



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.(MD) No.13722 of 2018

and

W.M.P.(MD) Nos.12463 & 12464 of 2018

V.Murugan

... Petitioner

vs.

1.The Director of Fisheries
Fisheries Department (Inland)
Administrative Building
D.M.S.Compound
Tenampet, Chennai

2.The Zonal Director
Fisheries Department, Madurai

3.The Assistant Director of Fisheries
Fisheries Department,
Office of the Assistant Director of Fisheries
Theni at Vaigai Dam
Theni District

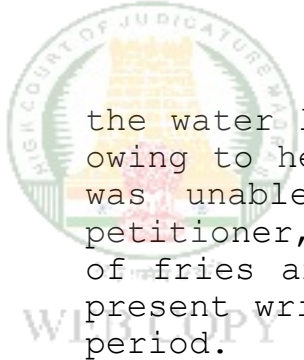
... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus to call for the records on the file of the third respondent impugned order vide Na.Ka.No.1505/Aa/2017, dated 17.06.2018 and quash the same as illegal, improper, unlawful, unconstitutional and arbitrary on the basis of the representation given by the petitioner either for the extension of 3 months for harvesting the fishes or to extend for 1 more year i.e.2018-2019 when the petitioner is ready to remit the lease amount as prescribed by the third respondent.

For Petitioner	:	Mr.K.Safar Badhusha
For Respondents	:	Mr.S.Nagarajan Special Government Pleader

ORDER

The petitioner was the successful bidder in the auction held for rearing fishes in eight tanks situated in Theni District for the period 2015-2018. According to the petitioner, he could not carry on fishing activities in Meersamuthiram Tank situated at Allinagaram, during 2016-2017 owing to the drought. Incidentally, the Government has also declared Theni District as a Drought-hit District among the 32 Districts. Subsequently, during 2017-2018,



the water level in the said tank had also reached its maximum level owing to heavy rainfall and due to this reason also, the petitioner was unable to carry on fishing activities. According to the petitioner, he has invested huge sums of money towards the purchase of fries and since the lease period has expired on 30.06.2018, the present writ petition has been filed seeking for extension of lease period.

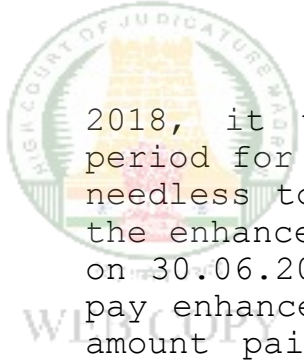
2. By relying upon the report from the Regional Metrological Centre, Chennai, the learned counsel for the petitioner submitted that there was a forecast of heavy rainfall during the end of June, 2018, which had also caused inconvenience to the petitioner while carrying on fishing activities.

3. The learned Special Government Pleader submitted that since the lease period had ended on 30.06.2018, there is no regulation to permit them to extend the lease period. By reiterating the justifications mentioned in the impugned order, the learned Special Government Pleader objected the submissions made by the learned counsel for the petitioner.

4. I have given careful consideration to the submissions made by the respective counsels.

5. It is not in dispute that there was a drought in Theni District during 2016-2017 and the tank, namely, Meersamuthiram was at its maximum level during 2017-2018 owing to heavy rainfall, due to which the petitioner was deprived of good fishing. The respondents have also not disputed those facts by filing counter affidavit. The only objection raised in the impugned order is that one of the tender conditions stipulates that the lease period will not be extended for any reason including drought or natural calamities.

6. The very purpose for which certain areas of the State are declared as drought-hit areas is to rehabilitate the affected persons owing to such a drought. By G.O.(Ms) No.6, Revenue Department, dated 10.01.2017, Theni District has been declared as a drought-hit area. While that being so, the rehabilitation that follows such drought-hit districts should be extended to the loss that could have occurred for the affected persons. In the instant case, it is the case of the petitioner that he has invested huge sums of money for the purpose of rearing fishes and he was unable to reap the benefits owing to the drought. Subsequently, when the water level in the said tank had also reached its maximum level owing to heavy rainfall, he was unable to carry on fishing activities. Since these two reasons adduced by the petitioner have not been countered by the respondents by filing counter affidavit, it can only be concluded that these reasons adduced by the petitioner are correct. Since the petitioner was unable to successfully carry on fishing activities during the lease period owing to drought as well as heavy rainfall during the end of June,



2018, it would be appropriate to extend the petitioner's lease period for a further period of one year ending on 30.06.2019. It is needless to mention that the respondents shall be entitled to claim the enhanced lease amount for the extended period of one year ending on 30.06.2019. As per the tender conditions, the petitioner has to pay enhanced rent at the rate of 10% over and above the last lease amount paid for each extended years and also deposit 5% of the enhanced lease amount towards Fishermen Welfare Board.

7. In the light of the above observations, the impugned order, dated 17.06.2018, passed by the third respondent is quashed. Consequently, the third respondent is directed to pass appropriate orders permitting the petitioner to carry on fishing activities in Meersamuthiram Tank, situated at Allinagaram, Theni District, for a further period of one year ending on 30.06.2019 after collecting the enhanced lease amount, as stated above. Such an exercise shall be done within a period of four weeks from the date of receipt of a copy of this order.

8. The writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To:

1. The Director of Fisheries,
Fisheries Department (Inland),
Administrative Building,
D.M.S. Compound,
Tenampet, Chennai.
 2. The Zonal Director,
Fisheries Department, Madurai.
 3. The Assistant Director of Fisheries,
Fisheries Department,
Office of the Assistant Director of Fisheries,
Theni at Vaigai Dam,
Theni District.
- +1cc to Mr.K.Safar Badhusha, Advocate, SR.No.73641.

W.P. (MD) No.13722 of 2018

and

W.M.P. (MD) Nos.12463 & 12464 of 2018

16.07.2018

krk

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

RAM/SV/SAR 2/19.07.2018/3P/5C