



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 06.03.2018

PRONOUNCED ON : 27.03.2018

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CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition (MD) Nos.23861, 24113 and 24079 of 2017 and 18274 of 2016, 155, 639, 1353, 1354 of 2018, 15698 of 2013, 17458, 19935 and 20311 of 2014, 6826, 10753, 16893 and 19760 of 2015, 12165 of 2016, 19327, 19350 and 14304 of 2017 and 730 of 2015

and

W.M.P(MD)Nos.19994, 20234, 20233,15667, 15668, 11205 and 19125 of 2017, 13165, 4330, 9262, 9263 of 2016, 1436 and 1437 of 2018

and

M.P(MD)Nos.1 of 2013, 1, 1 and 1 of 2014, 1,1,1,1 and 1 of 2015, 2 of 2014, 2 and 2 of 2015 and 3 of 2015

Kamardeen	.. Petitioner in W.P.(MD)No.23861 of 2017
Chandramohan	.. Petitioner in W.P.(MD)No.24113 of 2017
S.V.Malaiyandi	.. Petitioner in W.P.(MD)No.24079 of 2017
Danushkodi	.. Petitioner in W.P.(MD)No.18274 of 2016
S.Thonthiyappan	.. Petitioner in W.P.(MD)No.155 of 2018
M.Tamilarasan	.. Petitioner in W.P.(MD)No.639 of 2018
N.Panchatcharam	.. Petitioner in W.P.(MD)No.1353 of 2018
N.Panchatcharam	..Petitioner in W.P.(MD)No.1354 of 2018
P.Ravichandran	..Petitioner in W.P.(MD)No.15698 of 2012
K.Pandi	..Petitioner in W.P.(MD)No.17458 of 2014
M.Selvam	..Petitioner in W.P.(MD)No.19935 of 2014
C.Jeyaveeran	.. Petitioner in W.P.(MD)No.20311 of 2014
Magudeeshwaran	.. Petitioner in W.P.(MD)No.6826 of 2015
P.Ganesan	.. Petitioner in W.P.(MD)No.10753 of 2015
N.Rajendran	..Petitioner in W.P.(MD)No.16893 of 2015
Kalimuthu	..Petitioner in W.P.(MD)No.19760 of 2015
P.Appan Raj	.. Petitioner in W.P.(MD)No.12165 of 2016
K.Kulanthai Selvan	.. Petitioner in W.P.(MD)No.19327 of 2014
D.Thirunavukkarasu	... Petitioner in W.P.(MD)No.19350 of 2017
V.Managalnathan	..Petitioner in W.P.(MD)No.14304 of 2017

Panjathaangikulam Varathuvaikul Rettayampadi

Neerinai Payanpaduthuvor Sangam,

Rep by its President,

K.Chellamuthu,

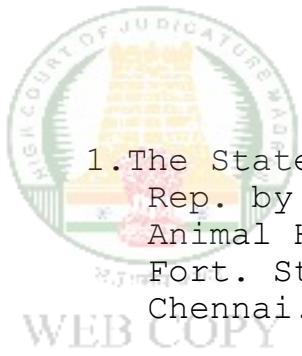
S/o. Kuppana Gounder,

No.9/370, Pappampatti,

Pazhani Taluk,

Dindigul District.

..Petitioner in W.P.(MD)No.730 of 2015



1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Animal Husbandry and Fishing,
Fort. St. George,
Chennai.

2.Assistant Director of Fisheries,
(Inland Fish Culture),
Simmakal, Madurai.

3.The Assistant Executive Engineer,
Periyar Main Channel,
Sub Division-1, Madurai.

... Respondents in W.P.(MD)No.23861 of 2017

1.The Executive Engineer,
Public Works Department,
Upper Vaippar Basin Section,
Rajapalayam,
Virudhunagar District.

2.The Assistant Engineer, PWD/WRO,
Upper Vaippar Basin Sub Section,
Sankarankovil,
Tirunelveli District. ...Respondents in W.P.(MD)No.24113 of 2017

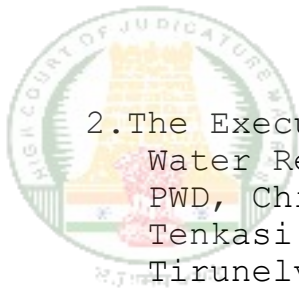
1.The District Collector,
Madurai District,
Madurai.

2.The Commissioner,
Fisheries Department,
DMS Campus, Admin Building,
Teynampettai,
Chennai-600 006.

3.The Director of Fisheries,
Madurai Zone,
Vanamamalai 2nd Street, Bye Pass Road,
Madurai-18.

4.The Assistant Director of Fisheries,
(Inland Fishing),
Fisheries Department,
Petchiamman Padithurai,
Madurai-625 001. ... Respondents in W.P.(MD)No.24079 of 2017

1.The District Collector,
Tirunelveli District.



2.The Executive Engineer,
Water Resources Organisation,
PWD, Chithar Basin Division,
Tenkasi at Kudiyiruppu-827 802,
Tirunelveli District.

3.The Assistant Executive Engineer,
Chithar Basin Sub Division,
Ambasamuthiram,
Tirunelveli District. ... Respondents in W.P.(MD)No.18274 of 2016

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Assistant Executive Engineer,
Public Works Department,
Uppervaippar Basin Division,
Rajapalayam,
Virudhunagar District. .. Respondents in W.P.(MD)No.155 of 2018

1.The Commissioner of Fisheries,
Fisheries Department,
DMS Complex, Teynampet,
Chennai-600 006.

