



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.10.2018

CORAM:

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**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

W.P.[MD]Nos.22704 of 2017 and 4608, 2584 & 7907 of 2018
and

W.M.P.[MD]Nos.4685 to 4687, 2784, 2785 and 7497 of 2018

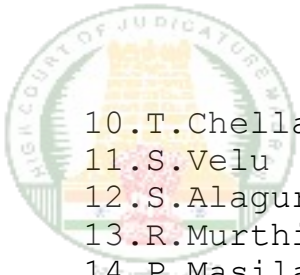
W.P.[MD]No.22704 of 2017:

Dhanushkodi Parambariya Meenavar Nala Sangam,
Rep. by its Secretary,
Mr.P.C.Amudhan
S/o. P.Chellathurai,
156, Natrajapuram,
Rameshwaram Taluk,
Ramanathapuram District.

: Petitioner

Vs.

- 1.The Secretary to the Government,
The Government of Tamil Nadu,
Department of Animal Husbandry and Fisheries Department,
Fort St. George,
Chennai - 600 009.
- 2.The Director of Fisheries,
Directorate of Fisheries,
Administrative Office Buildings,
DMS Complex,
Teynampet, Chennai - 06.
- 3.The Assistant Director of Fisheries,
O/o. The Assistant Director of Fisheries,
Rameshwaram Taluk,
Ramanathapuram District.
- 4.The Inspector of Fisheries,
O/o. The Inspector of Fisheries,
Pamban,
Rameshwaram Taluk,
Ramanathapuram District.
- 5.K.P.Rathinavel
- 6.N.Manian
- 7.M.Parasuraman
- 8.R.Kathavrayan
- 9.T.Krishnavel



- 10.T.Chelladurai
- 11.S.Velu
- 12.S.Alaguraj
- 13.R.Murthi
- 14.P.Masilamani
- 15.P.Shanmugam
- 16.P.Shanmugam
- 17.A.Manimaran
- 18.P.Thadchanamoorthy
- 19.R.Arumugam
- 20.K.Ravichandran
- 21.V.Anandharaj
- 22.C.Govindharajan
- 23.N.Balu
- 24.N.Mani
- 25.K.Elumalai
- 26.K.Maharani
- 27.S.Kathiravan
- 28.M.Kandhavadiel
- 29.R.Ramakundu
- 30.S.Karunakaran
- 31.S.Murugavel
- 32.T.Rajamani
- 33.C.Sudhakar
- 34.K.Selvam
- 35.Kathavarayan
- 36.A.Subramanian
- 37.S.Manivel
- 38.K.Sigamani
- 39.R.Vijendran
- 40.C.Ambalavanan
- 41.A.Kumar
- 42.M.Rajendiran
- 43.M.Ramesh
- 44.R.Ramesh
- 45.G.Rajasankar
- 46.T.Govindan
- 47.V.Manikavel
- 48.R.Anbalagan
- 49.N.Sadagopal
- 50.M.Kottaiyan
- 51.A.Poongotaiyan
- 52.K.Selvam
- 53.P.Sarathi
- 54.K.Sundaralingam
- 55.A.Ganesan
- 56.S.Pakkirisamy
- 57.C.Kottaiyan
- 58.V.Thangavel
- 59.M.Veerasundaram
- 60.R.Sankar
- 61.S.Muthuraman



- 62.M.Manivasagam
- 63.G.Kutiyandi
- 64.R.Mariappan
- 65.C.Siva
- 66.S.Adaikalam
- 67.K.Mandhirikumar
- 68.K.Pavadai
- 69.C.Ramachandran
- 70.T.Ramesh
- 71.K.Jeya Chandran
- 72.V.Pakkiri
- 73.K.Udhaya Kumar
- 74.K.Selvamani
- 75.R.Lakshmanan
- 76.R.Rajasekar
- 77.V.Paramasivam
- 78.P.Prakash
- 79.M.Rajendran
- 80.K.Anandhan
- 81.G.Selvam
- 82.A.Chinnaiyan
- 83.K.Ramadas
- 84.C.Sundarajan
- 85.E.Veerasundaram
- 86.V.Palanivel
- 87.M.Periyandi
- 88.C.Murugan
- 89.C.Rajendran
- 90.P.Saminathan
- 91.E.Gandhi
- 92.T.Velayudham
- 93.K.Bharath
- 94.A.Kuttiyandi
- 95.E.Chandrabose
- 96.S.Manikam
- 97.P.Vagan
- 98.G.Balakrishnan
- 99.V.Chakravathy
- 100.G.Ramaiyah
- 101.R.Andavar
- 102.R.Dhesingh

: Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents 1 to 4 exempt the modified purse seine gear from the ban imposed vide G.O.Ms.No.40, Animal Husbandry and Fisheries (FV V) dated 25.03.2000 within time frame stipulated by this Court.

