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W.P.[MD]No.8608 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]No.8608 of 2021

and

W.M.P.[MD]No.6480 of 2021

S.Bharathan

... Petitioner

Vs.

1.The Director,
Department of Fisheries (In-Land),
Chennai.

2.The Assistant Director,
Department of Fisheries (In-Land),
Pandian Towers, 5th Street,
Melaponagaram, Arapalayam,
Madurai.

3.The Secretary,
FMD-17, Melur In-Land Fisherman,
Co-operative Society,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the impugned proceedings on the file of the second respondent made in Na.Ka.No.857/E/2020 dated 24.03.2021 and quash the same, consequently direct the first and second respondent to cancel the allotment of Kanakankulam and Udaiyarkudikudikulam tanks, Kidaripatti Post, Melur Taluk, Madurai District in favour of the third respondent and direct the second respondent to conduct public auction for Kanakankulam, Udaiyarkudikudikulam and Chinna Udaiyarkudikulam tanks, Kidaripatti Post, Melur Taluk, Madurai District within the time limit stipulated by this Court.

For Petitioner	: Mr.M.Jagadeeshpandian
For Respondents 1&2	: Mr.A.Karthick, Government Advocate
For Respondent No.3	: Mrs.B.Bhagavathy Government Advocate

O R D E R



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

With the consent on either side, this Writ Petition itself is taken up for final disposal.

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2.Heard Mr.M.Jagadeeshpandian, learned Counsel appearing for the petitioner, Mr.A.Karthick, learned Government Advocate appearing for the respondents 1 and 2 and Mrs.B.Bhagavathy, learned Government Advocate appearing for the third respondent.

3.The petitioner seeks for a Writ of Certiorarified Mandamus, to call for the impugned proceedings on the file of the second respondent made in Na.Ka.No.857/E/2020 dated 24.03.2021 and quash the same and consequently direct the first and second respondent to cancel the allotment of Kanakankulam and Udaiyarkudikudikulam tanks, Kidaripatti Post, Melur Taluk, Madurai District, in favour of the third respondent and direct the second respondent to conduct public auction for Kanakankulam, Udaiyarkudikudikulam and Chinna Udaiyarkudikulam tanks, Kidaripatti Post, Melur Taluk, Madurai District.

4.Learned Counsel for the petitioner has invited our attention to the proceedings dated 29.01.2016, wherein the fishing rights in various tanks were given and the revenue earned was more than Rs.2 Lakhs. By the impugned order, the fishing rights have been allotted to the third respondent fishermen Co-operative Society for a very meagre amount of Rs.66,975/- in respect of Kanakankulam Kanmai and Rs.7,140/-, in respect of Udaiyarkudikulam Kanmai.

5.In respect of the same tanks for the previous years, the amount which was collected was more than Rs.2 Lakhs. Therefore, learned Counsel for the petitioner is right that in the impugned order, the amount fixed is very meagre.

6.The learned Government Advocate for the official respondents and the learned Government Advocate for the third respondent Society submitted that the fishing rights have been given to the third respondent Society by adhering to the procedure stipulated in G.O.Ms.No.201, Animal Husbandry, Dairying and Fisheries (FS-6) Department dated 19.10.2017.

7.On a careful reading of the said Government Order, it is an amendment to G.O.Ms.No.33, Animal Husbandry and Fisheries (FS4) Department dated 27.02.1995. We find that only priority to be given to local fishermen co-operative society and if that is the intention of the Government order, then it goes without saying that an upset price should be fixed which is also stated in the Government Order and the upset price is fixed once in three years. However, this procedure is not followed and on a misunderstanding of the said Government Order, the impugned order is issued.



8. For the above reasons, the impugned order is quashed and the respondents 1 and 2 are directed to fix the upset price for a period of three years as stated in the said Government Order by following the other guidelines and thereafter proceed in accordance with law.

9. Accordingly, the Writ Petition stands allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

// 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.

MR

To

1. The Director,
Department of Fisheries (In-Land),
Chennai.
2. The Assistant Director,
Department of Fisheries (In-Land),
Pandian Towers, 5th Street,
Melaponagaram, Arapalayam,
Madurai.
3. The Secretary,
FMD-17, Melur In-Land Fisherman,
Co-operative Society,
Madurai District.

+1 CC to M/s.SPL GP (SR-17946[F] dated 28/04/2021)

ORDER MADE IN
W.P. [MD]No.8608 of 2021

27.04.2021

GS (21.05.2021) 3P 5C