

THE CAUVERY WATER DISPUTE IN PRE-INDEPENDENCE ERA

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Abstract

The sharing of waters of Cauvery river has been the source of a serious conflict between the two Indian states of Tamilnadu and Karnataka. The genesis of this conflict rests in two agreements in 1892 and 1924 between the erstwhile Madras Presidency and Princely State of Mysore. The 802 Kilometres (498 miles) Cauvery River has 44,000 Km² basin area in Tamilnadu and 32,000 Km² basin area of Karnataka. The Cauvery water has been used by the people of Karnataka and Tamilnadu right from the ancient period. The ancient Chola ruler Karikala Chola built a stone Dam, across the river Cauvery. So as to restore the flow to pass through the delta region this structure is "considered to be the most ancient structure in the world built across the sandy river still functioning".

Keywords: *Cauvery river, Madras Presidency, Karnataka, Karikala Chola, irrigation reservoir, Kabini*

The problem of water-sharing appeared at the end of the 19th century.¹ When Mysore embarked on construction of irrigation works for extension of new irrigation by around 1890 in the Cauvery basin and other basins, the then Madras Presidency objected to it, for it feared the uncontrolled expansion of irrigation in the Mysore territory.² The Madras Government took up the matter with the Mysore Darbar. For a period of two years discussions, correspondence and negotiations went on. "Rules defining" the limits within which no new irrigation works were to be constructed by the Mysore state without previous reference to the Madras Government were framed and agreed upon by the two Governments in February 1892. The rules of the Agreement of 1892 apply to the Cauvery and other rivers which emanated or passed through the Mysore state to flow into the Madras Presidency. These rivers have been listed in the Schedule 'A' annexed to the agreement.³

The Important Contents of the Agreement of 1892

According to the agreement of 1892, when the Mysore Government desires to construct new irrigation reservoir across the Cauvery and its five tributaries mentioned in Schedule 'A' of the agreement viz., Hemavathi, Lakshmanathirtha, Kabini, Swarnawathi and Yagachi (upto Belur Bridge) (Yagachi is a tributary to Hemawathy) or any new Dam across the Swarnawathi, Yagachi (upto Belur Bridge) Cauvery below Ramasamy Dam or Kabini below Rampur reservoir, then full information regarding the proposed work are forwarded to the Madras Government and thus consent was obtained prior to the actual commencement of work.³ The Madras Government was also bound not to refuse its consent except for the protection of the prescriptive rights already acquired. The nature of such right and mode of exercising in every case are determined in accordance with the law on the subject of prescriptive right to use of water and in accordance with what is fair and reasonable under all the circumstances.⁴ If any difference of opinion arises between the two Governments in any case in which the consent's sought for, the same has referred to the final decision either of arbitrators appointed by both the Governments or of the Government of India. Until the beginning of 20th century there were no storage structures across the Cauvery, Madras proposed for a reservoir across Cauvery to store the surplus floods of south west monsoon.⁵ Mysore also proposed for having a reservoir at Kannambadi. It required Madras for its permission under the provisions of the 1892 Agreement Madras declined to give its consent, as its interest was affected, if Kannambadi reservoir was built, Mysore had urgent need to ensure

speedy supply of water to the Power House at Sivasamudram which was feeding the Kolar Gold Mines and therefore wanted permission in the first instance for the construction of a smaller reservoir of 11 TMC capacity, but with wider foundations so as to permit of its being raised to the full height to store 41 TMC if it was ultimately held that such a reservoir was permissible under the 1892 Agreement.⁶ Madras consented only for smaller reservoir. Mysore also gave the assurance that the wider foundations of the reservoir had not be cited as a justifying reason for the dam in the future. In September 1911, Mysore started building the dam. But it later went back in its assurances.

The Governments of Tamilnadu and Karnataka Differed in Three Aspects

1. The flows to be maintained in the river at Upper Dam.
2. The protection of prescriptive rights.
3. Mode of ensuring the flows of water in the future.

