the loss at a particular rate, taking in to account the probable value of agricultural yield by giving certain market value and assessed the damage for the period from 2012 - 2015. So the applications were filed seeking compensation, as detailed in the table mentioned above.

24. Though they claimed huge amount as probable loss sustained by them, they have restricted the amount of compensation, as detailed in the table shown above and file these applications, claiming that amount to be paid by the respondents for the loss sustained by them.

25. The fifth respondent filed counter statement on behalf of respondents 1 to 3 contending as follows:

The applications are not maintainable. Anaimaduvu river originates from Periyakuttimaduvu of Katthukottai reserve forest and Kariyakoil river originates from southern slopes of Kalrayan hills. Both Anaimaduvu river and Kariyakoil river confluence at upstream of Kottavadi anaicut. The Anaimaduvu reservoir is constructed at the junction point of Pungamaduvu and Anaimaduvu streams. The free catchment area of Anaimaduvu reservoir is 145.02 sq.km and yield under normal rainfall work out to 641 Mcft. The capacity of Anaimaduvu reservoir is 267 Mcft. The Kariyakoil reservoir is constructed across Kariakoil river near Pappanaickenpatty village in Attur Taluk of Salem District. The Kariyakoil reservoir has a free catchment of 70.50 sq.km and dependable yield under normal rainfall works out to 558.38 Mcft. The capacity of Kariyakoil reservoir is 190 Mcft. The lower down irrigation under the Anaimaduvu river is the ayacut that is being fed by the four anaicuts viz., Chidambaraudayar Anaicut, Kurichi Anaicut, Belur Kissan Small Anaicut and Belur Kissan Big Anaicut. The Chidambaraudayar anaicut is having only direct ayacut and the other three anaicuts viz., Kurichi Anaicut, Belur kissan Small Anaiut and Belur

Kissan Big Anaicut are feeding three tanks viz., Kurichi Tank, Chinna Kissan Tank and Peria Kissan Tank.

26. The irrigation under the Kariyakoil river is the ayacut that is being fed by the eight anaicuts viz., Komarapalayam anaicut, Kottavadi anaicut, Kalyanagir anaicut, Abinavam anaicut, Puthiragoundampalayam anaicut, Chinnamasamudram anaicut, Erramasamudram anaicut and Pethanaicenpalayam anaicut. The Komarapalayam anaicut, Kottavadi anaicut and Pethanaicenpalayam anaicut are having only direct ayacut and the other five anaicuts namely Kalyanairi anaicut, Abinavam anaicut, Puthiragoundampalayam anaicut, Chinnamasamudram anaicut and Erramasamudram anaicut are feeding five tanks viz., Kalleripatti tank, Abinavam tank, Puthiragoundampalayam tank, Chinnamasamudram tank and Erramasamudram tank. The Anaimaduvu river and Kariyakoil rivers are joining the Vasista Nadhi at Kottavadi anaicut. All the 12 anaicuts and 8 tanks fed by Anaimaduvu reservoir and Kariyakoil reservoirs are also have their own catchment area. The cumulative free catchment and intercepted catchment area of all the above tanks and anaicuts are about 4,488 sq.km.

Hence the tanks under Vasista Nadhi upto Pethanaickenpalayam anaicut are not alone depending fully on the Anaimaduvu and Kariyakoil reservoirs water for their storage and to supply water for ayacut lands belonging to them. These tanks during good rainfall years receive copious water from their own catchment areas itself and got surplus even before the Anaimaduvu and Kariyakoil reservoirs are surplus.

27. The construction of Anaimaduvu Reservoir and Kariyakoil reservoir were started in the year 1982 as per G.O.(Ms) No.841 Public Works Department, dated 20.5.1982 and G.O.(Ms)No.983 Public Works Department, dated 20.5.1982 respectively and completed during the year 1992. The reservoir is not only to impound the water for providing irrigation to new ayacut area where majority of the land holders are tribal people and to increase an additional food production but also to ensure irrigation facilities directly or indirectly through percolation in the river bed and thereby recharging the bore wells and irrigation wells within the zone of influence and also to provide irrigation facilities to the people in the nearby villages from these two reservoirs.

28. It is contended that Anaimaduvu and Kariyakoil reservoirs are conceived and constructed based on detailed scientific investigation done by the competent authorities. While formulating the Anaimaduvu and Kariyakoil reservoir projects, hydrology was computed as follows:

Name of reservoir	Annual storage
Kasriyakoil	558.44 Mcft
Anaimaduvu	592.68 Mcft
Total	1151.12 Mcft

29. As per the hydrology, the surplus water available at

Pethanaickenpalayam anaicut, even after meeting the demand of all anaicuts, including Pethanaickenpalayam anaicut is about 1442.26 Mcft. However, the cumulative annual storage of Anaimaduvu and Kariykoil reservoirs are only 1151.12 Mcft that is well within the available surplus quantity of 1442.26 Mcft.

30. The Hon ble High Court of Judicature at Madras W.A.No.1150 of 2003 filed by the applicant in O.A.181/2015 representing the Vashista Nadhi Water Beneficiaries Society against the Government of Tamil Nadu represented by its Secretary and Commissioner, Public Works Department, Chennai and five others the Division Bench of the Hon ble High Court has observed as follows:

"In that application the prayer was for the free flow of the water in Vasista river from the two reservoirs built at the confluence. The learned single judge has relied on the assurance given by the State Government that there shall be a proper and better management of water. It seems that the appellants are at the farthest and from the reservoirs and therefore, the water which is released from time to time from the reservoirs does not reach them at all. It is for this reason that the appellants pray for uncontrolled water flow from the reservoirs but that is clearly not possible. There will have to be a control over the water flow and that control would have to be supervised by an expert in the field. This court is not to decide as to how much water should flow and when. It would be purely on the discretion of the controlling authority. We have therefore no doubts that the Government controlling the water distribution, taking into consideration even farmers having agricultural field to be farthest end of the riparian areas."

31. It was further contended that when the water is released from these reservoirs for an irrigation period of 4 to 6 months, the farmers can raise their crops. But in the year 2015 -16 due to failure of monsoon sufficient storage was available on both the reservoirs and hence it was not possible to release the water for the above irrigation period. Based on the demand of the farmers, as stated by the District Collector, Salem, water was released from these reservoirs to cater the drinking water needs of both human being and cattle. It was contended that not only the applicant but all the farmers of both old ayacut and new ayacut were suffered due to continuous monsoon failure.

32. Further, the District Collector, Salem had accorded concurrence for the construction of Kariyakoil reservoir vide Lr.No.Roc.(AB)8842/73 dt.18.9.1973. The Government in their Lr.No.69476/S2/75-1/PW dt. 26.7.1975 had constituted a committee for implementing the scheme. The Harijan and Tribal Welfare Department also interested in implementing this scheme and they pressed for the scheme since 1972 as this scheme will benefit tribal people in that area.

33. It is contended that from 1993 to 2014 i.e., out of 23 years, the Pethanaickenpalayam anaicut was surplus for 11 years and the surplus quantity of flood was more than 217 Mcft which is the

considered capacity of 8 tanks viz., Kurichi tank, Chinna Kissan tank, Periakissan tank, Kalleripatti tank, Abinavam tank, Puthiragoundampalayam tank, Chinnamasamudram tank and Errammasamudram tank. These tanks are fed by the anaicuts viz., Chidambaraudayar anaicut, Kurichi anaicut, Belur kissan small anaicut, Belur kissan Big anaicut, Komarapalayam anaicut, Kottavadi lkanicut, Kalyanagiri anaicut, Abinavam anaicut, Puthiragoundampalayam anaicut, Chinnamasamudram anaicut, Errammasamudram anaicut and Pethanaickenpalayam aniacut. In the year 2005, maximum the surplus quantity of flood water at Pethanaickenpalayam anaicut was 2106.12 Mcft which was more than the anticipated yield of 1442.26 Mcft. During the year 1996, 1745.80 Mcft of flood water was surplus. The other 12 years comprises scanty rainfall period due to monsoon failure resulting that the Anaimaduvu reservoir and Kariyakoil reservoir had merger inflows. Based on the above, 11 years surplus statement shows that the assurance given by the Government of Tamil Nadu during 1983 reveals that a minimum of 291.14 Mcft of water was available as surplus at Pethanaickenpalayam anaicut in normal rainy years. It is seen that as per the records that this old ayaut areas received water from the Anaimaduvu reservoir and Kariyakoil reservoir for 11 years since 1993. But for the last few years, due to the successive monsoon failures, the whole area received less rain fall, far below the normal level and the reservoirs had no water at all and that was the reason why sufficient water could not be released. Considering the appeal made by the farmers in that area in the agricultural grievance day meeting that they need water for drinking purpose and to recharge round water, small quantity of water was released.

34. The draft rules were framed for both Anaimaduvu reservoir and Kariyakoil Reservoir and sent to Government. In respect of Kariyakoil reservoir, the draft rules are now under active consideration of the Government for its clearance and as far as Anaimaduvu reservoir is concerned, the draft rules is now with Salem District Collector for scrutinizing and forwarded to the Commissioner of Land Administration. Every year, water was released in the river or old ayacut lands with proper approval of the Government, since the draft rules are still under active consideration. Water was released from both the reservoirs viz., Anaimaduvu reservoir and Kariyakoil reservoir to old ayacut lands as well as to new ayacut lands, subject to availability of water in these reservoirs to meet the needs of the people in a scientific manner.

