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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 03.05.2018

CORAM:

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**  
and  
THE HONOURABLE MR.JUSTICE **A.M.BASHEER AHAMED**

W.A(MD)No.735 of 2018  
and  
C.M.P. (MD)No.4324 of 2018

Danushkodi ... Appellant/Petitioner  
Vs.

1.The District Collector,  
Tirunelveli District.

2.The Executive Engineer,  
Water Resources Organisation,  
PWD, Chithar Basin Division,  
Tenkasi at Kudiyiruppu,  
Tirunelveli District.

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

...Respondents/Respondents

**PRAYER:** Writ Appeal filed under Clause 15 of the Letter Patent against the order of this Court in W.P.(MD)No.18724 of 2016, dated 27.03.2018.

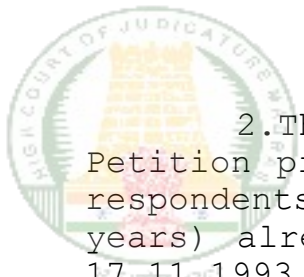
**Prayer in WP(MD). 18274/ 2016 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to renew the petitioners lease for 3 years (excluding the 2 years) already done as per G.O.Ms. No. 332 Animal Husbandry, dated 17.11.1993.

For Appellant : Mrs.T.Umamaheshwari  
for Mr.T.S.R.Venkataramana  
For R - 1 : Mr.S.Nagarajan,  
Special Government Pleader.

**JUDGMENT**

(Judgment of the Court was delivered by  
S.S.SUNDAR,J.)



2.The appellant, who is the writ petitioner, has filed a Writ Petition praying for issuance of a Writ of Mandamus, to direct the respondents to renew the petitioner's lease for 3 years (excluding 2 years) already done as per G.O.Ms.No.332 (Animal Husbandry), dated 17.11.1993.

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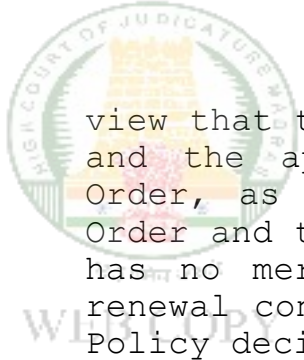
3.The case of the appellant is that the Government issued Government Order vide G.O.Ms.No.332 (Animal Husbandry and Fisheries (FS-IV) Department, dated 17.11.1993, for leasing out fisheries right in water spread tank under the control of Public Works Department, Revenue Department and Panchayat Department. It is stated that in the said Government Order the period of lease by public auction shall be for five years. It is further stated that the lease of fisheries right shall be granted for a period of five years on an automatic escalation of lease / rent by 10% over and above the previous year's rate during the five year period. The petitioner states that he took lease of Adaichani Periakulam for the year 2015-16 (one year) and that the lease was renewed only for another year though he was entitled to get renewal for another three years in terms of G.O.Ms.No.332 (Animal Husbandry and Fisheries (FS-IV) Department.

4.It is also pointed out that the Government issued another Government Order vide G.O.Ms.No.201, (Animal Husbandry, Dairying and Fisheries Department), dated 19.10.2017, introducing new terms and conditions in G.O.Ms.No.33, dated 27.02.1995, which was in supersession of the original Government Order vide G.O.Ms.No.332 (Animal Husbandry and Fisheries (FS-IV) Department, dated 17.11.1993. It is also admitted that the lease of fishery rights in this State is governed by the Revenue Standing Order No.211 and Government Orders vide, G.O.Ms.No.33, dated 27.02.1995 and G.O.Ms.No.201, (Animal Husbandry, Dairying and Fisheries Department), dated 19.10.2017, in respect of tanks which are under the control of Public Works Department. In the light of the Government Orders, the appellant's contention that he is entitled for extension of lease as per G.O.Ms.No.332 (Animal Husbandry and Fisheries (FS-IV) Department, dated 17.11.1993, was rejected by the learned Single Judge of this Court for the following reasons:

(a)the appellant himself has participated in the tender, wherein, the period of lease was prescribed specifically as one year and he took the lease subject to all conditions of auction;

(b)after accepting the terms and conditions and entering into the agreement with the respondents, the appellant cannot seek extension of lease period, which is specifically not provided under the terms and conditions, by which the appellant took the tank on lease by public auction for exercising fishing right.

5.Though the appellant relied on the subsequent Government Order vide G.O.Ms.No.201, (Animal Husbandry, Dairying and Fisheries Department), dated 19.10.2017, the learned Single Judge was of the



view that the said Government Order may have prospective application and the appellant cannot take support from the said Government Order, as the lease of the appellant was prior to the Government Order and the Writ Petition was ultimately dismissed as the petition has no merits. The petitioner has no indefeasible right to seek renewal contrary to the terms and conditions by which he got right. Policy decision of Government cannot override contracts.

6.This Court is not able to find any irregularity or illegality in the order passed by the learned Single Judge and the learned Single Judge has considered the relevant Government Orders and ultimately dismissed the Writ Petition and hence this Writ Appeal is liable to be dismissed.

7.Accordingly, this Writ Appeal is dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(W)

/True copy/

Sub Assistant Registrar

To

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

+1cc to Mr.T.S.R.Venkataramana, Advocate, SR.No.65178.

W.A(MD) No.735 of 2018  
03.05.2018

PS/CMR

RAM/SV MMS/SAR 1/10.05.2018/3P/5C