

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2016

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THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.No.20182 of 2016

and

WMP No.17356 AND 17357 of 2016

A.G.Palanichamy

... Petitioner

Vs.

1. The Government of Tamilnadu,
Rep. By Secretary to Government,
Animal Husbandry & Fisheries Department,
Fort St.George,
Chennai 600 009.

2. The Commissioner of Fisheries,
Tenampettai,
Chennai 600 006.

3. The Assistant Director of Fisheries,
Erode-3.

4. K.Murugesan
(R4 impleaded as per order dated 23.09.2016
in WMP No.25362 of 2016 in
WP No.20182 of 2016)

... Respondents

Prayer :Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the production of the records relating to the proceedings dated 27.05.2016 made in Na.Ka.No.29400/F3/2014 passed by the second respondent herein quash the same and direct the second respondent to grant fishing rights in respect of Varattupallam Tank in Erode District to Anthiyur Besthavar Meenavar Co-operative Sales Society at Anthiyur, Erode District.

For Petitioner : Mr.S.Senthilnathan

For Respondents : Mr.A.Kumar
Special Government Pleader
For R1 to R3
Mr.S.Satheesh Kumar for R4

ORDER

The writ petition is filed to quash the impugned proceedings dated 27.05.2016 passed by the second respondent and to direct the second respondent to grant fishing rights in respect of Varattupallam Tank in Erode District to Anthiyur Besthavar Meenavar Co-operative Sales Society at Anthiyur, Erode District.

2.The petitioner is the Vice President of Anthiyur Besthavar Meenavar Co-operative Sales Society at Anthiyur in Erode District. According to the petitioner, the members of the society were given fishing rights in Tanks and fishing is the livelihood of them. The third respondent through his proceedings dated 08.07.2015 granted fishing rights to 9 groups of the society and they are doing fishing in Varattupallam Taluk. Whiles, the second respondent by proceedings dated 27.05.2016 invited tender-cum-open auction to grant fishing licence to individuals in respect of tanks mentioned in the tender notice. Aggrieved against the same, the petitioner has come up with the present writ petition to quash the impugned order and to direct the second respondent to grant fishing rights to the society. According to him, the petitioner's society passed resolution in the general body meeting held on 03.06.2016 asking the respondent to withdraw the tender to individual and grant fishing rights to the society.

3. According to the petitioner, fishing rights was granted to the society as per G.O.Ms.No. 332 dated 17.11.1993, stating that the society should be given the first opportunity. The cooperative society for the past more than 15 years have been doing fishing in the said tank. But, without taking this into consideration, in the impugned order, a public auction has been sought for the fishery rights. According to the petitioner, even it has been specifically stated fishery should mean private party which will not include the society. Therefore the society could not be able to participate in the tender. The very right of the members of the society has been taken away because of the impugned notification. Therefore, they challenged the very notification.

4.Counter affidavit has been filed stating that it was public auction as per G.O.Ms.No.165, Animal Husbandary, Dairying and Fisheries Department dated 25.09.2012. In other matter, there was no bar for the society to participate in the auction in fact they are exempted from giving solvency certificate and they are entitled to. In spite of the same, they did not even participate and therefore, they cannot question at this stage.

5.Learned counsel for the petitioner would suggest that they are prepared to pay 100% more than the auction amount. When this court directed them to file an affidavit to that effect, after a long time, today filed an affidavit wherein they did not state any amount. This clearly shows the tactics of the petitioner to delay the period for their enjoyment.

6. Paragraph No.7 of the counter affidavit stated that there are other five lakes and first of all, they could have very well participated in the auction and in fact, the Government has given exemption to them from solvency certificate. Therefore, before challenging the quantum amount, they even went to the extent of stating that they are prepared to pay 100% more than the auction amount. Even though they agreed to offer as a condition precedent they have not stated so in the affidavit. Therefore, it is nothing but dilly-dally tactics and in fact, the writ petition is not filed in the name of the society but only in the name of the individual Vice President. I find no merit in the writ petition and accordingly, the writ petition fails and the same is dismissed. No costs. The connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Government of Tamilnadu,
Animal Husbandry & Fisheries Department,
Fort St.George, Chennai 600 009.
2. The Commissioner of Fisheries,
Tenampettai, Chennai 600 006.
3. The Assistant Director of Fisheries,
Erode-3.

+1cc to Mr.S.Senthilnathan, Advocate, S.R.No.73896

+1cc to the Government Pleader, S.R.No.74087

+1cc to Mr.D.Selvaraju, Advocate, S.R.No.74096(10.02.2017)

W.P.No.20182 of 2016

LRS(CO)

CA(01/02/2017)