



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.11.2020

CORAM:

THE HON'BLE MR JUSTICE ABDUL QUDDHOSE

W.P. (MD)No.16163 of 2020

and

W.M.P. (MD) Nos.13534 & 13537 of 2020

(Through Video Conference)

WEB COPY

- 1) Manzurllahi
- 2) Ahamed Kabir
- 3) Maruthai
- 4) Sarfudeen
- 5) Rahamathullah
- 6) Nazeem Ahamed
- 7) Raghupathi
- 8) Mohamed Jalaludeen
- 9) Yagappa
- 10) Muthusamy
- 11) Sethuraman
- 12) Ramamirtham

... Petitioners

Vs.

- 1) The State of Tamil Nadu,
Rep. by the Principal Secretary,
Animal Husbandry & Fisheries Department,
Fort St.George, Chennai 600 009
- 2) The Director of Fisheries,
Admin Buildings,
Teynampet, Chennai.
- 3) The Joint Director of Fisheries (Marine),
Department of Fisheries,
Nagapattinam.



4) The Assistant Director of Fisheries (Marine),
Department of Fisheries,
Thanjavur Post,
Thanjavur District.

5) The Inspector of Fisheries (Marine),
Department of Fisheries,
Mallipattanam,
Thanjavur District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the fourth respondent in his proceedings in Na.Ka. No.2914/A2/2019 dated 01.10/2020 and quash the same on the ground that the same is arbitrary, illegal and without any legal basis and consequently directing the respondents to release the Petitioners impounded boats to carry on their profession freely as before.

For Petitioner : Mr.K.Pandiarajan

For Respondents : Mr.A.Muthukaruppan,
Additional Government Pleader.

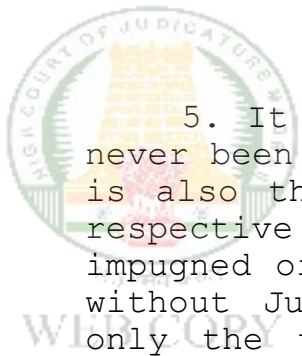
O R D E R

Mr.A.Muthukaruppan, learned Additional Government Pleader accepts notice for the respondents. By consent of both sides, this writ petition is taken up for final disposal at the stage of admission itself.

2. This writ petition has been filed challenging the order dated 01.10.2020 passed by the fourth respondent directing the closure of fishing activity and trading due to the use of double fold nets by the respective petitioners.

3. Mr.A.Muthukaruppan, the learned Additional Government Pleader submits that, subsequent to the filing of this writ petition, final orders have been passed on 27.10.2020 and the respective petitioners were called upon to pay penalty for the use of double-fold nets and they were permanently banned from doing fishing activity.

4. The learned Additional Government Pleader would also submit that the only remedy, now available to the respective petitioners is, to prefer filing of Statutory Appeal under Section 19(1) of the Tamil Nadu Marine Fishing Regulations Act, 1983. According to him, the writ petition has now become infructuous.



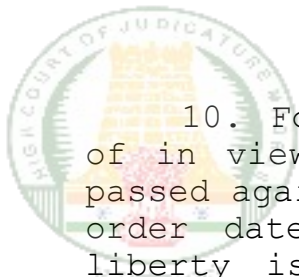
5. It is the case of the respective petitioners that they have never been using double-fold nets, as alleged by the respondents. It is also their case that no double-fold nets were seized from the respective petitioners by the respondents. According to them, the impugned order, dated 01.10.2020 issued by the fourth respondent is without Jurisdiction and Authority under law. According to them, only the third respondent, viz. the Joint Director of Fisheries (Marine), if at all has the Jurisdiction and Authority under law and is competent to issue closure orders.

6. According to the respective petitioners, the fourth respondent has performed the dual role of Prosecutor and Adjudicator, which goes against the principles of natural justice. It is also their case that without affording any opportunity, the impugned order dated 01.10.2020 has been passed by the fourth respondent against the respective petitioners.

7. Admittedly, final orders have been passed by the third respondent on 27.10.2020 against each of the petitioners. The petitioners have also participated in the enquiry proceedings on the file of the third respondent. Admittedly, as against the final order, dated 27.10.2020, there is a Statutory Appeal provided under Section 19 of the Tamil Nadu Marine Fishing Regulation Act, 1983. Under the final order dated 27.10.2020 passed by the third respondent against the respective petitioners, they have been directed to pay penalty amount for using double-fold nets.

8. The petitioners in this writ petition have challenged only the interim order, dated 01.10.2020 passed against each of them by the fourth respondent directing them to stop fishing activity on account of usage of double-fold nets. The interim direction, dated 01.10.2020 was passed by the fourth respondent, has now merged with the final order, dated 27.10.2020 passed by the third respondent. The respective petitioners will have to necessarily challenge the final orders before the Appellate Authority as prescribed under Section 19 of the Tamil Nadu Marine Fishing Regulation Act, 1983.

9. The appeal will have to be preferred under Section 19 of the Tamil Nadu Marine Fishing Regulation Act, 1983 within a period of 30 days. It is the contention of the respective petitioners that they have not committed any irregularity and they have been doing the fishing activity for about 25 years. After giving due consideration to the same, their interest will have to be adequately protected till they prefer the Statutory Appeal under Section 19 of Tamil Nadu Marine Fishing Regulation Act, 1983 within the prescribed period. The final order passed by the third respondent is dated 27.10.2020 and therefore, the petitioners will have to file the Statutory Appeal by 27.11.2020. Till they prefer the appeal, their right to do fishing activity will have to be necessarily protected by this Court.



10. For the foregoing reasons, this writ petition is disposed of in view of the fact that the impugned order, dated 01.10.2020 passed against each of the petitioners has got merged with the final order dated 27.10.2020 passed by the third respondent. However, liberty is granted to the respective petitioners to prefer the Statutory Appeal, as against the final order dated 27.10.2020 passed by the third respondent within the prescribed period under Section 19 of the Tamil Nadu Marine Fishing Regulation Act, 1983. It is also made clear that the impugned order, dated 01.10.2020 passed by the fourth respondent as against the respective petitioners shall be kept in abeyance for a period of one month, from today, to enable the respective petitioners to prefer the Statutory Appeal under Section 19 of the Tamil Nadu Marine Fishing Regulation Act, 1983.

11. With these directions and observations, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1) The Principal Secretary,
Animal Husbandry & Fisheries Department,
Fort St.George, Chennai 600 009
- 2) The Director of Fisheries,
Admin Buildings,
Teynampet, Chennai.
- 3) The Joint Director of Fisheries (Marine),
Department of Fisheries,
Nagapattinam.



4) The Assistant Director of Fisheries (Marine),
Department of Fisheries,
Thanjavur Post,
Thanjavur District.

WEB COPY

5) The Inspector of Fisheries (Marine),
Department of Fisheries,
Mallipattanam,
Thanjavur District

+1 CC to SGP (SR-22196[F] dated 19/11/2020)

Order made in
W.P. (MD) No.16163 of 2020

Dated:
18.11.2020

MA (CO)

NR (19/11/2020) 5P : 7C