
JUDICIAL EXCLUSION UNDER ARTICLE 262 IN INTER-STATE RIVER DISPUTES: A STUDY OF THE CAUVERY WATER DISPUTE JUDGMENT (2018)

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ABSTRACT

Article 262 of the Indian Constitution deals with the Interstate water disputes in India. It gives Parliament the power to establish methods for settlement of conflicts over the use, distribution, or regulation of interstate river waters. The State of Karnataka v. State of Tamil Nadu (2018) case was a revolving opinion. The Supreme Court used its appellate jurisdiction to overturn the Cauvery Water Disputes Tribunal's decision despite the legislative exclusion of court jurisdiction under Article 262 and Section 11 of the Inter-State Water Disputes Act.

Using the Cauvery conflict case study, this research studies the constitutional theory of judicial exclusion under Article 262¹ and evaluates the efficiency of the tribunal-based conflict resolution process. The paper examines the historical setting of the Cauvery conflict, the functioning of the Cauvery Water Disputes Tribunal, and the 2018 involvement of the Supreme Court. It examines whether judicial review strengthens or supports the constitutional framework governing inter-state river disputes.

The research suggests that limited judicial supervision has been required due to practical factors and constitutional values even if Article 262 sought to minimize judicial intervention. The Cauvery judgement shows how the courts are progressively balancing federal interests, guaranteeing compliance of tribunal decisions, and defending constitutional government. The research examines that institutional adjustments, more effective enforcement tools, and improved collaborative federalism are required to ensure a long-lasting and effective solution to inter-state river disputes in India.

Keywords: Judicial Exclusion, Inter- state water dispute, Cauvery water dispute, judicial intervention.

¹ INDIA CONST. art. 262

• INTRODUCTION

Water is one of the essential natural resource for economic growth, agriculture, and human survival. There have been constant disputes over the distribution and management of water resources because India is a federal nation and many of its major rivers cross the territory of several states. Article 262 of the Indian Constitution², which gives Parliament the power to pass laws establishing procedures for resolving disputes pertaining to the waters of interstate rivers or river valleys, was included by the framers of the document to address such conflicts.

The following are Article 262's two primary purposes is that first, it gives Parliament the power to establish a court system to settle disputes between states over water. Second, it grants Parliament the power to limit the Supreme Court's and other courts' jurisdiction in these situations. The Inter-State Water Disputes Act of 1956³, which mandates the establishment of water disputes tribunals in situations where state-to-state negotiations fail, was passed by Parliament using this constitutional authority. Section 11 of this Act expressly forbids courts from having jurisdiction over disputes submitted to such tribunals.

The goal of this structure was to establish a forum with expertise in resolving complicated technical issues related to hydrology, irrigation demands, and water needs throughout the area. The goal of the tribunal system was to lessen political friction between nations and avoid lengthy legal disputes. The Cauvery River conflict which involves the states of Tamil Nadu, Karnataka, Kerala, and the Union Territory of Puducherry, is the recent dispute happened. The Cauvery Water Disputes Tribunal was established in 1990 as challenging needs for irrigation and drinking water grew following independence.

After more than sixteen years of complex hearings, the court issued its final decision in 2007 assigning precise water volumes to the riparian nations. However, the states' dissatisfaction led to more legal disputes being heard by the Supreme Court. In the historic *State of Karnataka v. State of Tamil Nadu* (2018)⁴ case, the Supreme Court changed the distribution of water among the states in addition to evaluating the tribunal's ruling. The Court determined that Article 136 of the Constitution did not completely bar the Court's appellate jurisdiction under the Inter-

² INDIA CONST. art. 262

³ Inter-State Water Disputes Act, No. 33 of 1956, India Code (1956).

⁴ *State of Karnataka v. State of Tamil Nadu*, (2018) 4 SCC 1 (India)

State Water Disputes Act.

This ruling questioned the degree of judicial exclusion under Article 262 and the judiciary's power to resolve federal water resources disputes. Though the Supreme Court's interference demonstrated that constitutional courts may still be very important for fairness, implementation, and constitutional monitoring, Article 262 was designed to stop judicial interference. To evaluate the effectiveness of India's interstate river conflict settlement mechanism and the judicial exclusion principle under Article 262, the 2018 Cauvery Water Dispute decision is thoroughly discussed.

