

ITEM NO.10

COURT NO.1

SECTION X

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

MISCELLANEOUS APPLICATION ... Diary No(s).30469/2018  
IN  
WRIT PETITION(C)NO.878/2017

RUSSEL JOY

Petitioner(s)/  
Applicant (s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

Date : 16-08-2018 This application was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MS. JUSTICE INDU MALHOTRA

For Petitioner(s)/ Applicant (s) Mr. Manoj V. George, Adv.  
Ms. Shilpa Liza George, Adv.  
for  
Mr. Kamlendra Mishra, Adv. [AOR]

For Respondent(s) UOI Mr. P.S. Narasimha ASG  
Mr. R. Balasubramanian, Adv.  
for  
Mr. B.V. Balaramdas, Adv. [AOR]

Kerala Mr. Mohan V. katarki, Adv.  
Mr. G. Prakash, Adv. [AOR]  
Mr. Jishnu M.L., Adv.

Tamil Nadu Mr. G. Umapathy, Adv.  
Mr. K.V. Vijayakumar, Adv. [AOR]

UPON hearing the counsel the Court made the following  
O R D E R

Diary No.30469/2018

Let this Miscellaneous Application be registered.

The petitioner-applicant - Russel Joy - had preferred Writ Petition(C)No.878 of 2017 showing his concern with regard to sustenance and management of the Mullaperiyar Dam and this Court while disposing of the writ petition on 11<sup>th</sup> January 2018 had issued the following directions :

“(i) The Central Government shall constitute a separate Sub-Committee under Section 9 of the 2005 Act, to exclusively monitor the measures for ensuring a high level of preparedness to face any disaster, which is unpredictable in relation to Mullaperiyar Dam.

(ii) The State of Kerala as well as the State of Tamil Nadu shall also constitute separate Sub-Committees under Section 21 of the 2005 Act, to exclusively monitor the measures for ensuring a high level of preparedness to face any disaster occurring from Mullaperiyar Dam. They must provide for a separate dispensation under the State plan as envisaged under Section 23(4) of the 2005 Act.

(iii) The State of Tamil Nadu, which has been directed to cooperate as per the decision in *State of Tamil Nadu\** (supra), shall also have a Sub-Committee for disaster management and with a specific plan.

(iv) Constitution of all sub-committees shall be in addition to the existing Committees. All the States shall work in harmony with the Central Sub-Committee and ensure high level preparedness to face any disaster occurring due to Mullaperiyar Dam, so that life and property are not damaged.” [\*See: State of Tamil Nadu v. State of Kerala & Anr. (2014) 12 SCC 696]

It is submitted by Mr. George, learned counsel appearing for the petitioner-applicant that there has been incessant rains in the State of Kerala as a consequence of which a cataclysm has occurred and 14 districts are disconnected. Learned counsel would further submit that there has been non-cooperation between two States, namely, State of Kerala and State of Tamil Nadu.

When the matter was mentioned today at 02:00 p.m., it was

told to the learned counsel for the parties including Mr. P.S. Narasimha, learned Additional Solicitor General appearing for the Union of India that the controversy that is raised in the Miscellaneous Application shall be dealt with at the relevant time, but for the present there should be an expression of attitude to solve the problem and manage the situation. After the miscellaneous matters were over, this matter was called and in the course of hearing Mr. George submitted that there should be lowering of water level of the Mullaperiyar Dam and that there should be a disaster plan to meet the grave situation. That apart, it is further urged by Mr. George that there should be a meeting of respective Chief Secretaries of both the States and other officers with the Sub-Committee to be constituted by the Central Government. Mr. Narasimha, learned Additional Solicitor General has submitted that a meeting was held today and there has been a Press Release. He has produced a copy of the Press Release for our perusal. We think it appropriate to reproduce the same in entirety. It reads thus :

"A meeting of the National Crisis Management Committee (NCMC) was held today to ensure continued and scale up assistance to the State of Kerala in view of the prevailing floods situation. Cabinet Secretary chaired the meeting in which Secretaries of Central Ministries including Defence, Home, Water Resources and Chiefs of Army, Navy, Air Force, Coast Guard, National Disaster Response Force (NDRF), Member, National Disaster Management Authority (NDMA), Chairman, Central Water Commission (CWC) and other senior officers were present. Kerala also participated over video conference represented by Chief Secretary and his team. Cabinet Secretary took stock of the situation, preparedness, rescue and relief operations and directed that immediate and continued assistance be provided to Kerala to meet this crisis.

Government of India is fully supporting the State of Kerala and has launched massive relief and rescue operations in the State. In the NCMC meeting, the Cabinet Secretary pressed into service all the forces - Army, Air Force, Navy, Coast Guard, NDRF and other Central Armed Police Forces (CAPFs); and directed that

all possible assistance should be provided to Kerala for relief and rescue operations. The Cabinet Secretary also directed that relief material including supply of drinking water, dry food packets and powdered milk should also be made available to Kerala. For proper reservoir management in Mullaperiyar Dam, Cabinet Secretary constituted a Committee chaired by Chairman, Central Water Commission and Engineers-in-Chief of Tamil Nadu and Kerala.

As of now, 18 teams of NDRF, 9 columns and 8 teams of Engineering Task Force (ETC) of the Army, 22 teams of Coast Guard, 24 diving teams of Navy along with helicopters, aircrafts, boats, equipment, life buoys, life jackets, etc., have been dispatched to assist Kerala in rescue operations as well as evacuation of stranded people. Besides this, medical assistance is also being provided by NDRF, Army, Navy including in special medical camps. So far, 2182 persons have been rescued, 968 stranded people have been evacuated through prompt action of NDRF, Army and Navy.

The NCMC will meet tomorrow again to review the situation."

Regard being had to the gravity of the situation, we think it proper to direct as follows :

(a) The Sub-Committee constituted under Section 9 of The Disaster Management Act, 2005 along with National Crisis Management Committee (NCMC) should hold a meeting, sometime tomorrow in the morning, with the competent authorities of the States of Kerala and Tamil Nadu. If the meeting is not possible by physical presence, the authorities may take aid of video conferencing.

(b) An effort has to be made by the Committees to see if there can be a possibility of bringing down the water level, at least to 139 ft., so that the people staying in the downstream of the dam do not remain in the constant fear.

(c) The States of Kerala and Tamil Nadu shall coordinate with the NCMC so that the people who have been displaced by flood are given adequate relief immediately.

(d) The Sub-Committee may suggest, before water is released

from the dam to the downstream areas, as to what kind of measures can be taken to handle the disaster so that the people ultimately do not suffer from the catastrophe caused by the flood.

(e) The Committee that has been directed to meet tomorrow in the morning must come out with a Disaster Management Plan which shall be made public so that the people can remain prepared for the same.

(f) The decision of the Sub-Committee, needless to say, shall be implemented by both the States immediately although we are taking up the matter tomorrow at 02:00 p.m.. We say so as action speaks much faster than words can convey.

List at 02:00 p.m. tomorrow, the 17.08.2018.

(Subhash Chander)  
AR-cum-PS

(H.S. Parasher)  
Assistant Registrar