H.C.J. 221/64

THE LOCAL COUNCIL OF PARDESS HANNA AND OTHERS

v.

THE MINISTER OF AGRICULTURE AND OTHERS

In the Supreme Court sitting as the High Court of Justice.
[December 8, 1964]
Before Agranat D.P., Silberg J., Berinson J., Witkon J. and Manny J.

Administrative law-Exercise of discretionary powers-Generality of subordinate legislation-Discriminatory use of powers.

The petitioners (two of them suppliers of water and two consumers) complained that a scheme to mix the "sweet" water they were receiving at present with water from the National Water Carrier would increase the chlorine content, with deleterious effects on the plantations supplied with such water. More particularly they claimed *inter alia* that the demarcation by the Minister of water rationing areas was a distortion of his discretionary powers in that behalf, unnaturally combining regions wholly distinct hydrologically, and that the regulations made under the Law were too general and imprecise and left the final decision in important aspects to the arbitrary discretion of the Water Commissioner, an administrative official.

Held

1. The exercise of discretion within and for the overall purposes of a Law is valid even if individuals may suffer thereby;

2. A Minister charged with the implementation of a Law may, after laying down general policy with reasonable precision, leave the details of implementing that policy to the discretion of an administrative official. It is not to be assumed that the latter will proceed to act arbitrarily, and if he does so, the Minister can review and control his action.

3. Discrimination is not arbitrary when it is the inevitable consequence of natural differences or of justifiable and pertinent technical and budgetary factors.

Israel cases referred to:

(1) Cr.A. 74/58 - *Attorney-General v Naftali Horenstein* (1960) 10 P. D. 365.

(2) H.C. 69/62 - *David Mazoz v Minister of Agriculture and others* (1962) 16 P.D. 1408.

(3) Cr.A. 40/49 - *Shaul Nahmias v Attorney-General* (1950) 3 P.D. 127.

(4) H.C. 176/58 - *"Parcel II Block 6605" Co. Ltd*. v *Minister of Development and another* (1959) 13 P.D. 1099.

(5) F.H. 22/58 - *Shalom Cohen v Local Council of Givat Shmuel and others* (1959) 13 p.D. 244.

Y. *Yechiel* and *Y. Harari* for the petitioners

Z. Terlo, Deputy State Attorney, for the first and second respondents

S. Gir for the third respondent

BERINSON J. The petitioners, two of whom are suppliers of water and the other two consumers of water in the area of Pardess Hanna and Kfar Saba, complain of the plan for mixing the water resources from which they obtain water with the National Carrier of Water. "Their" water resources have a low chlorine content of 50-80mg a litre, but after mixing the chlorine content of the water they receive will go up to 170mg. a litre.

Upon the publication of the Water (Use of Water in Rationed Areas) Regulations, 1957 (hereinafter referred to as "the Regulations") and the operation of the National Water Carrier, the first respondent instructed the Water Commissioner to connect the water supply systems of five areas - amongst them those of Pardess Hanna and Kfar Saba - to the National Carrier, operated by the third respondent (hereinafter referred to as "Mekorot"). By so doing, the water of these five areas will be diverted to assembly points for mixing with water brought by the National Carrier from the Kinneret which has a high chlorine content of 350mg. a litre. After mixing, the quantity of water required will be returned to the said areas (from which "sweet" water has been taken) but with a chlorine content of 170mg. a litre, whereas the mixed water will flow to the south and the Negev with a chlorine content of 250mg. a litre.

> On behalf of the respondents it was declared that "the operation of mixing the water of the National undertaking is essential for exploitation of the water thereof, in the establishment of which (Stage 1) the State invested about 300 million lira. To stop the mixing operations as requested in this petition would prejudice the scheme for supplying water to the south of the country and prevent utilization of the water of the Kinneret by the National Carrier, the central and largest undertaking in the State for the development of settlements in the south and the Negev. To stop drawing upon the Kinneret would result in a loss of water most vital to the State since such water would flow unused into the Dead Sea."

As against this, the petitioners contend that the mixed water, which the respondents intend to supply to them and other orange groves in the Central Region, are not suitable for irrigating orange groves and avocado plantations and this great asset - worth some 300 million lira - would be seriously affected and cease to be profitable. Sufficient tests and experiments have not been made for ensuring against excess salination of the soil. The effect of water salination on growth and yield has not been investigated at all.