OBJECTIVES

- To examine Article 262 its constitutional framework controlling conflicts over water rights between states.
- To investigate the operational and role of tribunals created by the Inter-State Water Disputes Act 1956.
- To investigate the past development of the Cauvery water dispute.
- To evaluate the value of judicial exclusion in resolving interstate water conflicts.

RESEARCH QUESTIONS

1. What is the constitution's purpose of Article 262 in the decision of Cauvery river dispute?
2. What were the historical and legal factors that led to the Cauvery water dispute in 2018?
3. Why did the Supreme Court involve in the Cauvery dispute despite the judicial exclusion under Article 262?
4. Does judicial intervention help or hamper the tribunal-based dispute resolution process?

RESEARCH PROBLEM

The article 262 of the Indian Constitution⁵ was created to keep courts away from inter-state

⁵ INDIA CONST. art. 262

water disputes and allow special tribunals to settle them. However, this system does not always work smoothly as the water conflicts are continuing between Inter-states. The Supreme Court's involvement in the Cauvery water dispute also raises questions about whether courts should completely stay out or barred of such matters. The real issue is whether tribunals alone can effectively resolve complicated disputes between states without some level of judicial supervision.

RESEARCH METHODOLOGY

Doctrinal legal research is the approach used in this study, the paper relies on constitutional provisions, statutes, judicial decisions, and scholarly publications. Primary sources include the Constitution and Supreme Court decisions. Secondary sources involve books and official reports investigating interstate water conflicts and tribunal processes.

RESEARCH HYPOTHESIS

The tribunal-based dispute resolution mechanism under Article 262 of the Constitution of India is insufficient to resolve inter-state water disputes. It is not fully effective on its own. Supreme court supervision or advice is needed in order to ensure the fair and timely decisions.

LITERATURE REVIEW

1. Dr. J.N. Pandey, Constitutional Law of India⁶

Disputes relating to Water: Article 262⁷ authorizes the Parliament to provide by law for adjudication of any dispute or complaint with respect to the uses, distribution or control of the waters of any inter- state rivers and river valleys. Under clause (2) of this Article⁸, Parliament may by law provide that neither the Supreme Court nor any other courts shall have any jurisdiction in respect of such disputes and complaints relating to water of inter- state rivers and river valleys.

2. M. P. Jain – Indian Constitutional Law (2019)⁹

⁶ Dr. J.N. Pandey, Constitutional Law of India, page no: 749

⁷ INDIA CONST. art. 262

⁸ INDIA CONST. art. 262, cl. 2.

⁹ M.P. Jain, Indian Constitutional Law (8th ed., LexisNexis 2019).

M. P. Jain in his book *Indian Constitutional Law* contends that Article 262 of the Constitution shows that the framers sought to establish a dedicated method for resolving inter-state river disagreements. According to Jain, interstate rivers pass many states therefore they cannot be the exclusive possession of any one state. In a federal system like India, where river water is shared, conflicts over its use, allocation, and management were foreseen to arise regularly. The Constitution gave Parliament the power to set up an outside alternative dispute resolution mechanism to avoid drawn-out legal wrangles and political disagreements among states.

3. Chokkakula, S. & Prasad, C. S. *Inter-State River Water Disputes in India: Adjudication and Beyond* (2018)¹⁰

The authors argue that political, economic, and social issues rather than legal or technical ones mostly cause conflict over river waters in India. They hold that the tribunal system established by the Inter-State Water Disputes Act of 1956 seeks to settle conflicts mostly by way of legal judgement and technical assessment of water availability, irrigation requirements, and basin characteristics. This plan sometimes ignores, nevertheless, the bigger political elements influencing the sharing of water by states. Furthermore, they state that the Cauvery conflict underscores the disadvantages of a purely judicial approach to conflict settlement. Effective implementation of water-sharing treaties calls for greater federal coordination and river basin management organizations, hence the writers suggest.

