

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.07.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.16260 of 2015

&

M.P.Nos.1 to 3 of 2015

Akkaraipatti Varuvai Grama Thazhthapattor  
Meenavar Sangam (Reg.No.80/2011)  
Rep. By its President  
Akkaraipatti, Namakkal

... Petitioner

Vs.

1. State of Tamil Nadu  
Rep. By the District Collector  
Collector's office, Namakkal
2. The Executive Engineer  
Public Works Department  
W.R.O, Sarabanga Division  
Namakkal District
3. The Assistant Executive Engineer  
Public Works Department (Waterworks)  
Rasipuram, Namakkal District

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writs of Certiorari and Mandamus after calling for the records relating to the Letter No.71/Ko-15/2015/Eva.a/dated 14.03.2015 issued by the second respondent and quash the same as being illegal, arbitrary and unconstitutional and consequently issue a direction to the first and second respondents to consider the request made by the petitioner for extension of fishing lease in the Semur Periya Eri in accordance with G.O.Ms.No.332 dated 17.11.1993 and grant the same with all consequential rights and benefits to the petitioner and award costs.

For Petitioner : Mr.C.K.Chandrasekar

For Respondent : Mr.S.Pattabiraman  
Government Advocate

O R D E R

By consent the writ petition itself is taken up for final disposal.

2. The petitioner is a society registered under the Tamil Nadu Societies Registration Act bearing Registration No.80 of 2011 and it consists of fishermen belonging to the Scheduled Caste community.

3. The petitioner would state that as per G.O.Ms.No.332 dated 17.11.1993 issued by the Animal Husbandry Department, the lease of Inland waters such as tanks, rivers, estuaries, canals, drains etc. wherein fisheries is being done, the Revenue Department Standing Order 211 is to be followed.

4. As per Revenue Standing Order 211, in respect of disposal of fisheries by lease, the lease should be given in the order of preference:

- (i) Co-operative Societies of fishermen or of Harijans engaged in fishing;
- (ii) Panchayat of the locality;
- (iii) Private individuals as determined by the results of public auction."

5. It is the specific case of the petitioner that the members of their association belonged to Schedule Caste Community and till the last year, they were granted lease in terms of the above said Government Order and this year only, when they made a request, it has been rejected by the respondent vide impugned letter dated 14.03.2015 without assigning any reason and challenging the legality of the same, the petitioner came forward to file this writ petition.

6. Mr.C.K.Chandrasekar, learned counsel appearing for the petitioner would state that it is not in serious dispute that the members of the petitioner association belong to Schedule Caste community and in terms of the above stated Government Order, they have to be granted preference and till the last year, they have been granted such a right in the form of lease and for this year, without assigning any reason, the respondent rejected their application and prays for interference.

7. Per contra, Mr.S.Pattabiraman, learned Government Advocate, who accepts notice for respondents 1 to 3, has invited the attention of this Court to the counter affidavit filed by the third respondent and would submit that one Periyasamy and 10 others have filed a suit in O.S.No.172 of 2010 on the file of the District Munsif Court, Rasipuram and had obtained interim injunction

restraining the defendants therein from granting lease to anybody else and that interim order is in force and that acts as an impediment to the grant of lease in favour of the petitioner. It is the further submission of the learned counsel appearing for respondents 1 to 3 that as per G.O.Ms.No.332 dated 17.11.1993, the Co-operative societies comprised of fishermen or of Harijans engaged in fishing should be given preference and the petitioner Association is registered under the Societies Registration Act and therefore, they could not be granted.

8. It is the further submission of the learned counsel appearing for the respondent that since there is law and order problem on account of the fact that other group of the people belong to same caste are also opposing the grant of lease in favour of the petitioner's association, a decision is taken to maintain status-quo as exists today. In response to the said submission, learned counsel appearing for the petitioner would submit that intention of the petitioner's society is that in the event of fishing being granted, it should go to the people belong to the Schedule Caste community and would further contend that law and order problem has not been cited as the reason in the counter affidavit and prays for appropriate orders.

9. This Court has carefully considered the rival submissions and also perused the materials placed before this Court.

10. The scope of G.O.Ms.No.332 dated 17.11.1993 came up for consideration in W.P.No.14652 of 20911 and this Court has also taken into consideration the Revenue Standing Order and passed an order dated 23.06.2011 directing the first respondent to take into consideration the above cited Revenue Standing Order No.211 and G.O.Ms.No.332, Animal Husbandry and Fisheries Department, dated 17.11.1993 and passed appropriate orders.

11. A perusal of the impugned order would disclose that no reason has been assigned as to the rejection of the request made by the petitioner's association. As rightly pointed out by the learned counsel appearing for the petitioner, on account of the law and order problem the matter could not be proceeded with, has not been stated as the reason in the counter affidavit.

12. This Court, in the light of G.O.Ms.No.332 dated 17.11.1993, which in turn placed reliance upon R.S.O.No.211, is of the view that the impugned order has to be set aside and the matter shall be once again remanded back to the third respondent to consider granting fishing rights in respect of water body, namely Periya Eri in Semur, Namakkal District.

13. In the result, the writ petition is partly allowed and the

impugned order is set aside and the matter is once again remanded to the third respondent for fresh consideration in the light of G.O.Ms.No.332 dated 17.11.1993 read with Revenue Standing Order No. 211. It is also open to the third respondent to consider individual claim of the members of the petitioner's association as well as the claim of any other society, which would satisfy the norms of the above said Government Order or individuals belonging to Schedule Caste community and take a decision as expeditiously as possible, not later than eight weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner as well as to the persons concerned.

14. The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gpa

To

1. The District Collector  
Collector's office, Namakkal
2. The Executive Engineer  
Public Works Department  
W.R.O, Sarabanga Division  
Namakkal District
3. The Assistant Executive Engineer  
Public Works Department (Waterworks)  
Rasipuram, Namakkal District

+1cc to Mr.C.K.Chandrasekar, Advocate, S.R.No.33036

+1cc to the Government Pleader, S.R.No.33340

W.P.No.16260 of 2015 &  
M.P.Nos.1 to 3 of 2015

RV(CO)  
CA(10/07/2015)