Hence the petitioners complain of the respondents water scheme and raise a series of legal arguments against it and against regulations 6 & 7 of the Regulations on which it is based. They also plead that both according to sections 5 and 26 of the Water Law, 1959, and by virtue of the first petitioners commitment with Mekorot, the present supply of water is not to be adversely affected and that they are entitled to continue for the future to receive water from those resources from which they have received it up to the present. They are prepared to and do make available the surplus water from these resources to the respondents for mixing with the National Carrier water.

I shall first consider *seriatum* the last two arguments and then turn to the others relating to the lawfulness of the respondents' activities, including the legality of regulations 6 & 7.

> Sec. 5 of the Law provides as follows: "a person's right to receive water from a water resource is valid as long as the receipt of water from that water resource does not lead to the salination or depletion thereof."

I am afraid that as a source for the right the petitioners assert this section is disappointing. It does not create any right but only protects an existing right, and even then makes it conditional upon its continued exercise not resulting in the salination or depletion of the water resource. Where therefore does the petitioners' right arise to continue receiving water from the present water resources?

In this regard secs. 1 and 3 are the principal sections. Sec. 1 states that

> "The water resources of the State are public property; they are subject to the control of the State and are destined for the requirements of its inhabitants and for the development of the country."

Nevertheless, sec. 3 declares that

> "Every person is entitled to receive and use water, subject to the provisions of this Law."

Nothing is said about the quantity or source of the water and to remove all doubt in the matter sec. 4. immediately adds that sec. 3 is not to be understood as if a person's right in any land confers upon him a right in a water resource situated in or crossing or abutting on such land.

The foundations of this arrangement were laid under the Mandate when article 16E was added to the Palestine Order in Council, 1922. This article vested in the High Commissioner the waters of all rivers, streams and springs and of all lakes and other natural collection of still water in the country. The scope was more limited than that in the Water Law but existing rights to use water were preserved, and these were not to be derogated from except by Ordinance enacted for the purpose. This provision, however, remained suspended in the air, it was not in practice implemented and no Ordinance was introduced

regarding use of the natural waters of the country. The Law of 1959 gave body to the State's ownership of the chief water resources within its borders. First, it maintained and extended public ownership of the country's water resources - rising, flowing and standing, above ground or underground, whether natural, regulated or made, including drainage and sewage water. Secondly, it explicitely provided that all such water was subject to the full control of the State and destined for the requirements of the inhabitants of the country and its development. In brief, the Law nationalised water resources and made them State property, although it did not provide for payment of compensation to existing owners. There are no longer any private owners of the said water resources in the entire country.

Although declaratory in form, sec. 1 of the Law is in fact constitutive in making all the country's water resources public property, by transferring privately owned water resources to public ownership. The Law did not expropriate the water supply systems themselves - the machinery installations, the conduits and all the other equipment involved in the extraction and supply of water. But with its enactment all extraction, supply, receipt and use of water - from private systems as well - became conditional on the existence of a right in that behalf derived from the Law. Hence, to be able to enjoy the right of receiving water from their systems the petitioners must found it on the Law.

We have already seen that sec. 5 does not confer any rights nor, I think, does sec. 26(a) assist. That subsection requires the Water Commissioner to grant a production licence to any person who produced or supplied water at the date when the Law came into force, or within the previous year, for the same quantity of water he previously produced or supplied and for the same customers who received water from him. This section therefore deals with the quantity and not the quality of water, and in this respect the petitioners do not plead deprivation.

With regard to a contractual right to receive water, the petitioners argue that, under its contract with the Pardess Hanna Water Association, Mekorot was obliged to supply Pardess Hanna water from the same resources as before. This argument must be examined in the light of the Law. Under sec. 3 every right to receive and use water - if and to the extent it exists - is subject to the provisions of the Law and the Law does not recognise a right to water from a particular resource or of a particular quality and certainly does not

perpetuate such a right. As the respondents showed, no obligation on the part of Mekorot exists at all in this regard. The first agreement stipulated that the chlorine in water supplied by Mekorot to Pardess Hanna should not exceed 300mg. a litre - a concentration which is much higher than that of the mixed water supplied by the National Carrier. In the last agreement which revoked all previous agreements, there is no obligation to supply water from any particular resource or of any particular quality. This argument therefore falls away both in point of law and in point of fact.

