



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED : 03.06.2020

ORDER PRONOUNCED : 08.06.2020

WEB COPY

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) No.5822 of 2020

Varatha Rengarajan

... Petitioner

Vs.

1.The District Collector,
Thanjavur District, Thanjavur.

2.The Executive Officer,
Perumagalur Town Panchayat,
Peravoorani Taluk,
Thanjavur District.

3.K.Sreenivasan

(R3 has been impleaded vide order dated
18.05.2020 made in WMP(MD)No.5356/20
in WP(MD)No.5822/2020)

... Respondents

PRAYER:Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned auction notice in Na.Ka.No.35/2020 dated 24.02.2020 passed by the 2nd respondent and quash the same and consequently directing the respondents to extend the petitioner's tender period till the summer season based on his representation dated 09.03.2020.

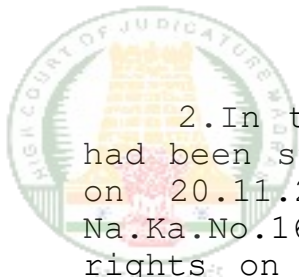
For Petitioner : Mr.M.Ramu

For R1 & R2 : Mrs.J.Padmavathi Devi
Special Government Pleader

For R3 : No appearance

ORDER

This Writ Petition is filed in the nature of certiorarified mandamus to call for the records relating to the impugned auction notice in Na.Ka.No.35/2020 dated 24.02.2020 passed by the 2nd respondent and to direct the respondents to extend the period of the petitioner's tender till summer season based on his representation dated 09.03.2020.



2. In the affidavit filed in support of this writ petition, it had been stated that the petitioner had participated in the auction on 20.11.2019 which had been called by a public notice in Na.Ka.No.16/2019/A1 dated 04.11.2019. This auction was for fishing rights on the Chettikulam Lake in Kalyana Ramanathapuram for the period from 21.11.2019 to 31.03.2020. The petitioner was the successful bidder for a sum of Rs.11,000/-. He had deposited as earnest money, Rs.2,500/-. He had the right to harvest the fish till 31.03.2020.

3. At the time, when the writ petition was filed, the petitioner had stated that the village people had requested him not to harvest the fish, since there were no other source of water. The petitioner had therefore sought extension of the tender period for further period of one month from 31.03.2020. However, the 2nd respondent initiated reauction on 09.03.2020. Being aggrieved by the same, the petitioner had filed the present writ petition.

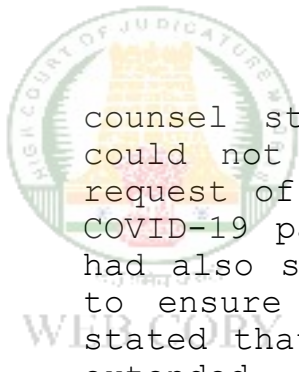
4. In the counter affidavit filed by the 2nd respondent, namely, the Executive Officer, Perumagalur Town Panchayat, Thanjavur District, it had been stated that the petitioner was the successful bidder for fishing rights in Chettikulam Lake, Kalyana Ramanathapuram for the period from 21.11.2019 to 31.03.2020. It had been stated that the period of lease would expire on 31.03.2020. It had also been stated that the fishing rights would also include enjoyment of usufructs of trees, lotus flowers, leaves and roots of various lakes running to 32 numbers. Thereafter, a fresh notice was issued for the subsequent period from 2020-2021 and auction was conducted on 09.03.2020. This was with respect to 9 tanks including the Chettikulam Lake in Kalyanaramanathapuram.

5. The petitioner filed a representation seeking extension of the lease period. The respondents claimed that the petitioner has no locus to seek extension and that he had enjoyed the fishing rights from 21.11.2019 onwards. It was further stated that the auction was also conducted and the 3rd respondent, who had been subsequently impleaded in W.M.P.(MD) No.5356 of 2020, by order dated 18.05.2020, had been the successful bidder.