2.The Assistant Director of Fisheries,
Fisheries Department,
Madurai Zone, Madurai District.

3.The Assistant Director of Fisheries,
Fisheries Department,
Vaigai Dam, Theni District.
.. Respondents in W.P.(MD)No.639 of 2018

1.The State of Tamil Nadu,
Represented by Secretary to Government,
Public Works Department,
Fort St.George, Chennai-9.

2.The Executive Engineer,
Water Resource Organisation/
Public Works Department,
Mel Vaippar Basin Division,
Rajapalayam Post-626 117,
Virudhunagar District.

3.The Assistant Executive Engineer,
Water Resource Organisation/
Public Works Department,
Mel Vaippar Basin Division,
Rajapalayam Post-626 117,
Virudhunagar District.



4.The Inspector of Police,
Seithur Police Station,
Seithur Post-626 121,
Rajapalayam Taluk,
Virudhunagar District.... Respondents in W.P.(MD)No.1353 of 2018

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1.The State of Tamil Nadu,
Represented by Secretary to Government,
Public Works Department,
Fort St. George, Chennai-9.

2.The Executive Engineer,
Water Resource Organisation/ Public
Works Department,
Mel Vaipper Basin Division,
Rajapalayam Post-626 117,
Virudhunagar District.

3.The Assistant Executive Engineer,
Water Resource Organisation /
Public Works Department,
Mel Vaipper Basin Sub-Division,
Rajapalayam Post-626 117,
Virudhunagar District.

4.The Inspector of Police,
Seithur Police Station,
Seithur Post-626 121,
Rajapalayam Taluk,
Virudhunagar District.. ..Respondents in W.P.(MD)No.1354 of 2018

1.The District Collector,
Collectorate Madurai District.

2.The Assistant Director of Fisheries,
Inland Fisheries,
Pechaiamman Padithurai,
Madurai-625 001. ..Respondents in W.P.(MD)No.15698 of 2018

1.The District Collector,
Office of District Collectorate,
Madurai District,
Madurai.

2.The Chief Executive Officer,
Fish Farmers Development Agency,
Madurai District,

3.A.Poovalingam ..Respondents in W.P.(MD)No.17458 of 2014



1.The District Collector,
Madurai District.

2.The Chief Engineer,
Public Works Department (Water Resources),
Madurai Region, Madurai-625 002.

3.The Assistant Director of Fisheries,
Petchiamman Padithurai Road,
Madurai-625 001. ..Respondents in W.P.(MD)No.19935 of 2014

1.The Assistant Director of Fisheries,
O/o.The Assistant Director of Fisheries,
Fisheries Department, Petchiamman Padithurai,
Madurai-1.

2.Manoharan ... Respondents in W.P.(MD)No.20311 of 2014
(Died for default vide Court order dated:04.07.2017)

1.The Director of Fisheries,
Teynampettai, Chennai-18.

2.The Principal Executive Officer and
Assistant Director of Fisheries,
No.12-A, Spencers Compound,
Western Side of Central Bus Stand,
Dindigul. ... Respondents in W.P.(MD)No.6826 of 2015

1.The Director of Fisheries,
Department of Fisheries,
DMS Complex,
Teynampet,
Chennai-600 006.

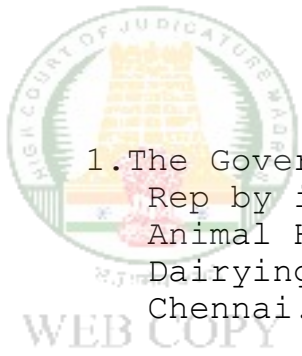
2.The District Collector,
Madurai.

3.The Assistant Director of Fisheries,
Pechiamman Padithurai, Madurai.
... Respondents in W.P.(MD)No.10753 of 2015

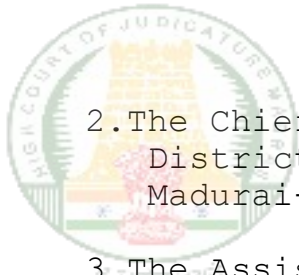
1.The Director of Fisheries,
Administrative Office,
Thenampet,
Chennai-600 006.

2.The District Collector,
Madurai District,
Madurai.

3.The Assistant Director Fisheries,
O/o the Assistant Director of Fisheries (Inland Fisheries)
Madurai. ..Respondents in W.P.(MD)No.16893 of 2015



- 1.The Government of Tamil Nadu,
Rep by its Secretary,
Animal Husbandry,
Dairying and Fisheries (FS3),
Chennai.
- 2.The Director of Fisheries,
DMS Campus, Annasalai, Thenampet,
Chennai-600 006.
- 3.The Assistant Director of Fisheries,
12, Spencer Compound,
Central Bus Stand (Upstairs),
Dindigul-624 001. ..Respondents in W.P.(MD)No.19760 of 2015
- 1.The Director of Fisheries,
Fishers Department (Inland),
Administrative Buildings,
D.M.S.Compound,
Teynampet, Chennai-600 006.
- 2.The District Collector,
District Collectorate,
Madurai District-20.
- 3.The Assistant Director,
O/o.The Assistant Director,
Fishers Department (Inland),
Petchiamman Padithurai,
Madurai District-20. ... Respondents in W.P.(MD)No.12165 of 2016
- The Assistant Director of Fisheries,
Office of the Assistant Director of Fisheries,
Fisheries Department,
Petchiaman Padithurai,
Madurai-625 001. ... Respondent in W.P.(MD)No.19327 of 2014
- 1.The District Collector,
Vadipatti Taluk,
Madurai District.
- 2.The Commissioner of Fisheries,
Fisheries Department, Chennai.
- 3.The Assistant Director of Fisheries,
(Inland Fishing),
Fisheries Department,
Madurai District. ... Respondents in W.P(MD)No.19350 of 2017
- 1.The District Collector/President,
District Fisheries Development Department, Madurai-2.



