

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 7377 of 2019

ORDER:

This writ petition is filed for the following relief:

“....to issue writ, order or direction particularly in the nature of Writ of Mandamus declaring the inaction of the respondents in granting lease in favour of the petitioner society in respect of Yadgargiri Palli Pedda Cheruvu, Miryalguda Appalamma Cheruvu, Chintapalli Chouta Cheruvu and Mangapadu Nalla Cheruvu situated in Miryalguda Mandal, Nalgonda District for a period of 3 years with an option to extend by 2 more years is in violation of GO.Ms.No.776 dated 31/12/1990 and thus is arbitrary and illegal and consequently direct the respondents to grant the lease for a period of 3 years commencing from 2018-2019 extendable by another 2 years at the option of the petitioner society..”

In an earlier round of litigation, the Division Bench of this Court after taking into consideration the issue in controversy, disposed of Writ Appeal No.723 of 2018 and Writ Petition No.216 of 2018 *vide* common judgment, dated 05.06.2018, the relevant portion of which reads as under:

In the light of the aforesaid order of the Commissioner, the 1st respondent-writ petitioner is obligated to sell the fish only at Rs.60 per kilo, and to adhere to all the other stipulated conditions including that the fish be removed from the subject tanks in the presence of the Fisheries Development Officer; the sale proceeds, at the end of each day, be deposited in a Nationalised Bank; the entire proceeds so deposited to be distributed among the members of the 1st respondent-society; and each individual's share to be credited to the respective individual's bank accounts.

The Fisheries Development Officer shall ensure that the aforesaid conditions are scrupulously followed. The fisheries development officer shall also ensure that the order of the Commissioner of Fisheries, directing that fish should not be sold at a rate less than Rs.60 per kilo, is strictly implemented. In case there are no buyers at this rate, it is open to the 1st respondent-

writ petitioner to seek modification of the price, at which the fish should be sold, from the Commissioner of Fisheries.

Petitioner-Fishermen Cooperative Society, Miryalaguda asserts that pursuant to the said judgment, it filed representations, dated 18.06.2018 and 12.02.2019.

As the entire controversy is revolving round the stipulation to sell the fish at minimum rate of Rs.60/- per kg., the Commissioner of Fisheries is required to take a decision after considering the data, as set out by the petitioner in its representations.

Counter-affidavit is not filed by the respondents. Learned Government Pleader for Fisheries placed before this Court the instructions received from respondent No.4-District Fisheries Officer, Nalgonda, who stated that it is the Commissioner of Fisheries, who is required to pass orders in terms of the judgment of the Division Bench, referred to above.

Sri K.S.Murthy, learned counsel for some of the fishermen, who are yet to file an implead petition, but on account of the matter having been taken up for hearing, submits that if the fish is sold for less than Rs.60/- per kg., as sought by the petitioner Society, the rights of the fishermen would get affected and they would be deprived of their share. He further submits that in the event the Society is unable to pay the price of Rs.60/- as fixed by the Commissioner of Fisheries, open auction would be conducted, in which event, there is always a possibility of higher amount being

fetches which would ultimately benefit the fishermen as well as the State.

The Division Bench of this Court in the judgment referred to above, had left open the matter to be decided by the Commissioner of Fisheries. The said judgment is dated 05.06.2018. In normal circumstances, when no time is specified in the order/judgment, while disposing of the matter under the relevant Writ Proceeding Rules, the authorities are required to pass orders within two months from the date of the order. Even assuming that the copy of the judgment of the Division Bench is not made available within two or three weeks, by this date, the Commissioner of Fisheries ought to have passed orders. Not passing of the orders by the Commissioner of Fisheries itself is in violation of the judgment of the Division Bench of this Court, which would have given rise to a cause of action for the parties therein for initiation of contempt proceedings.

Considering the fact that the fishing season is limited, in the interest of all the stakeholders, one more opportunity can be given to respondent No.2-Commissioner of Fisheries-cum-Registrar, Miryalaguda Town, Nalgonda District, to pass orders on the representations of the petitioner within a period of two weeks from the date of receipt of a copy of this order.

In those circumstances, the writ petition is disposed of with the direction to respondent No.2 to comply with the judgment of the Division Bench of this Court referred to supra by taking into consideration the representations of the petitioner as well as the

interest of the other fishermen, within a period of two weeks from the date of receipt of a copy of this order.

Miscellaneous petitions, if any, pending in this writ petition shall also stand disposed of. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Dt:10.04.2019

Note: Issue cc in one week.
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