



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.10.2017

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P (MD) No. 13086 of 2016

and

W.M.P (MD) Nos. 9868, 9869 of 2016

S. Murugan

... Petitioner

Vs.

1. The Commissioner of Fisheries
Office of the Commissioner of Fisheries,
DMS Building, Teynampet,
Chennai.

2. The Assistant Director of Fisheries
Office of the Assistant Director of Fisheries,
Rameshwaram Post & Taluk,
Ramnad District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the first respondent in R.C.No. 7158/D1/2016 dated 02.05.2016 confirming the order passed by the second respondent in Na.Ka.No. 2872/E/11 dated 03.02.2016 and quash the same as illegal and for a consequential direction to the respondents to permit the petitioner society to function continuously in disbursing the welfare measures to its members and other activities.

For Petitioner	: Mr.M.E.Ilango
For Respondents	: Mr.J.Gunaseelan Muthiah, Government Advocate

O R D E R

This writ petition has been filed, seeking to quash the impugned order dated 02.05.2016 passed by the first respondent, confirming the order passed by the second respondent dated 03.02.2016. The petitioner also sought for a direction to the respondents to permit the petitioner society to function continuously in disbursing the welfare measures to its members and other activities.



2. Heard the learned counsel appearing on either side.

3. It is the case of the petitioner that the petitioner is the Ex-President of Railway Vadakupagam Fisherman Co-operative Society, which is mainly established for the welfare of fishermen community. While being so, the registration of the said society was cancelled and subsequently the same was revoked by the second respondent. Against the same one Alagarsamy filed a writ petition in WP(MD) No.14962 of 2014, upon which, this Court directed the first respondent to enquire and pass orders on merits within a period of three months. Pursuant to the same, the second respondent passed the impugned order dated 03.02.2016 to wind up the society. Aggrieved by the same, the petitioner preferred an appeal and the same was dismissed, which constrained him to file the present writ petition before this Court.

4. The learned Counsel appearing for the petitioner has submitted that the reason adduced by the 2nd respondent for winding up the society is that it has only 25 members on its roll, but actually 57 members are enrolled in the Society. It is the specific contention of the learned Counsel for the petitioner that he was not given enough opportunity to put forth his case, so as to contest the matter and therefore, the learned Counsel for the petitioner seeks an opportunity of hearing to put forth his case, for which, there is no serious objection from the learned Government Advocate appearing for the respondents.

5. On perusal of the impugned order, it is apparent that there is gross violation of principles of natural justice and it is incumbent upon the 2nd respondent to have provided an opportunity of hearing to the petitioner before taking such a decision on the sensitive matter. Therefore, this Court is of the view that the impugned orders are liable to be set aside on this sole ground.

6. Accordingly, this petition is allowed. The impugned orders, dated 03.02.2016 and 02.05.2016 are set aside and the matter is remanded back to the first respondent for fresh consideration. The petitioner is permitted to place all the materials available with him before the authorities within a period of three weeks from the date of receipt of a copy of this order and on such filing, the first respondent is directed to consider and pass appropriate orders, on its own merits and in accordance with law, upon hearing the petitioner as well as other connected parties. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

Sub Assistant Registrar



To:

1. The Commissioner of Fisheries
Office of the Commissioner of Fisheries,
DMS Building, Teynampet,
Chennai.

2. The Assistant Director of Fisheries
Office of the Assistant Director of Fisheries,
Rameshwaram Post & Taluk,
Ramnad District.

+1cc to Mr.M.E.Ilango, Advocate Sr.No.84139

RM

VB/KP/SAR2/07/11/2017/3P/4C

W.P (MD) No.13086 of 2016
30.10.2017