4. Sujit Choudhry (2014), *Constitutional Courts in Federal Systems: Managing Intergovernmental Disputes, in Comparative Constitutional Law*¹¹

Choudhry's study stresses the dynamic relationship federal governance courts and tribunals have. According to his findings, constrained judicial oversight does not necessarily undermine specialized conflict settlement mechanisms. Rather it might advance constitutional accountability and encourage collaborative federalism. He also notes that judicial intervention might be warranted when institutional structures like tribunals have difficulty carrying out, enforcing, or interpreting their decisions.

¹⁰ Chokkakula, S., & Prasad, C. S., *Inter-State River Water Disputes in India: Adjudication and Beyond*, Centre for Policy Research (2018).

¹¹ Choudhry, Sujit, *Constitutional Courts in Federal Systems: Managing Intergovernmental Disputes*, in *Comparative Constitutional Law* (Oxford University Press, 2014).

Courts so help to ensure the uniformity of conflict resolution processes with constitutional principles including federalism, the rule of law, and fair resource distribution. This perspective helps to explain why the Supreme Court has sometimes stepped in water conflicts between states given its statutory limitations.

DISCUSS AND ANALYSIS

Article 262 has two important parts:

Clause (1): Parliament can provide for adjudication of water disputes.

Clause (2): Parliament can exclude the jurisdiction of courts, including the Supreme Court.

This means that once a tribunal is set up, its decision is meant to be final, and courts are generally not supposed to interfere. In reality, the system has not worked perfectly:

1. Tribunals take many years to give decisions.
2. States often refuse to comply fully with tribunal awards.
3. Enforcement mechanisms are weak.
4. Political tensions make disputes more complex.

Because of these issues, parties often approach the Supreme Court despite the intended exclusion.

Under Article 262 of the Indian Constitution, Parliament is authorized to establish mechanisms for settling disputes involving the utilization, allocation, or control of interstate river waters, this forms the basis of constitutional regulation between states over water. It also confers Parliament the authority to exempt courts' jurisdiction in these circumstances. Additionally, the clause permits Parliament to exclude the authority of the Supreme Court and other courts in such cases.

This constitutional structure's primary goal was to guarantee that specialized courts, rather than lengthy judicial proceedings, would be able to settle conflicts involving complicated technical, geographical, and hydrological issues. Parliament passed the Inter-State Water Disputes Act,

1956, which allows for the creation of tribunals when discussions between states break down, in order to carry out this constitutional requirement. The purpose of these tribunals is to provide expert adjudication and make enforceable judgments regarding the allocation of river waters.

Agreements made between the Madras Presidency and the royal kingdom of Mysore in 1892 and 1924 during the colonial era are where the Cauvery conflict first began. These agreements governed the division of river waters between the two regions as well as the development of irrigation infrastructure. Following India's independence, the demand for water in the basin states grew due to the reorganization of states and the extension of irrigation schemes. Tamil Nadu's current irrigation infrastructure in the delta area is heavily reliant on the Cauvery River, while Karnataka has been attempting to increase its irrigation capacity in order to promote agricultural growth.

To execute this constitutional clause, Parliament approved the Inter-State Water Disputes Act, 1956, which called for the establishment of tribunals for resolution of conflicts between states. Section 11 of the Act expressly bans the Supreme Court and other courts from ruling over a matter after it has come before a tribunal.

With technical experts guaranteed to quickly resolve water disputes and to avoid drawn-out legal proceedings, this arrangement was meant to achieve this. However, actual experience has shown that courts frequently publish their rulings after several years and that disputes might go on even after such decisions are made.

Under Article 262 Parliament has passed the River Board Act, 1956¹² and the Inter- state Water Dispute, 1956¹³. The River Board Act is meant for the regulation and development of inter-state rivers and river valley. This is established on the request of the state Government to advice the Government. The Water Dispute Act empowers the Central Government to set up a Tribunal for the adjudication of such disputes. The decision of the Tribunal shall be final and binding on the parties to the dispute. Neither the Supreme Court nor any other Court may or shall have jurisdiction in respect of any water dispute which may be referred to such a Tribunal under that Act.¹⁴

¹² River Boards Act, No. 49 of 1956, India Code (1956).