The dispute was referred to Air Henry Griffin, a judge of the Allahabad High Court for arbitration with M.Nethersole, the then Inspector General of Irrigation as assessor in 1913. The award was passed in 1914. But it was unacceptable to the Madras Government which appealed to the Secretary of State against the Government of India which had ratified the award in April 1916. In 1919, the Secretary of State decided that there was a Prima facie case for entertaining the appeal of Madras and gave Mysore the option of appealing against the cancellation of the ratification of the award, or settling the case out of court by negotiations with Madras or by fresh arbitration. As Mysore preferred to have the dispute settled through talks with Madras, negotiations ensued. These negotiations were conducted on behalf of Madras by the Chief Engineer for Irrigation W.J.J.Howley, C.S.I. Thomas Ward, the Inspector General of Irrigation was consulted from time to time and he visited this Presidency in this connection.⁷ After prolonged negotiations an agreement was reached between the two governments on 18th February 1924 and this is called as the 1924 - Agreement. The agreement was reached by different stages. The first stage in the settlement was reached in 1921 when after careful scrutiny the first step was taken by Colonel Morin, The Chief Engineer for Irrigation and F.E. Morgin, the Assistant Chief Engineer for Irrigation.⁸ Further discussions took place in Mysore and Ootacamund during June and July 1922 between the members then incharge of the Irrigation portfolio. Sir. K.Srinivasa Ayyangar and the Diwan of Mysore No conclusions were however arrived. Subsequently several tentative draft agreements were framed and in April, 1923 a further discussion took place at Bangalore between Charles Todhunter and the Hon'ble Mr. C.P. Ramaswamy Ayyer, and the Diwan of Mysore and Narasimha Ayyangar, the Under Secretary to the Government of Madras (Irrigation), and Mr. Cadambi, the Special Officer, Krishnarajasahara works. In June 1923, the Hon'ble C.P. Ramaswami Ayyar discussed the matter in Simla with the Government of India. In September and November 1923, further conferences were held in Bangalore and Madras between Mr. A.V.Ramalinga Ayyer, Chief Engineer, assisted by Mr. Narasimha Ayyangar, the Under Secretary and the Mysore Engineers. During this period the assistance of Gebbie, the consulting engineer to the Government of India was present. He attended the September conference. A final meeting between the representative was held at Bangalore at which Mr.Gebbie, the consulting Engineer to the Government of India, was attended. In this meeting an amicable agreement was arrived and it was the 1924 Agreement.

Salient Features of the Agreement of 1924

It was concluded mainly in fulfillment of the terms of the 1892 Agreement in respect of the construction of Krishnarajasagara for which Mysore sought the consent of Madras. But at the same time agreed principles for sharing of the waters for further development in the basin were also incorporated in the agreement. Madras consented to the construction of Krishnarajasagara by Mysore with a capacity of 44.827 TMC to irrigate 1.25 lakh acres of new ayacut subject to the condition that the reservoir has operated strictly in accordance with the Rules of Regulation appended to the Agreement. The two states agreed to share the waters on the following principles.

- (a) Madras should be construct the Mettur Dam with a capacity of 93.50 TMC and extend irrigation to new area of 3.01 lakh acres.
- (b) Mysore should construct new reservoirs of an aggregate effective capacity of 45 TMC of Cauvery and its tributaries mentioned in Schedule A of the 1892 Agreement and extend irrigation to a new extent of 1.10 lakh acres.⁹

But these were Subject to Future Conditions

1. The impounding in these reservoirs to be regulated not to make any material diminution in the supplies due to Madras (as contained in the Rules of Regulation for the Krishnarajasagara forming Annexure to the 1924 Agreement).
2. The Mysore Government have to furnish full particulars and details of such reservoir schemes and of the impounding therein to the Madras Government to enable them to satisfy themselves that the conditions stipulated in the Agreement would be fulfilled.
3. Madras Government is permitted to construct new irrigation works on the tributaries of the Cauvery in Madras like the Bhavani, Amaravathi or Neyil, while Mysore Government could construct as an offset, a storage reservoir on one of the tributaries of the Cauvery in Mysore, of a capacity not exceeding 60 per cent of the new reservoir in Madras, provided that the impounding in such reservoirs should not diminish or affect in any way the supplies to which the Madras Government and Mysore Government respectively are entitled to follow under this new Agreement or the division of the surplus water which it was anticipated would be available for division at the time of review of certain clauses of the Agreement, at the expiry of 50 years.¹⁰
4. The Agreement allots the river water as follows: 75% to Tamilnadu and Pondicherry, 23% to Karnataka and the rest to Kerala.