For Petitioner

: Mr.T.Lajapathi Roy

For Respondents 1 to 4 : Mr.K.Chellapandian,

Additional Advocate General

Assisted by Mr.A.K.Baskara Pandian



Special Government Pleader.

For Respondents 5 to 102 : Mr.M.Joseph Thatheus Jerome
for Mr.J.Pandidorai

W.P. [MD]No.4608 of 2018:

Susai Anthony

: Petitioner

Vs.

- 1.The Secretary to Government,
Animal Husbandry and Fisheries Department,
Fort St. George, Chennai - 600 009.
- 2.The Director of Fisheries,
DMS Building, Teynampet,
Chennai - 600 006.
- 3.The District Collector,
Tirunelveli District,
Tirunelveli - 627 001.
- 4.The District Collector,
Kanyakumari @ Nagercoil,
Kanyakumari District - 629 001.
- 5.The District Collector,
Collectorate, Tuticorin,
Tuticorin District - 628 101.
- 6.The Deputy Director of Fisheries,
Nagercoil, Vadasery,
Kanyakumari District - 629 001.
- 7.The Assistant Director of Fisheries,
Chinna Muttam,
Kanyakumari District - 629 202.
- 8.The Assistant Director of Fisheries,
Colachel, Kanyakumari District - 629 202.
- 9.The Director General of Shipping,
Cum Secretary to Government,
Mercantile Marine Department,
Ministry of Shipping Road Transport and Highways,
Government of India,
9th Floor Techno Campus,
Kanjurmarg East, Mumbai.
- 10.The Chief Engineering and Estate Officer,
V.O.Chidambaranar Port Trust,
Administrative Office,
Tuticorin - 628 004.



11. Inspector of Police,
Marine Police,
Kudankulam, Tirunelveli District - 627 805.

12. Anthonyappan,
S/o. Royappan,
Visuvasa Kappal Boat Yard,
South Beach Road, Tuticorin - 628 001.

13. Xavier Boat Yard,
South Beach Road,
Tuticorin - 628 001.

14. Domi Correra Boat Yard,
South Beach Road,
Tuticorin - 628 001.

: Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the Respondents 1 to 13 to prosecute the deep sea and mechanized vessels for violating the time schedule fixed in annexure under Section 5(3) of the Marine Fishing Regulation Act, 1983, G.O.Ms.No.1 (Animal Husbandry and Fisheries Department) dated 25.03.2000, under Section 15 to 18 of the Act and also under Section 435(g)(6) of the Merchant Shipping Act, 1958 as well as take action to demolish the polluting illegal constructions in the name of boat yards made in the seashore within the prohibited distance of 500 meters from the high tide mark.

For Petitioner : Mr. Joseph Thatheus Jerome

For Respondents

1 to 8 & 11

: Mr. K. Chellapandian,
Additional Advocate General
Assisted by Mr. A. K. Baskarapandian
Special Government Pleader

For Respondent No. 9 : Mr. V. Kathirvelu,
Assistant Solicitor General
Assisted by Mr. K. Prabhu

For Respondent No. 10 : Mr. K. Hema Karthikeyan
for M/s. Gnanadesikan Law Associates

For Respondents

12 to 14 : No appearance

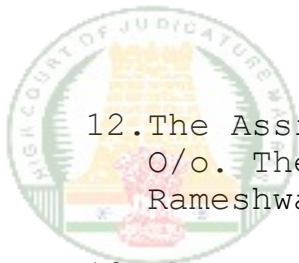
W.P. [MD] No. 2584 of 2018:

1. G. Arul
2. T. Salangai
3. M. Mohammed Meerasahib
4. T. Nagoor Pitchai

: Petitioners



1. Government of India,
Represented by its Secretary,
Department of Animal Husbandry,
And Fisheries, Krishi Bhawan,
New Delhi - 110 001.
2. The Secretary to Government,
Government of Tamil Nadu,
Department of Animal Husbandry & Fisheries,
Fort St. George, Chennai - 600 009.
3. The Director of Fisheries,
Directorate of Fisheries,
Administrative Office Buildings,
DMS Complex, Teynampet,
Chennai - 600 006.
4. The District Collector,
Pudukkottai
Pudukkottai District.
5. The District Collector,
Ramnad,
Ramnad District.
6. The District Collector,
Thanjavur,
Thanjavur District.
7. The Joint Director of Fisheries,
O/o. The Joint Director of Fisheries,
Pudukkottai, Pudukkottai District.
8. The Assistant Director of Fisheries,
O/o. The Assistant Director of Fisheries,
Pudukkottai District.
9. The Joint Director of Fisheries,
O/o. The Joint Director of Fisheries,
Thanjavur, Thanjavur District.
10. The Assistant Director of Fisheries,
O/o. The Assistant Director of Fisheries,
Thanjavur, Thanjavur District.
11. The Joint Director of Fisheries,
O/o. The Joint Director of Fisheries,
Rameshwaram,
Ramanathapuram District.