We now come to the question of the Regulations and the directions given by the Water Commissioner. Regulations 6 and 7 against which the darts of the petitioners were aimed provide the following:

> "6 (a) A supplier who has received a direction thereon from the Water Commissioner shall supply consumers with water of which the chlorine content shall, notwithstanding any agreement between them, be as follows:
>
> (1) in the centre of the country - up to 170mg. a litre of water:
>
> (2) in the south of the country - up to 250mg. a litre of water.
>
> (b) Notwithstanding the provisions of sub-regulation (a), asupplier who immediately before the commencement of these Regulations supplied a consumer with water having a chlorine content higher than that provided in sub-regulation (a) shall continue to supply to such consumer water having a chlorine content similar to that of the water he supplied to the consumer in the past.
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> 7. The Water Commissioner may direct a supplier to supply to avocado plantations water having a chlorine content lower than that ordered in regulation 6(a) at the times and upon the terms he may prescribe therefor, if satisfied that economically and technically such water can be supplied."

The Regulations were made by the Minister of Agriculture under sec. 37 of the Law, which empowered him to regulate the use of water in a rationing area. The determination of

rationing areas is also in the Minister's power under sec. 36, after consultation with the Water bodies mentioned therein. The Minister may declare an area to be a rationing area when satisfied that the area's water resources are insufficient for maintaining existing water requirements. Once having done so, he may under sec. 37(a), after consulation as aforesaid, regulate the supply and consumption of water in the rationing area by regulations prescribing *inter alia*

> "maximum consumption quantities, standards for the quality of the water and conditions for the supply thereof, and he may grade the allotted quantities, the standards of quality and the conditions of supply according to the use of the water within the scope of a particular water purpose, to the seasons of the year, to the hours of the day, to the quality and category of the land and to geographical, health or other data."

The first contention of the petitioners was that regulations 6 and 7 are based on an illegal order which prescribed the boundaries of the rationing area with which we are concerned. Originally the Minister of Agriculture divided the largest part of the centre of the country and the south into seven rationing areas. Then he added a rationing area in the Negev, and finally made all these eight areas into one rationing area stretching over most of the country. Only certain areas on the Haifa region and in the north are excluded, embracing two other rationing areas and a further area free from rationing. The petitioners plead that by converting almost the whole country into a single rationing area the Minister distorted his powers in the matter. An artificial unit was created, unnaturally combining the areas of the centre of the country, abundant in choice water, with the hot arid expanses of the south and the Negev.

This plea is unacceptable. The Minister of Agriculture may possibly have acted excessively in declaring most of the central areas a single rationing area but the determination of the boundaries of any rationing area lies within his unrestricted discretion after consulting with the Water Board and the supply committees, on the one condition only that he is satisfied that because of a lack of water in the area water consumption rationing should be introduced there. No rhyme or reason exists for distinguishing between areas with

abundant water and areas with scarcity of water and for perpetuating the existing situation in these areas. The Water Law is aimed at putting an end as far as possible to the severity of the country's deficiency of water and arrive at a more even balance in the allocation of water among different areas, those that possess and those that do not possess water. It is natural therefore that the Minister should choose to combine different hydrological zones into one rationing area, for only in this way can the major purpose of the Water Law be achieved, that water resources serve the needs of the whole population and the development of the entire country.

The next submission is that regulations 6 and 7 are too general, do not lay down clear standards as to the quality of the water to be supplied to different consumers and leaves the question of its acquisition to the whim and fancy of the Water Commissioner. The latter has been given an excessively arbitrary power to decide on who is to continue enjoying the water he previously obtained, who should receive good water and who poor water, which plantation is to flourish and thrive and which to decay and die off - a power even beyond that of the Minister of Agriculture himself, which should all the more so not be confided into the hands of an administrative official. In the petitioner's view, the Minister should have prescribed in the body of the Regulations different standards for the quality of the water to be supplied to different consumers and not to empower the Water Commissioner to discriminate as he felt between the different suppliers and consumers. This submission is actually part of a much broader submission, that the Regulations create or facilitate a threefold discrimination: between suppliers and between consumers: between areas and between undertakings: between the centre of the country and the south. Let me deal with these submissions *seriatim*.