¹³ Inter-State Water Disputes Act, No. 33 of 1956, India Code (1956).

¹⁴ Dr. J.N. Pandey, Constitutional Law of India, page no: 749

Under Article 262 of the Indian Constitution, Parliament has the power to create tribunals to resolve disputes between states over water and even exclude courts, including the Supreme Court, from intervening in such matters. Consequently, laws like the Inter-State Water Disputes Act of 1956 were approved establishing specialized tribunals.

In actuality, this tribunal-based system has many disadvantages. Tribunals may take several years to reach decisions, and political disputes among countries might cause their execution to be postponed even after awards are made. Also lacking are effective enforcement techniques to guarantee compliance.

Even though Article 262 aims to limit court involvement, the Supreme Court of India has intervened in conflicts like the Cauvery river dispute because of these issues. The Court has helped to interpret tribunal decisions, impose them, and maintain federal balance and fairness, among other constitutional values.

Consequently, this theory contends that although tribunals are vital for settling disagreements in a technical and specialized way, they cannot operate effectively on their own. The judicial review of the Supreme Court has to be constrained in order to achieve the following:

- guarantee accountability,
- prevent delays,
- resolve legal uncertainties, and
- apply tribunal decisions.

CASE

State of Karnataka v. State of Tamil Nadu, (2018) 4 SCC 1 (India)¹⁵

The dispute arose between the states of Karnataka, Tamil Nadu, Puducherry and Kerala regarding the Cauvery water supply. Before the independence there was agreements between Mysore state and Madras Presidency in the year 1892 and 1924 which governed the distribution

¹⁵ State of Karnataka v. State of Tamil Nadu, (2018) 4 SCC 1 (India)

or supply of Cauvery water.

After independence a major dispute arose regarding the Cauvery water distribution. Cauvery Water Dispute Tribunal was set in 1990 under the Inter-state Water Dispute act, 1956. The tribunal gave its final award in 2007 but both Karnataka and Tamil Nadu appealed before the Supreme court challenging the award. Tamil Nadu's argument of historical rights was rejected in this case. The court stressed on equitable sharing of the historical claims. Therefore, the court directed the government to create a Cauvery Water Management Authority in order to regulate the mechanism and to ensure monitoring.

The Supreme Court modified the award and decided that Article 262 does not totally exclude judicial review. Demand for drinking water in Bengaluru led it to cut Tamil Nadu's share and boost Karnataka's allowance. The Court stressed fair allocation and rejected prescriptive rights in order to guarantee effective execution; concurrently, it ordered the establishment of the Cauvery Water Management Authority. The court stated no state can claim ownership regarding the inter-state river.

CONCLUSION

The study of the Cauvery Water Dispute shows major problems with India's approach to settling water disputes between states. Although the Inter-State Water Disputes Act and Article 262 were intended to provide a specialized and rapid approach of resolving conflicts, the Cauvery case demonstrates that courts alone cannot ensure timely and effective resolution.

First, the tribunal adjudication process has to be sped up significantly. When numerous courts have taken more than ten years to render their last judgments, the purpose of creating a dedicated dispute settlement system is undermined. Introducing strict timetables and improved technical tools will help one to increase efficiency.

Second, tribunal rulings ought to be implemented by more efficient institutional systems. Creating permanent river basin organizations or management boards can help to ensure that water-sharing agreements are constantly monitored and enforced. First of all, the role of the judiciary ought to be precisely delineated. Even if Article 262 allows for the exclusion of court jurisdiction, restricted judicial review may still be required to ensure constitutional responsibility and the proper implementation of tribunal judgments. Improved inter-state

cooperation and communication depend on the use of federal organizations and channels for dialogue.

Ultimately, the verdict on the Cauvery Water Dispute illustrates how judicial oversight may strengthen the tribunal framework instead of undermining it. To effectively resolve India's complicated interstate water disputes, a balanced approach combining tribunal experience, judicial review, and cooperative federalism is required.

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