35. In the draft rules of Anaimaduvu reservoir it has been noted as follows:

"To safeguard the irrigation interest of the lower down ayacutdars initially the supply for irrigation shall normally be let down in the Anaimaduvu river from the natural flows of the river on priority basis so as to cater the needs of the tanks and anaicuts that are getting irrigation facilities under old ayacut protecting the riparian rights of the old ayacutdars."

36. In the draft rules of Kariyakoil reservoir it has been noted as follows:

"To safeguard the riparian irrigation rights of the traditional ayacutdars in the lower reaches who were dependant on flow in the river even before the projects was conceived initially water for irrigation shall normally be let out in the river on priority basis so as to cater to the needs of the anaicuts and tanks under old ayacut."

37. Another writ petition was as W.P.No.31062 of 2004 by the Attur Taluk Vasita River Ayacutdars Welfare Association, by its Secretary K.V. Murugesan, Salem seeking for an order forbearing the respondents to store water in both the dams. The Hon ble High Court of Madras by its order dated 5.4.2013 disposed of the case by observing that in view of the fact that the Public Works Department has already framed draft rules and sent the same for approval to the Government, it will surely consume some more time to take decision by the Government and the relief prayed for was not granted. It was contended that subjects to the availability of water in the reservoir is scientifically shared between them and priority is being given to the old ayacut areas. There was certain deficiency in the water supply and that was not intentional but it was due to non availability of water in the reservoir and anaicut.

38. Further, as regards unauthorized pilferage of water from the rivers steps were taken to remove the unauthorised pump sets and unlawful pilferage had been prevented and they were not allowing any such activity in that area. Whenever it was brought to the notice of the Government, they are taking steps to redress their grievance.

39. The writ appeal W.A.No.1150/2003 was also disposed of, confirming the order of the learned Single Judge holding that the quantum of water to be released was not within the domain of the court but purely within the discretion of the controlling authority and expressed their hope that Government was controlling the water distribution, taking into consideration even the farmers having agricultural field to be farthest end of the riparian areas.

40. The writ petition W.P.No.31062/2004 was disposed of by the Hon ble High Court of Madras by its order dated 5.4.2013 considering the fact that the Public Works Department had already framed rules and sent the same for the approval of the Government, left open the applicant to approach the court in future, in future, if there is any need arises.

41. It was contended that only in the arms of Anaimaduvu and Kariyakoil rivers, these two reservoirs were constructed; whereas the Vasishta Nadhi has some other tributaries i.e., Ammapalayam river, Thumbal river, Neyyamalai Odai, Singipuram river and Mathur Odai. The flood water yield from these tributaries during good rainy season is more than the storage capacity of the tanks and anaicuts in Vasishta Nadhi upto Pethanaickenpalayam anaicut. It was contended that the dearth of water in these tanks are only due to successive monsoon failures and not due to construction of reservoirs.

42. They have denied the various impacts mentioned in the application on account of the alleged deprivation of water in the river. According to them, all necessary steps have been taken for the distribution of water and as such there was no dereliction of public duty on the part of the respondent in carrying out the statutory obligation of providing drinking water and also water for irrigation for the riparian land owners of Anaimaduvu reservoir and Kariyakoil reservoir, depending upon the availability of water. So they denied the allegation that the act of the respondents have caused any damage to the applicants as claimed and so they prayed for dismissal of the applications.

43. Respondents 1 to 3 have filed counter statement almost reiterating the contentions raised by them earlier through fifth respondent. Though the reply statement as filed by them in the year 2020, they have given parawise reply to the allegations made in the application and considered to be the statement submitted by them but in fact they were adopting the contentions raised by the fifth respondent earlier on behalf of the fifth respondent as well as on behalf of other respondents as well.

44. They have further contended that the draft rules for regulating the water for Kariakoil reservoir was approved by the government on 18.1.2018. Regarding Anaimaduvu reservoir draft rules are yet to be approved by the government.

45. Further, exploitation of ground water by digging bore wells, they were prevailed throughout Tamil Nadu and not as speciality in the area where the applicants were residing. The Government has issued G.O.Ms.No.161 Public Works (R2) Department, dated 23.10.2019 in which the status of ground water in all the revenue firkas of Tamilnadu have been listed out. Out of 1166 firkas in Tamilnadu, over exploited and nearing over exploited i.e., critical and semi-critical firkas are 704 (67%). The safe zone is only 427 (37%). Hence over exploitation of ground water is the common one in the State where there are reservoirs and tanks or not. The statistics furnished is for over all years from 1993 to 2019 is an average. The water release from the reservoirs will not be regular and uniform in all the days and will be regulated according to the water requirement to the ayacut area taking into account the monsoon rainfall in the ayacut are as well as the catchment area of anaicuts. There is also an admission by the applicants that there is reduction in rain fall and correspondingly there will be a reduction in the inflows of the rivers and reservoirs. The reduction in rainfall is found about 25% from 1993 - 2017 shows that the cultivation in the lands of reservoirs is affected correspondingly. Therefore, as per the allegations of the applicant, the reduction in rain fall is also one of the reasons for the damage caused and that cannot be attributed to the construction of the dam or anaicut.

46. Further, the Government has resolved to issue notification to direct the Public Works Department to issue necessary direction for the release of water depending upon the availability and need of the people in that area and accordingly considering the over all aspects in that area, release of water is being regulated by the department. So they denied the allegation that the water is not reaching that area and on account of the construction of the anaicut environmental damage has been caused and they prayed for dismissal of the applications. They have also given the tabular statement regarding the inflow statement in respects of Kariakoil reservoir and Anaimaduvu reservoir as Annexure - I and Kariakoil reservoir rainfall station as Annexure - II and Kalyanagiri village as Annexure - III which are extracted as follows:

Kariakoil reservoir			Anaimaduvu reservoir		
Year	April-Sep	October-	Year	April-Sep	October-
	tember	Decemb		tember	Decemb
		er			Er

Kariakoil reservoir rainfall station

Year	Rainfall in Mm	Block no	Total of Every Block Year in mm	Remark
1993	1113	I	4357	There is
1994	855		Ave:871.4	Gradual
1995	435			Rain fall
1996	1274			Reduction
1997	680	II		
1998	879		4766	
1999	1267		Ave:953.20	
2000	990			

Duri

Past

26 yr

Excep

2001	1018				Block
2002	618				The
2003	790	III		4621	Reduc
2004	891			Ave:924.20	Is ab
2005	1173				1003
2006	814				Resul
2007	1053				Reduc
2008	904	IV		3966	In fl
2009	717			Ave:793.20	Days
2010	972				Quant
2011	877				Of wa
					The
					Karai
2013	657	V		3354	River
2014	591			Ave:670.8	

SF	Sub	Extent	Crop raised area			
No	Dvn	(hec)				
			Fasli 1425	Fasli 1426	Fasli 1427	
			Perenni	Season	Perenni	Season
			Al crop	Al crop	Al crop	Al crop
			Hec.	Hec	Hec.	Hec

96	6	0.31.0	0.120	0.190	0.120	-	0.120
97	7	0.225	0.060	0.100	0.060	0.160	0.060
84	4	0.145	0.020	0.100	-	-	-
	8	0.010	0.010	-	0.010	-	-
	11	0.115	0.030	0.07	0.030	0.090	0.030
	12	0.050	0.050	-	0.050	-	-
	19	0.155	0.020	0.120	0.020	0.100	0.020
85	1	0.030	0.030	-	0.030	-	-
	10	0.045	-	0.040	-	0.040	-
	11	0.025	-	0.020	-	-	-
92	2	0.065	-	0.050	-	0.060	-
125	3	2.145	1.45	0.670	1.250	0.800	1.630
		3.320	1.790	1.360	1.570	1.250	1.860

SF Sub Extent Crop raised area
No Dvn (hec)

Fasli 1428

Fasli 1429

Perenni

Season

Perenni

Sea

Al crop

Al crop

Al crop

Al

Hec.

Hec

Hec.

Hec

96	6	0.31.0	0.120	-	0.120	0.1
97	7	0.225	0.060	-	0.060	0.1
84	4	0.145	-	0.140	-	-
	8	0.010	-	-	-	0.0
	11	0.115	0.030	-	0.030	0.0
	12	0.050	0.050	-	0.030	0.0

	19	0.155	0.020	0.120	0.20	0.1
85	1	0.030	-	-	-	-
	10	0.045	-	0.040	-	0.0
	11	0.025	-	-	-	0.0
92	2	0.065	0.010	0.050	-	-
125	3	2.145	0.630	0.200	1.630	0.2
		3.320	1.870	0.600	1.86	0.8

47. The applicant in O.A.181/2015 filed rejoinder, denying the allegations made by the fifth respondent on their behalf and on behalf of respondents 1 to 3. He had further contended that the interpretation made regarding the observation made by the Hon ble High Court in various writ petitions and writ appeals was not correctly understood and they were relying only on the allegations without reading the entire judgment which alone will go to show the purport of the order. Thereafter, produced certain documents in support of their case regarding the availability of water, quantity of water released, quantity of rain fall etc. They have further contended that the draft rules itself was prepared in an unscientific manner and as such it is not a workable solution.

