



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.7649 of 2021

and

W.M.P. (MD) .No.5818 of 2021

Pechiparai & Perunchani Reservoirs
Fishermen Co-operative Society Limited,
represented through its Chief Promoter,
T.Ramdoss

...Petitioner

Vs.

The Assistant Director of Fisheries,
Opposite to Omni Bus Stand,
Vadaseri, Nagercoil-629 001,
Kanyakumari District.

... Respondent

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent in respect of the order passed in Na.Ka.No.1690/E1/2020, dated 30.01.2021 and quash the same and direct the respondent to issue the Certificate of Registration together with registered by-law of the petitioner Society.

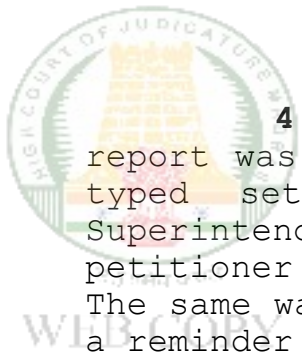
For Petitioner : Mr.V.O.S.Kalaiselvam
For Respondent : Mr.B.Bhagawathy

ORDER

On consent given by either side, the main Writ Petition itself is taken up for final hearing at the admission stage itself.

2. This Writ Petition has been filed challenging the impugned proceedings of the respondent dated 30.01.2021 and for a direction to the respondent to register the petitioner Society and grant necessary certificate.

3. The petitioner Society consists of members, who are fishermen, who conduct fishing activities at two reservoirs. According to the petitioner Society, the fishing activities have been done for more than twenty years. The petitioner submitted applications before the respondent seeking for registration of the Society under the Tamil Nadu Co-operative Societies Act, 1983.



4. On receipt of the applications from the petitioner, a report was called for and the report is filed at Page No.19 of the typed set of papers. This report was submitted by the Superintendent. Pursuant to the submission of the report, the petitioner Society submitted proposed by-laws before the respondent. The same was not considered and therefore, the petitioner again sent a reminder on 18.01.2021.

5. The respondent through the impugned proceedings dated 30.01.2021 after specifically recognizing the fact that there is a deemed registration under Section 9 (3) of the Tamil Nadu Co-operative Societies Act, 1983, since the application of the petitioner was not considered within a period of 120 days, directed the petitioner to get a No Objection Certificate from four other Societies in order to grant a certificate of registration to the petitioner. Aggrieved by the same, the present Writ Petition has been filed before this Court.

6. Heard Mr.V.O.S.Kalaiselvam, learned counsel for the petitioner and Mr.B.Bhagawathy, learned counsel for the respondent.

7. It is an admitted case that after the application was submitted by the petitioner on 02.07.2020, a report was called for from the Superintendent and it was specifically mentioned in the report that the fishing rights are claimed only insofar as the two reservoirs are concerned and there is no right for any other Society in these two reservoirs. Section 9 (3) of the Tamil Nadu Co-operative Societies Act, 1983, mandates that where an application is not considered within the period of 120 days from the date of submission, there is a deemed registration as contemplated under Section 9(4) of the Tamil Nadu Co-operative Societies Act, 1983. In the present case, the 120 days expired on 01.10.2020.

8. The respondent has specifically recognized this right of deemed registration even in the impugned proceedings. However, the respondent thought it fit to direct the petitioner to get a No Objection Certificate from four other Societies in order to grant a Certificate of registration to the petitioner.

9. In the considered view of this Court, there was no requirement for the petitioner to get a No Objection Certificate from four other Societies since even in the report submitted by the Superintendent, it is specifically stated that the fishing rights are confined only to two reservoirs, over which, no other Society had any rights. Therefore, there will be no requirement for the petitioner to get any such No Objection Certificate. The moment deemed registration comes into operation as per Section 9(4) of the Tamil Nadu Co-operative Societies Act, 1983, the petitioner will be automatically entitled for a certificate of registration which is only a consequence. The respondent has only attempted to postpone



the consequence when the main right has already accrued in favour of the petitioner.

10. In view of the above, the impugned letter issued by the respondent in Na.Ka.No.1690/E1/2020, dated 30.01.2021, is liable to be interfered by this Court. Accordingly, the same is hereby quashed. There shall be a direction to the respondents to register the petitioner Society and issue necessary certificate of registration, within a period of six (6) weeks from the date of receipt of a copy of this order.

11. This Writ Petition is allowed with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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 Assistant Director of Fisheries,
Opposite to Omni Bus Stand,
Vadaseri, Nagercoil-629 001,
Kanyakumari District.

+1 CC to M/s.V.O.S.KALAISELVAM, Advocate (SR-15448[F] dated 08/04/2021)

+1 CC to M/s.SPL GP (SR-15617[F] dated 09/04/2021)

Order made in

W.P. (MD) .No.7649 of 2021

Dated:

08.04.2021

GS (28.04.2021) 3P 4C