The Philosophy underlying in the evolution of this agreement is that the existing irrigation in any part of the basin would be fully taken care of before planning any other scheme in any other part of the basin. There should be a fair and equitable share of the further prospects of irrigation in the basin.

Only for giving full protection to the existing irrigation, a large part of which lies in the Cauvery Delta below the Upper Dam, the Rules of Regulation of the Krishnaraja Sagara Reservoir were framed. These Rules specify the manner in which the day to day flows that enter the Krishnarajasagar Reservoir have to be shared between the two states, the quantity that it is due to the Madras state being released from the Krishnarajasagara Reservoir have and then only the quantity that the Mysore Government is eligible to hold being impounded in the Krishnarajasagara Reservoir.¹¹ The sharing the water have been defined by an engineering formula. But it could be explained in simple language also.

Sharing of Water As Defined in 1924

Madras was entitled at Upper Dam for its Customary use a certain quantum of flows. That quantum varies each month depending on the requirements on the field. The quanta have been ensured at the North Gauge of Cavery Dam at Upper Dam was specified monthwise, as it follows:

The flow of water at Upper Dam: ¹²

Month	At Upper Dam		Corresponding flow at Krishna-Rajasagar (Cusecs)
	Gauge (Feet)	Corresponding Flow (cusecs)	
June	6 ½	29,800	18,625
July	7 ½	40,100	25,063
August	7 ½	40,100	25,247
September	7	35,000	21,875
October	6 ½	29,800	8,940
November	6	25,033	8,894
December	3 ½	8,913	2,674
January	3	6,170	1,851

It was also specified that the inflows at Krishnarajasagar are to be released on a day to day basis such that these reading at the north gauge of Cauvery Dam are ensured subject to the availability of flows and the quantum of flows available at Krishnarajasagar over and above this can be have impounded for use in the Mysore state, and should be stated more clearly. Impounding in

Krishnarajasagar should be done only when the natural flows received at Krishnarajasagar are in excess of the customary usage that has developed downstream over the centuries and after releasing the limits, prescribed for such uses. The flows that are prescribed to be maintained at Upper Dam have been termed as limit flows for the month concerned. The impounding formula that have been derived and provides for total release of the inflows upto a certain quantum of the inflow, full impounding at Krishnarajasagar above a particular level of inflow quantities and partial release and partial impounding between these ranged of inflows. This agreement was signed by the representatives of Madras and Mysore. Goorg and Travancore, the other states in the basin were not signatories. Though the British gave an assurance to the French Government of Pondicherry that the interest of the Dam in French territory, an enclave in the rail of the Delta, would be safeguarded, the French Government was not a signatory.

The Agreement of 1924 in fact, solved the problem of the agriculturists of the Cauvery Delta. From the date of award, further gauging of the supply available in the river in each month of the year and of the discharge represented by gauge readings at the Cauvery Dam were continuously maintained and registered and on the basis of these observations and of calculations based on these more exact data which has become available. Thus water dispute in the 19th century was solved by the British, arriving at an agreement with the Mysore Darbar in 1892. On the basis of this agreement, 1924 Agreement was signed by the Madras State and Mysore. But the Karnataka State has violated Certain Principles of the agreement of 1924. Karnataka proposed Kabini Reservoir as an offset to the Bhavani Reservoir of Tamilnadu. Karanataka asserted that the 1924 agreement entailed a discontinuation of the water supply to Tamilnadu after 50 years. Since the river originates in Karnataka, it argued, the state was entitled to use the river water and was not bound by the agreements imposed on the Maharaja of Mysore the colonial government, which it was in favour of Tamilnadu.¹⁴ On the other hand, Tamilnadu pleaded that it has already developed millions acres of its agricultural land and as a result was heavily dependent on the existing pattern of usage. It claimed that any change in this pattern would adversely affect the livelihood of millions of farmers in the State.¹⁵ In short Tamilnadu wanted to maintain status-quo over its share of water while Karnataka wanted to tap most of the water following from its territory.

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