48. The fifth respondent filed a further reply which was received on 25.2.2020 wherein they have stated as follows:

"Pursuant to the directions of this Tribunal dated 10.2.2020, this respondent humbly submits the detailed statement showing the receipt of water in the reservoir and discharge of water to the old area who have riparian rights and to the new area which are estimated to be benefited by the construction of reservoirs commenced for operation in the year 1993-1994 in the statements annexed to the report.

The lowest inflow of water in the kariakoil reservoir recorded is 68.790 Mcft in the year 2003 and the highest inflow is 1304.090 Mcft in the year 1996. As regards in the Anaimaduvu Reservoir the record is the lowest in flow of water is 5.190 Mcft in the year 2014 and the highest in flow is 1403.590 Mcft in the year 2005. The average percentage out flow of water to the old ayacut area and new ayacut area percentage are as detailed below:

Year	Karaikoil reservoir	Anaimaduvu reservoir	Old	Old	Old	Old	Ayacut-%	Ayacut-%
Ayacut-%	Ayacut-%	1993	75.65	24.35	72.02	27.98	1994	64.14
			35.86	46.88	53.12	1995		
			3.37	96.73	16.70	83.30	1996	76.29
			23.71	83.30	16.70	1997	72.29	27.71
							50.20	49.80

1998 24.38 75.62 9.38 90.62 1999 56.08 43.92 32.01 67.99 2000 9.12 90.88 2.7
97.30 2001 4.69 95.31 13.37 86.63 2003 - - - -

2004	86.04	13.36	-	-
2005	93.48	6.52	97.50	2.50
2006	50.25	49.75	43.39	56.61
2007	65.26	34.74	37.52	62.48
2008	87.92	12.08	25.70	74.30
2009	-	100	22.35	77.65
2010	92.95	7.05	100	-
2011	71.26	28.74	40.57	59.43
2012	55.31	44.69	23.75	76.25
2013	45.58	54.42	29.06	70.94
2014	40.86	59.14	100	-
2015	94.18	5.82	-	-
2016		53.00	47.00	48.82 51.18
2017		73.32	26.68	- -
2018		66.55	33.45	56.25 43.75
2019		100	-	- -

Overall percentage old ayacut 50.86%- New ayaut 49.14% The above statement clearly shows that water flow in both the reservoir in the old ayacut lands right from the construction of reservoir and storage commenced in this year 1993 is 50.88% in 18 years out of 25 years as against 49.14% to the new ayacut. The above statistics clearly shows the flow of water let out either from the reservoir storage and from direct flow on excess storage diversion is almost equal to both the old ayacut lands and new ayacut lands. The difference of supply between the old and new ayacut s just 1.72% in the overall 27 year storage statement. I further submit that the govt. in G.O.Ms.(pt) No.17 (PWD) dt. 18.1.2018 have approved the draft rules for the

management of reservoir and drinking water and other purpose and the notifications was also published in the Salem Dt Gazette No.16, dt. 18.5.2018.

Subsequent to this publications there was no representation in either alteration or increase the discharge of water from the ayacutdars As regards the draft rules for management of Anaimaduvu reservoir, necessary proposals sent to govt. Through the Revenue Department and it is under consideration and orders and causing of notifications is awaited.

I further submit that with regard to the implementation of directions of the Hon'ble Madras High Court in W.A.No.1150/2003 dt. 20.1.2004, the authorities concerned along with revenue officials have identified as many as 86 unauthorized drawal of water from the outflow canals and those illicit drawal were removed after issue of proper notices to the encroachers. The unauthorized pilferage is a recurring incidents and it is contained art present however the authorities are taking effective measures to it thwart the illicit draws then and there.

The Anaimaduvu and Kariyakoil reservoir located in Salem District did not have sufficient inflows for the past six years continuously due to monsoon failure. Hence the water could not be released from these reservoirs for irrigation purpose however water had been released from the Kariyakoil reservoir to cater the drinking water needs of both human beings and cattle.

In the above circumstances, I humbly prays that this Hon'ble Tribunal may be pleased to dismiss the above application."

49. They have also produced the consolidated statement regarding the water available after construction of Kariyakoil reservoir and Anaimaduvu reservoir as Annexure -I and Annexure

-II which read as follows:

Year	Inflow Mcft	Outflow	Surplus in	River (old	Canal
			River	Anaicut)	(new
				Mcft	Anaicut)
				Mcft	
1992			-		
1993	424.18	291.420	17.280	99.360	
1994	509.87	324.550	-	181.440	
1995	320.50	-	10.360	306.260	
1996	1454.02	1106.360	-	343.780	

1997	396.68	283.940	-	108.860
1998	375.12	77.560	12.960	280.720
1999	749.65	418.260	-	37.510
2000	320.47	28.880	-	287.711
2001	270.08	-	10.360	210.384
2002	75.93	-	-	-
2003	68.790	-	-	-
2004	1071.52	902.690	13.816	148.608
2005	1137.13	941.320	-	65.664
2006	334.12	131.200	25.920	155.520
2007	604.40	318.810	69.120	206.510
2008	691.310	518.390	44.990	77.410
2009	145.89	-	-	142.010
2010	787.94	590.570	38.010	47.640
2011	427.35	204.880	51.840	103.500
2012	297.74	92.530	70.010	131.320
2013	109.42	-	35.220	42.050
2014	108.48	-	42.740	61.860
2015	658.04	466.730	55.600	32.330
2016	218.73	20.560	93.300	100.990
2017	137.47	-	39.580	14,400
2018	109.79	-	70.480	35.430
2019	134.14	-	130.26	-
2020	-	-	-	-

Year	Inflow Mcft	Outflow		
		Surplus in	River (old	Canal
		river	Anaicut)	(new
			Mcft	Anaicut)
				Mcft
1992	146.30	16.690	16.270	-
1993	856.39	604.360	9.070	238.370
1994	574.34	247.600	-	280.540
1995	237.40	25.560	13.320	193.930
1996	1055.96	639.400	18.140	131.880
1997	656.52	329.620	-	326.900
1998	294.52	12.080	13.460	246.740
1999	314.29	99.670	-	211.630
2000	228.36	6.050	-	217.720
2001	125.53	-	16.170	104.770
2002	35.47	-	-	30.880
2003	21.51	-	-	-
2004	62.55	-	-	-
2005	1403.59	1164.800	16.170	30.240
2006	36174	138.620	16.360	202.170
2007	205.27	-	72.620	120.920
2008	260.08	-	65.670	189.820
2009	209.76	-	45.840	159.330
2010	174.05	-	2.590	-

2011	233.22	-	88.460	129.600
2012	208.56	-	48.450	155.520
2013	89.55	-	24.690	60.270
2014	25.40	-	20.810	-
2015	224.64	-	-	-
2016	186.87	-	88.990	93.290
2017	47.64	-	-	-
2018	59.48	-	31.100	24.190
2019	86.66	-	-	-
2020	-	-	-	-

50. The applicant in O.A181/2015 filed objection to the same, giving certain details regarding inflow of water and also the manner in which the release of water was done and according to the applicant, it was due to the construction of the dam and not due to non availability of sufficient water that the drought was started in those areas. There was no proper coordination between the departments in regulating the water from the reservoir.

51. In O.A.No.13, 15, 17, 37 to 47, 57 to 60, 89 to 95 and 101 of 2016 the fifth respondent filed common reply statement on their behalf and on behalf of respondents 1 to 3 more or less adopting the same contentions raised by them in O.A.181/2015 and they prayed for dismissal of the applications.

52. The applicant in O.A.13/2016 filed rejoinder to the common counter affidavit filed, denying the allegations and reiterating their contentions raised by them in the application.

53. Heard Mr. M. Vaidyanathan, the learned for the applicant in all these cases and Mr.S.R. Rajagopal, learned Additional Advocate General along with Mr. Mani Gopi for the respondents.

54. The learned counsel appearing for the applicant in all these cases argued that the applications are maintainable under Section 14 and 15 of the National Green Tribunal Act, 2010 and as per these sections anything related to water which affect the right to life will amount to substantial question of environment and that will attract the jurisdiction of the Tribunal to entertain the same. Right to life does not mean right to life for human being alone but right to life for plants as well and consequential loss due to damage to plants due to environmental degradation on account of any act of the State machineries will give rise to right of action for the affected persons to claim