2.The Chief Administration Officer,
District Fisheries Development Department,
Madurai-1.

3.The Assistant Director of Fishery Department,
District Fisheries Development Department,
Madurai-1. ..Respondents in W.P.(MD)No.14304 of 2017

1.The Executive Engineer,
Public Works Department /WRO,
Irrigation Section,
Tirumangalam,
Madurai District.

2.The Assistant Director of Fisheries,
Inland Fisheries,
No.12, Spencer Compound,
Central Bus Stand (Upstairs),
Dindigul-624 001. ..Respondents in W.P.(MD)No.730 of 2015

Prayer in W.P.(MD)No.23861 of 2017: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the 2nd respondent to consider the petitioner's representation dated 05.06.2017 to extend the lease period up to 31.07.2018 for a period of 7 months for harvesting the Fish in Ilampallam Kanmai at Madurai East Taluk, Madurai District in view of the condition Number XV in G.O.(Ms)No.201 dated 19.10.2017 on the file of the 1st respondent.

Prayer in W.P.(MD)No.24113 of 2017: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in the impugned order passed dated 31.08.2016 in his letter No. 1/15/2016 dated 31.08.2016 and to quash the same and consequently direct the respondents to enhance the fishing lease period for further 5 years in respect of Paikulam Tank, Thalaivankottai Village, Kadayanallur Taluk, Tirunelveli District in the light of G.O.Ms.No.332 (Animal Husbandry and Fisheries (FS-IV) Department dated 17.11.1993).

Prayer in W.P.(MD)No.24079 of 2017: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the entire records, relating to the impugned order passed by the fourth respondent vide his proceedings in Na.Ka.No.829/E/15 dated 28.11.2017 and to quash the same as arbitrary and consequently to direct the fourth respondent to extend the lease period for one another year for doing fish harvesting in Malaivetti Kulam Kanmoi situating in Narasingampatti Village, Melur Taluk, Madurai District.

Prayer in W.P.(MD)No.18274 of 2016: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of



a Writ of Mandamus, directing the respondents to renew the petitioner's lease for 3 years (excluding the 2 years) already done as per G.O.Ms.No.332 Animal Husbandry, dated 17.11.1993.

Prayer in W.P.(MD)No.155 of 2018: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the second respondent to extend the fishing lease granted to the petitioner by considering his representation dated 14.12.2017 within the time that may be stipulated by this Court.

Prayer in W.P.(MD)No.639 of 2018: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents herein to extend the lease period in respect of Fishing Right at Manthaikulam Kanmoi, Allinagaram Village, Theni District for the year 2017-2018 to 2019-2020 (3 years Lease Period) in the petitioner's favour by enhancing 10 per cent lease amount increase in the previous year amount on the basis of his representation dated 06.12.2017 and for other reliefs.

Prayer in W.P.(MD)No.1353 of 2018: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the second respondent in Letter No.Thal/15-3/2016 dated 13.08.2016 and quash the same and consequently direct the respondents to extend the fishery rights lease for further period of four years as per G.O.(Ms)No.332 Animal Husbandry and Fisheries (FS-IV) Department, dated 17.11.1993 in respect of Vazhavanthan Tank located in Muthusamyapuram Village, Rajapalayam Taluk, Virudhunagar District.

Prayer in W.P.(MD)No.1354 of 2018: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 2nd respondent in Letter No.Thal/15-2/2016/ dated 13.08.2016 and quash the same and consequently direct the respondents to extend the fishery rights lease for further period of four years as per G.O.(Ms) No.332 Animal Husbandry and Fisheries (FS-IV) Department dated 17.11.1993 in respect of the Kadappakudi Tank located in Seithur Village, Rajapalayam Taluk, Virudhunagar District.

Prayer in W.P.(MD)No.15698 of 2012: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling the impugned order issued by the 2nd respondent on 06.09.2013 (Na.Ka.No.1186/E/12-2) and quash the same and direct the respondents to restore the fishing right of the petitioner in Viraghanoor Tank, Madurai District.

Prayer in W.P.(MD)No.17458 of 2014: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, to declare the renewal of the fishing



license pertaining to Segankulam Kanmai, Madurai North Region, Madurai District in order dated 28.08.2014 issued by respondent No.2 as illegal and consequently directing the respondent No.2 to conduct re-tender within the time period stipulated by this Court.

Prayer in W.P.(MD)No.19935 of 2014: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Certiorarified Mandamus, to call for the records pertaining to the auction conducted by the third respondent dated 03.12.2014 for Madakulam Kanmai in Madakulam Village of Tiruparankundram Taluk, Madurai District in pursuance of his proceedings in Na.Ka.No.985/E/2014 dated 13.11.2014 pending on the file of the third respondent and to quash the same and in consequently to direct the third respondent to conduct re-auction for Madakulam Kanmai in Madakulam village of Tiruparamkundram Taluk, Madurai District by following the due procedure.

Prayer in W.P.(MD)No.20311 of 2014: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, seeking to issue direction to the respondent to call for fresh tender for fishing lease in Thenkal Kanmai, Tirupparankundram since several irregularities took place in the auction held on 09.12.2014 in pursuant to the notification issued by the respondent No.1 in Na.Ka.No.985/e/14 dated 13.11.2014, taking into account of the petitioner's representation dated 10.12.2014.

