

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2019

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THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.799 of 2019

and

W.M.P.Nos.878, 4507 & 6220 of 2019

M/s. Sakthi & Co.,
Represented by its Managing Partner,
V.Sakthivel,
No.64/1, Ex-Servicemen Colony,
Bhavanisagar, Erode District. ...Petitioner

Vs.

1. The Tamilnadu Fisheries Department,
Represented by its Director,
No.571, Anna Salai, Nandanam,
Chennai - 600035.
2. Tamilnadu Fisheries Development Corporation Ltd.,
Represented by its Managing Director,
No.571, Anna Salai, Nandanam,
Chennai - 600035.
3. The Deputy Director of Fisheries (Regional),
Bhavanisagar, Erode District.
4. The Assistant Director of Fisheries,
Erode District, Erode.
5. The Manager,
Tamilnadu Fisheries Development Corporation Ltd.,
Alliyar Unit, Pollachi Taluk,
Coimbatore District.
6. The Bhavanisagar Fisherman
Co-operative Marketing Society Ltd.,
Represented by its President,
Anna Nagar, Pungar,
Bhavanisagar Post, Sathyamangalam Taluk,
Erode District. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondents 1 to 5 herein to prevent the illegal fishing in the Bhavanisagar Reservoir and its distributaries by the members of the 6th respondent

society by taking Disciplinary Action against the erring members of the 6th respondent society.

For Petitioner : Mr.M.Santhanaraman
for Mr.S.Ramachandran
For Respondents : Mr.R.Govindasamy
Special Government Pleader for R1
Mr. Master Ganesh for R2 to R5
Mr.N.Manokaran for R6

O R D E R

This Writ Petition is filed seeking for a mandamus, directing the respondents 1 to 5, to prevent the illegal fishing in the Bhavanisagar Reservoir and its distributaries by the members of the 6th respondent-Society by taking disciplinary action against the erring members of the 6th respondent-Society.

2. Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader for the first respondent, the learned counsels for the respondents 2 to 6.

3. It is seen that the petitioner was issued with a license dated 20.06.2018, having the rights for harvesting fish in the Bhavanisagar Reservoir for a period of 5 years. The grievance of the petitioner before this Court is that when the said license is in force and the petitioner alone is entitled to have the rights for harvesting fish in Bhavanisagar Reservoir, the 6th respondent is illegally fishing in the Bhavanisagar Reservoir and its distributaries. Therefore, the present writ petition is filed to take action against the 6th respondent through the official respondents 1 to 5.

4. The learned counsels appearing for the official respondents submitted that the petitioner was issued with the license to have the rights for harvesting fish in Bhavanisagar Reservoir through license dated 20.06.2018 for a period of 5 years and their area of operation is referred to in the Schedule of the license deed as "The Bhavanisagar Reservoir is situated at Bhavanisagar Village of Sathyamangalam Taluk, Erode District having water spread area of 7,720 Hectares at FRL of 120 feet." After saying so, it is stated by the official respondents that the Corporation alone has the fishing rights in the boundaries of Bhavanisagar Reservoir and its distributaries, canals and channels. Therefore, it is contended by the learned counsels appearing for the official respondents that except the area referred to in the license given to the petitioner, in respect of the

other areas, neither the petitioner nor the 6th respondent has any right to do the activities of fishing or harvesting the fish.

5. The learned counsel appearing for the 6th respondent further contended that by virtue of the Government order passed in G.O.Ms.No.332 Animal Husbandry and Fisheries Department, dated 17.11.1993, the 6th respondent-Society is having right to do fishing in the downstream channels and therefore, the petitioner or the official respondents cannot prevent them from doing so.

6. Heard both sides and perused the materials placed before this Court.

7. The present writ petition is filed by complaining that the 6th respondent is doing fishing in the area earmarked to the petitioner under the above said license. Perusal of the Schedule referred to in the license would show that the petitioner was given license to harvest fish in the Bhavanisagar Reservoir, having water spread area of 7,720 Hectares at FRL of 120 feet. Therefore, it is evident that except the area earmarked in the license, the petitioner cannot extend their right to the other areas. Insofar as the other areas not covered under the license are concerned, it is contended by the 6th respondent that they are having right to harvest fish, whereas the official respondents contended that the 6th respondent cannot do so on their own without having any valid permission or licence. I do not think that the inter se dispute between the 6th respondent and the official respondents can be gone into this writ petition, especially, when the present writ petition is filed by the writ petitioner only by complaining that the 6th respondent is indulging in the fishing activities in the area earmarked to the petitioner under the licence. When the learned counsel appearing for the 6th respondent has categorically submitted before this Court that the 6th respondent is not doing any fishing activities within the area earmarked to the petitioner and on the other hand, they are doing such activities only in the area outside the licensed place, this Court is not inclined to go into the rival contentions of the inter se dispute between the respondents, as it is for them to agitate the same by way of independent proceedings.

8. Since it is stated before this Court by the learned counsel for the 6th respondent that they are not doing any fishing activities in the area earmarked to the petitioner, the above submission is recorded and the writ petition is closed, by issuing a direction to the official respondents to see that the 6th respondent is not indulging in the fishing activities in the area

earmarked to the petitioner under the above said licence.
No costs. Consequently, connected miscellaneous
petitions are closed.

Sd/-
Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Tamilnadu Fisheries Department,
Represented by its Director,
No.571, Anna Salai, Nandanam,
Chennai - 600035.
2. Tamilnadu Fisheries Development Corporation Ltd.,
Represented by its Managing Director,
No.571, Anna Salai, Nandanam,
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Bhavanisagar, Erode District.
4. The Assistant Director of Fisheries,
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6. The Bhavanisagar Fisherman
Co-operative Marketing Society Ltd.,
Represented by its President,
Anna Nagar, Pungar,
Bhavanisagar Post, Sathyamangalam Taluk,
Erode District.

+1cc to Mr.M.Santhanaraman , Advocate SR.No. 23318
+1cc to Mr.N.Manokaran , Advocate SR.No. 22862
+1 CC TO GOVERNMENT PLEADER SR.NO. 23227

W.P.No.799 of 2019

A.SK(29/03/2019)