compensation for the loss which can be considered by the Tribunal. He had relied on the decision of the National Green Tribunal, Eastern Zone Bench at Calcutta in AABHIJEET SHASRMA VS. UNION OF INDIA & ORS (O.A.346 of 2013 DT. 16.10.2017) published in MANU/GT/0096/2007 for this proposition. He had also argued that even if it is not coming under the provisions of Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981, it is covered by the Environment (Protection) Act, 1986 and this Tribunal is entitled to consider the question of environment which arises on account of violation of any of the provisions of Environment (Protection) Act, 1986 which was passed by the legislature as an umbrella legislation to protect environmental issues which are not covered by other environmental laws. The learned counsel also argued that when these projects were proposed, the same was questioned before the Hon ble High Court and the Public Works Department had filed statement along with the letter dated 1.8.1983 wherein they have stated that since 1151.12 Mcft of water was being wasted by discharging into the sea, in order to conserve and preserve that water, such project had been envisaged to provide water for irrigation and drinking purpose for the benefit of ayacut land owners of upstream and downstream of the rivers. Based on that, the Hon ble High Court had disposed of the writ petition observing that the Government would regulate the flow of water in a scientific manner so as to meet the needs of the riparian ayacut land owners. Thereafter, since there was some irregularity in respect of regulation of water which did not reach the extreme downstream impacted area in which the petitioners lands are situated, another writ petition was filed and in that the Hon ble High Court recorded the submission made by the Government Advocate that necessary steps would be taken to avoid illegal and unauthorised pilferage of water from the river Vashista Nadhi, the water that was being discharged from anaicut or reservoir, the writ petition was disposed of. Thereafter, since no steps had been taken as directed by the Hon ble High Court, an application was filed before the Tamil Nadu State Human Rights Commission which held that environmental degradation is part of human rights and the Tamil Nadu State Human Rights Commission disposed of the petition holding that it had power to entertain the same and the Tamil Nadu State Human Rights Commission gave recommendations to frame regulation for the supply of water in a scientific manner and some directions were also issued. Since it was not carried out, it was brought to the notice of the Tamil Nadu State Human Rights Commission and the Commission had directed to implement the recommendations in its letter and spirit and also directed to conduct study regarding the damage caused to the riparian land owners of ayacut and assess the compensation. But that was not done by the authorities which prompted the applicants to file the present applications and as such this Tribunal has got jurisdiction to entertain the matter and pass appropriate orders as it affects the livelihood of the people who were depending on the water for their agricultural operations and it is the sole source of income of the people for their livelihood. He had also relied on certain statistics regarding the availability of water submitted by the respondents to contradict the version that the damage if any caused was on account of draught due to shortage of rainfall and not due to non availability of water in the reservoirs. The learned counsel also submitted that there was no limitation, as it is a continuous cause of action of causing damage due to degradation caused to environment and as such it is within limitation as well. So he prayed for allowing the applications.

55. The learned Additional Advocate General who appeared for the respondents submitted that the applications are not maintainable as the relief claimed cannot be granted by this Tribunal under Section 14 and 15 of the National Green Tribunal Act, 2010. Further, if they are claiming the right of

riparian owners of the river Vashista Nadhi, their remedy lies before the Civil Court for claiming compensation as it is an intrusion into the natural right to get water and not before the National Green Tribunal as it cannot be said to be an environmental issue namely substantial question of environment as well. A bare reading of the allegations in the applications will go to show that they are trying to protect their civil right for compensation as riparian land owners of Vashista Nadhi and this right has been claimed to circumvent the other impediments, only to project the case before this Tribunal by projecting indirectly the alleged environmental issues which were narrated in the applications which will not normally arise on account of construction of the reservoirs and anaicuts. Further the construction of anicut and reservoirs were completed in 1993 and even according to the applicants, damage to environment and loss of income caused from that day onwards and as such the applications are barred by limitation as well, in view of the upper time limit provided under Section 14 of the National Green Tribunal Act, 2010. The construction of the projects were challenged before the Hon ble High court and the High Court had dismissed the writ petition without affecting the right of the State to proceed with the project. Further, before implementation of the project, scientific study had been conducted regarding the availability of water, taking into account the longer period, assessing the availability of water during rainy season, requirement of the people in that area, availability of the water and period of availability and excess water if any available and only after considering these aspects, the committee came to the conclusion that on an overall study there was availability of 1442.26 Mcft of water surplus which was being wasted. So in order to preserve this water, these reservoirs were constructed. Further, these were not the only reservoirs which had been constructed. But there were seven other anaicuts which had been constructed before it reached the impacted area as claimed by the applicants and as such these reservoirs would not have any impact on ayacut owners as claimed by the applicants. Further, they denied the allegation that it was due to the construction of reservoirs that the damage has been caused but in fact it was due to reduction in the rainfall, the required water could not be provided. But inspite of that, whenever demand came from the people, as far as possible available water was being distributed in that area. Further, the damage said to have been caused to the plants were not due to any construction of reservoir but due to the natural draught in that area on account of reduction in the rain fall and non availability of sufficient rain water to cater the needs of the people. Further, Rules have been framed for the purpose of regulation of water in respect of Karaikoil and Anaimaduvu and every year orders were being passed for the release of water during the lean period. So the petitioners are not entitled to get any relief as claimed.

56. The points that arise for consideration are:

- (i) Whether the applications are maintainable?
- (ii) Whether there is any substantial question of environment arises for consideration to invoke the jurisdiction of this Tribunal?
- (iii) Whether applications are barred by limitation?
- (iv) Whether the applicants are entitled for compensation as claimed?

(v) What are all the other directions on precautionary principle and sustainable development that this Tribunal can issue in view of the question raised in the applications?

57. POINTS: The common grievance of the applicants in all these applications was that on account of the construction of two reservoirs viz., Kariyakoil dam along Kariyakoil river and Anaimaduvu dam along Anaimaduvu river, there was deprivation of water for the riparian owners which caused damage to their cultivation. It was alleged in these applications that the respondents decided to construct the two dams mentioned above as per G.O.Ms.No.841 and 983 in the year 1982 and according to the applicants, this was against the advisory letter dated, 14.5.1980 and 8.7.1980 issued by the Board of Revenue stating that the construction of reservoirs will be detrimental to the ayacut which were not adequately supplied with water even then and recommended that the scheme be dropped. It was also alleged in the applications that ayacutdars of Vashista Nadhi formed a society by name Vashista Nadhi Water Beneficiaries Society, Salem, registered under the provisions of the Tamil Nadu Societies Registration Act, 1975 and they were taking up the issues regarding the members of the society who are depending on the river Vashista Nadhi and they were acting for the benefit of ayacutdars.

58. When the first respondent decided to proceed with the project, the said society, represented by the applicant in O.A.181/2015 filed W.P.No.34578 of 2002 which was dismissed by the Madras High Court by judgment dated 28.11.2002 wherein it was observed as follows:

"The members of the first petitioner Society are agriculturists owning lands in and around two rivers viz., Anaimaduvu river and Kariyakoil Thumbai river, which flow from rainfed water originated from Kattukottai reserve forest and Kalrayan hills respectively.

Aggrieved by the proceedings of the sixth respondent dt.8.3.2002, informing the petitioners that supplemental irrigation during non irrigation season can be considered based on the satisfactory storage position in the reservoirs and specific recommendation of the Collector, Salem and Joint Director of Agriculture, Salem and any special release other than as envisaged in the rules of regulations will require prior approval of the Government as per G.O.MsNo.1116, Public Works Department, dt. 21.7.1977, the petitioners have preferred the above writ petition for issue of a writ of Certiorarified Mandamus to call for the records of the sixth respondent culminating in his Letter bearing No.147-M/2002/JDO-3/F554, dt. 6.3.2002, quash the same and to direct the respondents herein to allow water to flow in the Vashistanadhi to enable irrigation from the anicuts (diversion weirs) to the revenue assessed wet lands which normally receive water from these channels, then to enable filling up of the lakes, recharging of ground water level and providing supplemental irrigation to the standing crops in the Vashistanadhi basin.

Even as per the averments of the petitioner, the water stored in Kariakoil reservoir and Anaimaduvu reservoir depends upon the availability of rain fed water. If that be

so, I do not find any error in the impugned proceedings dt. 8.3.2002 of the sixth respondent informing the petitioners that supplement release of water would depend on the storage position in the reservoirs. Therefore, as the demand of the petitioners itself depends upon the natural resources, the direction as prayed for cannot be considered by this court invoking Article 226 of the Constitution of India and hence this writ petition is dismissed."

59. This was challenged by the writ petitioner in that case by filing Writ Appeal in W.A.No.1150/2003 before the Hon ble High Court of Madras and the Hon ble High Court, by judgment dated 20.1.2004 disposed of the writ appeal as follows:

"We cannot interfere in the order of the learned Single Judge wherein the learned Single Judge has dismissed the writ petition filed by the appellants herein.

In that writ petition, the prayer was for the free flow of the water in "Vashista river from the two reservoirs built at the confluence. The learned Single Judge has relied on the assurance given by the State Government that there shall be a proper and better management of water. It seems that the appellants are at the farthest and from the reservoirs and therefore, the water which is released from time to time from the reservoirs does not reach them at all. It is for this reason that the appellants pray for uncontrolled water flow for the reservoirs, but that is clearly not possible. There will have to be a control over the water flow and that control would have to be supervised by an expert in the field. This court is not to decide as to how much water should flow and when. It would be purely on the discretion of the controlling authority. We have therefore no doubts that the Government is controlling the water distribution, taking into consideration even the farmers having agricultural fields in the farthest and of the riparian areas. Learned counsel for the appellants points out that the water does not reach also because of the factor that there is some unauthorised pilferage of the water by some big farmers who act as sharks. We have taken the assurance from the learned Special Government Pleader that all the steps will be taken to check and eradicate the unauthorised water pilferage so that the water would reach the last point where the appellant farmers live and have their agricultural fields. We also expect that the water management shall be done on the scientific basis under the supervision of a person who is an expert in the field.

60. Even in the writ appeal the Hon ble High Court of Madras had observed that the prayer for uncontrolled water flow from the reservoirs was not possible. There would have to be control over the water flow and the control should have been supervised by an expert in the field. This court cannot decide as to how much water should flow and when. It would be clearly on the discretion of the controlling authority. Further, the Hon ble High Court had recorded the submission made by the learned Special Government Pleader that all steps would be taken to check and eradicate the unauthorised water pilferage so that the water would reach the last point where the applicants/farmers were living and have their agricultural lands and also expressed hope that the water management would be taken on scientific basis under the supervision of an expert in the field.