Prayer in W.P.(MD)No.6826 of 2015: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the tender notification issued by the respondent No.2 in Na.Ka.No.1157/A/2012 dated 09.04.2015 and consequently direct the respondent No.2 to issue final tender order to the petitioner for the Kamala Samudram Tank.

Prayer in W.P.(MD)No.10753 of 2015: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the first respondent to extend the fishing lease period of the petitioner at Vilacheri Lake, Madurai District for further period of two years based on the recommendation of the second respondent made in Na.Ka.No.Viva2/28542/2013 dated 06.08.2013.

Prayer in W.P.(MD)No.16893 of 2015: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records relating to the impugned order issued by the third respondent in his proceedings in Na.Ka.No.829/I/15-3, dated 02.09.2015 insofar as it relates to Vaagaikulam Tank, Kuruthur Village, Madurai North is concerned and quash the same as illegal.

Prayer in W.P.(MD)No.19760 of 2015: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of



a Writ of Certiorarified Mandamus, to call for the records pertaining to the G.O.Ms.No.165, dated 25.09.2012 passed by the first respondent, and consequential proceedings of the second respondent made in Na.Ka.No.29400/F3/2014, dated 13.10.2015 published in Tamil Daily Dhinamani dated 13.10.2015 insofar as Parapalaru Reservoir Dindigul District and quash the same and further direct the respondents to permit the petitioner to continue the present licensed fishing in Parapalaru Reservoir Dindigul District.

Prayer in W.P.(MD)No.12165 of 2016: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order in Na.Ka.No.604/E/2016 dated 14.06.2016 pertaining to the fishing lease in Nilayur Kanmai, Madurai South Taluk, Madurai District in serial No.37 of the impugned Tender proceedings, proposed to be held on 14.07.2016 on the file of the respondent No.3 and quash the same as illegal.

Prayer in W.P.(MD)No.19327 of 2014: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records relating to the impugned proceedings passed by the respondent in Na.Ka.No.985/E/14-3 dated 17.11.2014 and quash the same as illegal.

Prayer in W.P.(MD)No.19350 of 2017: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to quash the impugned order of the third respondent in Na.Ka.604/E/16 dated 21.09.2017 and quash the same as illegal and consequently direct the third respondent to adjust the 1st year lease amount (2016-2017) towards the lease amount payable for the 2nd year lease amount and grant an extension of further period of one year of the lease agreement dated 22.08.2016.

Prayer in in W.P.(MD)No.14304 of 2017: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to adjust the lease amount paid by the petitioner for the period 2016-2017 as paid towards 2017-2018 as a result of the drought situation and permit the petitioner to continue the fishing lease for the remaining period.

Prayer in W.P.(MD)No.730 of 2015: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned tender notice in Na.Ka.No.1157/Aa/2012 dated 09.10.2014 on the file of the respondent No2 and quash the same as illegal and consequently for a direction forbearing the respondent No.2 from conducting tender pertaining to fishing rights lease in Panjanthangikulam Tank situated at Pappampatti Panchayat, Pazhani Taluk, Dindigul District without following the procedure



contemplated in Government Order in G.O.Ms.No.72 dated 06.05.2014
Public Works Department Government Order in G.O.Ms.No.16, dated
14.01.2011, Public Works Department.

For Petitioner : Mr.V.Kannan
(In W.P(MD)No.23861 of 2017)
For Petitioner : Mr.K.Sudalaiyandi
(In W.P(MD)No.24113 of 2017)
For Petitioner : Mr.K.A.Nandhagopan
(In W.P(MD)No.24079 of 2017)
For Petitioner : Mr.T.S.R.Venkataramana
(In W.P(MD)No.18274 of 2016)
For Petitioner : Mr.M.Mahaboob Athiff for
(In W.P(MD)No.155 of 2018) M/S.Ajmal Associates
For Petitioner : Mr.J.Lawrance
(In W.P(MD)No.639 of 2018)
For Petitioner : Mr.M.Saravanakumar
(In W.P(MD)No.1353 of 2018)
For Petitioner : Mr.M.Saravanakumar
(In W.P(MD)No.1354 of 2018)
For Petitioner : Mr.V.Vinayagamoorthy
(In W.P(MD)No.15698 of 2013)
For Petitioner : Mr.T.Lajapathi Roy
(In W.P(MD)No.17458 of 2014)
For Petitioner : Mr.R.Rajamohan
(In W.P(MD)No.19935 of 2014)
For Petitioner : Mr.V.Vinayagamoorthy
(In W.P(MD)No.20311 of 2014)
For Petitioner : Mr.S.M.A.Jinnah
(In W.P(MD)No.6826 of 2015)
For Petitioner : Mr.M.Sureshkumar
(In W.P(MD)No.10753 of 2015)
For Petitioner : Mr.C.Venkateshkumar for
(In W.P(MD)No.16893 of 2015) M/s.Ajmal Associates
For Petitioner : Mr.M.Sureshkumar
(In W.P(MD)No.19760 of 2015)
For Petitioner : Mr.J.Pandidorai
(In W.P(MD)No.12165 of 2016)
For Petitioner : Mr.R.R.Kannan
(In W.P(MD)No.19327 of 2014)
For Petitioner : Mr.M.Kannan
(In W.P(MD)No.19350 of 2017)
For Petitioner : Mr.Niranjan S.Kumar
(In W.P(MD)No.14304 of 2017)
For Petitioner : Mr.T.Lajapathi Roy
(In W.P(MD)No.730 of 2015)

For Respondents : Mr.B.Pugalendhi,
Additional Advocate General
(In all W.Ps.) assisted by Mr.M.Rajarajan,
Government Advocate



For 3rd Respondent : Mr.V.Santhakumaresan
(In W.P(MD)No.17458 of 2014)

COMMON ORDER

Since the issue involved in all the writ petitions is one and the same, they are taken up together and disposed of by this common order.

