



22nd February, 2016

# INTERLINKING OF RIVERS

SALIENT LEGAL FEATURES

**VIRAG GUPTA**

ADVOCATE, SUPREME COURT

# SUPREME COURT JUDGEMENT

- SC 3 Judge Bench Judgement Dt. 27<sup>th</sup> Feb 2012 in WP (C) No. 512 of 2002
- Appointment of Special Committee as per SC order and first meeting under Chairmanship of Hon'ble Minister of Water Resources on 17<sup>th</sup> October, 2014.
- Appointment of Task Force- first meeting under Chairmanship of Shri BN Navalawala on 14<sup>th</sup> April, 2015
- Earlier, Task Force on Interlinking of Rivers formed under the Chairmanship of Shri Suresh P. Prabhu in the year 2002.

# CONSTITUTIONAL PROVISIONS

- The Constitution of India envisages a larger role for States for dealing with matters relating to rivers.
- Entry 17 of List II authorizes the States to make law for Water, subject to the provisions of entry 56 of List I.
- List I, Entry 56 authorizes the Centre to make law for Regulation and development of inter-State rivers and river valleys to the extent to which such regulation and development under the control of the Union is declared by Parliament in the public interest.
- In addition, the Parliament is also authorized to make law on disputes relating to waters of inter State rivers or river valleys by virtue of Article 262 of the Constitution of India.
- In federal system, difficult for Central Government to take legal control of rivers from States by way of Legislation

# SUPREME COURT DECISION ONLY ON POINT OF INTERLINKING

- Interlinking of rivers involves diverting surplus water either within a state or two or more states
- Petitioner before SC demanded for Nationalisation of rivers to ensure a common authority to distribute the water
- The judgment of the Supreme Court is restricted to interlinking and Nationalisation of Rivers' aspect is left open to Parliament and Government

# BENEFITS CLAIMED FROM ILR PROJECT

- 1) Additional Irrigation Potential: 35 Mha
- 2) Hydro- power generation- 34,000 MW
- 3) Domestic and Industrial Water supply
- 4) Mitigation of Drought & Flood Control
- 5) Employment Generation & Extension of Gainful Fisheries,
- 6) Pollution Free Water Transport

# CRITICAL ASPECTS OF ILR

- 1) Cost Benefit Ratio of ILR and comparative study with other options Viz. costs of usages of sea water in costal areas
- 2) Displacement of people and prompt compensation and Livelihood
- 3) Adverse impacts on the Environment and Ecosystem
- 4) International issues for Cross border rivers
- 5) Financial Viability and should ILR be last option

# CORE ISSUE OF DEFINING “SURPLUS”

- Most of the river water disputes, including those before the arbitral panels have mainly revolved around the question of surplus water.
- If the term ‘surplus water’ is properly defined and accepted by all stake holders, it may minimise all disputes and Litigation.
- ***Principles of surplus should be laid down instead of legal definition of surplus which has different perspective among Stakeholders and Environmentalists***

# COMPENSATION FOR USAGES OF SURPLUS WATER

- For 'surplus water' latest survey of Rivers and water usages may be useful
- Current study of ILR river basins and availability of water with updated data to ascertain compensation
- State wants to use the water that belongs to the other State, it must be compensated by way of LAND USAGES, POWER SHARING OR MONETARY PAYMENT
- *It will not only ensure optimum usages of water but also minimise inter-state water conflicts.*

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THANK YOU