

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29/1/2021

C O R A M

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WRIT PETITION NO.1626 OF 2021

K.Nandhivaraman

... Petitioner

Vs

1. The Assistant Director of Fisheries
Fisheries Department
Dharmapuri.
2. The President
K.K.199 Palacode Parvatharaja Kula
Fishermen Co-operative Sales Society
Palacode, Dharmapuri District.

... Respondents

Prayer:-

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the first respondent to consider the petitioner's representation dated 21/8/2020 regarding the mismanagement of second respondent Co-operative Society and take appropriate action on the same under the relevant provisions of law.

For petitioner ... Mr.R.Thamaraiselvan

For respondents ... Mr.P.S.Sivashanmuga Sundaram
Special Government Pleader
for R.1

Mr.L.P.Shanmuga Sundaram
Special Government Pleader
for R.2.

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O R D E R

This writ petition is filed for a mandamus, directing the first respondent Assistant Director of Fisheries, Fisheries Department, Dharmapuri, to consider the petitioner's representation, dated 21/8/2020.

2. The case of the petitioner is that the President and Vice President of Co-operative Society, viz., KK 199 Palacode Parvatharajakula Fishermen Cooperative Sales Society, second respondent, are indulging in mal-practice in the administration of the Society by taking up lease of the fishing rights, on behalf of the Society, in Panchapalli Chinnar Dam, without the knowledge of any of the Members of the Society and without the participation of any of the members and also selling the fish illegally without following any rules or by-laws of the Society.

3. Mr.P.S.Sivashanmuga Sundaram, learned Special Government Pleader, takes notice for the first respondent and would submit that by way of representation, the petitioner had asked for an enquiry, which can be made only under Section 81 (1) of the Tamil Nadu Co-operative Societies Act, 25 of 1976. He would further submit that the competent authority for an enquiry would be the Deputy Director of Fisheries and not the first respondent and therefore, for want of necessary party, this writ petition has to be dismissed.

4. Mr.L.P.Shanmuga Sundaram, learned Special Government Pleader takes notice for the second respondent. He would submit that 81 (1) inquiry can be ordered only on the application of a majority of the Board or of not less than 1/3rd of the members.

5. Section 81 (1) of the Tamil Nadu Co-operative Societies Act, 1933, reads as follows:-

Inquiry: The Registrar may, of his own motion and shall, on the application of a majority of the board or of not less than one-third of the members or on the request of the financing bank or of the District Collector, hold an inquiry, or direct some person authorised by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a registered society or any alleged misappropriation, breach of trust, corrupt practice, or mismanagement in relation to that society or into any particular aspect of the working of that society."

6. After hearing the arguments advanced on either side, this Court is of the view that the petitioner has not made out a case that there is any bye-law which prohibits the second respondent Society from indulging in taking up the lease of fishing rights. In the absence of establishing the same and in lieu of Section 81, the writ petition cannot be maintained.

7. Accordingly, this writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mvs.

To

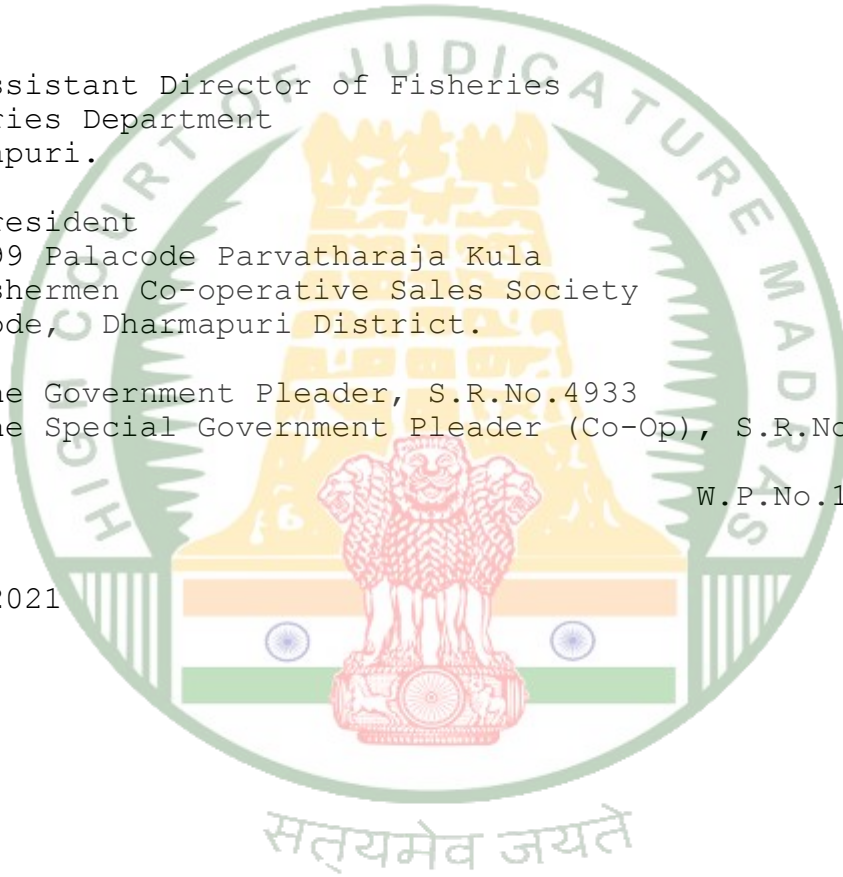
1. The Assistant Director of Fisheries
Fisheries Department
Dharmapuri.
2. The President
K.K.199 Palacode Parvatharaja Kula
Fishermen Co-operative Sales Society
Palacode, Dharmapuri District.

+1cc to the Government Pleader, S.R.No.4933

+1cc to the Special Government Pleader (Co-Op), S.R.No.4923

W.P.No.1626 of 2021

GMR (CO)
CS/18/02/2021



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