

PRESS RELEASE

Text of the D.O. letter dated 28.11.2017 of **Thiru Edappadi K. Palaniswami**, Hon'ble Chief Minister of Tamil Nadu addressed to **Shri Nitin Gadkari**, Hon'ble Minister of Road Transport, Highways and Shipping, Water Resources, River Development and Ganga Rejuvenation, New Delhi.

"Kindly refer to your predecessor's letter dated 3.5.2017 regarding Inter-State River Water Disputes (Amendment) Bill, 2017.

I have examined the matter in detail and once again reiterate the decision of the Government of Tamil Nadu that there is no need to constitute a Permanent Water Disputes Tribunal to adjudicate the Inter-State River Water Disputes amongst the States. Without prejudice to the above decision of ours, I would like to bring to your kind notice the following view points which have far reaching implications, if the present Act, 1956 is amended as proposed by the Government of India:-

- (i) Each and every water dispute amongst the States is unique in character and the water disputes that would arise are complex in their mode unlike the usual civil and criminal cases normally dealt with by the courts;
- (ii) The river basins differ widely in the total availability, utilisation and nature of use of water in them, besides the socio-economic conditions and other parameters that require to be examined in allocating the resources;
- (iii) The present Act of 1956 does not speak about the tenure of appointment of a Chairman and two other members nominated by the Hon'ble Chief Justice of India from among persons who at the time of such nomination are judges of the Hon'ble Supreme Court or of a High Court. However, under the proviso in clause (4), an upper age limit has been prescribed if the proposed legislation is enacted and comes into force. In so far as the Cauvery Water Disputes Tribunal is concerned, the Members appointed are hearing the dispute right from the year 1991 and they have already crossed 70 years of age. The Government of India has also notified the appointment of a Chairman to the Tribunal very recently. The new Chairman has not yet commenced hearing the pending 5(3) Applications along with the Members because of the I.A.s filed by Tamil Nadu with regard to seeking an order for the Tribunal to proceed with these Applications pending disposal of the Civil Appeals

filed by Karnataka, Kerala and Tamil Nadu. If this draft Bill is enacted by the Parliament and comes into force, the two members will cease to hold office as members of the Tribunal because of the age constraint and so also the Chairman.

- (iv) The Cauvery Water Disputes Tribunal has been constituted by the Government of India based on the judgment of the Hon'ble Supreme Court in W.P.No.13347 of 1983 on 4.5.1990. Therefore, the Transfer of the pending 5(3) Applications to the Inter-State River Water Disputes Tribunal under clause (4) of the draft Bill on its enactment, shall not be done without the leave of the Hon'ble Supreme Court.
- (v) The Cauvery Water Disputes Tribunal has rendered its final decision on 5.2.2007. This decision has also been notified by the Government of India with reference to the orders of the Hon'ble Supreme Court. The Hon'ble Supreme Court on 9.12.2016 has held that the appeals filed by the Governments of Karnataka, Kerala and Tamil Nadu against the final decision of the Tribunal dated 5.2.2007 are maintainable. So, in respect of Cauvery Water Dispute only 5(3) Applications are pending for the Tribunal to forward a further report to the Central Government. The Cauvery Water Disputes Tribunal will be in a better position in terms of continuity and institutional memory to dispose of 5(3) Applications. In these circumstances, there is no need to transfer the 5(3) matters pending before the Cauvery Water Disputes Tribunal to the Permanent Water Disputes Tribunal for adjudication in the event of the proposed amendments to the Act of 1956 coming into force.
- (vi) As regards clause 9A of the draft Bill, relating to maintenance of data bank and information, the Government of Tamil Nadu in D.O. No.10669 / ISW2 / 2001-7, dated 31.7.2001 informed the Government of India that the data supplied by the State Government need not be verified by the Central Government and the amendment would not be necessary. The Government of Tamil Nadu reiterates this view again.

In the circumstances, the Government of Tamil Nadu firmly believes that the provisions in the Inter-State River Water Disputes Act, 1956 as amended upto 2002 (Act No.14 of 2002) would suffice to adjudicate the Inter-State River Water Disputes amongst the States and therefore, there is no need to make amendments to the provisions of the Act as envisaged by the Government of India in the draft Bill of 2017. Further, the Government of Tamil Nadu conveys its decision that the functioning of the existing Cauvery Water Disputes Tribunal should not be hampered in the pretext of transfer of the pending applications to the proposed constitution of the Inter-State River Water Disputes Tribunal.

I, therefore, urge you to kindly not process or proceed further on the Bill introduced in the Lok Sabha, among others, that envisages the constitution of a Permanent Water Disputes Tribunal to adjudicate River Water Disputes amongst the States.”

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Issued by: Director of Information and Public Relations, Chennai – 9

Dated : 29.11.2017