1. Mr. Terlo's reply to the first submission was twofold. First, he said, the Water Commissioner is not an ordinary administrative official having limited powers like other government officials and competent authorities. Under sec. 138 of the Law, he manages water affairs in the State. That is, he is a State agency. As Mr. Terlo put it, he is "an organ of the State" and as such not confined to the specific powers conferred on him by the Law itself but entitled to exercise any power he requires to carry out his function. The Water Commissioner may, in other words, do everything he is not prohibited from doing, and in the present matter he does not act as "an agent" under the Regulations but as an

independent person. Secondly, Mr. Terlo says, if he acts as "an agent", his agency was imposed by the Law.

I must confess that I have not quite understood what Mr. Terlo has in mind, and if I understand him correctly, I am not prepared to agree. In my judgment, the provision in sec. 138 that "the Government shall appoint a Water Commissioner to manage water affairs in the State" is not to be understood other than that he is to manage such affairs in accordance with the Law and within the bounds of the authority and powers given or to be given to him for this purpose by or in pursuance of the Law. Like every other authority in the State performing a function under law, he cannot assume additional authority beyond that which the law gives him, apart as provided in sec. 26 of the Interpretation Ordinance.

At all events, it is clear that in the present matter the Water Commissioner did not purport at all to act other than in accordance with the Regulations. For the purpose of the latter he is "an agent" carrying out functions and performing tasks placed upon him by the Minister of Agriculture, the secondary legislator under sec. 37(a) of the Law.

One of the tests which the Regulations must abide by is that "standards of the quality of the water and conditions for the supply thereof" are to be prescribed. The standards and conditions need not be uniform in all cases but may be graded according to different criteria, including geographical, health and other data.

Regulation 6 undoubtedly meets this test. It prescribes different maximum standards of the chlorine content of water to be supplied to the centre of the country and the south, so that we have both water quality standards and grading according to geographical data. The further power given to the Minister to prescribe the conditions for supplying water is enough to enable him to appoint an administrative authority and put upon it the detailed work of implementation. The Minister does not have to go into the details. After having laid down policy, he may leave to an administrative official the elaboration of the details and the decision when and how to put it into operation: *Attorney-General v Horenstein* (1); *Maoz v Minister of Agriculture* (2). In the words of Agranat J. in the former case (at 384), "the committing to others of the task to decide the limited question when and how a regulation should come into operation is permitted."

Were the secondary legislation required to prescribe with precision the provisions of every detail requiring regulation in a matter, it would in most cases be impossible for him to act effectively. The implementation of policy laid down by a secondary legislator must necessarily be left to the reasonable discretion of administrative officials or bodies. "It is not to be assumed that an official will act arbitrarily and gratuitously create difficulties. If he does so, his superiors can review and control his actions" (per Smoira P. in Na*hmias v Attorney-General* (3) at 139).

Accordingly, in so far as the Water Commissioner has been delegated to determine how, when and in respect of whom the arrangements under regulation 6 should come into force, it is valid and no reason exists to set it aside.

As against this, it seems to me that regulation 7 is too general and vague and may not pass the test of resonableness. Not only does it leave to the Water Commissioner to decide the times and the conditions at and under which water is to be supplied to avocado plantations but it also leaves to his unlimited discretion to determine the chlorine content of the water to be supplied (provided it is below 170mg. a litre) and that also only when satisfied that economically and technically it is possible to effectuate. The owners of avocado plantations are therefore entirely at the mercy of the Water Commissioner and dependent on the economic and technical conditions with which implementation is bound up. Although it is not to be assumed that the Water Commissioner will act arbitrarily in order to spite or injure them, I am doubtful whether the grant of such unlimited and far-reaching power can be justified, particularly if we have regard to the fact that there is no provision for payment of compensation for any loss that may be sustained as a result of its exercise or non-exercise. Nevertheless, I have no intention to express any final view on this question. In fact, the Water Commissioner directed that the owners of avocado plantations in the areas concerned be supplied with water in the quantities they require with a chlorine content of 120mg. a litre, which apparently is unlikely to cause injury to the plantations. In view of the conclusion to which we have finally arrived, that the question of the quality of the mixed water and its fitness for the intended use requires no be examined by the Tribunal for Water Affairs, there is no need for us to decide upon the reasonableness of regulation 7.