2.The issue relates to granting lease of fishing rights in various inland tanks under the control of Revenue, Public Works Department or Local Bodies or Fisheries Department. Most of the writ petitioners are lessees and their lease period is already over, now they sought for extension of lease on various grounds and some writ petitioners are challenging the orders refusing to extend their lease by the concerned authorities.

3.Before going into the merits of the case, it is useful to refer relevant Revenue Standing Orders as well as various Government Orders relating to the granting lease of fishing rights. The fountain head of all those Government Orders is Revenue Standing Order (RSO) 211 which deals with the disposal of fisheries rights by lease. The above Revenue Standing Order is still in vogue and continue to govern the leasing of fishery rights.

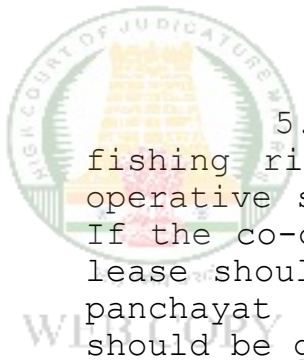
4.The relevant portion of the above Revenue Standing Order reads as follows:-

"RSO.211:- Disposal of Fisheries by Lease:-The fisheries in all public inland waters such as tanks, rivers, estuaries, canals, drains etc., whether in charge of Revenue or Public Works or Fisheries Department should ordinarily be disposed of by lease. Where such waters lie in or flow through municipal or panchayat limits, the right of fishing shall be exercised in such limits subject to the provisions of section 228 of the Tamil Nadu District Municipalities Act or section 124 of the District Board Act, 1920, or section 77 of the Tamil Nadu Village Panchayats Act (Act X of 1950) as the case may be. Disposal of fishery rights otherwise than by lease shall be resorted to only under the circumstances mentioned in paragraph 2 below. The concession of lease without auction is not available to individuals. The lease should be given in the following order of preference:-

(i)Co-operative societies of fishermen or of Harijans engaged in fishing;

(ii)Panchayat of the locality;

(iii)Private individuals as determined by the results of public auction".

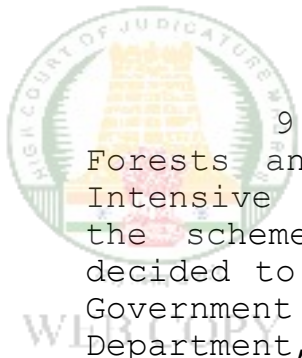


5.As per the above Revenue Standing Order, while granting fishing rights, the first preference should be given to the co-operative societies of fishermen or of Harijans engaged in fishing. If the co-operative society is not prepared to take the lease, then lease should be given to the panchayat of the area and if the local panchayat also not willing to take lease then the fishery right should be given to private individuals through public auction.

6.In the year 1972, the Government framed a Rules called Tamil Nadu Inland Fisheries Lease and Licence Rules, 1972 (hereinafter called as 'Rules') in exercise of powers conferred under Section 6 of the Indian Fisheries Act, 1897. Rule 2 of the Rules prohibits conducting fishing operations, in any waters referred to in Annexure-I of the Rules except under a lease or licence granted by the Government or any other authority authorised by the Government. Rule 3 prohibits fishing in any water specified in Annexure II of the Rules without a valid lease or licence by the Government or local body with whom the water vests. Annexures I and II refers to rivers, channels, and other connected waters available in various Districts in the State. The above Rules also prescribed conditions of licence and lease in various waters mentioned in the schedules. Thereafter, the Government issued various Government Orders fixing the lease period and also conditions for granting licence.

7.In the year 1984, the Government framed a Scheme for "Intensive Inland Fishing Culture and Marketing" (hereinafter called as 'the scheme') in the erstwhile Madurai and South Arcot Districts, in G.O.Ms.No.1286, Forests and Fisheries Department, dated 09.11.1984. The above scheme has been framed with a view to exploiting the available inland water resources for better fish production by intensively stocking with them with quick growing fish seeds. A proposal was also submitted by the Director of Fisheries for taking over all major irrigation tanks and long seasonal tanks with the Fisheries Department, on an experimental basis, in the erstwhile Madurai and South Arcot District for implementing the scheme.

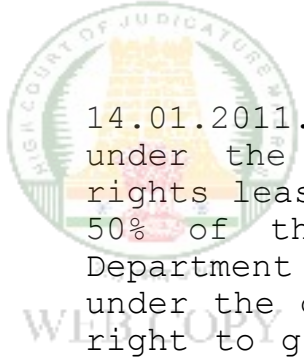
8.Subsequently, in the year 1993, the Government issued another Government Order in G.O.Ms.No.332, Animal Husbandry and Fisheries Department, dated 17.11.1993, for leasing of fishery rights in water spread tanks under the control of Public Works Department, Revenue Department and Panchayat Department in a public auction and also for enhancement of lease period to five years. The said Government Order, after referring to the preference for granting lease as per the Revenue Standing Order 211, modified the earlier Government Order in respect of period of lease that all the fishery right lease 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 and the first year bids will be taken as the base rate and also stated that annual lease should not be resorted to.