6. An additional counter was also filed by the 2nd respondent, in which, it had been stated that the lease for the year 2020-2021 had been handed over to the highest bidder, who is the 3rd respondent. It had been stated that the petitioner has no right and that the writ petition should be dismissed.

7. Heard learned counsel for the petitioner and the learned Special Government Pleader for the respondents 1 and 2.

8. The learned counsel for the petitioner stated that the auction for the period of 2020-2021 was conducted even while the writ petition of the petitioner was subsisting. The learned



counsel stated that seriously affected the petitioner, since he could not harvest the fish in the month of March owing to the request of the villagers and also owing to the lockdown due to the COVID-19 pandemic. The learned counsel stated that the petitioner had also suffered financial loss for engaging watch and ward staff to ensure nobody else fished in the lake. The learned counsel stated that the period of lease in favour of the petitioner may be extended.

9.The learned Special Government Pleader pointed out that as a matter of fact, the petitioner had been enjoying the fishing rights during the period of his lease till the end of 31.03.2020. It had been stated that subsequently the fishing rights had been auctioned and the 3rd respondent was the successful bidder. The learned Special Government Pleader also pointed out that as on date there is no water in the lake of Chettikulam Village. The learned Special Government Pleader also stated that the period of the lease had been over and the petitioner has no right to seek extension of time.

10.It is stated that the petitioner was seeking extension of time for further period of one month. However, it is seen that there is no water in the lake and grant of extension of time would be futile exercise. It is stated that the petitioner had given a complaint to the Inspector of Police, Peravurani Police Station alleging that certain persons had tried to attack him owing to the fact that he had filed the writ petition.

11.Having heard the arguments of the learned counsel for the petitioner and the learned Special Government Pleader, I am of the view that just like the petitioner had participated in the auction for fishing rights from 21.11.2019 to 31.03.2020, a similar auction had been conducted for the period from 01.04.2020 onwards and it would be highly inappropriate on the part of the petitioner to object for the successful bidder to enjoy the fishing rights in Chettikulam lake. It is also seen that the petitioner had not given any details regarding the profits earned by him from 21.11.2019 onwards. In the affidavit it is stated that the village people had requested him not to harvest the fish in March 2020 alone, since there were no other source of water. However, for the earlier period, the petitioner had been enjoying the fishing rights. This period ended on 31.03.2020. Subsequent period commenced from 01.04.2020. The successful bidder has every right to enjoy the fishing rights, for which, the tender was invited.

12.In ***Tata Cellular Vs. Union of India*** reported in ***(1994) 6 SCC 651***, a three Bench Judge of the Hon'ble Supreme Court has held as follows:

"(i)there should be judicial restraint in review of administrative action;



(ii) the court should not act like court of appeal; it cannot review the decision but can only review the decision making process

(iii) the court does not usually have the necessary expertise to correct such technical decisions.;

(iv) the employer must have play in the joints i.e., necessary freedom to take administrative decisions within certain boundaries."

13. In **Afcons Infrastructure Ltd. Vs. Nagpur Metro Rail Corpn. Ltd**, reported in **(2016) 16 SCC 818**, the Hon'ble Supreme Court has held as follows:

"13.....a mere disagreement with the decision making process or the decision of the administrative authority is no reason for a constitutional Court to interfere. The threshold of mala fides, intention to favour someone or arbitrariness, irrationality or perversity must be met before the constitutional Court interferes with the decision making process or the decision."

14. In view of the above principles laid down, it would be highly inappropriate on the part of this Court to interfere with the tender already granted to the 3rd respondent.

15. Accordingly, the Writ Petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (AD-II)

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/ /2020

Sub Assistant Registrar(CS)

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To

1. The District Collector,
Thanjavur District, Thanjavur.
2. The Executive Officer,
Perumagalur Town Panchayat,
Peravoorani Taluk,
Thanjavur District.

order made in
W.P. (MD) No.5822 of 2020
08.06.2020