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W.P.(MD)Nos.13851 and 13852 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2019

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)Nos.13851 and 13852 of 2019
and
W.M.P(MD).Nos.10368 and 10369 of 2019

Prabaharan

... Petitioner in
W.P(MD).No.13851 of 2019

P.K.Dhanapalan

... Petitioner in
W.P(MD).No.13852 of 2019

-Vs-

1.The District Collector,
Madurai District, Madurai-20.

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

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

3.The Assistant Director of Fisheries,
(Inland Fishing),
Fisheries Department,
Petchiamman Padithurai,
Madurai-625 001.

... Respondents in
both petitions

Common Prayer: Writ Petitions are filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents to grant extension of lease for one year for the year 2019-2020 by considering the representations of the petitioners dated 02.05.2019 in the light of G.O.Ms.No.201, dated 19.10.2017. in both petitions;

For Petitioners : Mr.J.Anandkumar
For Respondents : Mr.C.M.Mari Chelliah Prabhu
Additional Government Pleader



COMMON ORDER

The prayer sought for in these writ petitions is that, to direct the respondents to grant extension of lease for one year viz., 2019-2020, by considering the representations of the petitioners, dated 02.05.2019, in the light of G.O.Ms.No.201, dated 19.10.2017.

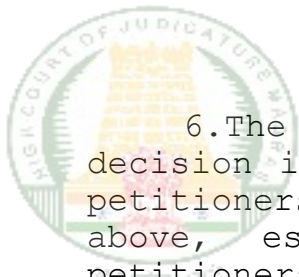
2.Heard Mr.J.Anandkumar, learned counsel appearing for the petitioners and Mr.C.M.Mari Chelliah Prabhu, learned Additional Government Pleader appearing for the respondents.

3.Since the respective petitioners in these writ petitions seek similar relief and the issue raised in these writ petitions is common, with the consent of both sides, these writ petitions are disposed of by this common order.

4.The petitioners are existing lessees to have the fishing right in respect of the tanks concerned i.e., Vadakarai-Thenkarai Kanmoi situated at Ayan Thenkarai Village, Vadipatti Taluk, Madurai District for a period of three years commencing from 2016 and the said three years period of such fishing rights is over. Therefore, in this regard, they wanted to have an extension of further period of one year, on the pretext that, during these three years lease period, most of the tanks there had been no water due to heavy drought and with the result, though amount has been invested by paying lease amount to the respondents, the petitioners have suffered a loss, as the petitioners could not fishing out as expected due to the drought condition. Therefore, in this regard, the petitioners had given a separate representations to the respondents on various dates and lastly on 02.05.2019 seeking extension of lease period for one more year i.e., for 2019-2020 upto 30th June 2020.

5.In the circumstances, the learned counsel appearing for the petitioners submitted that, there has already been Government Order in this regard, where if continuous drought affected and because of that, the lease holders of fishing right are getting affected, that can be considered sympathetically and accordingly, the lease period, even though expired, can be extended for further extended period, as discretionary of the authority concerned. The relevant column No.XV of the said G.O.Ms.No.201, Animal, Husbandry Dairying and Fisheries (FS-6) Department, dated 19.10.2017 reads thus:-

"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 the particular year in advance, then the lease period shall be extended by one year without lease amount."



6.The learned counsel further submitted that, if such a decision is taken by the respondents on the representations of the petitioners, in the light of the Government Order, as referred to above, especially, column No.XV, within a time frame, the petitioners would be satisfied.

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7.I have heard the learned Additional Government Pleader appearing for the respondents, who, on instructions, would submit that, the tanks in question have been verified by the Public Works Department with regard to the water level and as on June-2019, the water has been completely dried, as there is '0' water level in the said tanks, since there is no North-East monsoon of 2018. The Government issued a notification in G.O.Ms.No.91, Revenue and Disaster Management, dated 07.03.2019, thereby 24 revenue districts in the State of Tamil Nadu have been declared as affected by hydrological drought and the Madurai District is one among the districts. Therefore, in view of the said declaration having been made by the State Government under the said Government Order, based on the import of the said Government Order, the request of the petitioners, as made in the said representations, would be considered by the respondents, within a time frame to be stipulated by this Court.

8.I have considered the said submissions made by both sides.

9.Since admittedly the lease period was over and due to the drought during the last year and previously also, it is claimed by the petitioners that, they sustained loss and they want to pay the lease amount to be fixed by the respondents for further period of one year viz., 2019-2020 to have fishing right of the tanks concerned and the respondents also submitted that, in view of G.O.Ms.No.91, where the hydrological drought condition had been declared in respect of Madurai District also, based on the import of the said Government Order, the said representations of the petitioners would be considered, this Court is inclined to dispose of these writ petitions by passing the following order:-

"that the fourth respondent is hereby directed to consider the representations, dated 02.05.2019 filed by the petitioners respectively in both the writ petitions and decide the same, on merits and in accordance with law, by following the import of G.O.Ms.No.91, Revenue and Disaster Management Department, Disaster Wing, dated 07.03.2019 and pass orders thereon, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order."



10. With the above directions, these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar (C.O)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The District Collector,
Madurai District, Madurai-20.
 2. The Commissioner of Fisheries,
Fisheries Department,
DMS Campus, Admin Building,
Teynampettai, Chennai-600 006.
 3. The Deputy Director of Fisheries,
Madurai Zone,
Vanamamalai 2nd Street, Bye Pass Road,
Madurai-18.
 4. The Assistant Director of Fisheries,
(Inland Fishing), Fisheries Department,
Petchiamman Padit.
- +2 CC to Mr.J.ANANDKUMAR, Advocate SR-80850.
+1 CC to SPL GP SR-81171.

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CS(05.09.2019) 4P 8C