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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 17.06.2016

CORAM

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P (MD) No.10693 of 2016

and

W.M.P (MD) No.8293 of 2016

Danushkodi

..Petitioner

Vs

1.The District Collector,
Tirunelveli District.

2.The Executive Engineer,
Water Resource Organization,
Public Works Department,
Chithar Basin Division,
Tenkasi at Kudiyiruppu - 827 802
Tirunelveli District.

3.The Assistant Executive Engineer,
Chithar Basin Sub-Division,
Ambasamuthiram,
Tirunelveli District.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to enforce G.O.Ms.No.332, Animal Husbandry and Fisheries Department, dated 17.11.1993 and to direct them to renew the Adaichani Periyakulam lease for five years 2015-16 to 2019-20.

For Petitioner :M/s.T.S.R.Venkatramana

For Respondents :Mr.A.Muthukaruppan
Addl.Govt.Pleader

ORDER

Heard both sides.

2.By consent of both sides, the main Writ Petition itself is taken up for final disposal.

3.According to the Petitioner, he makes out a living out of fish and he is a fish culturist. Furthermore, he takes small tanks for lease and grow fish, catch them and sell them and make a small profit in the bargain. The stand of the Petitioner is that <https://hdsrves.com/india/articles/> lease out the water tanks in Tirunelveli District and traditionally, fish coming into the tank through the flood water flow and he took on lease the Adaichani Periyakulam for



the year 2015-2016 for highest bid amount of Rs.46,000/- etc. He had spent a sum of Rs.80,000/- to buy the fish seeds to let into the tank. He had also spent a sum of Rs 1 lakhs on fish food, watch and maintenance of the tank.

4. During December 2015, the entire State of Tamil Nadu receive unusual heavy rains flooding the State. The flooding of the City of Madras has become a national disaster. Due to heavy rain in the Western Ghats, during the same period, the Adaichani Periyakulam water swelled and threat of tank bund breaching, resulting in deluge of nearby villages of Adaichani.. The water capacity of the tank was 250 acres and was threatened to breach any time. The officials had no other way except to cut open the bud to discharge the water to prevent breach of tank. JCB was used to cut open the tank bund in a safe place to let out the excess water.

5. The plea of the Petitioner is that although the actions of the Respondents in cutting the tank bund was bona-fide and with an intention to save the society, it had caused him great loss and damage and because of the water, the entire fish grown by him worth about Rs.5 lakhs also escaped and the Respondents are bound to compensate him for the loss caused to him, under the flood damages.

6. The Government of Tamil Nadu had passed G.O.MS.No.332, Animal Husbandry And Fisheries (FDS.IV) Department, dated 17.11.1993, to the effect that the fish auction should be for five years and the successful bidder of the first year should continue for the next four years with an increase of 10% on the lease amount.

7. The Learned Counsel for the Petitioner urges before this Court that the Petitioner was allotted the Adaichani Kulam for the year 2015-2016 and as per the G.O.Ms.No.332, Animal Husbandry And Fisheries (FS.IV) Department, dated 17.11.1993, he is entitled to continue the lease for 2016-2017, 2017-2018, 2018-2019 and 2019-2020 respectively. Continuing further, he lost his entire investment as stated above and because of the action of the Respondents, he is entitled to a renewed lease.

8. The main grievance of the Petitioner is that by narrating all the above factual details, he addressed a letter, dated 9.6.2016 to the Second Respondent/The Executive Engineer, Water Resources Organization, P.W.D, Chithar Basin Division, Tenkasi at Kudiyiruppu - 827 802, Tirunelveli District, requesting him to continue the lease for the year 2016-17. Till date, the Respondents have not done anything to renew the lease in terms of the aforesaid Government Order. Moreover, the Petitioner has also

<https://hcservices.ecourts.gov.in/hcservices/> plea in the Writ Petition that he is ready and willing to deposit a sum of Rs.52,000/-+10%, namely Rs.57,200/- before any authority as directed by this Court.



9. In view of the fact that the Petitioner's representation, dated 9.6.2016 addressed to the Second Respondent, whereby and where-under, he has prayed for extension of the tank fish lease and the same is pending till date. At this stage, this Court to prevent aberration of justice and to secure the ends of substantial cause of justice, directs the Second Respondent/The Executive Engineer, Water Resources Organization, P.W.D, Chithar Basin Division, Tenkasi at Kudiyiruppu - 827 802, Tirunelveli District, to immediately look into the representation of the Petitioner, dated 9.6.2016 within a period of three days from the date of receipt of a copy of this order. After taking up the representation of the Petitioner, dated 9.6.2016, the Second Respondent is directed to pass a reasoned speaking order (by outlining the process of reasoning in a qualitative and quantitative fashion) in a free, fair, un-biased and dispassionate manner and to dispose of the same (by providing necessary opportunity to the Petitioner and others concerned, if any, by adhering to the principles of natural justice in true letter and spirit) within a period of two weeks thereafter. The Petitioner is required to lend his assistance and co-operation to the Second Respondent in disposing of his representation, dated 9.6.2016.

10. With the aforesaid observations and directions, the Writ Petition stands disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

To

1. The District Collector, Tirunelveli District.

2. The Executive Engineer, Water Resource Organization,
Public Works Department, Chithar Basin Division,
Tenkasi at Kudiyiruppu - 827 802 Tirunelveli District.

3. The Assistant Executive Engineer, Chithar Basin Sub-Division,
Ambasamuthiram, Tirunelveli District.

+1cc to M/s.T.S.R.Venkat Ramanan, Advocate in SR.31246

+1cc to the Government Pleader, in SR.31172

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