2. Regarding the discrimination among the different areas and supply systems, the petitioners complain that the Water Commissioner ordered the National Water Carrier to be connected to some only of the water supply systems in the centre of the country, including their own, and not to all in this region. This partial connection, so the petitioners argue, was made for extraneous reasons, that is, in order to save the high cost involved in connecting the other systems, relatively to the cost of connecting to their own. Thus, they contend, they have been discriminated against.

Discrimination has indeed occurred here, at least temporarily until the means are acquired to connect the other water supply systems as well to the Nation Water System. But the discrimination is the inevitable consequence of objective technical and budgetary factors that justify it. As explained in the affidavit in reply by Mekorot, the Knesset has not allocated sufficient funds for connecting the whole of the central region to the National Water Carrier in the current financial year. For this reason, and for technical reasons which cannot be overcome in one move, it was necessary to carry out the connecting work by stages. The respondents, faced with the problem of choosing between the water systems to be connected with limited means at their disposal, picked upon those systems yielding much water of high quality and nearest to the National Carrier so as to derive the greatest benefit from the smallest means. These considerations, it seems to me, no one can deny are reasonably pertinent and justify what the respondents did: *"Parcel II Block 6605 Co. Ltd.* v *Minister of Development* (4). Furthermore, the allocation of limited funds and their use for a preferred purpose are not matters in which this Court can intervene effectively and are matters more for public opinion and the Knesset: *Cohen v Gvat Shaul* (5).

3. The relative discrimination as between the centre of the country and the south allegedly arises from the fact that whilst the former is to be supplied with much poorer water than it enjoys today, the situation in the south will not grow worse but rather improve because it will obtain from the Carrier water with a chlorine content after mixture not exceeding 250mc. a litre. The respondents deny that and urge that as for water quality, the mixing scheme will at the first stage not only not improve the situation in the south and the Negev vis-a-vis the centre of the country but worsen it. These areas will obtain water of a chlorine content of 250mg. a litre as against the present 200-230mg. The water resources from which water is supplied to the south and the Negev are increasingly being depleted and

existing demand can no longer be met without exhausting them. The central area, rich in water resources of low chlorine content, is today the only area from which it is possible technically and economically to take water for mixing with National Carrier water, and all the first stage of the mixing plan will make possible is to maintain the supply of water to the south and the Negev in present quantities. That concerns the factual aspect. From the legal aspect, I think that the discrimination which the petitioners plead is not of the kind which the law recognises as unjustified. It is nature that has discriminated between the centre and the south, that has blessed the central area with a lot of good water and has left the south and the Negev with relatively small and bad water resources. Even after the mixing scheme is carried out, the centre will in all respects be in a much better position than the south. Because of the difference between the two regions, the advantage will remain with the centre of the country. That is not discrimination of which people in the centre can complain.

There remains the main submission of the petitioners, that the mixed water to be supplied to them from the Carrier in place of what they now receive will not further the purposes for which it is intended but will cause inestimable damage to the citrus and avocado plantations. In as far as this submission relates to the Regulations such as they are, it has already been dealt with and there is nothing further to add. But the rule is that regulations may not be inconsistent with the Law from which they derive force and that to the extent that they are inconsistent and irreconcilable they must yield.

Sec. 42 (2) of the Law empowers the Water Commissioner, if he deems it necessary so to do for the purpose of implementing directions under Article Four dealing with rationing areas, to

> "direct that a particular consumer shall not receive water from the resource from which he was accustomed to receive it, but from another water resource; provided that the quality of the water shall be adequate to the purpose for which the water is intended."

Directions under Article Four obviously include those in the Regulations made under sec. 37. That means that if the Water Commissioner finds it proper to change the water resource from which a consumer is to receive water, he must ensure that the new water is of

a quality adequate to the purpose for which it is intended. This is a condition which the Law itself found fit to impose when water is changed and so the provisions of the Regulations in the same matter are subject thereto.

Whether the mixed water is suitable for its purpose or is likely to cause damage to the plantations is in sharp dispute by the parties.

The petitioners contend, on the basis of the opinion of their expert, that the water is unsuitable, that the yield from the plantations will fall and the quality of the fruit be lowered; the plantations will also suffer unforseeable damage, the extent of which only the future will reveal; in particular their soil will become non-porous, or acquire a non-porous substratum, which will prevent water from percolating and lead to accumulation of salts in the soil surrounding the roots of the trees.

