

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.35038 of 2015
and
M.P.Nos.1 & 2 of 2015

Mettur Dam Fisher's Welfare Association
rep.by its President A.Gopal,
Salem.Petitioner

Vs.

- 1.Government of Tamil Nadu,
rep.by its Secretary to Government,
Animal Husbandry, Dairying and Fisheries(FS3)
Department,
Fort George, Chennai-9
 - 2.The Commissioner of Fisheries Department,
Administrative Office Building,
Teynampet, Chennai-600 006
 - 3.The Inspector of Fisheries,
Mettur Dam,
Salem District
 - 4.The Deputy Registrar of Co-operative Society,
Salem Circle, Salem District
 - 5.The President,
K.K.98, Mettur Dam Fisheries,
Co-operative Marketing Society Ltd.,
Mettur Dam, Salem District
- ...Respondents

This petition is filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records from the second respondent in his Notification Na.Ka.No.29400/F3/2014 tender cum auction notice dated 13.10.2015, publication in Dinamani newspaper dated 14.10.2015, quash the same in so far as the Mettur Dam, Salem District is concerned and issue consequential direction forbearing the respondents from preventing the petitioner association members in exercising their fishing rights in Mettur Dam, Salem District.

For Petitioner : Mr.A.Esakkiappan

For Respondents : Mr.RAS Senthil Vel, A.G.P.
for R1 to R3
Mr.D.Venkatachalam, G.A.
for R4

ORDER

Heard Mr.A.Esakkiappan, the learned counsel for the petitioner and Mr.RAS Senthil Vel, learned Additional Government Pleader appearing for R1 to R3 and Mr.D.Venkatachalam, learned Government Advocate appearing for R4 and with the consent of either side, the writ petition itself is taken up for final disposal at the admission stage.

2. The petitioner has filed this writ petition seeking for a writ of mandamus to call for the records from the second respondent in his Notification Na.Ka.No.29400/F3/2014, tender cum auction notice dated 13.10.2015, published in Dinamani newspaper dated 14.10.2015 and quash the same in so far as the Mettur Dam, Salem District is concerned and issue consequential direction forbearing the respondents from preventing the petitioner association members in exercising their fishing rights in Mettur Dam, Salem District

3. The grievance of the petitioner is twofold. Firstly, it is contended that the present impugned Notification has been issued in violation of the undertaking given by the second respondent before this Court in W.P.Nos.2318 and 2609 of 2015. Secondly it is stated that except for the change of date, there is no other variation in the present impugned Notification.

4. It is seen that the earlier writ petitions are pending before this Court and this Court has passed an order based on the instructions given by the officials of the Fisheries Department, who were present in Court. The operative portion of the interim order granted by this Court on 10.2.2015, reads as follows:

"4. One of the grounds raised in the writ petitions is that if there is tender notification and third parties are granted right to fishing operation in the Mettur Dam, then the rights of the petitioners will be grossly affected and it would virtually throw them out of employment.

5. The learned Additional Government Pleader, appearing for the respondents, on instructions from the officials of the Fisheries Department,

who are present in Court, submitted that by virtue of the tender invited by the respondent, the rights which have been granted to the petitioners to carry out fishing operation in the Mettur Dam will no way be affected.

6. In the light of the above stand, the same is placed on record and it is observed that on account of the invitation of the tender pursuant to the impugned tender notification, the rights of the petitioners for fishing in the Mettur Dam shall not in any manner be affected until further orders."

5. In the light of the above undertaking, which has been recorded and interim orders being in force till date, if the respondent authorities violate the same, they will be liable to be punished for committing contempt and therefore, the petitioner need not have any apprehension that merely because the impugned notification has been issued, it would affect their rights, which have been protected by the interim orders passed, on the undertaking given by the respondent department in the earlier writ petitions.

6. With the above observation, the writ petition is disposed of. No costs. Connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

msk

To

1.The Secretary to Government,
Animal Husbandry, Dairying and Fisheries(FS3)
Department,
Fort George, Chennai-9

2.The Commissioner of Fisheries Department,
Administrative Office Building,
Teynampet, Chennai-600 006

3.The Inspector of Fisheries,
Mettur Dam,
Salem District

4.The Deputy Registrar of Co-operative Society,
Salem Circle, Salem District

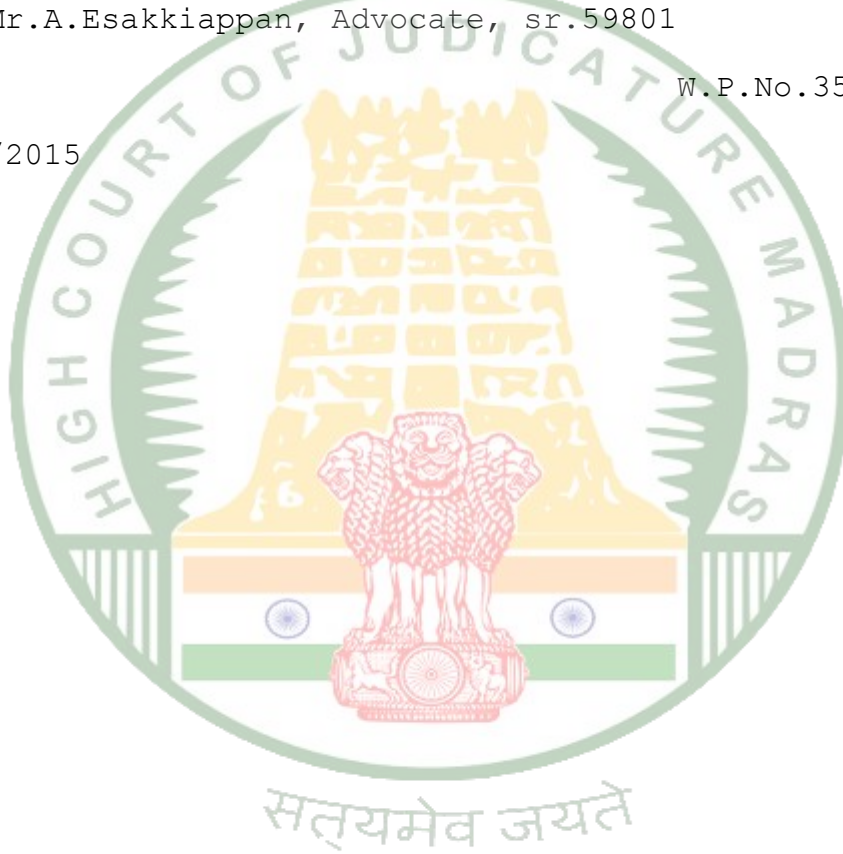
5.The President,
K.K.98, Mettur Dam Fisheries,
Co-operative Marketing Society Ltd.,
Mettur Dam, Salem District

+1 cc to Government Pleader, sr.60120

+1 cc to Mr.A.Esakkiappan, Advocate, sr.59801

W.P.No.35038 of 2015

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