



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 03.01.2017
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THE HONOURABLE MR.JUSTICE K.RAVICHANDRA BAABU

W.P(MD)Nos.11476 and 11474 of 2016
and W.M.P(MD)Nos.8782 and 8780 of 2016

In W.P. (MD) No.11476 of 2016

E. Rajendran

.. Petitioner

vs.

The Assistant Director,
Fisheries Department,
Ramanathapuram District.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Mandamus forbearing the respondent from in any way interfering with the fishing activities of the petitioner on the shore by utilizing the Tractor bearing registration No. TN 65 Z 3493 and TN 65 J 3342 by considering the representation of the petitioner dated 03.03.2016.

For Petitioner

: Mr. S.C. Herold Singh

: Mr. L. Jeen Felix

For Respondent

: Mr. K. Guru

Additional Government Pleader

In W.P(MD)No.11474 of 2016

Murgesan

... Petitioner

vs.

The Assistant Director,
Fisheries Department
Ramanathapuram Distirct.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Mandamus forbearing the respondent from in any way interfering with the fishing activities of the petitioner on the shore by utilizing the Tractor bearing registration No. TN 65 Q 7305 and TN 65 Q 6844 by considering the representation of the petitioner dated 03.03.2016.

For Petitioner

: Mr. S. C. Herold Singh

: Mr. L. Jeen Felix

For Respondent

: Mr. K. Guru

Additional Government Pleader

C O M M O N O R D E R

Both writ petitions are taken up to dispose of by this common order.

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2. In both writ petitions, respective writ petitioners seek for mandamus forbearing the respondent from in any way interfering with fishing activities of the petitioner on the sea-shore by utilizing the Tractors bearing registration Nos.TN 65-Z-3493, TN 65-J-3342, TN-65-Q- 7305 and TN-65-Q-6844 by considering the representation of the petitioners dated 03.03.2016.

3. Common case of both the petitioners is as follows:

Both of them are engaged in fishing by spreading net near the sea- shore. Out of the various means of fishing activities done by the fishermen, one is to lay the net upon sea at a distance of nearly 100 metres from the shore by tagging the net with the rope, which the fishermen has to pull from the shore, so as to drag the net to the shore. The fishing nets used are not prohibited by any law and the said process requires 25 to 30 persons, who in turn, have to stand in hot sand for a long time by spending their energy. Therefore, they innovated an idea for pulling the rope mechanically by using the Tractor by fixing a roller therein. Once the net is pulled to the share by using the tractor power, the workers will be engaged in removing the fishes from the net. Therefore, heavy work load on the workers is also reduced. While that being so, the respondent prevented the petitioners from using the above said mechanism, which necessitated the petitioners to make representations seeking permission to use such mechanism.

4. The learned counsel for the petitioners has also brought to the notice of this Court that the petitioners have obtained information under Right to Information Act, which informed the petitioners that there is no such prohibition for using the Tractor to pull the net to the shore.

5. A counter affidavit is filed by the respondent, wherein, it is stated that using the Tractor is not defined in Tamilnadu Marine Fishing Regulation Act as a fishing mechanism and therefore, it cannot be treated as fishing vessel and consequently using such Tractors for fishing purpose is illegal. It is also stated in the counter that this method of fishing will not help the poor fishermen.

6. Heard the learned counsel for the petitioners and the learned Additional Government Pleader appearing for the respondent and perused the materials available on record.

<https://hcservices.ecourts.gov.in/hcservices/>

7. Admittedly, the petitioners are seeking permission to use the Tractors in sea-shore, that too, for pulling the net from



the sea to certain extent at the shore by using a roller fixed in the Tractor, in order to reduce the human energy. It is also seen that after pulling the net to sea- shore by such method, man power is used for segregating the fishes caught through the net. Though the learned Additional Government Pleader appearing for the respondent submitted that Tractor is not the vessels meant for fishing, he admits the fact that the Tractors are not in any way used inside the sea in any manner and on the other hand they are used only on the sea-shore that too for dragging the net to the shore. Therefore, I consider that the contention of the respondent in this aspect is not correct, as I could see no legal bar in the Act dealing with the above mechanism which has to be done only on the shore.

8. Considering all these aspects, I am of the view that the respondent has to consider the representations of the petitioners and pass orders on the same in the light of the observation made in these writ petitions. Accordingly, the respondent shall pass orders on the representations of the petitioners dated 03.03.2016 within a period of eight weeks from the date of receipt of copy of this order.

9. In the result, the writ petitions are disposed of. No costs. Consequently, connected W.M.P.(MD) Nos.8780 and 8782 of 2016 are closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To,

The Assistant Director, Fisheries Department,
Ramanathapuram District.

+2ccs to Mr.S.C.Herold Singh, Advocate, SR.Nos. 292 and 293
+2 ccs to The Special Government Pleader, SR.Nos.492 and 493

CM

RL/6C/3P/SS2/KSM/SAR3/24.1.2017

W.P(MD)Nos.11476 and 11474 of 2016
and
W.M.P(MD)Nos.8782 and 8780 of 2016