



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.04.2019

CORAM

THE HON'BLE Mr. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No.8725 of 2019

and

W.M.P. (MD) .Nos.6793 to 6795 of 2019

A.Kavu Pandian

... Petitioner

-vs-

1.The District Collector,
Tirunelveli District, Tirunelveli.

2.The Executive Officer,
Courtalam Special Grade Town Panchayat,
Courtalam, Tirunelveli District.

3.The District Forest Officer cum
Chief Conservator of Forests,
Tirunelveli Division,
Tirunelveli District.

... Respondents

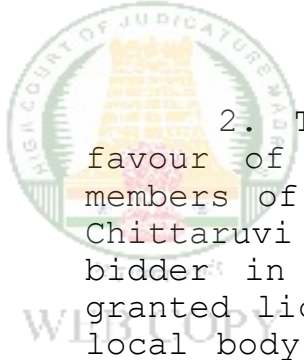
Prayer: Writ Petition - filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order issued by the second respondent in Na.Ka.13/2018/Aa1 dated 05.04.2019 and also the impugned order issued by the third respondent in Na.Ka.No. 7033/2018/Va dated 08.03.2019 and quash the same and consequently direct the respondents to allow the petitioner to continue the lease till 31.03.2020 and collect the bath fee at Chittaruvi.

For Petitioner : Mr.Veera Kathiravan
Senior Counsel
for M/s.Veera Associates

For Respondents : Mr.M.Karuppasamy
Government Advocate

ORDER

Heard the learned Senior Counsel appearing for the writ petitioner and the learned Standing Counsel appearing for the second respondent, and the learned Government Counsel appearing for the respondents land 3.



2. This writ petition pertains to granting of licence in favour of the writ petitioner to collect user charges from the members of the General Public for taking bath in what is known as Chittaruvi Falls in Courtallam. The petitioner was the highest bidder in the auction held in March 2017. The petitioner was granted licence for a three year period ending on 31.03.2020. The local body admits that the writ petitioner has paid the necessary licence charges. At this stage, the third respondent raised a dispute. The Chittaruvi Falls fall within the reserved forest limits. The Chief Conservator of Forests, vide proceedings dated 05.02.1962, had permitted right of way in favour of the local body. The local body was to pay a nominal permit fee of Rs.1/- per annum. It is automatically renewable. It is now claimed by the third respondent that after 1974, the local body did not pay the renewal fee. There has been an exchange of correspondence between the third respondent and the second respondent in this regard. The third respondent had taken the stand that following the promulgation of the Forests Conservation Act, 1980, the earlier, rights conferred by the third respondent in favour of the second respondent stood extinguished. According to the third respondent, a fresh permission will have to be obtained under the new enactment. It is the further contention of the third respondent that there was no response to the notices issued by the third respondent to the second respondent. While so, the second respondent had passed the impugned order dated 05.04.2019 cancelling the licence already issued in favour of the writ petitioner. It is this cancellation order 05.04.2019 that is assailed in this writ petition.

3. As rightly contended by the learned Senior counsel appearing for the writ petitioner, the impugned order will have to be set aside on the ground of violation of principles of natural justice.

4. It is not in dispute that the writ petitioner was conferred licence and the same is valid upto 31.03.2020. It is also not in dispute that the petitioner had remitted the necessary charges. In the impugned order, there is reference to as many as 12 proceedings. But in none of the proceedings, the writ petitioner is figuring. When the petitioner's civil rights are at stake, the second respondent was bound and obliged to have to be put the petitioner on notice. Since this was not done, I have no hesitation to quash the impugned order in this writ petition. Accordingly, the order impugned in this writ petition is quashed.

5. The learned Senior Counsel appearing for the petitioner raised yet another contention. He pointed out that this is a matter that involves the second respondent and the Forest Department. It is seen that it was the Chief Conservator of Forests, who issued the proceedings dated 05.02.1962 in favour of the local body. Therefore, the said authority, if necessary, who will have to relook into the matter and it cannot be reopened at the instance of the second respondent. It is open to the second respondent to send a



proposal to the Chief Conservator of Forests for revisiting the issue and till then, the third respondent cannot take any action on suo-motu and uliteratal basis. However, this Court gives liberty to the third respondent to submit a proposal in this regard to the Head of the Department. Even thereafter, the Head of the Department will have to associate the writ petitioner as well as the local body before passing a final order. The petitioner's rights are left open.

6. The matter cannot rest there. The official representing the third respondent passionately pleaded that the entire area has become polluted on account of permitting bathing activities. He also alleged that bathing is going on round the clock. This hinders free movement of the wild animals.

7. The learned Senior counsel appearing for the petitioner submitted that he will cease to take an adversarial position on this point. He submitted that the petitioner shall ensure that the public, who are allowed to take a bath in Chittaruvi Falls will not use Soap, Shampoo and Oil. There will be a total ban of use of plastic in any form. Further, the petitioner would appoint sufficient number of men to ensure that the area remains free of liquor consumption. He also pointed out that bathing activity will be only from 06.00 a.m., to 06.00 p.m., and not earlier or later.

8. This undertaking given by the writ petitioner is placed on record. The petitioner is strictly directed to adhere to the said undertaking in letter and spirit. This writ petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar(CS)

Sm

To

1.The District Collector,
Tirunelveli District, Tirunelveli.

2.The Executive Officer,
Courtalam Special Grade Town Panchayat,
Courtalam, Tirunelveli District.

3.The District Forest Officer cum
Chief Conservator of Forests,
Tirunelveli Division, Tirunelveli District.



+1 CC to M/s.SPL GP (SR-61023[F] dated 15/04/2019)

+1 CC to M/s.VEERA ASSOCIATES, Advocate
(SR-61135[F] dated 15/04/2019)

WEB COPY

W.P.(MD) No.8725 of 2019
12.04.2019

ES/07.05.2019/4P/6C