



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :22.09.2015

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THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P(MD).No.6167 of 2015

and

M.P(MD)No.1 of 2015

K.Thangadurai

...Petitioner

Vs.

1.The Secretary,
Government of Tamilnadu,
Animal Husbandry, Dairying
And Fisheries Department,
Fort St. George,
Chennai - 600 009.

2.The Director of Fisheries,
Fisheries Department,
Theynapet,
Chennai - 600 006.

3.Assistant Director of Fisheries,
Fisheries Department,
Vaigai Dam,
Theni District.

...Respondents

Prayer: This Writ Petition has been filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records relating to the order of the second respondent in No.32601/F4/2014, dated 01.04.2015 and quash the same as it is arbitrary and illegal and in consequence direct the respondent to extend the period of fishing right in Meenakshiamman Peria Kanmoi, situated at B.Ammapatti in Bodi Taluk in Theni District to the petitioner for further period of five years by fixing any reasonable amount, dehorsing the condition in clause 11 and 14 of the agreement dt. 13.10.2010.

For petitioner	: Mr.Prabhu Rajadurai
For Respondents	: Mr.K.Guru, Special Government Pleader

ORDER

The Writ Petition has been filed praying for a Writ of Certiorarified Mandamus calling for the records relating to the order of the second respondent in No.32601/F4/2014, dated 01.04.2015 and quash the same as it is arbitrary and illegal and consequently direct the respondent to extend the period of fishing right in Meenakshiamman Peria Kanmoi, situated at B.Ammapatti in Bodi Taluk in Theni District to the petitioner for a further period of five years by fixing any reasonable amount, dehorsing the condition in clause 11 and 14 of the agreement dated 13.10.2010.



2. The case of the petitioner is that the petitioner was the successful bidder in the tender-cum-auction conducted by the third respondent for fishing right in Meenakshiamman Peria Kanmoi situated at B.Ammapatti in Bodi Taluk in Theni District for three years period from 2010 to 2013 by offering the bid amount of Rs.8,00,001/- for one year period from 01.07.2010 to 30.06.2011. As per the terms and conditions, the petitioner has to pay 5% of the bid amount to the Fishermen Welfare Board and thus, the petitioner has paid a total sum of Rs.8,40,001/- towards the lease amount. Further, as per the terms and conditions, for the three years lease period, for every succeeding year, the petitioner has to pay 10% of the original lease amount. On 13.10.2010, a written agreement was prepared by the third respondent and in which, he obtained the signature of the petitioner and then only, the petitioner got possession of the tank for stocking the fish seeds. As per the terms and conditions, the petitioner should purchase the fish seeds from the third respondent only and stock the same in the tank under his supervision. But unfortunately since no fish seeds were available with the third respondent, the petitioner was forced to purchase about 4,20,000 fish seeds from outsiders for huge amount and stocked the same in the tank. During first year of the lease period, the fishes in the tank were grown up to the weight of 1 kg to 1 ½ kgs and when it is matured to be caught, on 23.02.2011, all the 4,20,000 fishes were found dead due to the poisoning of water. Immediately, the petitioner gave a complaint to the third respondent and Inspector of Police, Bodi and they have also visited the tank on 25.02.2011 and noted down the dead fishes and in pursuant to the order of the third respondent, the petitioner removed all the dead fishes by engaging several coolie workers by using Tractors. The petitioner has also made a requisition to compensate the petitioner. In the meantime, the petitioner concentrated in the second year lease period and stocked 4,50,000 fishes by purchasing the same from outsiders. But unfortunately, due to monsoon failure, the tank had not been filled up and fishes could not be cultivated and once again the petitioner incurred heavy loss. In the third year lease period also the petitioner suffered heavy loss. Hence, by putting forth his grievance, the petitioner sent a detailed representation to the third and second respondent on 11.02.2013 and 16.08.2013 respectively, requesting to extend the lease period for another five years by fixing any amount lower than that of the original lease amount as per the norms and Government order. Since the said representation was not considered, the petitioner filed a Writ Petition in W.P.No.25487 of 2013 before the Principal Bench of this Court and in which a direction was given to the second respondent to dispose of the representation submitted by the petitioner in accordance with law. Thereafter, the second respondent by order dated, 26.02.2014, rejected the claim of the petitioner on the ground that there is a condition in clause 11 and 14 of the agreement dated 13.10.2010. Aggrieved over the same, the petitioner preferred an appeal before the second respondent and the same was also disposed of without hearing the petitioner and hence, the petitioner filed another Writ Petition in W.P.No.15981 of 2014 to quash the order of second respondent and the same was allowed with a direction to the second respondent to pass appropriate orders after giving opportunity of hearing to the petitioner. Subsequently, the petitioner was called for personal hearing on 11.03.2015 and on that day, the petitioner produced all the services and after perusing the same, the second respondent passed the impugned order dated 01.04.2015 rejecting the claim of the petitioner. Challenging the said order, the petitioner has come forward

with the present Writ Petition.

3. The only submission made by the learned counsel for the petitioner is that the petitioner suffered heavy loss due to the reasons beyond his control. He further submitted that the petitioner is prepared to pay Rs.10,00,000/- as lease amount and therefore, a direction may be issued to the respondents to extend the lease period of the petitioner for another five years.

4. Heard the submissions of the learned counsel for the petitioner and the learned Special Government Pleader for the respondents and perused the materials available on record.

5. This Court is not inclined to give a direction for extension of the lease period of the petitioner for another five years as requested by the learned counsel for the petitioner. However, considering the submissions made by the learned counsel for the petitioner, this Court is constrained to pass the following order.

6. The Writ Petition is allowed. No Costs. The impugned order of the second respondent, dated 01.04.2015 is hereby set aside. Further, the petitioner is directed to deposit the lease amount of Rs.10,00,000/- along with 5% Welfare Fund to the third respondent on or before 30.09.2015 and on such deposit, the respondents shall extend the lease period of the petitioner for another one year. After expiry of one year period the petitioner is at liberty to approach the respondents for extension of lease period and in that event, the respondents shall consider the same on merits and in accordance with law. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar.

To

1.The Secretary, Government of Tamilnadu, Animal Husbandry, Dairying And Fisheries Department, Fort St. George, Chennai - 600 009.

2.The Director of Fisheries, Fisheries Department, Theynampet, Chennai - 600 006.

3.Assistant Director of Fisheries, Fisheries Department, Vaigai Dam, Theni District.

+1CC to Mr.G.Prabhu Rajadurai, Advocate, SR.No.56378

+1CC to The Special Government Pleader SR.No.56695

W.P(MD) .No.6167 of 2015
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AM/29.09.2015/SK.SKN/SAR-I/3P/6C