

Cauvery verdict may impact other disputes

What is the issue?

On February 16, the Supreme Court pronounced its verdict on the long-standing dispute among Tamil Nadu, Karnataka, Kerala, and Puducherry on how they ought to be sharing water from the Cauvery.

While the headline-grabber was that Karnataka would have to share 14 tmc ft (thousand million cubic feet) less with Tamil Nadu, the text of the judgment reveals several new strands for interpretation that may complicate disputes over water-sharing arrangements in other tribunals, for instance, the Ravi and Beas Water Tribunal or the Krishna Water Tribunal. However, the court also reiterated that the Central government must form a Cauvery Management Board to implement a mechanism to ensure that water is shared fairly among all States.

What do these arguments mean?

One is that water cannot “belong” to a particular State. States have frequently cited the historical patterns of water-flow within their borders to bolster claims for a greater portion of water. In this case, the court has stressed that water-sharing between regions should be based on fairness and equity. The second strand is that it invokes the right to drinking water. Historically, water-sharing has been about catering to the needs of farmers.

In its verdict, the court said Bengaluru, being a large urbanised agglomeration, had the right to be able to reliably access water to meet residents’ drinking requirements. Finally, the court reasoned that Tamil Nadu had 20 tmc ft of groundwater that had not been accounted for in water-sharing pacts, and this too needed to be included in calculations.

Modern water-management principles put a premium on ensuring that groundwater resources are not over-exploited, particularly because experts have warned that India’s water wars may stem from inadequate recharge of a large number of aquifers.

How would these affect other disputes?

It could also well be the last tribunal constituted under the existing structure of the Inter-State Water Disputes Act. Take the case of the disagreement between Punjab, Haryana and Rajasthan over the sharing of the Ravi-Beas river system. In 2004, Punjab unilaterally terminated a historic agreement. Haryana demanded water from Punjab on the grounds that it needed water for the arid regions in the south. However, several parts of Haryana are far more urbanised and therefore have greater water needs and Punjab, merely by its geographical location, could not have a natural right to the Ravi-Beas. While the States are still locked in disputes in courts, this lack of historical rights — bolstered by the Cauvery ruling — could mount more pressure on Punjab to keep its side of the bargain. On the other hand, several parts of Punjab are among the most over-exploited groundwater blocks. Prompted by the Cauvery judgment, Punjab could ask that Haryana too utilise greater quantities of its groundwater reserves. The Mahanadi tribunal, intended to devise a water-sharing arrangement between Odisha and Chhattisgarh, could imbibe principles touched upon in the Cauvery judgment.

What’s next for the tribunals?

The Centre has presented a Bill in the Lok Sabha to subsume all tribunals under one. This is because, it says, tribunals are tardy and composed entirely of members of the judiciary. A new

set-up that will have non-judicial experts can mean that conflicts over equitable water-sharing will no longer be solely looked at from a legal view-point, but it will give more weight to ecological concepts such as the water basin's capacity, environmental flows and groundwater management.

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