

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.8776/2015 & MP.No.1/2015

Mr.A.Kuttiyandi

.. Petitioner

Versus

- 1.The Secretary to Government
Government of Tamil Nadu
Revenue Department,
Fort St. George, Chennai-9.
- 2.The Secretary to Government
Government of Tamil Nadu
Animal Husbandry and Fisheries
Department, Fort St George
Chennai.
- 3.The Commissioner of Revenue Administration
[Relief and Rehabilitation], Chepauk,
Chennai.
- 4.The Director
Department of Fisheries
Teynampet, Chennai.
- 5.The Assistant Director
Department of Fisheries
Nagapattinam, Nagapattinam District.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records of the 5th respondent in proceedings No.Na.Ka.No.256/B3/2011 dated 18.03.2011 and Na.Ka.No.829/B3/2007 dated 31.07.2012 and quash the same and consequently direct the respondents to consider the petitioner representations dated 25.07.2012, 02.08.2012 for granting full subsidy of Rs.2,00,00,000/- as Tsunami relief for the petitioner boat namely fishing Trawler boat bearing Registration No.M.S.763 dated 18.12.1984 with the port conservation, State Port Officer, Chennai 600 031.

For Petitioner : Dr.G.Krishnamurthy for
Mr.V.Jaishankar
For RR 1 to 3 : Mr.R.Vijayakumar, AGP

ORDER

Heard Mr.Dr.G.Krishnamurthy, learned counsel appearing for Mr.V.Jaishankar, learned counsel for the petitioner and Mr.R.Vijayakumar, learned Additional Government Pleader accepting notice for the respondents and with their consent, the writ petition itself is disposed of at the admission stage itself.

2.The petitioner has filed this writ petition seeking to quash the impugned orders of the 5th respondent dated 18.03.2011 and 31.07.2012 respectively and for a consequential direction to grant full subsidy to the pet for the damages caused to his Fishing Trawler Boat.

3.The petitioner would state that he belongs to the Fishermen community and his family consists of 7 members. The petitioner's family own a Mechanised Fishing Boat bearing Registration No.763 dated 18.12.1984 registered with the Port Conservation, State Port Officer, Chennai. The petitioner is said to have permitted his brothers-in-law Mr.Kirubakaran and Mr.Baskaran to use the boat for fishing activities and they had been using the boat in the Coast of Puducherry for conducting fishing activities and they registered the boat in the office of the Deputy Director [Machine], Fisheries and Fishermen Welfare Department, Puducherry, bearing Registration No.PFP-203. Thereafter, the boat is said to have been shifted to Nagapattinam and the same is said to have been intimated to the 5th respondent and the boat had been used in Nagapattinam coast since January 2004. Due to Tsunami, which struck the shores of Tamil Nadu, the boat was fully damaged. The petitioner sought for grant of compensation. However, the 4th respondent, vide letter dated 18.03.2011 refused to grant compensation on the ground that the boat was registered with the Puducherry Government authorities. Thereafter, the petitioner submitted a representation stating that the boat was originally registered in Tamil Nadu and the boat was permitted to be used in the Nagapattinam coast by the 5th respondent. In spite of several representations, the request of the petitioner has not been considered. Therefore, the petitioner approached this Court challenging the order passed in the year 2011, refusing to grant subsidy on the ground that the boat was registered in Puducherry.

4.It is seen that the 5th respondent, by communication dated 31.07.2012, addressed to the Personal Secretary of the Honourable Minister for Fisheries, with a copy marked to the petitioner, stated

that the request made by the petitioner is a belated claim and therefore, the same cannot be considered.

5.It is seen that in the year 2011, the petitioner's request was rejected only on the ground that the boat is registered in Puducherry. The consistent case of the petitioner is that the boat was registered in Tamil Nadu and was used at Puducherry after obtaining registration and subsequently, shifted to Nagapattinam and according to the petitioner, permission was granted by the 5th respondent for use of the boat in Nagapattinam.

6.Learned counsel for the petitioner has drawn the attention of this Court to the certificate issued by the Director, Department of Fisheries and Fishermen Welfare, Puducherry, dated 12.06.2008, wherein the authority has certified that the Department of Fisheries and Fishermen Welfare, Puducherry, has granted any compensation to the mechanised boat bearing No.PFP-203 owned by the petitioner and reportedly damaged at Nagapattinam, Tamil Nadu, during Tsunami in the year 2004. Further, it is seen that the 5th respondent has made an endorsement in the petitioner's license on 29.01.2004 stating that the boat bearing Registration No.PFP-203 is permitted to stay at Nagapattinam for fishing from the said date. In the light of the above documents, there is sufficient proof to show that with the permission of the authorities, the boat was at Nagapattinam, and the petitioner has not received any compensation from the Government of Puducherry. In the light of the above, merely because there has been delay in considering the petitioner's claim which is not fully attributable to the petitioner, his request cannot be negated. Therefore, the impugned order seeks for interference.

7.Accordingly, the writ petition is allowed and the impugned order dated 08.03.2011 as well as the communication dated 31.07.2012 rejecting the petitioner's claim as time barred, are quashed and the petitioner's application for grant of compensation is remanded to the respondents, viz., the respondents 4 and 5 for fresh consideration. The respondents 4 and 5 are the competent authorities who has to consider the claim, shall issue notice to the petitioner, direct the petitioner to produce all the documents in original and after satisfying themselves, shall pass appropriate orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

To

1.The Secretary to Government
Government of Tamil Nadu
Revenue Department,
Fort St. George, Chennai-9.

2.The Secretary to Government
Government of Tamil Nadu
Animal Husbandry and Fisheries
Department, Fort St George
Chennai.

3.The Commissioner of Revenue Administration
[Relief and Rehabilitation], Chepauk,
Chennai.

4.The Director
Department of Fisheries
Teynampet, Chennai.

5.The Assistant Director
Department of Fisheries
Nagapattinam, Nagapattinam District.

+1 cc to Government Pleader,SR.17629

+1 cc to Mr.V.Jaishankar, Advocate,SR.17294.

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krd 7/4

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