

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.9900 of 2016

FMR.21, Morappur Fishermen

Co-operative Society,

Morappur Post, Harur Taluk,

Dharmapuri District,

Rep. by its elected President S.Rangan

.. Petitioner

Vs.

1. The Commissioner,
Morappur Panchayat Union,
Morappur, Harur Taluk,
Dharmapuri District.

2. The Assistant Director of Fisheries,
(Inland Fisheries),
Avvai Nagar, Dharmapuri-5.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents to consider the representation of the petitioner, dated 04.03.2016 and to fix the lease of fishing right to the petitioner in Thenkaraikottai Lake for five calendar years from 01.01.2016 to 31.12.2020 instead of Fasli year.

For Petitioner : Mr.S.Doraisamy

For Respondents : Mr.P.Sanjay Gandhi, Addl.G.P.

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents to consider the representation of the petitioner, dated 04.03.2016 and to fix the lease of fishing right to the petitioner in Thenkaraikottai Lake for five calendar years from 01.01.2016 to 31.12.2020 instead of Fasli year.

2. The affidavit in support of the Writ Petition is sworn to by the elected President of the petitioner-Society, stating that the Society was formed for the welfare of the inland fishermen; the members of the Society are poor inland fishermen engaged in fishing in the lakes situated in and around Morappur and Pappireddipatti area. A lake called "Thenkaraikottai Lake" is situated within Morappur Union under the control of the first respondent. It is further stated that on obtaining permission from the first respondent, the second respondent would grant the fishing right by applying the Government Order in G.O.Ms.No.332, Animal Husbandry and Fisheries (F.S.IV) Department, dated 17.11.1993, as per which, the fishing right will be granted for five years by escalation of lease amount by 10% every year. The said G.O. provides for grant of lease to the Co-operative Societies of fishermen or Harijans engaged in fishing and if these two categories are not available, then only the lease will be granted to others.

3. The petitioner-Society made a representation to the second respondent on 03.12.2015 for grant of lease in respect of the above lake to the petitioner-Society for five years from 01.01.2016 to 31.12.2020 and they also enclosed a resolution passed by the Society to that effect in Resolution No.38/2015 along with the representation. The said representation was forwarded by the second respondent to the first respondent on 03.02.2016 for grant of lease of fishing right in the lake, viz. Thenkaraikottai Lake to the petitioner-Society for five years from Fasli year 2015-2016 to Fasli year 2019-2020 by fixing rent for the respective years. It is the further case of the petitioner-Society that the lease would normally commence from 1st January and not in the middle of the Fasli year. The 1st of the year was chosen as commencement of lease by taking into consideration the seasonal rain, availability of fish in the other States, maintenance of fish culture, etc. The second respondent wrongly made recommendation to fix the lease from the Fasli year i.e. 2015-2016 instead of calendar year from 01.01.2016. If Fasli year is taken into account, the petitioner-Society would be deprived of fishing rights for four months and there would be 20% loss to the Society.

4. In the above situation, the petitioner made a representation to the respondents on 04.03.2016 to fix the lease from the calendar year instead of Fasli year and they have produced Demand Draft for Rs.21,000/- for the first year lease. Since no order has been passed, the petitioner has filed this Writ Petition for the above relief.

5. Heard both sides.

6. Considering the above factual aspects of the matter, without going into the merits of the claim of the petitioner, this Court directs the respondents to consider the said representation, dated 04.03.2016 of the petitioner, conduct enquiry, give an opportunity of hearing to the petitioner-Society and its members and other necessary parties and thereafter pass appropriate orders and dispose of the said representation, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

7. With the above observations and directions, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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Copy to

1. The Commissioner,
Morappur Panchayat Union,
Morappur, Harur Taluk,
Dharmapuri District.
2. The Assistant Director of Fisheries,
(Inland Fisheries),
Avvai Nagar, Dharmapuri-5.

+1 cc to M/s.S.Doraisamy, Advocate, sr.17279

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