So the High Court had not interfered with the construction of the reservoir but only recorded the undertaking given that the distribution of water would be scientifically managed and unauthorised pilferage would be checked and eradicated.

61. The grievance of the applicants was that since there was an understanding that necessary scientific arrangement would be made for providing water during the lean period; they did not further proceed to object the construction of the reservoir. Further, since there was no further action taken, they have filed a petition before the Tamil Nadu State Human Rights Commission. After considering the objections filed by the respondents, by order dated 19.12.2014, the State Human Rights Commission issued the following recommendations:

"Given the urgency of the situation, it is strongly recommended that the Secretary to the Government, Public Works department/Engineer in Chief/Chief Engineer pass an interim order for the operation of the two reservoirs. This interim order should ensure that the flow of water in both the impacted rivers - Anaimaduvu and Kariyaail is always maintained until the requirements of the residents of the impacted region are fully met i.e., till it flows up to the Pethanaickanpalayam anaicut and then overflows. This was the intention of the 1983 Government Letter mentioned. This order should be passed immediately and water be released from the two reservoirs. The draft rules governing the two reservoirs should reflect the following:

A monitoring station at Pethanaickanpalayam should be set up to monitor the flow of water from the Pethanaickanpalayam anaicut. Water management shall be done on a scientific basis under supervision of a person who is an expert in the field.

Natural flow of water in both impacted rivers should be maintained at all times until requirements of the direct and indirect old ayacut lands are met and water starts to surplus to Pethanaickanpalayam anaicut. Draft rules of both reservoirs should be prepared according to the above recommendations and both reservoirs should have similar rules. Both the draft rules shall mention the names of all the old anaicuts upon Pethanaickanpalayam anaicut and also mention the extent of irrigation clearly. This is necessary to give clarity to the extent of old anaicut lands and avoid confusion at a future date.

A riverbed sluice should be provided in both the reservoirs or there must be a foolproof mechanism to release water directly to the river. The Salem District Collector should pass suitable orders to prevent illegal water pilferage upstream from the applicant in accordance with the directions of the Hon'ble High Court, Madras in .A.1150/2003. Electricity Board officials should be given strict instruction to take appropriate action and to report to the Commission within 30 days on any action taken or proposed to be taken.

The Salem District Collector should pass suitable orders to prevent illegal sand quarrying in the riverbeds of the impacted rivers in accordance with the undertaking

given to the High Court of Madras in W.A.73/95. The Public Works Department and the Salem District Collector should file a report with the Commission within 30 days on action taken or proposed to be taken in order to effect (1) to (5) above.

There has been delay of over 22 years in the implementation of drat rules to govern the operation of the two reservoirs. This is an extraordinary and unreasonable delay."

62. Where one of the recommendations given by the Tamil Nadu State Human Rights Commission was that the Revenue Divisional Officer of Attur would conduct camps in the impacted region (Kottavadi to Pethanaickanpalayam anaicut), receive petitions from the affected ayacut land owners and inquire or verify and prepare a report which was to be sent to the Government who would decide on the compensation to be awarded to the affected ayacut land owners and directed to comply with the recommendation within one month.

63. It is also alleged in the applications that though there was an undertaking given to frame Rules for regulation of the same, nothing had happened from 2004 to 2015. Thereafter, certain writ petitions were also filed regarding illegal sand mining on the ground that due to excessive sand mining being done, there was a possibility of depletion of ground water. So writ petition W.P.No.3631/1994 was filed by the applicant in O.A.181/2015 seeking to stop illegal quarrying of river sand in the impacted area and the same was dismissed by the Hon ble High Court of Madras by judgment dated 25.8.1994 and the writ appeal was filed as W.A.73/1995 and the same was disposed of by the Hon ble High Court of Madras, placing on record the Government Pleader's submission that the Collector had issued instructions to the local revenue officer to ensure that no quarrying of the river sand took place in the area in question and the police authorities were also instructed to ensure that no illegal quarrying of sand took place in that area. So the construction of the projects was not stopped even by the Hon ble High Court of Madras. The construction of the projects was completed in the year 1992 and they started functioning in 1993. It is seen from the counter statement filed by the fifth respondent on behalf of the other respondents as well that Anaimaduvu river originates from Periyakuttimaduvu of Kattukottai reserve forest and Kariyakoil river originates from southern slopes of Kalrayan hills. Both Anaimaduvu river and Kariyankoil river confluence at upstream of Kottvadi anaicut. The Anaimaduvu reservoir is constructed at the junction point of Pungamaduu and Anaimaduvu streams. The free catchment area of Anaimaduvu reservoirs 145.02 sq.km and yield under normal rainfall works out to 641 Mcft. The capacity of Anaimaduvu reservoir is 267 Mcft. The Kariyakoil reservoir is constructed across Kariyakoil river near Pappnaickenpatty village in Attur Taluk of Salem District. The Kariyakoil reservoir has a free catchment of 70.50 sq.km and dependable yield under normal rainfall works out to 558.38 Mcft and capacity of Kariyakoil reservoir is 190 Mcft only. It is also mentioned in the counter statement that the immediate lower down irrigation interests under the Anaimaduvu river is the ayacut that is being fed by the four anaicut viz., Chidambaraudayar anaicut, Kurichi anaicut, Belur kissan small anaicut and Belur kissan big anaicut. The Chidambaraudayar anaicut is having only direct ayacut and the other three anaicuts viz., Kurichi anaicut, Belur Kissan small anaicut and Belur kissan big anaicut are feeding three tanks viz., Kurichi tank, Chinna kissan tank and Peria kissan tank. The immediate irrigation interests under the Kariyakoil river is the ayacut that is being fed by the eight anaicuts viz., Komarapalayam anaicut, Kottavadi anaicut, Kalyanagiri anaicut, Abinavam anaicut,

Puthiragoundampalayam anaicut, Chinnammasamudram anaicut, Errammasamudram anaicut and Pethanaickenpalayam anaicut. The Komarapalayam anaicut, Kottavadi anaicut and Pethanaickenpalayam anaicut are having only direct ayacut and the other five anaicuts viz., Kalyanagiri anaicut, Abinavam anaicut, Puthiragoundampalayam Anaicut, Chinnammasamudram anaicut and Errammasamudram anaicut are feeding five tanks viz., Kalleripatti tank, Abinavam tank, Puthiragoundampalayam tank, Chinnammasamudram tank and Errammasamudram tank. The Anaimaduvu river and Kariyakoil river are joining the Vasishtanadhi at Kottavadi anaicut. All the twelve anaicuts and eight tanks fed by Anaimaduvu reservoir and Kariyakoil reservoirs have their own catchment area. The cumulative free catchment and intercepted catchment area of all the above tanks and anaicuts are about 1488 sq.km. Hence the tanks under Vasishta Nadhi upto Pethanaickenpalayam anaicut are not depending fully on the Anaimaduvu and Kariyakoil reservoirs water for their storage and to supply water for ayacut lands belonging to them. These tanks during good rainfall years receive copious water from their own catchment areas itself and get surplus even before the Anaimaduvu and Kariyakoil reservoirs are surplussed.

64. So considering these aspects and after taking into account the large scale amount of surplus water being wasted and in order to conserve and preserve and utilise and have maximum utilisation, as water conservation is also the duty of the State, they have decided to construct reservoirs and anaicuts and anticipating that there will be a surplus quantity of 1442.26 Mcft which can be scientifically used for long by the ayacut owners. So it is clear from this that none of the rivers in that area are perennial rivers and they are depending on the rain fall and seasonal crops are being cultivated, depending upon the availability of water in that area. Normally scientific study would have been conducted by the authorities taking into account the quantum of rainfall, availability of water, water regulation being used and excess water available which has to be scientifically managed for the purpose of deciding the manner in which the reservoir or dams or anaicuts have to be constructed and how the water management will have to be regulated. So under these circumstances, the construction of the reservoirs cannot be challenged at this point of time as it was completed in the year 1993.

65. The scheme of the National Green Tribunal Act, 2010 dealing with the jurisdiction and powers are dealt with in Sections 14, 15, 16 and 17 of the Act which reads as follows:

Section 14 Tribunal to settle disputes (1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I. (2) The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settle such disputes and pass order thereon. (3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose:

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed

within a further period not exceeding sixty days. Section 15 Relief, compensation and restitution. (1) The Tribunal may, by an order, provide,--

(a) relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I (including accident occurring while handling any hazardous substance);

(b) for restitution of property damaged;

(c) for restitution of the environment for such area or areas, as the Tribunal may think fit.

(2) The relief and compensation and restitution of property and environment referred to in clauses (a), (b) and (c) of sub-section (1) shall be in addition to the relief paid or payable under the Public Liability Insurance Act, 1991 (6 of 1991). (3) No application for grant of any compensation or relief or restitution of property or environment under this section shall be entertained by the Tribunal unless it is made within a period of five years from the date on which the cause for such compensation or relief first arose:

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days. (4) The Tribunal may, having regard to the damage to public health, property and environment, divide the compensation or relief payable under separate heads specified in Schedule II so as to provide compensation or relief to the claimants and for restitution of the damaged property or environment, as it may think fit. (5) Every claimant of the compensation or relief under this Act shall intimate to the Tribunal about the application filed to, or, as the case may be, compensation or relief received from, any other court or authority.

