



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2021

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD).No.10466 of 2021
and W.M.P. (MD).No.8149 of 2021
(Through video conferencing)

J.Arockia Raj

... Petitioner

Vs.

1.The Executive Engineer (WRO),
Public Works Department,
Melvaipparu Vadinila Kottam,
Rajapalayam Taluk,
Virudhunagar District.

2.The Assistant Executive Engineer,
Public Works Department,
Melvaipparu Vadinila Kottam,
Rajapalayam Taluk,
Virudhunagar District.

... Respondents

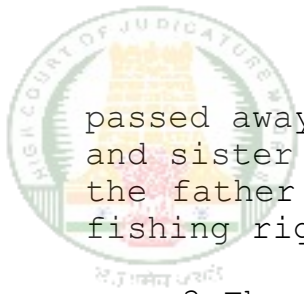
Prayer: Writ petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, to direct the respondents to extend the fishery rights lease for further period as per G.O.(Ms.) No.332, Animal Husbandry and Fisheries (FS-IV) Department, dated 17.11.1993 in view of present pandemic situation and natural calamity and by considering the petitioner's representation dated 17.06.2021 within the period that may be stipulated by this Court.

For Petitioner : Mr.C.Venkatesh Kumar
For Respondents : Mr.R.Suresh Kumar
Government Advocate

ORDER

This writ petition has been filed for the issue of writ of mandamus directing the respondents to consider the representation made by the petitioner on 17.06.2021 wherein the petitioner has sought for the extension of the lease granted for fishery rights.

2. The case of the petitioner is that his father participated in the tender process and being the highest bidder, he was granted fishing rights for the period commencing from 23.01.2019 to 30.06.2021. The further case of the petitioner is that after the lease was granted in favour of his father, he harvested the fishes after spending a considerable amount. The father of the petitioner



passed away on 15.01.2020 leaving behind the petitioner, his brother and sister as the legal heirs. It is claimed that after the death of the father of the petitioner, the petitioner is continuing with the fishing rights.

3.The petitioner made a representation to the second respondent seeking for transfer of the fishing rights in his favour. This representation came to be rejected by the second respondent by virtue of the proceedings dated 30.06.2020 and the petitioner was informed that the fishing rights granted under an auction cannot be transferred in favour of a legal heir.

4.The petitioner thereafter filed a writ petition before this Court in W.P(MD).No.17428 of 2020 questioning the order passed by the respondents. This Court, by an order dated 07.12.2020 disposed of the writ petition by remanding the matter back to the file of the first respondent and further directed the first respondent to consider the representation made by the petitioner and pass orders and in the meantime permitted the petitioner to continue with the existing lease granted to his father.

5.Pursuant to the above order, the first respondent through proceedings dated 04.02.2021 granted lease in favour of the petitioner for fishing rights for a period of one year.

6.The grievance of the petitioner is that he was not able to effectively exercise the fishing rights due to the Pandemic situation and hence he made a representation to the respondents on 17.06.2021 to extend the period of lease. Since the same was not considered, the present writ petition has been filed before this Court seeking for appropriate directions.

7.The learned counsel for the petitioner submitted that even though the first respondent through proceedings dated 04.02.2021 had given the lease for fishing rights for a period of one year, the conditions make it clear at Clause 3 that it is for a period of 5 years. Therefore, the learned counsel for the petitioner submitted that till the expiry of the period, the respondents cannot bring the fishing rights for an auction.

8.The learned Government Advocate appearing on behalf of the respondents submitted that the representation made by the petitioner on 17.06.2021 will be considered on its own merits and in accordance with law.

9.Taking into consideration the facts and circumstances of the case and without going into the merits of the case, there shall be a direction to the first respondent to consider the representation made by the petitioner on 17.06.2021 and take a decision strictly in accordance with law within a period of two weeks from the date of



petitioner.

10.The petitioner is directed to make a fresh representation to the first respondent along with all the relevant documents and also with a copy of this order.

WEB COPY

11.This writ petition is disposed of with the above direction. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

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 Executive Engineer (WRO),
Public Works Department,
Melvaipparu Vadinila Kottam,
Rajapalayam Taluk,
Virudhunagar District.

2.The Assistant Executive Engineer,
Public Works Department,
Melvaipparu Vadinila Kottam,
Rajapalayam Taluk,
Virudhunagar District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-20501[F] dated 29/06/2021)

+1 CC to M/s.SPL GP (SR-20681[F] dated 30/06/2021)

**W.P. (MD) .No.10466 of 2021
28.06.2021**

AC(CO)

TR(30.06.2021) 3P 5C