



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

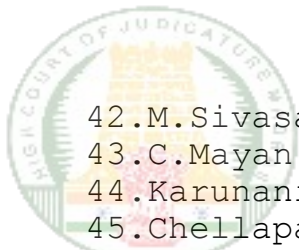
THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD) No.15242 of 2012

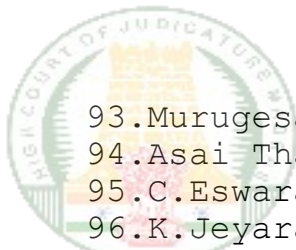
and M.P. (MD) Nos.2 and 3 of 2012

WEB COPY

- 1.R.Thirupathi
- 2.K.Chinnakaruppan
- 3.V.Jaiganesan
- 4.Malaisamy
- 5.M.Manoharan
- 6.Pandiyan
- 7.Udayakumar
- 8.Perumal
- 9.Chellapandi
- 10.M.Chinnan
- 11.K.Chandiran
- 12.V.Selvamani
- 13.P.Veeramani
- 14.Udayachandiran
- 15.P.Nallamayan
- 16.Paraman
- 17.Kannan
- 18.M.Rajendran
- 19.K.Ammavasi
- 20.T.Pandi
- 21.Veeran
- 22.V.Pandiyan
- 23.V.Muthupandi
- 24.S.Pandi
- 25.V.Sekar
- 26.S.Selvam
- 27.K.Murugesan
- 28.C.Balu
- 29.Viswanathan
- 30.D.Nagarajan
- 31.T.Andisamy
- 32.M.Ponga
- 33.K.Mani
- 34.T.Sekar
- 35.K.Ochappan
- 36.A.Annadurai
- 37.Pethanasamy
- 38.S.Chellapandi
- 39.M.Thangapandi
- 40.B.Anandan
- 41.B.Vijay



- 42.M.Sivasami
- 43.C.Mayan
- 44.Karunanithi
- 45.Chellapandian
- 46.M.Chandran
- 47.Mahalakshmi
- 48.Paraman
- 49.O.Chandran
- 50.M.Sivasami
- 51.O.Murugan
- 52.C.Manoharan
- 53.M.Parthiban
- 54.Selvam
- 55.Nagaraj
- 56.Jeyakumar
- 57.Subbiah
- 58.S.Suresh
- 59.K.Elangovan
- 60.Annakodi
- 61.Sivankalai
- 62.Theivam
- 63.Pandiyan
- 64.Pandi
- 65.P.Selvam
- 66.S.Rajendran
- 67.Philip John
- 68.C.V.Eswaran
- 69.S.Annadurai
- 70.Muthu
- 71.Murugesan
- 72.C.Rasaiya
- 73.T.Raja Mani
- 74.Jeyam
- 75.Ammavasi
- 76.Chinnasamy
- 77.M.Sivandi
- 78.V.Rajendran
- 79.S.Rajendran
- 80.V.Selvaraj
- 81.P.Sekar
- 82.Jothi
- 83.C.Kasimayan
- 84.Perumal
- 85.Ponnaiah
- 86.S.Andisamy
- 87.C.Palpandi
- 88.Sivakumar
- 89.Panneerselvam
- 90.R.Sivanandi
- 91.P.Pandiyan
- 92.P.Pandiyan



93.Murugesan
94.Asai Thambi
95.C.Eswaran
96.K.Jeyaraj
97.M.Sadayan
98.Mathialagan
99.M.Balaji
100.Selvam
101.Mayee
102.Rajamani
103.Ammavasi
104.Shanmuga Moorthy
105.Jeyapandi
106.Vengaiyan
107.Karthick Raja
108.R.Manickam
109.C.Balamurugan
110.Chinnan
111.Nagendiran
112.T.Pandiyammal

.. Petitioners

Vs

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Animal Husbandry, Dairying and Fisheries (FS3),
Chennai.

2.The Director of Fisheries,
DMS Campus,
Annasalai,
Thenampet,
Chennai - 600 006.

3.The Assistant Director of Fisheries,
Vaigai Dam,
Theni District.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the G.O.(MS) No.165 dated 25.09.2012 passed by the 1st respondent, quash the same and further to direct the respondents to permit the petitioners to continue the present licensed fishing in and around Vaigai Dam.

For Petitioner

: Mr.S.Kathiravan

For Respondents

: Mr.A.K.Manickam,
Standing Counsel for
Government



O R D E R

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.S.Kathiravan, learned counsel for the petitioners and Mr.A.K.Manickam, learned Standing Counsel for Government, appearing for the respondents.

2.The petitioner challenges G.O.(MS) No.165 dated 25.09.2012 passed by the 1st respondent, and seeks for a direction upon the respondents to permit the petitioners to continue the present licensed fishing in and around Vaigai Dam.

3.It is submitted on either sides that an identical issue was adjudicated by the Division Bench in the case of ***the Director of Fisheries, Chennai and two others v. S.T.Mani and two others in W.A. (MD) Nos.1251 and 923 of 2020, dated 03.02.2021***, and taking note of the Government Order in G.O.Ms.No.165, Animal Husbandry, Dairying and Fisheries (FS3) Department, dated 25.09.2012, the Writ Appeals were disposed of. The operative portion of the order reads as follows:

10.For the ensuing years, we call upon the official respondents, including the Secretary to Government, Fisheries Department, to adopt a different methodology as suggested by the learned Single Judge, by fixing the upset price and thereafter, call for tender. The highest amount offered by the successful bidder will have to be offered to the Bodi Fisherman Society. It is better to follow this methodology in future in all cases, as the Government would not loose the revenue and in any case, fixation of the upset price is a starting point and the same will not be the actual price that will fetch in an auction. It is a price, which will facilitate somebody to take part in the auction, being the minimum value of the subject matter of the licence.

11.The incidental issue is with respect to the impleaded respondents. On a perusal of the status report filed by respondent No.4, it is clear that various violations took place. These violations are with respect to contamination with the water and reaction to facilitate the highest fishing. The rights of the appellant in W.A.(MD) No.923 of 2020 is certainly subject to the rights of the impleaded respondent. Therefore, the official respondents shall make sure that their rights are not affected, which is inclusive of contaminating the water by polluting it for facilitating the larger capture of fishing and letting the water out, much to the suffering of the farmers. If such activities are carried on, the respondents are expected to cancel the licence.

12.There is one another issue which we need to



consider. This is with respect to other living beings. The learned Special Government Pleader appearing for the official respondents will have to instruct the officials to make sure that the appellant in W.A.(MD)No.923 of 2020 shall not involve in any illegalities, by using crackers to shoo away the birds, which go there to catch fish.

13. We find considerable force in the said submissions made. The official respondents will make sure that the birds are not made to go away by the usage of crackers.

14. The official respondents shall undertake the exercise as aforesaid within a period of four weeks from the date of receipt of a copy of this judgment. If the appellant in W.A.(MD)No.923 of 2020 is not inclined to take the fishing rights, it can be brought up for auction."

4. Thus, following the judgment in the said Writ Appeals, this Writ Petition is also disposed on the same lines. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

sj

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 Secretary,
Animal Husbandry, Dairying and Fisheries (FS3),
Government of Tamil Nadu,
Chennai.

2. The Director of Fisheries,
DMS Campus,
Annasalai,
Thenampet,
Chennai - 600 006.



3.The Assistant Director of Fisheries,
Vaigai Dam,
Theni District.

+1 CC to M/s.SPL GP (SR-23181[F] dated 19/07/2021)

W.P. (MD) No.15242 of 2012

15.07.2021

NSM(CO)

LR (02.08.2021) 6P 5C