Section 16 Tribunal to have appellate jurisdiction. Any person aggrieved by,--

(a) an order or decision, made, on or after the commencement of the National Green Tribunal Act, 2010, by the appellate authority under section 28 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(b) an order passed, on or after the commencement of the National Green Tribunal Act, 2010, by the State Government under section 29 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(c) directions issued, on or after the commencement of the National Green Tribunal Act, 2010, by a Board, under section 33A of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(d) an order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the appellate authority under section 13 of the Water (Prevention and Control of Pollution) Cess Act, 1977 (36 of 1977);

(e) an order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the State Government or other authority under section 2 of the Forest (Conservation) Act, 1980 (69 of 1980);

(f) an order or decision, made, on or after the commencement of the National Green Tribunal Act, 2010, by the Appellate Authority under section 31 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);

(g) any direction issued, on or after the commencement of the National Green Tribunal Act, 2010, under section 5 of the Environment (Protection) Act, 1986 (29 of 1986);

(h) an order made, on or after the commencement of the National Green Tribunal Act, 2010, granting environmental clearance in the area in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986 (29 of 1986);

(i) an order made, on or after the commencement of the National Green Tribunal Act, 2010, refusing to grant environmental clearance for carrying out any activity or operation or process under the Environment (Protection) Act, 1986 (29 of 1986);

(j) any determination of benefit sharing or order made, on or after the commencement of the National Green Tribunal Act, 2010, by the National Biodiversity Authority or a State Biodiversity Board under the provisions of the Biological Diversity Act, 2002 (18 of 2003), may, within a period of thirty days from the date on which the order or decision or direction or determination is communicated to him, prefer an appeal to the Tribunal:

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days. Section 17 Liability to pay relief or compensation in certain cases.

(1) Where death of, or injury to, any person (other than a workman) or damage to any property or environment has resulted from an accident or the adverse impact of an activity or operation or process, under any enactment specified in Schedule I, the person responsible shall be liable to pay such relief or compensation for such death, injury or damage, under all or any of the heads specified in Schedule II, as may be determined by the Tribunal.

(2) If the death, injury or damage caused by an accident or the adverse impact of an activity or operation or process under any enactment specified in Schedule I cannot

be attributed to any single activity or operation or process but is the combined or resultant effect of several such activities, operations and processes, the Tribunal may, apportion the liability for relief or compensation amongst those responsible for such activities, operations and processes on an equitable basis. (3) The Tribunal shall, in case of an accident, apply the principle of no fault.

66. So, it is clear from the provision that the Tribunal will have jurisdiction over all civil cases where substantial question relating to environment (including enforcement of any legal right relating to environment) is involved and such question arises out of implementation of the enactments which is specified in Schedule-I. It is also mentioned in section 14 that the application has to be filed within six months from the date on which the cause of action first arose and the power of condonation of delay of a further period not exceeding 60 days was also provided under proviso to Section 14(3) of the Act, if the Tribunal is satisfied that the applicant was prevented from filing the application within the said period.

67. So it is clear from this that any dispute or claim has to be filed by the affected party within a period of six months from the date on which the first cause of action arose with a further extended period of 60 days and not beyond that period.

68. Section 15 of the Act deals with the relief of compensation and restitution. It is seen from the provision that the compensation has to be provided to the victims of pollution and other environmental damage arising under the enactments specified in schedule -I (including accident occurring while handling any hazardous substance), for restitution of property damaged and remedial measures for restitution of the damage caused to environment can also be considered and necessary direction to be issued and outer time limit of five year have been provided for claiming compensation and for restoration as well. There also a further period of not exceeding 60 days have been provided to condone the delay if the Tribunal is satisfied that the applicant was prevented from sufficient cause from filing the application within that time.

69. Section 16 of the Act deals with the appellate powers and Section 17 deals with compensation payable in respect of death, injury or damage caused on account of any accident or adverse impact of an activity or operation or process under any enactment specified in Schedule I.

70. Schedule I enumerates the statutes which reads as follows:

SCHEDULE I [See sections 14(1), 15(1), 17(1)(a), 17(2), 19(4) (j) and 34(1)]

1. The Water (Prevention and Control of Pollution) Act, 1974;
2. The Water (Prevention and Control of Pollution) Cess Act, 1977;
3. The Forest (Conservation) Act, 1980;
4. The Air (Prevention and Control of Pollution) Act, 1981;

5. The Environment (Protection) Act, 1986;

6. The Public Liability Insurance Act, 1991;

7. The Biological Diversity Act, 2002.

71. Schedule II deals with the heads under which compensation or relief for damage may be claimed which reads as follows:

**SCHEDULE II [See sections 15(4) and 17(1)] HEADS UNDER WHICH
COMPENSATION OR RELIEF FOR DAMAGE MAY BE CLAIMED**

(a) Death;

(b) Permanent, temporary, total or partial disability or other injury or sickness;

(c) Loss of wages due to total or partial disability or permanent or temporary disability;

(d) Medical expenses incurred for treatment of injuries or sickness;

(e) Damages to private property;

(f) Expenses incurred by the Government or any local authority in providing relief, aid and rehabilitation to the affected persons;

(g) Expenses incurred by the Government for any administrative or legal action or to cope with any harm or damage, including compensation for environmental degradation and restoration of the quality of environment;

(h) Loss to the Government or local authority arising out of, or connected with, the activity causing any damage;

(i) Claims on account of any harm, damage or destruction to the fauna including milch and draught animals and aquatic fauna;

(j) Claims on account of any harm, damage or destruction to flora including aquatic flora, crops, vegetables, trees and orchards;

(k) Claims including cost of restoration on account of any harm or damage to environment including pollution of soil, air, water, land and eco-systems;

(l) Loss and destruction of any property other than private property;

(m) Loss of business or employment or both;

(n) Any other claim arising out of, or connected with, any activity of handling of hazardous substance.

72. Learned counsel appearing for the applicants relied on the definition „environment in Environment (Protection) Act, 1986 which reads as follows:

"environment" includes water, air and land and the inter relationship, which exists among and between water, air and land and human beings, other living creatures, plants, micro organism and property."

73. This also will go to show that any action done to cause pollution or contamination of water or air and land and if it has got any inter relationship between themselves and the human beings and other living creatures, plant, micro organism and property then environmental court will have jurisdiction. So the question of riparian right of the owner of the land adjoining the river and any damage caused on account of intrusion into such right will not be treated as an environmental issue so as to bring the dispute within the ambit of Environment (Protection) Act, 1986 to assume the jurisdiction regarding that aspect. Every human right need not be an environment right, attracting jurisdiction of this Tribunal.

74. The decision relied on by the learned counsel appearing for the applicant viz., AABHIJEET SHARMA VS. UNION OF INDIA & ORS (O.A.346 of 2013 DT. 16.10.2017 of the National Green Tribunal (EZ) published in MANU/GT/0096/2007 is not applicable to the facts of this case. That was a case where establishment of multipurpose hydro electric project was intended to be launched, diverting the river water to Subansiri river, affecting its ecology and the aquatic life which were depending upon the water availability and also affecting the rights of the tribal people living along the side of the river viz., seeking the following relief:

"a. Pass an order directing the NHPC Ltd. and other respondents to release the minimum sustenance flow of water of 450 cu3 m/sec from the SLHEP Dam all through the year for ecological sustenance of the river which will keep the river ecologically healthy specially in the 4-5 months of lean period of winter.

b. Pass an order directing the respondents to release this sustenance water of 450 cu3 m/sec of water 'automatically', without any human control over it through an 25 sqm opening at an appropriate level of the dam, as this sustenance water cannot be shut off even for a short while through human error or in a mala fide way, or due to various forces majeure situation.

Pass an order directing the respondent NHPC Ltd. and others that their 'power generation' in the lean months will be subservient to release of the minimum sustenance flow of 450 cu3 m/sec and power can be generated as per availability of water in the lean months after release of the 'sustenance flow' as NHPC Ltd. did not

make any provision to store additional water for the 'sustenance flow' even though enough water is available in Subansiri in the year which flows down unutilized during monsoon period which can still be utilized fully or partially by creating a reservoir downstream of the dam as suggested by the Environment Group d. Pass an order directing the respondents NHPC Ltd. and other to strengthen the existing embankments and construct new ones upto the confluence of Brahmaputra so that 'sand' is not deposited in the agricultural fields making them unfit for cultivation in a scientific manner;

e. Pass an order directing the respondents MoEF and NHPC Ltd. to reassess the downstream impact of the proposed middle and upper Subansiri dams upto Brahmaputra, and not just 10KM downstream of the proposed dams only and to release, from the middle and upper Subansiri dams the minimum sustainable flow year round needed for the river to survive ecologically in Arunachal and the plains of Assam; f. Pass an order directing the respondents not to commission the dam without completion of the downstream protection upto Brahmaputra through embankments in a scientific way so that sand deposition in the agricultural fields do not occur during sand flushing operation of the dam in a high flood situation.

g. Issue an order directing the respondents, NHPC Ltd., MoEF, GOI, to stay the construction work of the dam till disposal of the petition before the Hon'ble National Green Tribunal so that provision for an underpass/opening for automatic release of the sustenance water can be incorporated in time. h. Pass any such further order (s) as the Hon'ble Court may deem fit and proper under the facts and circumstances of the case."