12.The Assistant Director of Fisheries (North),
O/o. The Assistant Director of Fisheries,
Rameshwaram, Ramanathapuram District.

13.The Assistant Director of Fisheries (South),
O/o. The Assistant Director of Fisheries,
Rameshwaram, Ramanathapuram District.

14.The Superintendent of Police (Coastal),
Mandapam,
Ramanathapuram.

: Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the Respondents 1 to 13 to prosecute the deep sea and mechanized vessels for violating the Time Schedule fixed in Annexure under Section 5(3) of the Marine Fishing Regulation Act, 1983, G.O.Ms.No.1 (Animal Husbandry and Fisheries Department) dated 25.03.2000 under Section 15 to 18 of the Act and also under Section 435(g) (6) of the Merchant Shipping Act, 1958.

For Petitioner : Mr.M.Joseph Thatheus Jerome

For Respondent No.1 : Mr.V.Kathirvelu,
Assistant Solicitor General
Assisted by Mr.K.Prabhu

For Respondents 2to14 : Mr.K.Chellapandian,
Additional Advocate General
Assisted by Mr.A.K.Baskara Pandian
Special Government Pleader.

W.P. [MD]No.7907 of 2018:

R.Raj

: Petitioner

Vs.

1.The Director General of Shipping,
Cum Secretary to Government,
Mercantile Marine Department,
Ministry of Shipping, Road Transport and Highways,
Government of India,
9th Floor Beta Building,
I-Think Techno Campus,
Kanjurmarg East, Mumbai.

2.The Officer in Charge / Surveyor,
The Marine Mercantile Department,
Ministry of Shipping and Transport,
Opp. World Trade Avenue,
Tuticorin - 628 004.

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

3.The Assistant Director of Fisheries



Cum-Authorised Officer,
Fishing Harbor Management,
Department of Fisheries,
Tuticorin.

4.The Joint Director of Fisheries,
Turicorin, Tuticorin District.

5.B.Brighton Sathish

6.P.Antonysamy

7.Jude Raja

8.N.Jancy

9.G.Sterwin

10.Amalan

11.T.Sathalane

12.P.Dharmam

13.J.Jackson

14.A.Jude

15.R.Jerina Ranjithkumar

16.S.Anto

17.N.Baskar Gomez

18.X.Alex Fredy

19.P.Benarthes

20.S.Augustine Prakash

21.A.Jesuraja

22.R.Thomas

23.M.Thommai Cruz

24.T.Ravindran

25.Anthonysamy

: Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the Respondents 1, 3 and 4 to prosecute the respondents 5 to 24 respective owners of the vessels mentioned in the annexure hereunder and take such steps in accordance with law to withdraw the respective Registrations possessed by them which do not satisfy the statutory requirement mentioned in Sections 435, 288, 289 and 457 of the Marine Fishing Regulation Act, 1958 and penalise them under Part - XVI of the said Act.

For Petitioner

:Mr.M.Joseph Thatheus Jerome

For Respondents 1 & 2

:Mr.V.Kathirvelu,
Assistant Solicitor General
Assisted by Mr.K.Prabhu

For Respondents 3 & 4

:Mr.K.Chellapandian,
Additional Advocate General
Assisted by Mr.A.K.Baskara Pandian
Special Government Pleader.

**COMMON ORDER**

[Common Order of the Court was made by **M.M. SUNDRESH, J.**]

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Considering the common issue involved, all the writ petitions are taken up and disposed of, by a common order.

2.The prayer sought for in W.P.[MD]Nos.2584, 4608 and 7907 of 2018, are similar. The grievance of the petitioners in all these writ petitions is that the official respondents are not taking action for the violation committed by the mechanized boat owners and others under the Marine Fishing Regulation Act, 1983, with respect to usage of prohibited nets and method of fishing.

3.The learned Additional Advocate General, on instructions, would submit that cases have been registered against the violators.

4.Contradicting the same, the learned Counsel for the petitioners would submit that they are far and few. Reliance has been made on the order passed by this Court in W.P.[MD]Nos.19807 of 2017 and 5840 of 2018 dated 08.10.2018.