9. So far as the Districts covered under G.O.Ms.No.1286, Forests and Fisheries Department, dated 09.11.1984 wherein the Intensive Inland Fisheries Development Scheme was implemented, as the scheme is not functioning as expected, the Government has decided to issue partial modifications in the Scheme and issued new Government Order in G.O.Ms.No.33, Animal Husbandry and Fisheries Department, dated 27.02.1995. As per the amended Government Order, the fishery rights available in the above Districts should be leased out to the individuals and the Inland Fishermen Co-operative Society for a period of three continuous years to the successful bidder in the public auction and while calling for tenders, the upset price should be fixed taking into account the cost of stocking of fish seeds, water retentivity and other factors in each tank by the Assistant Director of Fisheries with the approval of the Regional Joint Director or Deputy Director and Commissioner of Fisheries.

10. Recently, the Government issued another order, partially modifying the above Government Orders in G.O.Ms.No.201, Animal Husbandry, Dairying and Fisheries Department, dated 19.10.2017, substituting some new terms and conditions in G.O.Ms.No.33, dated 27.02.1995. As per the substituted conditions, the local fishermen co-operative society shall be given priority for taking lease of fishery rights before leasing the same through public tender by paying upset price and the upset price shall be fixed once in three years by the Assistant Director of Fisheries concerned subject to approval of the Regional Joint / Deputy Director of Fisheries and Commissioner of Fisheries. The tanks shall be allotted exclusively to the concerned Inland Fishermen Co-operative Society for a continuous period of three years with 20% more than that of the upset price fixed by the Department for the first year. If the fishermen co-operative society does not come forward to take the lease of the fishery rights in a particular tank, then the Assistant Director of Fisheries shall lease out the fishery rights to the private parties by following public tender system. Out of the lease amount paid by the Fishermen Co-operative Society or lessee, 50% of the lease amount should be credited to the account of the Public Works Department. Yet another condition is included in the above Government Order, that during the lease period, if any one of the years is declared as drought year by the Government and the lease amount has been paid by the lessee for that particular year in advance, then the lease period should be extended by one year without any lease amount. Further, leasing of fishery rights shall be carried out by the Fisheries Department in the tanks where fishery rights are at present leased out by that Department and the Revenue Department continued to lease out the fishery rights in the tanks where the Revenue Department is leasing out. So far as the remaining tanks, granting of lease shall be vested with the Public Works (Water Resources) Department.

11. In the meantime, the Government has also issued another Government Order relating to sharing of income from the leasing out of fishery rights in G.O.Ms.No.16, Public Works Department, dated



14.01.2011. As per the above Government Order, so far as the tanks under the control of Public Works Department where the fishery rights leased out by the Fisheries Department or Revenue Department, 50% of the lease amount should be paid to the Public Works Department for the purpose of maintaining tank. So far as the tanks under the control of Public Works (Water Resources) Department, the right to granting of lease is given to the Public Works Department and 50% of the lease amount should be paid to the various agricultural associations formed under Tamil Nadu Farmers' Management of Irrigation Systems Act, 2000.

12.As on today, the leasing out of fishery rights in this State is governed by the Revenue Standing Order No.211. In respect of areas covered under the Scheme is governed by G.O.Ms.No.1286, dated 09.11.1984, G.O.Ms.No.33, dated 27.02.1995 and G.O.Ms.No.201, dated 19.10.2017. So far as the remaining areas, the leasing out of fishery rights are governed by G.O.Ms.No.332, Animal Husbandry and Fisheries Department dated 17.11.1993.

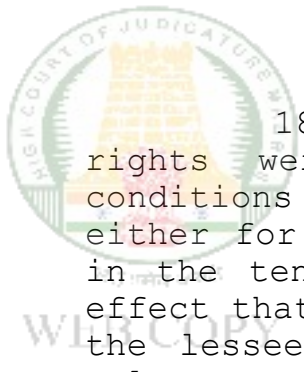
13.As per G.O.Ms.No.332, Animal Husbandry and Fisheries Department, dated 17.11.1993, all the fishing leases should be granted for a period of five years and this Government Order strictly prohibiting leasing out of tanks annually. Apart from that the lease should be granted by following order of preference, that is, firstly to the Co-operative societies comprised of Fishermen or of Harijans engaged in fishing, secondly, the panchayat of the locality and thirdly, if no takers in both categories, it should be given to the private individuals by public auction.

14.In respect of the areas where the scheme is implemented namely, fishery rights should be given for three continuous years. So far as the priorities are concerned, Fishermen Co-operative Society shall be given first priority, if the society does not come forward to take lease, then it should be leased out to the private parties through public tender system.

15.But in the instant writ petitions, the above Government Orders were not strictly followed in most of the cases, fishery right was leased out only for one year and in some cases for three years through a public auction, those lessees now came forward with these writ petitions seeking for extension of lease period following the above said Government Orders on the ground that for the past two years there was severe drought in the State, and the tanks were gone dry and they were not able to conduct fishing operations.

16.I have considered the submissions made by the learned counsel appearing for the parties and perused the entire materials available on record meticulously.

17.Now, the question that arises for consideration in these writ petitions is whether the writ petitioners are entitled to get extension of lease as per the above said Government Orders.



