



WP (MD) No. 4590 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 17.04.2023

CORAM:

THE HONOURABLE MR. JUSTICE **B. PUGALENDHI**

**WP (MD) No. 4590 of 2014
and WMP (MD) No. 1 of 2014**

M/s. Theevu Meenavar Sangam
(Island Fishermen Association,
Represented by its Secretary,
A. Arockiyam,
Pamban, Ramnad District.

... Petitioner

Vs

1. The Secretary to Government
Animal Husbandry, Dairying
and Fisheries Department,
Fort St. George,
Chennai.
2. The Commissioner of Fisheries,
Fisheries Office,
TMSS Compound,
Tenampet, Chennai-9.
3. The Deputy Director of Fisheries,
(Regional)
Collectorate,
Ramanathapuram.
4. The District Collector,
Ramanathapuram District,
Ramanathapuram.
5. The Assistant Director of Fisheries,
Ramanathapuram,
Ramanathapuram District.



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6.The Inspector of Fisheries,
Pamban,
Ramanathapuram District.

7.M.Arockiyam

8.M.Backiyam

9.A.Jeromeous

10.S.Alex

11.Joseph

12.F.David

13.D.Michael

14.D.John Brito

15.A.Tyson

16.S.Vijayakumar

17.K.Raj

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 to 6 to ensure the country boats fitted with high power engine from fishing in the sea during the closed season to ensure conserving the propogation of fish during the breeding season and further directing the respondents 1 to 6 to ensure the country boats (Vallam) from fishing beyond 3 nautical miles in the ocean on the basis of the representation of the petitioner dated 04.03.2014.



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For Petitioner : Mr.D.Kirubakaran
For Respondent : Mr.G.V.Vairam Santhosh
Nos.1 to 6 Additional Government Pleader
For Respondent : Ms.Porkodi Karnan,
Nos.7 to 17 for M/s.Polex Legal Solutions

ORDER

The present writ petition has been filed for a direction directing the respondents 1 to 6 to identify the country boats illegally fitted with engines and to take further action against the mechanised country boats by prohibiting them from fishing during the closed season.

2.It is stated in the affidavit that under Rule 6 (vi) of the Tamil Nadu Marine Fishing Regulation Rules, only the non-mechanised fishing vessel shall be used for fishing within three nautical miles from the shore and it is provided that the closed season for fishing in a specified area shall be notified from time to time by the authorised officer having jurisdiction over that area. During the closed season, ie., between 15th April and 29th May, the mechanised boats are not permitted to fish in the sea and during the closed season, the members of the



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petitioner's Association are not venturing into the sea for fishing to enable the propagation of fish. While so, the country boats which are otherwise called as Vallams, illegally fitted with high powered engines nearly 90 HP, are fishing beyond 3 nautical miles from seashore and thereby defeating the object of observing closed season. The country boats fitted with engines with high horse power are being operated like any other mechanised boats which cause harm to fish in the sea during the closed season under the cover of country boats and there is a specific restriction under The Tamil Nadu Marine Fishing Regulation Rules, 1983 for the country boats to fish within three nautical miles from the seashore. Hence the present writ petition has been filed for a direction directing the respondents 1 to 6 to identify the country boats, which were illegally fitted with engines and to take further action against the mechanised country boats by prohibiting them from fishing during the closed season.

3.The grievance of the petitioner is that the country boats illegally fitted with high power engines are fishing



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during the ban period and it is in violation of the Tamil Nadu Marine Fishing Regulation Act, 1983 and Rules. The 6th respondent is the competent authority to take action as against the violators, but the 6th respondent is not taking any stringent action as against these violators. Therefore, the petitioner has approached this Court.

4. Considering the issue, this Court directed the 6th respondent to file a detailed report by order dated 10.03.2014 and accordingly the 6th respondent has filed a report stating that fishing is prohibited from April 15 to May 29 every year for mechanised boats. However country vessels are permitted for fishing within three nautical miles from the seashore. The conservancy methods are taken by the department to operate the motorisational traditional crafts and motorisational vallams. The surveillance measures are conducted by the department to protect the resources sustainability and to prevent indiscriminate fishing during the ban period. According to the respondents, even in the year 2013-2014 163 fishermen had violated the Act and Rules and they were charge sheeted and penalties were imposed.



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5.The learned Counsel for the respondents 7 to 17 submits that the mechanised boat operators had violated the Act and Rules. Therefore, one country boat operator namely Arul has filed a writ petition before this Court in WP(MD)No.5990 of 2014 for a writ of mandamus for taking appropriate action as against the respondents 9 to 59 therein for violation of the provisions of the Tamil Nadu Marine Fishing Regulation Act and therefore, this writ petition has been filed by the mechanised boat operators to wreak vengeance.

6.This Court has considered the rival submissions and perused the materials placed on record.

7.The coastal area of the Tamil Nadu is governed by the provisions of the Tamil Nadu Marine Fishing Regulations Act and Tamil Nadu Marine Fishing Regulation Rules, 1983. The fishing vessels are classified as (i) country boats (ii)Vallams and (iii) mechanised boats. As per Section 3(g) of the Tamil Nadu Marine Fishing Regulation Act, 1983, the mechanised fishing vessel means, ship or boat fitted with mechanical means of propulsion having an engine not less



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than twenty horse power but not more than ten meters and not more than twenty meters, but does not include a deep sea fishing vessels. A deep fishing vessel means a ship or boat fitted with mechanical means of propulsion having an engine of not less than one hundred and fifty horse power and measuring in length not less than twenty meters.

8.The country boats and vallams are also registered by the Department of Fisheries as per the Tamil Nadu Marine Fishing Regulations Act and fishing area is prohibited for three nautical miles and this prohibition has also been modified periodically. From April 15 to May 29 is a ban period for fishing. During the period, the mechanised boats are prohibited from fishing. However, initially the country boats and vallams were permitted to conduct fishing during this period, only within three nautical miles and this distance is also now relaxed and they can do fishing at any distance. The grievance of the petitioner / Mechanised boat operator is that the country boats are using high power engines to conduct fishing activities. It appears there is law and order problem in this issue also.



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9.The Department claims that they are also taking necessary action against the country boat operators, who indulge in violation of the Act and Rules. It is also brought to the notice of this Court that during the year 2013-2014, 163 fishermen were charge sheeted and 63 fishermen were imposed with fine. The Department also claims that surveillance measures are taken and wherever there are violations, action is being taken.

10.Considering the specific stand taken by the Department that they are taking necessary surveillance measures to prevent the violations and to ensure the Act and Rules are strictly adhered to, this writ petition is disposed of with a direction to the official respondents to ensure that the provisions of the Tamil Nadu Marine Officer Regulations Act and Tamil Nadu Marine Fishing Regulation Rules, 1983 are strictly adhered to and necessary action shall be taken as against the violators of the Act and Rules, the petitioner and the private respondents are at liberty to approach the authorities, if they find anyone indulges in violation of the above Act and Rules for appropriate action. No costs. Consequently connected



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miscellaneous petition stands closed.

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Internet : Yes / No

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To

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B. PUGALENDHI, J.

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