On the other hand, the respondents argue that the mixing scheme, that finds expression in regulations 6 and 7 and the directions of the Water Commissioner is the outcome of prolonged discussion and basic clarification with interested parties in the light of the material on the subject, collected by experts in this country and abroad. The scheme was considered by the Water Council, the majority of whose members represent the public, and by the Agriculture Water Supply Committee, a subcommittee of the Water Council which is composed of agriculturalists and professionals in agriculture and also has a majority of public representatives. These bodies heard the arguments for and against the scheme and finally found it right to approve it. The respondents also submitted the opinion of an expert in problems of irrigation and salination, who leads the team of experts who were given the task of preparing a national salination survey, the purpose of which was to determine the effect of irrigation with water containing different salt concentrations upon agricultural soil and plantation in different areas of this country. This expert attached to his opinion the team's first salination survey of 1963, a report which is very cautious and restrained. The respondents urge on the basis of this material that everything will be done with excessive care not to injure plantations; in fact no such danger is contemplated by them. The Regulations as well provide for the daily inspection of the chlorine content of the water to be supplied under regulation 6, for the degree of accumulation of salts in the soil at root depth and in the growth tissues in plantations which receive such water, and they require the

Water Commissioner to order a reduction in chlorine content, a change in the water supply system and the provision of additional water for washing out salts in plantations, if that is found necessary in opinion of the committee of experts and the Agricultural Water Supply Committee (regulations 8 to 12). The scheme is intended for an experimental period of one year ending 31 March 1965.

The respondents are therefore satisfied that there is no danger of affecting the plantations. If such danger presents itself, they can contain it in good time. Yet, because of the great importance which the Government attaches to the ordered and speedy operation of the National Water Carrier, and in order to dispel the fears of the petitioners and others like them, Mr. Terlo announced in court on behalf of the Minister of Agriculture that whatever the position under the Law regarding payment of compensation the Government will bear the burden of any damage caused to plantations in the centre of the country as a result of the salination and chlorine content of water supplied from the mixed Water Carrier.

We have noted this announcement in favour of the petitioners, but in our opinion it is not enough. The petitioners' legal right under sec. 42 (2) when a change of water resource occurs is that the quality of the new water should be adequate for the purpose for which it is intended and in the event of differences of opinion the question should be gone into on its merits before any feared damage is sustained.

It is surprising that the Law does not regulate or in fact give expression to so basically important a matter affecting the success of the State's water scheme as the mixing of Carrier water. It is also not easy to reconcile logically the broad power given to the Minister of Agriculture by sec. 37 (a) with the proviso as to the exercise of the Water Commissioner's powers in sec. 42 (2). That proviso exists and the question remains whether the right assured to the owner of the changed water may be derogated from by the respondents' activities.

Under sec. 35 of the Courts Law, 1957, we may decide this question incidentally to hearing the petition, even if it lies within the exclusive jurisdiction of another tribunal. But the question is of a highly technical and professional nature and it would be very difficult for this Court to go into it exhaustively and arrive at a decision. Questions of this kind are

better dealt with, clarified and adjudged by a tribunal expert in the matter, if such there is. There is indeed such a tribunal in the Water Affairs Tribunal, composed of a judge and two representatives of the public competent in these matters (secs. 140 & 141 of the Law). According to sec. 43, "a person who considers himself aggrieved by an act of the Water Commissioner or by his directions under section 42 may lodge objection before the Tribunal." There being another competent tribunal which by its composition and procedure is more appropriate to hear the matter, there it no reason for us to take upon ourselves the task of decision in its place and that incidentally.

The petitioners indeed in anticipation addressed themselves to the Water Affairs Tribunal before coming here but because of the opposition of the respondents to its jurisdiction, the Tribunal did not answer the petitioner and decided by a majority that the matter was not within its jurisdiction. Since we think otherwise, we may under sec. 37 (a) of the Courts Law transfer the matter to a competent tribunal, the Water Affairs Tribunal, which by virtue of subsec. (b) can no longer not deal with it. That is in our judgment to be decided.

The petition is dismissed and the order *nisi* set outside. But we decide to transfer the matter to the Water Affairs Tribunal for it to hear and decide the question of the mixed water to be supplied to the petitioners in accordance with the Regulations in place of the water they receive at present of a quality adequate for the use for which it is intended, the irrigation of citrus and avocado plantations.

No order shall issue.

Petition dismissed and matter transferred to the Water Affairs Tribunal.

Judgment given on December 8, 1964.