18. Admittedly, in all the writ petitions, the fishery rights were leased out through public auction with certain conditions and the lease period is also fixed by the authorities either for one year or three years or five years. Apart from that in the tender notification, there is a specific condition to the effect that in the event of a monsoon failure or natural calamities, the lessees are not entitled for extension of lease period. The relevant condition reads as follows:-

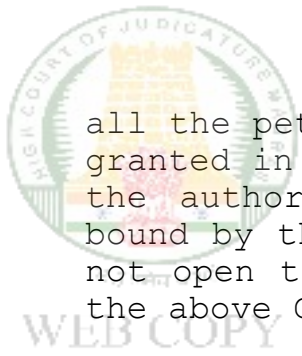
"பருவமழை தவறினாலோ வறட்சி மற்றும் இயற்கை இடர்பாடுகள் காரணமாகவோ இருப்பு, செய்ய மின் குஞ்சுகள் கிடைக்காமல் போனாலோ வேறு ஏதேனும் காரணங்களால் மின் வளர்ப்பு, பாதிக்கப்பட்டாலோ மின் வளத்துறை பொறுப்பு அல்ல. மின் குஞ்சுகளை குத்தகைதாரர் தனது சொந்த பொறுப்பில் இருப்பு, செய்து கொள்ள வேண்டும். மேலும் ஏக்காரணத்தைக் கொண்டும் குன்றாம் பசலி ஆண்டு 1424 (ஜூன் 2015) க்கு பிறகு குத்தகை காலத்தை நீட்டித்து தர இயலாது."

19. All the petitioners participated in the auction with the knowledge that as per the above condition the lease period will not be extended on any ground. Now, in all the writ petitions, the lease period is already over and the petitioners sought extension of lease mainly on the ground that there was a severe drought in the previous years and due to the drought all the tanks were dried, they were not able to carry out fishing operations and they suffered a huge loss.

20. Mr. T.S.R. Venkataramana, learned counsel appearing for the petitioners contended that as per G.O. Ms. No. 332, Animal Husbandry and Fisheries Department, dated 17.11.1993, all the fishery rights should be leased out for a continuous period of five years, apart from that even as per G.O. Ms. No. 201, Animal Husbandry, Dairying and Fisheries Department, dated 19.10.2017, the areas where the scheme is implemented, fishery rights should be given for three continuous years and therefore, the lessees are entitled for five or three continuous years respectively. In the above circumstances, the respondents ought not to have conducted public auction for leasing out the tanks for a lesser period.

21. Learned counsel would further contend that even in G.O. Ms. No. 201, dated 19.10.2017, as per clause (xv), during currency of the lease period, if any one of the years is declared as drought year by the Government, then lease period should be extended by one more year without any lease amount. Now the Government has declared the entire State of Tamil Nadu as drought affected area as per G.O. Ms. No. 16, Revenue dated 10.01.2017. Hence, the petitioners are entitled to get extension of lease for one more year.

22. Learned Additional Advocate General appearing for the respondents would submit that even though the above Government Orders prescribed a longer lease period but in all the writ petitions, the lease period has already expired and the tanks were leased out only for a limited period with a specific condition that the lease period will not be extended on any reasons. Knowing fully well about the fact that the lease is only for a specific period,



all the petitioners have participated in the auction, lease was also granted in their favour and they have entered into an agreement with the authorities. In the above circumstances, the petitioners are bound by the contract and having been accepted the offer, now it is not open to them to seek for extension of lease on the ground that the above Government Orders prescribed for longer period.

23.The contention of the learned counsel appearing for the petitioners cannot be countenanced for a simple reason that even though the above said Government Order prescribed for minimum lease period of five years and three years but when public auction were called for lesser years, the petitioners did not come forward to challenge the same and they had participated in the public auction abiding by the terms and conditions imposed therein. Now, after accepting the terms and conditions entered into agreement with the respondents. Now, they cannot seek for extension of lease period which is specifically prohibited in the terms and conditions and they were bound by the above conditions.. Now, it is not open to them to contend that the auction ought to have conducted for a period of five years and three years respectively.

24.The next contention relating to G.O.Ms.No.201, dated 19.10.2017 is concerned, the above said Government Order was issued only amending the Government Order in G.O.Ms.No.33, dated 27.02.1995 in respect of areas where the scheme was implemented and that Government Order is only prospective in nature. It is applicable for the future leases and that Government Order cannot be given a retrospective effect especially when the lease period of the petitioners expired before the said Government Order came into force. In the above circumstances, the petitioner are not entitled for extension of lease period. After the expiry of the lease period, the petitioners cannot seek for extension of lease which is not permissible. In the above circumstances, the relief sought by the petitioners cannot be granted.

25.As the leasing out of fishery rights are governed by G.O.Ms.No.332, dated 17.11.1993 and G.O.Ms.No.201, dated 19.10.2017, in future, the respondents are directed to lease out fishery rights as per the above Government Orders and the respondents are directed strictly to follow the above Government Orders for granting lease.

26.For the foregoing reasons, the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-II)

/True copy/



To

1. The Secretary to Government,
State of Tamil Nadu,
Animal Husbandry and Fishing,
Fort. St. George,
Chennai.
2. The Assistant Director of Fisheries,
(Inland Fish Culture),
Simmakal, Madurai.
3. The Assistant Executive Engineer,
Periyar Main Channel, Sub Division-1,
Madurai.
4. The Executive Engineer,
Public Works Department,
Upper Vaippar Basin Section,
Rajapalayam, Virudhunagar District.
5. The Assistant Engineer, PWD/WRO,
Upper Vaippar Basin Sub Section,
Sankarankovil, Tirunelveli District.
6. The District Collector,
Madurai District, Madurai.
7. The Commissioner,
Fisheries Department,
DMS Campus, Admin Building,
Teynampettai, Chennai-600 006.
8. The Director of Fisheries,
Madurai Zone, Vanamamalai 2nd Street,
Bye Pass Road, Madurai-18.
9. The Assistant Director of Fisheries,
(Inland Fishing),
Fisheries Department,
Petchiamman Padithurai,
Madurai-625 001.
10. The District Collector,
Tirunelveli District.
11. The Executive Engineer,
Water Resources Organisation,
PWD, Chithar Basin Division,
Tenkasi at Kudiyiruppu-827 802,
Tirunelveli District.