75. So it is seen from the prayer in that application that the applicant had not asked for any compensation for the loss sustained by the riparian owner; but regulating the water in a scientific manner without affecting the natural existence of the said river or virgin flow which was having water throughout the year from which water was intended to be diverted for the intended project. So under these circumstances, the Tribunal came to the conclusion that will give rise to the substantial question of environment and entertained the application and passed orders applying the precautionary principle directing the authorities to constitute a committee to go into the issue and thereafter proceed with the work. So that was not the case in hand. There was no such prayer in these applications. There is no prayer for regulating the water in a sustainable manner or for conducting environmental study to consider the question as to whether the possibility of providing ecological flow/mimic flow through Vashista Nadhi as it was available prior to the construction of reservoirs to meet the necessity of riparian land owners without affecting the environment and consequential claim for compensation. But in these cases though certain environmental issues have been projected, there was no prayer for giving direction to protect such environmental issues. On the other hand they have only claimed compensation for the alleged damage said to have been caused to their agricultural operations or damage said to have been caused to the plants in the respective properties as riparian land owners, they are entitled to get water from the river for their agricultural activities. So under these circumstances, the applications are not maintainable for the

relief claimed and the applicants cannot claim compensation as riparian land owner before this Tribunal, invoking Sections 14 and 15 of the National Green Tribunal Act, 2010, as it is an individual civil right available to them for which they will have to approach the appropriate civil court to enforce their civil right as a natural right of riparian land owners under Section 7 of the Indian Easement Act.

76. Further, in the decision reported in S.N. RANADE VS. UNION OF INDIA & ANR (1964) 2 SCR 885 : AIR 1964 SC 24) the Constitution Bench of the Hon ble Supreme Court considered the question as to whether the riparian land owners on the basis of certain inam granted through which Valdevi river was running on the land assigned to them for that they were the owners of the river and the military authorities were not entitled to divert the same, affecting their right without paying compensation could claim compensation for such deprivation of water. Though the trial court had granted the relief, the same was set aside by the Hon ble High Court in the appeal filed by the respondents in that case and the Hon ble Apex Court had confirmed the order of the Hon ble High Court in the appeal filed by the plaintiffs before the trial court wherein the Hon ble Apex Court has held that though certain permissions were granted for the purpose of utilising the land in question where stream or river passed through such land, owners were not entitled to claim title over the running water and as such they were not entitled to claim compensation. In that case, an alternate plea was taken up before the Hon ble Apex Court to protect the right as riparian land owner and that was not accepted by the Hon ble Apex Court as that was raised at that stage for the first time and dismissed the appeal.

77. Further, the decision of the Privy Council in SECRETARY OF STATE FOR INDIA - IN - COUNCIL LV. SANNIDHIREJU SUBBARAYUDU (LIXI A 56 at pages 63-64) (47 BLR 839) was considered by the Hon ble Apex court in that case wherein the Privy Council has elaborately considered the nature and extent of the rights which a riparian owner can claim. A riparian owner, observed Viscount Dunedin, is a person who owns land abutting on a stream and who as such has a certain right to take water from the stream. In ordinary cases, the fact that his land abuts on the stream makes him the proprietor of the bed of the stream *usque ad medium filum*. But he may not be. He may be ousted by an actual grant to the person on the other side, or he may be and often is ousted by the Crown when the stream is tidal and navigable, the solum of the bed belongs to the Crown. It was also observed that the right of a riparian owner to take water is first of all for domestic use and then for other uses connected with the land, of which irrigation of the lands from the property is one. This right is a natural right and not in the strict sense of the word an easement though in many cases it has been called an easement.

78. Further in the decision reported in WILLIAM LYON V. WARDENS & OF THE FISHMONGERS COMPANY AND THE CONSERVATORS OF THE RIVER THAMES (1876) IAC 662 at page

683), it has been observed that the title to the soil constituting the bed of a river does not carry with it any exclusive right of property in the running water of the stream, which can only be appropriated by severance, land which may be lawfully so appropriated by everyone having a right of access to it.

79. Further, this is also in support of the observation made by this Tribunal that it cannot be treated as an environmental issue conferring jurisdiction for this Tribunal to consider the question and grant compensation as claimed for the damage alleged to have been caused to the applicants on account of the environmental damage caused due to any act of the respondents. But at the same time, though substantial environmental issue have been projected, no relief has been claimed in that regard as such question arises for sustenance of the ecology of the river to protect environment. This Tribunal can consider the same, though rejecting the claim for compensation made by the applicants as a precautionary principle to protect the sustenance of the river and consider the question as to whether any methodology can be applied for mitigating the issues raised by the applicants by conducting any scientific study, though this Tribunal cannot question the wisdom of the Government in constructing dams or reservoirs or anaicuts for the purpose of conserving and preserving the water available for the purpose of proper regulation of the same for use of the public in a scientific manner to provide the available water for sustenance of the people who are depending on such water, if the conservation of water can be utilised by such scientific method. Further, though the applicants have attempted to prevent the Government from proceeding with the construction of the reservoirs which were completed in the year 1993 by filing the writ petitions before the Hon ble High Court of Madras, but did not succeed in that aspect which they cannot re agitate before this Tribunal after lapse of so much of time. Further, even as per the allegations in the applications, it was mentioned that the damage to the property had started since 1993 after the construction of the reservoirs and as such right to claim compensation arose for them even at that time and the applications filed long after the cause of action arose for them for the first time is also beyond the period of limitation as provided under Sections 14 and 15 of the National Green Tribunal Act, 2010, though larger period of limitation was provided for restitution of damage caused to environment and claiming compensation on account of such degradation purely on account of any damage caused due to the activity affecting the fertility of the soil or quality of the water and not otherwise. So the claim for compensation is barred by limitation and on that ground also they are not entitled to claim compensation.

80. However, as regards quantum of compensation claimed also, there is no acceptable data available or produced regarding the nature of income that they were deriving before the cause of action arose and what was the property loss they sustained on account of the same. The burden, prima facie is entirely on the applicants to these facts. Thereafter the burden will be shifted to the respondents to repudiate that claim. Merely because there was no denial is not a ground to come to the conclusion that they are entitled for the amount claimed. Further, even as per the allegations made, there is nothing to infer that throughout the year, they were getting water and it was perennial river. They are rain dependant rivers and if there is any shortage in the rain fall or reduction in the availability of water in the rivers, then no liability can be mulcted on the State respondents to pay compensation to the applicants for the loss if any, alleged to have been sustained by them. So on that ground, the applicants are not entitled for the compensation claimed. Since a writ petition is pending before the Hon ble High Court of Madras for implementing the directions issued by the Tamil Nadu State Human Right Commission, we are not expressing any opinion regarding those aspects, as the parties to that writ petition are entitled to agitate those issues before the Hon ble High Court.

81. It is seen from the contentions of the respondents that they are not perennial rivers and they are rain dependant rivers and water flow will be available only during rainy season on account of water coming from the hills in the nearby area and if there is sufficient rain and surplus water available, in order to conserve the available surplus water during rainy season, precautions have been taken by the Government to preserve and conserve that water by constructing reservoirs and that is being regulated on the basis of the availability of water in the reservoirs and whenever there is no rain or there is shortage in the rain fall, then there is possibility of drought being caused in the impacted area and as far as possible the Government was releasing water by issuing necessary directions to the extent possible and available in the reservoirs so as to reach the necessity of the riparian owners of the impacted ayacut.

82. It is seen from the statement that they are not the only two reservoirs viz., Kariakoil reservoir and Anaimaduvu reservoir which have been constructed but there are other seven to eight anaicuts along the river abutting the area where the applicants lands are situated. They have no grievance regarding the construction of those anaicuts or reservoirs and the property owners abutting those rivers which are joining Vashista Nadhi over which such anaicuts were constructed also have not raised any grievance regarding the release of the water from the dams or reservoirs.

83. In the decision reported in DIRECTOR GENERAL (ROAD DEVELOPMENT), NATIONAL HIGHWAYS AUTHORITY OF INDIA VS. AAM AADMI LOKMANCH & ORS (C.A.No.6932/2015 etc., dt.14.7.2020) (2020 SCC Online SC 572), the Hon ble Apex Court, after considering the powers of the National Green Tribunal and after relying on the provisions of the National Green Tribunal Act, 2010 and also the other decision of the Apex Court, observed as follows:

"This Court is of the considered opinion that the expression "environment" and "environmental pollution" have to be given a broader meaning, having regard to Parliamentary intent to ensure the objective of the EPA. It effectuates the principles underlying Article 48A of the Constitution of India. The EPA is in essence, an umbrella legislation enacting a broad framework for the central government to coordinate the activities of various central and state authorities established under other laws, such as the Water Act and Air Act. The EPA also effectively enunciates the critical legislative policy for environment protection. It changes the narrative and emphasis from a narrow concept of pollution control to a wider facet of environment protection. The expansive definition of environment that includes water, air and land "and the interrelation which exist among and between water, air and land, other human creatures, plants, micro-organisms and property" give an indication of the wide powers conferred on the Central Government. A wide net is cast over the environment related laws. The EPA also empowers the central government to comprehensively control environmental pollution by industrial and related activities. For these reasons, and in view of the above discussion, it is held that the NGT correctly assumed jurisdiction, having regard to the nature of the accident in the facts of this case."

