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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.19021 of 2015

and

M.P.No.1 of 2015

Emapalli Village Panchayat,
Rep. by its President,
S.Selvamani,
W/o.Sellamuthu,
Malappalayam, Emapalli Village,
Tiruchengode Taluk, Namakkal District.

...Petitioner

Vs.

1. The District Collector,
Namakkal District, Namakkal.
2. The Executive Engineer (Irrigation)
Public Works Department, Namakkal.
3. The Block Development Officer,
Panchayat Union, Tiruchengode,
Namakkal District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to conduct public auction for giving right to catch the fish in the Emapalli Yeri, Emapalli, Tiruchengode Taluk, Namakkal District.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr. M.Rajendiran
Additional Government Pleader

O R D E R

The relief sought for in the present Writ Petition is to conduct public auction for conferring fishing right in Emapalli Yeri, Emapalli, Tiruchengode Taluk, Namakkal District.



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2. This Court is of the considered opinion that the Government has to confer fishing right, only by way of grant of lease, by conducting public auction and by issuing notification, describing terms and conditions.

3. This Court has considered the Government orders in this regard in W.P.No.260 of 2012 dated 06.10.2021. The relevant paragraphs of the said order is extracted hereunder:-

5. The learned counsel for the newly impleaded fourth respondent also raised an objection by stating that the Government has taken a policy decision in G.O.Ms.No.169, Rural Development (P-3) Department dated 16.08.1999 itself and as per the said Government order, all existing permission granted stands canceled automatically. Therefore, after passing of the Government order in the year 1999, all such fishing rights are to be granted only by conducting public auction in a transparent manner for the benefit of the State exchequer.

6. In the present case, though the Government order was passed in the year 1999, the petitioner is not allowing the authorities to conduct public auction and already many years lapsed. The petitioner and their family members are illegally exercising the fishing rights in violation of the Government policy.

7. This Court is of the considered opinion that during pre-independence era, such fishing right was granted considering the fact that there was no competition during the relevant point of time. The vast acres of tanks are allowed to be utilized for the purpose of fishing by the Settlement Officers as there was no competitors for fishing during those days. However, no such order can be utilized for an indefinite period and by many generations. Already the petitioner and their family members have exercised the fishing right for more than 100 years, that itself is an extraordinary concession. Under these circumstances, the petitioner cannot pay merely a sum of Rs.173/- for one year and exercise the fishing rights in such a vast acres of tank. It causes greater revenue loss to the State. Now, many people are ready and willing to participate in the open auction for fishing rights and now it has become a competitive world and therefore, the Government is bound to give



an opportunity to all the persons, who are ready and willing to do the fishing rights. All eligible persons are entitled to participate in the open auction for the purpose of getting fishing rights.

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4. In view of the fact that the fishing rights are to be granted only by way of lease, conducting a public auction, the respondents are directed to conduct public auction for grant of fishing rights by issuing a notification in accordance with law and by following the procedures as contemplated.

5. With these directions, the Writ Petition stands allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

shr/kan
To

1. The District Collector,
Namakkal District, Namakkal.
2. The Executive Engineer (Irrigation)
Public Works Department, Namakkal.
3. The Block Development Officer,
Panchayat Union, Tiruchengode,
Namakkal District.

+1 CC to The Government Pleader sr 65858.

W.P.No.19021 of 2015
and
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NK(CO)
SP(11/01/2022)