

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2015

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THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

W.P. Nos.28539 and 28540 of 2015
and
M.P.No.1 and 1 of 2015

W.P.No.28539 of 2015

1. R.ShanmugasundaramPetitioner in both W.Ps.
2. S.RameshPetitioner in W.P.No.28540/15
3. M.PrakashPetitioner in W.P.No.28540/15

vs.

1. Union of India,
Rep. by its Secretary Ministry of Agriculture,
New Delhi.
2. Coastal Aquaculture Authority,
Ministry of Agriculture,
Government of India,
II Floor, Shastri Bhavan Annex,
26, Haddows Road, Chennai - 600 006.
3. The Member Secretary,
Coastal Aquaculture Authority,
12-A, GDR Tower,
Bharathiar Road,
Vanuvampet,
Chennai - 600 091. Respondents in both W.Ps.

Petition filed under Article 226 of the Constitution of India for the issuance of a writ of certiorari, calling for the records in connection with the impugned order passed by the 3rd respondent vide proceedings Ref.F.No.55-4/2013-Tech. (PF) dated 07.08.2015 and quash the same.

For Petitioners : Mr.S.S.Sundar
for M/s.D.Ravichander

For R1 : M/s.Sunithakumari

For R2 and R3 : Mr.B.Vijay

COMMON ORDER

The petitioners' farm have been registered by proceedings dated 10.01.2011. In the application form, the petitioners have stated that it is situated about 1.5 km from the drinking water source and 0.5 km from the agricultural lands. A show cause notice was issued after verifying with the complaint made through the District Level Committee consisting of the Fisheries Department and the District Collector to show cause as to why the registration shall not be cancelled for violation of Clause 4.9 of Annexure-I of the guidelines under Coastal Aquaculture Authority Act 2005 (hereinafter referred to as CAA Act). The petitioners gave a reply, wherein, they have stated that as per the said regulation, sufficient distance is 200 metres, since the village contains only a population of less than 500. It is also stated that the village is situated 300 metres away from the shrimp farm of the petitioners. Pursuant to the same, the petitioners were also given personal hearings. Thereafter, final orders were passed canceling the registration for violation of clause 4.9 of Annexure-I of the guidelines under CAA Act 2005. Challenging the same, the writ petitions have been filed.

2. The learned counsel appearing for the petitioners submitted that if there is subsequent extension of drinking water source or creation of it and in the event of any subsequent construction leading to the extension of population near to the petitioners' farm then the same cannot be construed as violation. The learned counsel also submitted that there is no jurisdiction available to the Member Secretary being only an Executive Authority as against the Aquaculture Authority.

3. The learned counsel appearing for the respondents 2 and 3 submitted that there is a clear violation of Clause 4.9 of Annexure-I of the guidelines under Coastal Aquaculture Authority Act 2005. As per clause 4.9 of Annexure-I, of the guidelines under CAA Act, all shrimp farms should maintain 100 m distance from the nearest drinking water sources. In the case on hand, the farm is located within 15 metres from the agricultural land and about 200 metres from the nearby village. The petitioners are indulging in culturing of difficult species of shrimps contrary to the registration given for a local one. The consequences would be disastrous. There is every possibility of water getting percolated affecting the village and other water sources. The petitioners were given all the opportunities. In fact, the petitioners and others gave a letter on 04.08.2015 accepting the errors committed in the application made in the year 2011 by giving wrong particulars. In the said representation, while accepting the same, they sought for fresh consideration. In the light of the said admission, the petitioners cannot be allowed to continue any further. The

cancellation has been passed under Rule 5(XV) CAA Act, for violation of Clause 4.9 of Annexure-I of the guidelines under CAA Act 2005 and for providing false information in obtaining the certificate of registration. Therefore, no interference is required.