That was a case where on account of non compliance of certain conditions imposed in the Environment Clearance granted, anticipating the possibility of danger of over mining while constructing the National Highway, some death had occurred and an application was filed before the National Green Tribunal claiming compensation, treating that as the death was caused due to environmental damage, as necessary precautions had not been taken by the authorities to protect environment which resulted in the accident. That was not the case in hand. But, however, the Hon ble Apex Court had come to the conclusion as follows:

"The power and jurisdiction of the NGT Under Sections 15(1)(b) and (c) are not restitutionary, in the sense of restoring the environment to the position it was before the practise impugned, or before the incident occurred. The NGT's jurisdiction in one sense is a remedial one, based on a reflexive exercise of its powers. In another sense, based on the nature of the abusive practice, its powers can also be preventive."

84. The Apex Court also considered the directions issued by the National Green Tribunal in that case. It has been held as follows:

"The NGT's directions, though placed in the context of its adjudicatory role, have a wider ramification in the sense that its rulings constitute the appropriate norm which are to be followed by all those engaging in similar activities. Therefore, its orders, contextually in the course of adjudication, also establish and direct behaviour appropriate for future guidance. In these circumstances, given the panoply of the NGT's powers under the NGT Act, which include considering regulatory directions issued by expert regulatory bodies under the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Biodiversity Act, 2002 it has to be held that general directions for future guidance, to avoid or prevent injury to the environment for appropriate assimilation in relevant rules, can be given by the NGT."

85. The Apex Court also considered the decision of the Apex Court in MANTRI TECHNO PVT. LTD VS. FORWARD FOUNDATION (2019 (18) SCC 494).

86. So under these circumstances, considering the nature of the allegations made in the applications that though there is no prayer for regulating the water supply in order to sustain the existence of river Vashista Nadhi from the reservoirs during the lean period in a scientific manner, this Tribunal can assume its jurisdiction to provide direction, though not asked for, as a precautionary principle, to protect environment, to regulate the manner in which dams and reservoirs will have to be constructed and if there is any deficiency in regulating the excess water that is available in a scientific manner so as to reach the riparian owners up to the end and this Tribunal can constitute a committee to go into the issue and give them recommendations and suggestions for resolving this issue in a scientific manner and give appropriate directions to the authorities to consider the same and implement the same on the basis of the recommendations to be given by the committee appointed by this Tribunal.

87. So under these circumstances, we feel that it is necessary to appoint a committee comprising of (1) a Senior Scientist from the Central Ground Water Board, not below the rank of Irrigation Engineer (2) Senior Officer from the Central Water Commission; and (3) Prof. Mudgal, Director, Centre for Water Resources, Anna University, Chennai 600 025 to go into the question

(i) as to whether the design that has been adopted for construction of the disputed reservoirs/anaicuts are sufficient to regulate the water to be collected, in a scientific manner so as to reach the beneficiaries of impacted area till its tail end;

(ii) What are all the modifications that will have to be made for the purpose of regulating the expected surplus water in a scientific manner so as to allow ecological flow/mimic flow in the rivers over which the reservoirs or anaicuts were constructed to provide sufficient water during the lean period for the benefit of the riparian owners;

(iii) What are all the scientific methods to be adopted by the Government while making the design for the construction of reservoirs or anaicuts across the river for the conservation of surplus water as a policy decision so as to provide water without affecting the ecological flow/mimic flow of the river even during the lean period in such a way to improve the ground water level and replenish the ground water recharge along the banks of the rivers so as to ensure sufficient ground water availability, apart from providing surplus water from the rivers and further whether any such directions will have to be given in the present case also for the purpose of meeting the above norms so as to release at least 10 to 15% of the surplus water that is likely to be conserved by implementing this project during the lean period for the purpose of providing water to the riparian land owners of the river to meet their necessity.

88. So under these circumstances, we feel that the applications can be disposed of by appointing a committee as mentioned above directing the committee to go into these aspects and submit a report to the Government and directing the Government to implement those recommendations in its letter and spirit so as to protect the ecological flow/mimic flow and the interest of the public and thereby protect environment, though the applicants are not entitled to the relief of compensation as claimed by exercising its power, assuming its jurisdiction to consider the applications for the purpose of providing future guidance for regulation of water in a scientific manner by appointing a committee and implement the directions of the committee for that purpose, applying the precautionary principle and sustainable development and protection of environment and intergenerational equity as contemplated under Section 20 of the National Green Tribunal Act.

89. The applications are disposed of as follows:

(i) The applications, as framed, claiming compensation alone, though not maintainable under Sections 14 and 15 of the National Green Tribunal Act, 2010, but the Tribunal retains its jurisdiction for the purpose of providing guidelines, applying precautionary principle and sustainable development and protection of environment and protection of inter generational equity and the protection of sustenance of rivers while constructing the reservoirs or anaicuts across the rivers, having its natural flow

for the purpose of conservation of water in a scientific manner in future.

(ii) The applicants are also not entitled to claim compensation as the same is barred by limitation.

(iii) The Tribunal constituted a committee comprising of (1) a Senior Scientist from the Central Ground Water Board, not below the rank of Irrigation Engineer (2) Senior Officer/Scientist from the Central Water Commission; and (3) Prof. Mudgal, Director, Centre for Water Resources, Anna University, Chennai 600 025

(i) to go into the question as to whether the design that has been adopted for construction of the reservoirs in dispute in these cases are sufficient to regulate the water to be collected, in a scientific manner so as to reach the beneficiaries of impacted area till its tail end.

(ii) What are all the modifications that have to be made for the purpose of regulating the release of expected surplus water in a scientific manner so as to allow ecological flow/mimic flow in the rivers over which the reservoirs or anaicuts were constructed to provide sufficient water during the lean period for the benefit of the riparian owners; and

(iii) What are all the scientific methods to be adopted by the Government while making the design for the construction of reservoirs or anaicuts across the river for the conservation of surplus water as a policy decision so as to provide water without affecting the ecological flow/mimic flow of the river even during the lean period in such a way to improve the ground water level and replenish the ground water along the banks of the river so as to ensure sufficient ground water availability, apart from providing surplus water through the rivers and further whether any such directions will have to be given in the present case also for the purpose of meeting the above norms so as to release at least 10 to 15% of the surplus water that is likely to be conserved by implementing this project during the lean period for the purpose of providing water to the riparian land owners of the rivers to meet their necessity.

(iv) The Government of Tamil Nadu is directed to provide necessary logistic and other infrastructural facilities for the members of the committee including their travel and other expenses for the purpose of conducting the study.

(v) The Committee is directed to submit the report to the Government of Tamil Nadu considering the things mentioned in the Terms of Reference providing necessary recommendations to meet the situation as intended by this Tribunal in an effective manner within a period of six months, after taking necessary data regarding the availability of rain fall and the quantum of water available before the construction of the reservoir and any reduction in the availability of water after construction of the reservoirs and how the excess water can be regulated in a scientific manner to provide ecological flow/mimic flow in the rivers in respect of Vashista Nadhi and other estuary rivers over which the reservoirs and anaicuts were constructed to provide sufficient water to sustain ecological flow/mimic flow and meet the requirements of riparian owners and to protect the

environment in a scientific manner and also recommend whether any modification is required in the design of the existing reservoirs and anaicuts in this area to meet the above requirement and what are all the nature of modifications to be made for the release of water to meet the situation in a scientific manner and also suggestions as to the percentage of water that will have to be released to meet the situation in a scientific manner during the lean period without affecting the ecology and the ground water level in that area.

(vi) The committee is directed to submit the report to the Chief Secretary, Government of Tamil Nadu and also to this Tribunal after completion of the study as directed within the time specified through e-filing in the form of Searchable PDF/OCR Supportable PDF and not in the form of Image PDF along with necessary hardcopies to be produced as per Rules. If further extension is required, they are at liberty to approach this Tribunal for that purpose. The office is directed to place the same before this Tribunal for giving further direction if any in this regard.

(vii) If the committee submits its report to the Government, then the Government is directed to implement the recommendation in its letter and spirit and discharge their obligation of protecting environment as contemplated under Article 48-A of the Constitution of India to meet the situation and comply with the recommendations in the existing reservoirs and anaicuts and also take into consideration these recommendations while designing for the establishment of reservoir or anaicuts or dams in future as guideline to protect environment and ecological flow of the rivers over which such constructions are proposed to be undertaken.

(viii) The State Government is also directed to file their compliance report before this Tribunal within a further period of six months after getting the report from the committee as mentioned above.

(ix) As soon as the report of the committee and the compliance report of the State of Tamil Nadu as directed are filed, place the same before this Bench for consideration for giving further direction if any required.

90. The Registry is directed to communicate this order to the members of the committee as well as the Chief Secretary, Government of Tamil Nadu immediately by e-mail so as to enable them to comply with the directions of this Tribunal.

91. Considering the circumstances, the parties are directed to bear their respective costs in these applications.

With the above directions and observations, these applications are disposed of.

.....J.M. (Justice K. Ramakrishnan)E.M. (Shri. Saibal Dasgupta) O.A. Nos.181/2015 etc. 29.1.2021-Kkr