



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.20634 of 2018

and

W.M.P. (MD) Nos.18393 & 18394 of 2018

P.Mokkai

... Petitioner

vs.

1.The Director of Fisheries
Tamil Nadu Fisher men Welfare Board
Chennai

2.The District Collector
Madurai District, Madurai

3.The Assistant Director of Fisheries
Madurai Zone, Fisheries office
Petchiamman Padiputhurai
Madurai-01

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the 1st Respondent consider the representation of the petitioner dated 14-09-2018 and extend the lease to further period for 2019-2010 as per the G.O.Ms.No.332 (Animal husbandry and fisheries (FDS.IV) Department dated 17-11-93).

For Petitioner : Mr.K.P.S.Palanivelrajan

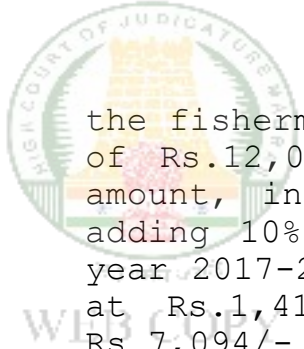
For Respondents : Mr.A.Muthu Karuppan

Additional Government Pleader

O R D E R

The case of the petitioner is that he is the successful bidder in the auction conducted for fishing right in Samikulam situated at Kodikulam Village, Madurai West Taluk, Madurai District, which is under the control of the third respondent, for the period from 2016-2017 till 2018-2019, under the Scheme of Intensive Fish Culture and Marketing Scheme. Pursuant to being declared as highest bidder, an agreement was entered into between the petitioner and the third respondent vide document No.7450, dated 02.08.2016. According to the petitioner, as per G.O.Ms.No.332, Animal Husbandry and Fisheries (FS.IV) Department, dated 17.11.1993, the existing lease can also be extended upto five years on 10% increase of lease amount every year.

2. The third respondent, by proceedings dated 26.10.2016, had directed the petitioner to pay the lease amount of Rs.1,17,250/- and

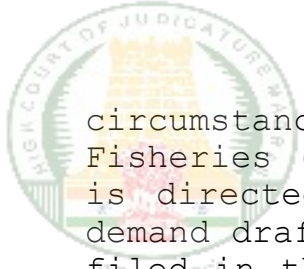


the fishermen welfare fund of Rs.5,863/- along with insurance amount of Rs.12,000/- for the year 2016-2017. Likewise, further lease amount, including fishermen welfare fund etc., had been fixed by adding 10% increase on the original lease amount payable for the year 2017-2018. For the year 2018-2019, the lease amount was fixed at Rs.1,41,873/- and the fishermen welfare fund was fixed at Rs.7,094/- and the amounts are to be paid on or before 31.07.2018.

3. On receipt of the communication from the third respondent, the petitioner had originally paid the amount demanded for the year 2016-2017 and according to the petitioner, for the said year due to bad weather, there was no enough water in the tank and he had suffered loss due to bad weather. According to the petitioner, the third respondent was aware of the cruel weather, which robbed the petitioner of his due returns from the fishing right. In such circumstances, on 14.09.2018, the petitioner submitted a representation to the respondents stating that as per the lease agreement, he has got fishing right upto 2018-2019 and therefore, he should be permitted to carry on fishing right for the present year i.e. 2018 - 2019. But, the respondents had not taken any steps to consider his request. According to the petitioner, he is ready and willing to pay the amount as per the original tender conditions for the last year as well as this year and in fact, he has also produced a copy of the demand draft, which has been taken by the petitioner in regard to the payment for the present year i.e. 2018-2019. However, in view of the loss suffered by the petitioner due to bad weather, he had requested the Authority concerned to extend the lease period for a period of one year at least i.e. 2019 -2020 so that he would be in a position to salvage the loss incurred by him for the yester years. However, according to the petitioner, the said representation is unlikely considered by the respondents and therefore, he is before this Court seeking the prayer as stated supra.

4. Mr.A.Muthu Karuppan, learned Additional Government Pleader, took notice for the respondents and made submissions.

5. In view of the averments as contained in the affidavit filed in support of the writ petition and also the submissions made by the learned counsel appearing for the petitioner that the petitioner suffered loss, which was beyond his control and such a loss could be salvaged, if the Authority concerned considers the request of the petitioner for extension of lease period at least one year i.e. 2019-2020 and also accepts the payment offered by the petitioner for the present year as well. According to the petitioner, a copy of the demand draft bearing No.607561, dated 26.09.2018, for Rs.1,48,967/-, drawn on State Bank of India, Vinayaga Nagar (Madurai) Branch, in favour of the third respondent, is enclosed in the typed set of papers. Since certain difficulties, which have been experienced by the petitioner, have been stated, this Court finds that there is no reason to disbelieve such submissions made on behalf of the petitioner and in the exceptional



circumstances and also in view of G.O.Ms.332, Animal Husbandry and Fisheries (FS-IV) Department, dated 17.11.1993, the third respondent is directed to accept the payment offered by the petitioner vide demand draft bearing No.607561, dated 26.09.2018, a copy of which is filed in the typed set of papers and allow the petitioner to carry on his fishing right in the subject tank for this year i.e.2018-2019. As regards the following year i.e. 2019-2020 is concerned, the third respondent is directed to consider the petitioner's representation favourably in view of the fact that the petitioner was put to loss due to bad weather for the year 2016-2017.

6. The third respondent is therefore directed to pass appropriate orders for grant of extension of lease period to the petitioner for the subject tank for the following year 2019-2020 on 10% increase as per G.O.Ms.No.332, dated 17.11.1993 and accept the payment offered by the petitioner for the present year i.e. 2018-2019. Such an exercise shall be completed by the third respondent within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar(CS-IV)

krk

To:

- 1.The Director of Fisheries,
Tamil Nadu Fishermen Welfare Board,
Chennai.
- 2.The District Collector,
Madurai District, Madurai.
- 3.The Assistant Director of Fisheries,
Madurai Zone, Fisheries Office,
Petchiamman Padiputhurai,
Madurai-01.

+1cc to Spl Government Pleader, SR No.88824

+1cc to Mr.K.P.S.Palanivelrajan, Advocate in SR No.88479

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