4. Though submissions have been made by the learned counsel for the respondents 2 and 3, this Court is not willing to go into the factual aspects. The order of cancellation has been passed on the ground of suppression of the relevant facts. In the explanation to the show cause notice, the petitioners have merely stated about the village having population of about 500. Except that, there is no other explanation. In other words, no explanation for the alleged violation under Rule 5(XV) of CAA Act has been given. When once the petitioners themselves have stated that they have given wrong information, it is not open to them to contend to the contrary before this Court. The records would also show that the petitioners gave such a statement on 04.08.2014 duly signed by them.

5. Looking from any angle, this Court is unable to accept the contentions made by the learned counsel for the petitioners. There is no material to accept the contention regarding lack of jurisdiction. It was also not even raised when an opportunity was given. Accordingly, both the writ petitions stand dismissed. However, this dismissal order will not stand in the way of the petitioners making fresh application, provided, they satisfy all the parameters as required, as the learned counsel for the petitioners submitted that the petitioners have sufficient lands near by, to comply with the requisite conditions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

1. The Secretary, Ministry of Agriculture,
New Delhi.

2. Coastal Aquaculture Authority,
Ministry of Agriculture,
Government of India,
II Floor, Shastri Bhavan Annex,
26, Haddows Road, Chennai - 600 006.

3. The Member Secretary,
Coastal Aquaculture Authority,
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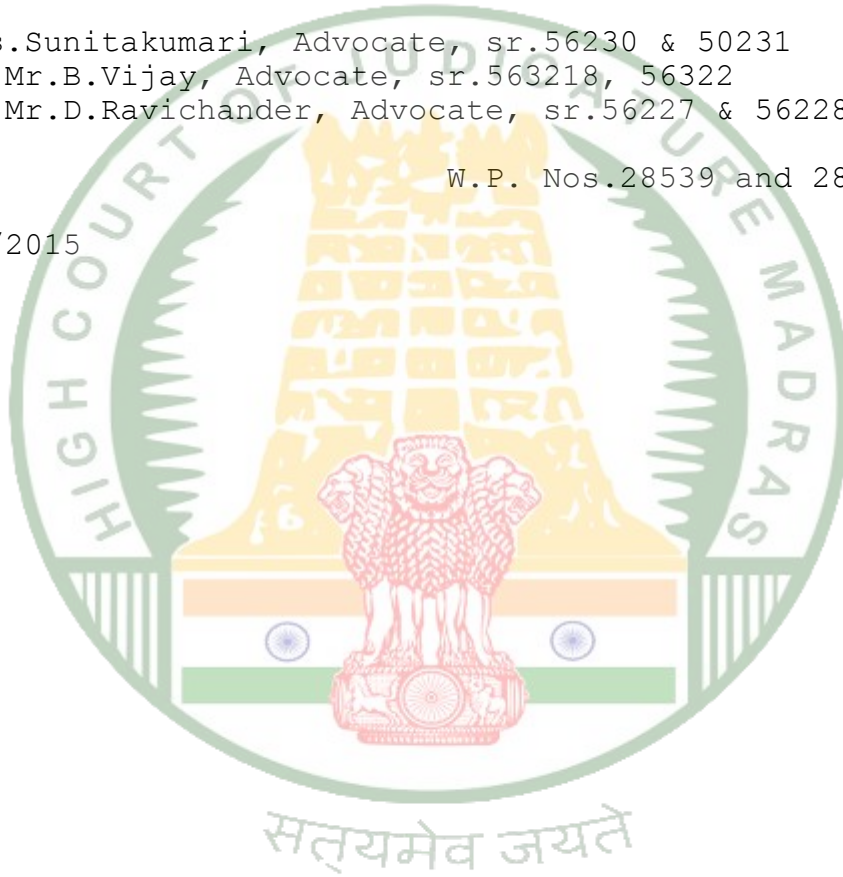
+2 ccs Mrs.Sunitakumari, Advocate, sr.56230 & 50231

+2 ccs to Mr.B.Vijay, Advocate, sr.563218, 56322

+2 ccs to Mr.D.Ravichander, Advocate, sr.56227 & 56228

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