5.Considering the above, we direct the official respondents to see to it that there is no violation of Marine Fishing Regulation Act, 1983. For the aforesaid purpose, a constant monitoring should be done over the deep sea fishing using mechanized fishing vessel. While doing so, the compliance of Section 435 J and 435 K of the Merchant Shipping Act, 1958, also will have to be seen. Reference can be made in this regard on the earlier judgment rendered by us in W.P.[MD]Nos.19807 of 2017 and 5840 of 2018 dated 08.10.2018, in which the following paragraphs would be of relevance.

"8.The issue now lies in a very narrow campus. It is agreed upon that there has to be a mandatory compliance of Sections 435-G, 435-J and 435-K of the Merchant Shipping Act, 1958, before a deep sea vessel ventures into the sea. Under section 435-F and in accordance with the notification under challenge, the sixth respondent is the competent authority. Therefore, it is incumbent upon the sixth respondent to take into consideration of the relevant materials before issuing a Certificate of Registry. Not stopping with that, the compliance of Sections 435-J and 435-K also will have to be satisfied. Thus, we direct the sixth respondent to consider the case of the members of the petitioner in W.P.[MD]No.5840 of 2018 and issue Certificates of Registry, after satisfying with the requirement



of Section 435-G. After doing that, the compliance of Sections 435-J and 435-K will have to be satisfied before allowing a deep sea vessel into the sea. We also make it clear that Certificate of inspection, as mandated under Section 435-K, has to be in accordance with Section 449. The sixth respondent shall also see to it that the State enactment and the rules are complied with while verifying the compliance enactment under the Merchant Shipping Act, 1958. Apart from the same, the other regular requirements are also to be complied with, when deep sea fishing vessel leaves the shore.

9.As and when the sixth respondent in W.P.[MD] No.5840 of 2010 receives the applications seeking Certificates of Registry, they will have to be disposed of, within a period of eight weeks from their receipt. While disposing of these Writ Petitions, we make it clear that it can never be construed that a mere compliance of Section 435-G, which speaks about Certificate of Registry, alone would be sufficient, without the mandatory requirement under Section 435-K, which deals with Certificate of inspection. Therefore, a duty is imposed upon the authorities including the sixth respondent to see to it that due compliance as aforesaid is made. We make it clear that we have not expressed anything on the merits and demerits of the Provisional Certificates issued including the grievance of the petitioner in W.P.[MD]No.5840 of 2018 over the conditions imposed thereunder. We also make it clear that before issuing Certificate of Registry, the sixth respondent in W.P.[MD] No.5840 of 2018 shall take into consideration of the grievances as sought to be espoused the petitioner in W.P.[MD]No.19807 of 2017."

6.Accordingly, W.P.[MD]Nos.2584, 4608 and 7907 of 2018, stand disposed of, with a direction to the official respondents to take appropriate action against the violators, both under Marine Fishing Regulation Act, 1983 and Merchant Shipping Act, 1958. No costs. Consequently, connected miscellaneous petitions are closed.

7.At this point of time, the learned Counsel for the tenth respondent in W.P.[MD]No.4608 of 2018, submitted that action was initiated against the unauthorised encroachers on the coastal zone, against which, appeals have been preferred in Appeal Nos.40 and 43 of 2017, on the file of the Principal District Judge, Tuticorin.

8.Considering the aforesaid submission, the Principal District Judge, Tuticorin, is directed to dispose of the appeals, within a



period of four [4] months from the date of receipt of a copy of this order.

9. Coming to the other writ petition filed in W.P.[MD]No.22704 of 2017, is concerned, the petitioner seeks modification of the order passed in G.O.Ms.No.40, Animal Husbandry and Fisheries (FS V) dated 25.03.2000, which has been upheld by the Division Bench of this Court. Therefore, the prayer sought for cannot be granted. However, taking into consideration the pendency of the representation made by the petitioner dated 29.11.2017, a direction is issued to the first respondent to consider the same within a period of eight [8] weeks from the date of receipt of a copy of this order.

10. The petitioner is also at liberty to give another representation within a period of two [2] weeks. It is needless to state that while disposing of the representation, the first respondent shall take into consideration the interest of the country boat fishermen and the likelihood of damage that would be caused to the fish population. The first respondent shall also hear the fifth respondent before passing the order, as indicated above.