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

13.The District Collector,
Virudhunagar District, Virudhunagar.

14.The Assistant Executive Engineer,
Public Works Department,
Uppervaiappar Basin Division,
Rajapalayam, Virudhunagar District.

15.The Commissioner of Fisheries,
Fisheries Department,
DMS Complex, Teynampet,
Chennai-600 006.

16.The Assistant Director of Fisheries,
Fisheries Department,
Madurai Zone, Madurai District.

17.The Assistant Director of Fisheries,
Fisheries Department,
Vaigai Dam, Theni District.

18.The Secretary to Government,
State of Tamil Nadu,
Public Works Department,
Fort St.George, Chennai-9.

19.The Executive Engineer,
Water Resource Organisation/
Public Works Department,
Mel Vaippar Basin Division,
Rajapalayam Post-626 117,
Virudhunagar District.

20.The Assistant Executive Engineer,
Water Resource Organisation/
Public Works Department,
Mel Vaippar Basin Division,
Rajapalayam Post-626 117,
Virudhunagar District.

21.The Inspector of Police,
Seithur Police Station,
Seithur Post-626 121,
Rajapalayam Taluk,
Virudhunagar District.



22. The Chief Executive Officer,
Fish Farmers Development Agency,
Madurai District,
23. The Chief Engineer,
Public Works Department (Water Resources),
Madurai Region, Madurai-625 002.
24. The Assistant Director of Fisheries,
Petchiamman Padithurai Road,
Madurai-625 001.
25. The Assistant Director of Fisheries,
O/o. The Assistant Director of Fisheries,
Fisheries Department,
Petchiamman Padithurai, Madurai-1.
26. The Director of Fisheries,
Teynampettai, Chennai-18.
27. The Principal Executive Officer and
Assistant Director of Fisheries,
No.12-A, Spencers Compound,
Western Side of Central Bus Stand, Dindigul.
28. The Director of Fisheries,
Department of Fisheries,
DMS Complex, Teynampet,
Chennai-600 006.
29. The Secretary,
Government of Tamil Nadu,
Animal Husbandry,
Dairying and Fisheries (FS3), Chennai.
30. The Director of Fisheries,
DMS Campus, Annasalai, Thenampet,
Chennai-600 006.
31. The Assistant Director of Fisheries,
12, Spencer Compound,
Central Bus Stand (Upstairs),
Dindigul-624 001.
32. The Director of Fisheries,
Fishers Department (Inland),
Administrative Buildings,
D.M.S. Compound, Teynampet, Chennai-600 006.
33. The District Collector,
Valluvar Nilai,
Madurai District.



- 34.The Commissioner of Fisheries,
Fisheries Department, Chennai.
- 35.The District Collector/President,
District Fisheries Development Department,
Madurai-2.
- 36.The Chief Administration Officer,
District Fisheries Development Department,
Madurai-1.
- 37.The Assistant Director of Fishery Department,
District Fisheries Development Department,
Madurai-1.
- 38.The Executive Engineer,
Public Works Department /WRO,
Irrigation Section,
Tirumangalam,
Madurai District.
- 39.The Assistant Director of Fisheries,
Inland Fisheries, No.12, Spencer Compound,
Central Bus Stand (Upstairs),
Dindigul-624 001.

+1CC TO M/S.M.SURESH KUMAR, ADVOCATE, SR NO.58611
+1CC TO M/S.NIRANJAN S.KUMAR, ADVOCATE, SR NO.58262
+1CC TO M/S.M.KANNAN, ADVOCATE, SR NO.58159
+1CC TO M/S.AJMAL ASSOCIATES, ADVOCATE, SR NO.58077
+1CC TO M/S.T.S.R.VENKATRAMANA, ADVOCATE, SR NO.58091
+1CC TO M/S.K.SUDALIYANDI, ADVOCATE, SR NO.58217
+1CC TO M/S.T.LAJAPTHI ROY, ADVOCATE, SR NO.58510
+1CC TO M/S.M.SARAVANA KUMAR, ADVOCATE, SR NO.58498
+1CC TO SPECIAL GOVERNMENT PLEADER, SR NO.58417

Common Order made in
Writ Petition (MD) Nos.23861, 24113 and
24079 of 2017 and 18274 of 2016, 155, 639, 1353, 1354 of 2018, 15698
of 2013, 17458, 19935 and 20311 of 2014,
6826, 10753, 16893 and 19760 of 2015, 12165 of 2016, 19327, 19350
and 14304 of 2017 and 730 of 2015
and
W.M.P (MD) Nos.19994, 20234, 20233, 15667, 15668, 11205 and 19125 of
2017, 13165, 4330, 9262, 9263 of 2016, 1436 and 1437 of 2018
and
M.P (MD) Nos.1 of 2013, 1, 1 and 1 of 2014, 1,1,1,1 and 1 of 2015, 2
of 2014, 2 and 2 of 2015 and 3 of 2015
27.03.2018

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