

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2020

CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No.7985 of 2013 &
M.P.No.1 of 2013

S.Balasubramaniam

.. Petitioner

Vs.

1. The Manager,
Aliyar Division,
Tamilnadu Fisheries Development
Corporation Ltd.,
Coimbatore.

2. The Managing Director,
Tamil Nadu Fisheries Development
Corporation Ltd.,
No.485, Anna Salai,
Nandanam,
Chennai - 600 035.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records connected in urgent memo Na.Ka.No.1382/E/10, dated 06.03.2013 passed by the 1st respondent and quash the same.

For Petitioner : Mr.G.Elanchezhian
For Respondents : Mr.R.Master Ganesh

O R D E R

This Writ Petition has been filed to call for the records connected in urgent memo Na.Ka.No.1382/E/10, dated 06.03.2013 passed by the 1st respondent and quash the same.

2. The Bhavani Sagar reservoir was leased out for 5 years from period of 18.05.2008 to 17.05.2013 and 2/3rd of the fishes are handed over to the lessee and 1/3rd share fisherman catches have been taken by Tamilnadu Fisheries Corporation Limited. As per the tender conditions, the Deputy Manager should not sell 1/3rd fishes at Bhavanisagar and he was instructed to supply to the marketing units such as Coimbatore, Pollachi and Tiruppur at the reservoir rate as inter unit transfer and the lease was granted to the petitioner to sell 1/3rd fishes from the Bhavani

Sagar reservoir. Though the petitioner has to get ratification from the Managing Director by sending proposal to the Manager for the auction process inclusive of the supply of fishes to the Erode Women Sports Hostel, he has failed to get the ratification as per the procedure.

3. The case of the writ petitioner is that he has submitted a proposal on 16.07.2010 to the Manager, Tamilnadu Fisheries Corporation Limited, Aliyar stating that without going for auction, they had supplied fish to the Women Sports Hostel as it was beneficial to the Corporation. The Manager of the Corporation in turn has sent the proposal to the Managing Director of the Fisheries Corporation for ratification and the same was rejected by the second respondent. Based on the above said rejection Order, the impugned Order has been passed by the second respondent to recover the difference amount of Rs.12,505/- from the writ petitioner in 10 instalments.

4. According to the writ petitioner, the aforesaid impugned Order has been passed by the second respondent without providing an opportunity to the writ petitioner. The writ petitioner has sold the fish to the Women Sports Hostel only in the interest of the Corporation and the fish was sold for a higher price and there is also no loss caused to the respondent Corporation. Since, no opportunity has been given to the writ petitioner to put forth all these explanations before the authority, the impugned Order is liable to be quashed for violation of principles of natural justice.

5. The learned Standing Counsel for the respondents has submitted that the respondent Corporation had rejected the proposal of the writ petitioner sent for ratification on the ground that the petitioner has no authority to sell the fish to the Women Sports Hostel without getting prior approval from the authorities. Therefore, the recovery Order has been passed by the first respondent and the aforesaid recovery is consequent to the rejection of the proposal sent by the first respondent.

6. Heard the learned counsel for the writ petitioner and the learned Standing Counsel for the respondents and perused the materials available on record.

7. On a perusal of the records, it is seen that a proposal has been submitted by the writ petitioner through the Manager and the same has been forwarded to the second respondent for ratification. But the said ratification has been rejected by the second respondent. Further, it is seen that though a copy has been marked to the petitioner at Bhavani Sagar, the petitioner had contended that the said copy has not been received by the petitioner and without providing an opportunity

to the writ petitioner to submit his explanation, the impugned Order has been passed.

8. Considering the facts and circumstances of the case and taking note of the fact that the impugned Order has been passed without providing an opportunity to the petitioner to submit his explanation, the impugned Order is quashed and the writ petition is allowed on the follows terms :

[i] The second respondent corporation has to issue show cause notice to the writ petitioner within a period of three weeks from the date of receipt of a copy of this Order.

[ii] On receipt of such notice, the petitioner shall submit his explanation with a period of four weeks.

[iii] Thereafter, the second respondent has to pass appropriate Orders on merits and in accordance with law.

Consequently, connected miscellaneous petition is closed. No cost.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vrc

To

1. The Manager,
Aliyar Division,
Tamilnadu Fisheries Development
Corporation Ltd.,
Coimbatore.

2. The Managing Director,
Tamil Nadu Fisheries Development
Corporation Ltd.,
No.485, Anna Salai,
Nandanam,
Chennai - 600 035.

+1 cc to Mr.G.Elan Chezhiyan, Advocate, S.R.No.12486

W.P. No.7985 of 2013

SS(CO)
RN(21/05/2020)