

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.11.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN  
AND  
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A No.384 of 2017 and  
C.M.P.No.7298 of 2017

A.G.Palanichamy ...Appellant/Petitioner

Vs

- 1.The Government of Tamil Nadu  
Rep. by Secretary to Government,  
Animal Husbandry and Fisheries Department,  
Fort St.George, Chennai - 600 009.
- 2.The Commissioner of Fisheries,  
Thenampettai,  
Chennai - 600 006.
- 3.The Assistant Director of Fisheries,  
Erode.
- 4.Murugesan ...Respondents/Respondents

Prayer:- Writ Appeal filed under clause 15 of Letters Patent, against the order made in W.P.No.20182 of 2016 dated 19.12.2016. Writ petition filed under Article 226 of the constitution of India for issuance of a writ of certiorarified Mandamus to calling for the production of the records relating to the proceedings dated 27.5.2016 made in Na.Ka. No.29400/ F3/2014 passed by the 2nd respondent herein quash the same and direct the 2nd 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 Appellant : Mr.S.Senthilnathan

For Respondents: Mrs.A.Srijayanthi  
Spl.Govt.Pleader for R1 to R3  
Mr.D.Selvaraju for R4

## J U D G M E N T

K.K. SASIDHARAN, J.

The Director of Fisheries, Chennai, notwithstanding the Government Orders giving preference to the Fishermen Cooperative Societies in the matter of auction of fishery rights issued a notification denying the Fishermen Cooperative Societies Right to participate in the auction for grant of fishing rights in respect of Varattupallam Tank in Erode District. The writ petition filed by the appellant was dismissed by the learned single Judge on the ground that there was no bonafides in coming out with an offer to pay 100% more than the auction amount offered by the 4th respondent. Feeling aggrieved, the appellant is before this Court.

2. When the writ petition was taken up for hearing, the learned Special Government Pleader by producing a copy of the communication, dated 14 November, 2017, received from the Director of Fisheries, Chennai, submitted that a decision was taken to cancel the lease given to the 4th respondent and accept the offer given by the Anthiyur Besthavar Meenavar Cooperative Sales Society. According to the Director of Fisheries, Fisheries Department would take possession of the Reservoir and it would be given to the Fishermen Society by the method of sharing the fishing rights. The Director of Fisheries submitted that on account of the pendency of the writ petition, the Government has not passed formal orders.

3. There is a Government Order in G.O.Ms.No.332 Animal Husbandry and Fisheries Department, dated 17 November, 1993, which mandates that while giving fishing rights, preference should be given to the Fishermen Cooperative Society. According to the Circular issued by the Revenue Department, there is a mandate that fishing rights should be given on lease to the Cooperative Societies formed by Fishermen or Harijans, who are engaged in fishing. As per the said Circular, auctioning of fishery rights would arise only in case Cooperative Societies of Fishermen or Harijans engaged in fishing or the Panchayats are not willing to take up the lease.

4. While issuing the notification for the grant of fishing rights in respect of Varattupallam Tank in Erode District, the Director of Fisheries has not taken note of the Government Order in G.O.Ms.No.332 dated 17 November, 1993. In fact, there was a condition in the notification, which prohibited the Fishermen Cooperative Societies from participating in the tender. The appellant was therefore prevented from submitting its bid.

5. The Government appears to have realised the mistake at a later point of time and the same resulted in taking a decision by the Director of Fisheries to cancel the auction and to grant the lease to the Fishermen Society by way of sharing fishing rights. There is nothing wrong in the said decision on account of the Government Order in G.O.Ms.No.332 dated 17 November, 1993, which prescribes that the Fishermen Society should be given preference while granting the fishing rights. In view of the decision taken by the Government to grant fishing rights to the Fishermen Society, there is no need for a further adjudication.

6. We direct the Director of Fisheries, Chennai to pass appropriate orders in accordance with the relevant Government Orders and in tune with the instructions given by him to the learned Special Government Pleader, dated 14 November, 2017 indicating the decision taken by the Government to cancel the auction in question and the lease given to the 4th respondent. The process of giving lease to the Fishermen Society should be undertaken forthwith and it should be completed within a period of one month from the date of receipt of a copy of this judgment. The amount paid by the 4th respondent shall be returned to him forthwith.

7. The intra court appeal is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS )

//True Copy//

Sub Assistant Registrar

svki

To

1.The Secretary to Government,  
The Government of Tamil Nadu  
Animal Husbandry and Fisheries Department,  
Fort St.George, Chennai - 600 009.

2.The Director of Fisheries,  
Thenampettai,  
Chennai - 600 006.

3.The Assistant Director of Fisheries,  
Erode.

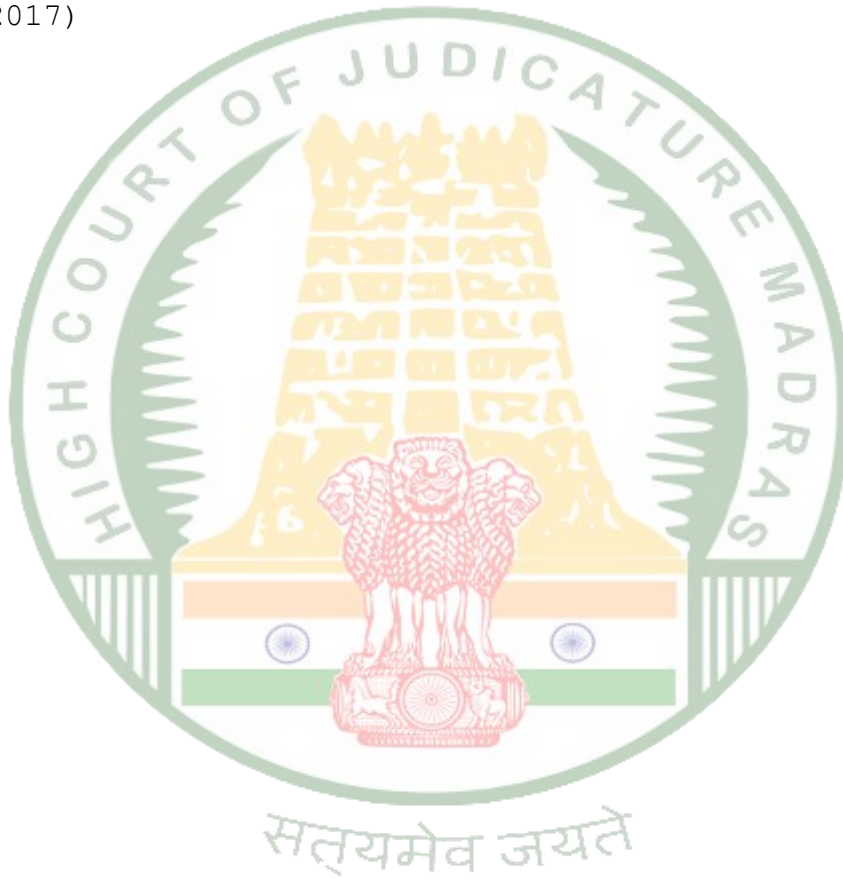
4. The Commissioner of fisheries,  
Teynampet, Chennai-6.

+ 1 cc to MR. S. Senthilnathan, Advocate sR.81384

+ 2 ccs to Mr.D. Selvaraju, Advocate SR.81426

W.A No.384 of 2017

GJII(CO)  
EU(19/12/2017)



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