11. The Writ Petition in W.P.[MD]No.22704 of 2017, stand disposed of, accordingly. No costs.

Sd/-

Assistant Registrar(P&A)

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Sub Assistant Registrar(CS-IV)

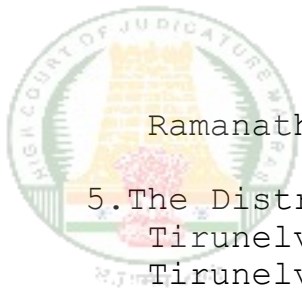
To

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

2. The Director of Fisheries,
Directorate of Fisheries,
Administrative Office Buildings,
DMS Complex, Teynampet, Chennai - 06.

3. The Assistant Director of Fisheries,
O/o. The Assistant Director of Fisheries,
Rameshwaram Taluk,
Ramanathapuram District.

4. The Inspector of Fisheries,
O/o. The Inspector of Fisheries,
Pamban, Rameshwaram Taluk,



Ramanathapuram District.

5.The District Collector,
Tirunelveli District,
Tirunelveli - 627 001.

6.The District Collector,
Kanyakumari @ Nagercoil,
Kanyakumari District - 629 001.

7.The District Collector,
Collectorate, Tuticorin,
Tuticorin District - 628 101.

8.The Deputy Director of Fisheries,
Nagercoil, Vadasery,
Kanyakumari District - 629 001.

9.The Assistant Director of Fisheries,
Chinna Muttam,
Kanyakumari District - 629 202.

10.The Assistant Director of Fisheries,
Colachel, Kanyakumari District - 629 202.

11.The Director General of Shipping,
Cum Secretary to Government,
Mercantile Marine Department,
Ministry of Shipping Road Transport and Highways,
Government of India,
9th Floor Techno Campus,
Kanjurmarg East, Mumbai.

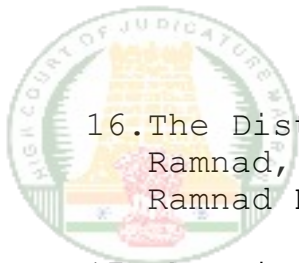
12.The Chief Engineering and Estate Officer,
V.O.Chidambaranar Port Trust,
Administrative Office,
Tuticorin - 628 004.

13.The Inspector of Police,
Marine Police,
Kudankulam, Tirunelveli District - 627 805.

14.The Secretary,
Government of India,
Department of Animal Husbandry,
And Fisheries, Krishi Bhawan,
New Delhi - 110 001.

15.The District Collector,
Pudukkottai

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



16.The District Collector,
Ramnad,
Ramnad District.

17.The District Collector,
Thanjavur,
Thanjavur District.

18.The Joint Director of Fisheries,
O/o. The Joint Director of Fisheries,
Pudukkottai, Pudukkottai District.

19.The Assistant Director of Fisheries,
O/o.The Assistant Director of Fisheries,
Pudukkottai District.

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O/o. The Joint Director of Fisheries,
Thanjavur, Thanjavur District.

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O/o. The Assistant Director of Fisheries,
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Ramanathapuram District.

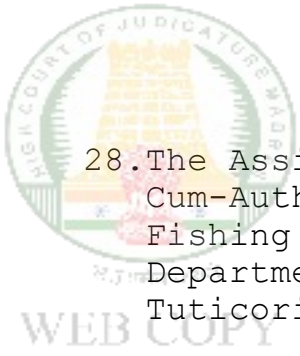
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O/o. The Assistant Director of Fisheries,
Rameshwaram, Ramanathapuram District.

24.The Assistant Director of Fisheries (South),
O/o. The Assistant Director of Fisheries,
Rameshwaram, Ramanathapuram District.

25.The Superintendent of Police (Coastal),
Mandapam,
Ramanathapuram.

26.The Principal District Judge,Tuticorin

27.The Officer in Charge / Surveyor,
The Marine Mercantile Department,
Ministry of Shipping and Transport,
Opp. World Trade Avenue,



28.The Assistant Director of Fisheries
Cum-Authorised Officer,
Fishing Harbor Management,
Department of Fisheries,
Tuticorin.

29.The Joint Director of Fisheries,
Turicorin, Tuticorin District.

+1cc to Mr.T.Lajapathi Roy Advocate in SR.No.92130

+3cc to Mr.M.Joseph Thatheus Jerome in Advocate in SR.No.91909,91910
&91907

+1cc to Mr.K.Prabhu Advocate in SR.No.92139

+1cc to Mr.M/s.Gnanadesikan Law Associates Advocate in SR.No.91756

+1cc to Special Government Pleader in SR.No.92189,92198,
92197&92200

COMMON ORDER MADE IN
W.P.[MD]Nos.22704 of 2017 and
4608, 2584 & 7907 of 2018
25.10.2018

PSSKN 06.12.2018 14P 37C