SC Verdict in Cauvery River Water Dispute - II

Click here for Part I

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What is the issue?

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- The recent Supreme Court verdict in the Cauvery River dispute comes as a precedent in many ways.
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- It is imperative at this juncture to look into the multifaceted views and implications of the judgement.
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What is SC's water sharing principle?

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- The Supreme Court declares an inter-State river like Cauvery as a '**national asset**'.
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- It is for the common benefit of the community as a whole.
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- It has emphasized the principle of **equitable apportionment** or the principle of equality among riparian States.
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- Importantly, it does not imply equal division of water.
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- It is rather a **fair and equitable share** of the water according to the needs.
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- In other words, an equal consideration and equal economic opportunity of the co-basin States.
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- Accordingly, no State can claim exclusive ownership of its waters.
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- None can either deprive other States of their equitable share.

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What is the validity?

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- The water allocation arrangement will stand unchanged for the **next 15 years.**
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- The court also warned the States to not deviate from the judgment.
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- They are also not to use the allotted water for other than the designated purposes.
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What are the implementation mechanisms?

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- The Cauvery Water Disputes Tribunal had prescribed two machineries to monitor the implementation of its order.
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- These are:
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i. Cauvery Management Board (CMB)
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ii. Cauvery Water Regulation Committee (CWRC)
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- The **CMB** would monitor the **storage position** in the Cauvery basin and the trend of rainfall.
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- This is to assess the likely **inflows for distribution** among the States.
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- The CMB will have three full-time members including a chairman.
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- It will also consist of six part-time members.
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- Four of them will be from the riparian States of Karnataka, Kerala, Tamil Nadu, and the Union Territory of Puducherry.
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- The **CWRC** is to ensure that the **Tribunal's order** is carried out in due spirit.
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Why are CMB and CWRC important for TN?

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- **Requirement** - June to September marks the south-west monsoon season in Tamil Nadu.
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- Notably, Tamil Nadu gets less rainfall from the south-west monsoon than many other states.
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- It thus requires more water during June-September than in other months.
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- **Control** - With the Board and the Committee in place, Karnataka will lose its earlier supervisory control over the 4 Cauvery basin reservoirs.
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- These are Krishnarajasagar, Hemavathi, Kabini and Harangi reservoirs.
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- In other words, Karnataka cannot exercise the option to release water to Tamil Nadu.
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- Tamil Nadu will be ensured a regular release of water as per the order.
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What does the verdict mean for TN?

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- **Impact** - The reduction in allocation of water will have only a marginal impact on Tamil Nadu.
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- This is because the quantum of reduction is small.
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- The reduction is less than 10% of the 192 TMC that TN ought to receive from Karnataka as per the Tribunal's award.
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- **Groundwater** - The Tribunal had noted that underground water use should not be reckoned as use of Cauvery water.
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- The Supreme Court, however, accounted the quantity of available groundwater in calculating the final determination of the share.
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- It thus calls for Tamil Nadu to bank on 10 TMC of groundwater available with it.
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- In other words, TN now has an increased responsibility to protect its groundwater reserves by taking adequate measures.
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How does the verdict benefit Bengaluru?

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- The **tribunal's allocation** of 1.75 tmcft to the city proved to be insufficient.
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- Notably, it had **miscalculated** Bengaluru’s water needs.
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- It had assumed that 50% of the drinking water requirements would be met by **ground water**.
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- However, increasing urbanisation and population has been depleting and contaminating groundwater, making it unusable.
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- Moreover, the tribunal had accounted only the **one-third of the city** that falls within the Cauvery basin.
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- The Supreme Court has ruled out this approach.
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- Thus, the share of water for a basin State is for addressing the social and economic needs of its community as a whole.
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- With an additional entitlement of 4.75 tmcft, the verdict comes as much-needed relief for the whole of Bengaluru city.
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What are the jurisdictional implications?

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- **Article 363** - The 1892 and 1924 agreements were between the princely State of Mysore and the Madras presidency.
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- It pertained to the allocation of Cauvery water to regions now comprising Tamil Nadu, Karnataka, Kerala and Puducherry.
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- Article 363 of the Constitution restricts judicial review of a pre-Constitution treaty or agreement.
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- The court however dismisses the validity of Art 363 in the case of 1892 and 1924 agreements.
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- It observes that these agreements were not political arrangements but based on public interest.
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- **Art 262** - The Centre had earlier maintained that the Court lacked the jurisdiction to hear inter-state river water dispute.
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- This is as per the Inter-State Water Disputes Act of 1956.
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- The provisions of Act restrict the Supreme Court from hearing or deciding any appeals against the Tribunal's decision.
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- The Centre had thus claimed the Tribunal award as final.
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- The Court, however, held that the remedy under Article 136 was a constitutional right.
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- Art 136 empowers the Supreme Court to grant leave to appeal from any judgment, decree or determination by any Court or Tribunal.
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What is the significance of the verdict?

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- The verdict comes as a precedent for a fair and scientific adjudicative process in water sharing disputes.
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- It puts an end to the delaying procedures.
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- Sates do not have to rush to the court for ad hoc orders to open the

reservoirs during monsoon-deficit years.
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- It affirms a basin State’s right to its share of water on a regular basis.
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- The Centre should now create the legal and technical framework to implement the Tribunal’s award, as modified by the judgment.
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Source: The Hindu

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