



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 26.07.2016

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THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P(MD)No.13079 of 2016

and

W.M.P(MD)No.9855 of 2016

Thangiah

..Petitioner

Vs

1.The District Collector,
Tirunelveli,
Tirunelveli District.

2.The Executive Engineer,
Public Work Department,
Water Resource Organization,
Thamirabarani Basin Division,
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 consider the Petitioner's representation dated 29.6.2016 as per the Government Order in G.O.Ms.No.332, Animal Husbandry and Fisheries Department, dated 17.11.1993 and further to direct them to renew the Nainarkulam fishing lease in favour of the Petitioner for a period of five years.

For Petitioner :M/s.P.Samuel Gunasingh
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.No counter is filed on behalf of the Respondents.

4.The stand of the Petitioner is that in Tirunelveli, there is a tank called Nainarkulam Tank situated at Tirunelveli Town and it measures an extent of 446.46 acres and has the capacity of filling 18.30 million cubic feet water and the water for the said tank comes from Tirunelveli basin. In fact, the Tirunelveli basin receives water from the Papanasam Dam. As a matter of fact, the said tank belongs to Public Works Department and every year, in order to lease out the fishing rights, the Respondents used to conduct auction.



5.It comes to be known that the Petitioner was declared as a successful bidder for the auction conducted on 25.09.2015, for the said tank by the Second Respondent and the lease-hold right was valid till 30.6.2016. Furthermore, the Petitioner was declared as a successful bidder and he had spent a sum of Rs.14,90,005/- to buy fish lings and have let into the said tank in the month of October 2015.He also spent nearly two lakhs rupees for maintaining the said tank and usually, only in the end of June, they used to catch the fish because of the reason that the fishes in the said tank would be fully grown and the water level in the tank becomes low, so that the fishes could be easily caught. According to him, he had invested his hard earned money in the said tank and in the month of June, he started catching fishes and since it is a big tank, it would take one month time for catching the entire fishes in the said tank. Due to continuous rain, the water level was high till the month of May and only in the month of June, the Petitioner started catching the fishes.

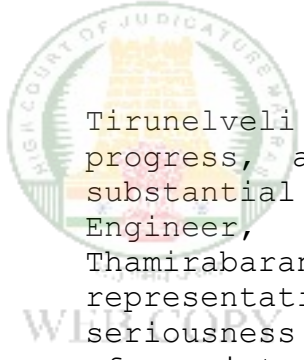
6.At this stage, the Learned Counsel projects an argument that the Respondents knew fully well that the Petitioner's lease period is valid till 30.06.2016 and in-spite of it, the Respondents have opened the water from Tirunelveli basin and till now, the Petitioner is in possession of the said Nainarkulam tank and carrying out fishing work in a little bit fashion. Further, due to the act of the Respondents, the Petitioner had incurred huge loss and the fishes grown by the Petitioner worth about Rs.25 lakhs also escaped and the Respondents were bound to compensate him for the loss caused to him.

7.In this connection, on behalf of the Petitioner, reliance was placed to the Government Order in G.O.Ms.No.332, Animal Husbandry and Fisheries 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% of the lease amount.

8.It is to be noted that the Petitioner was allotted lease for the year 2015-2016 and as per the Government Order in G.O.Ms.No.332, Animal Husbandry and Fisheries Department, dated 17.11.1993, he is entitled to continue the lease for the next five years. Also, he is reported to have suffered loss because of the action of the Respondents and hence he is entitled for a renewed lease.

9.It transpires that the Petitioner had submitted a detailed representation in this regard to the Respondents on 29.6.2016 and the First Respondent/The District Collector, Tirunelveli, Tirunelveli District, by way of his proceedings, dated 6.7.2016 had directed the Second Respondent to consider his case. But till date, the Respondents have not done anything to renew the Petitioner's lease based on the Government Order in G.O.Ms.No.332, Animal Husbandry and Fisheries Department, dated 17.11.1993. Hence the Petitioner has filed the present Writ Petition before this Court.

10.Inasmuch as the Petitioner's representation, dated 29.6.2016 addressed to the Second Respondent/The Executive Engineer, Public Works Department, Water Resources Organization, Thamirabarani Basin Division,



Tirunelveli District is pending as on date, without and disposal or progress, at this stage, this Court, simpliciter, in furtherance of substantial cause of justice, directs the Second Respondent/The Executive Engineer, Public Works Department, Water Resources Organization, Thamirabarani Basin Division, Tirunelveli District to look into the representation of the Petitioner, dated 29.6.2016 immediately with all seriousness and earnestness 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 29.6.2016, the Second Respondent is directed to pass a reasoned speaking order on merits(outlining the process of reasoning in a qualitative and quantitative fashion) with an open mind, in a free, fair and dispassionate manner and to dispose of the said representation(of course after providing enough 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. It is open to the Petitioner to produce copies of all necessary/relevant documents before the Second Respondent and the Second Respondent shall take into consideration of the same at the time of disposal of the representation of the Petitioner, dated 29.6.2016. The Petitioner is directed to lend his assistance and cooperation to the Second Respondent in disposing of his representation dated 29.6.2016.

11With the aforesaid observations and directions, the Writ Petition stands disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar.

To

1.The District Collector,
Tirunelveli,
Tirunelveli District.

2.The Executive Engineer,
Public Work Department,
Water Resource Organization,
Thamirabarani Basin Division,
Tirunelveli District.

+1CC to M/S.P.Samuel Gunasingh, Advocate, SR.No. 39524
+1CC to the Special Government Pleader, SR.No. 39743

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and
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26.07.2016

vsn

AM/NGM.MP/SAR-I/01.08.2016/3P/5C