



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.09.2021

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THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. (MD)Nos.15688 to 15690 of 2021

and

WMP (MD) .Nos.12640,12643,12645,12655 and 12650 of 2021

D.Suruliyammal

... Petitioner

in all Writ Petitions

Vs.

1. The Commissioner of Fisheries and
Fisherman Welfare,
Tamil Nadu Fisheries and Fisherman
Welfare Department,
Nandanam, Chennai-600 035.

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

... Respondents

(in all Writ petitions)

Common Prayer: Writ petitions filed under Article 226 of the Constitution of India, to issue a Writ of Ceriorarified Mandamus, to call for records of the impugned communication in Na.Ka.No.650/2020 dated 15.06.2021 passed by the second respondent herein and quash the same as illegal and consequently direct the second respondent to grant the lease of fishing rights in the tank of Sirukulam, Seelaiyampatti Village, Kannimar Kulam Veerapandi and Kannimarkulam, Vayalpatti Village Tank of Theni District as per the G.O(Ms).No.201 dated 19.10.2017 within a stipulated period as fixed by this Court.

For Petitioner : Mr.K.Safar Badhusha (in all W.Ps)

For Respondents : Mr.P.Subbaraj,
Counsel for State (in all W.Ps)

COMMON ORDER

The petitioner challenges a communication dated 15.06.2021 from the second respondent by which the petitioner was informed that the licence in respect of fishing rights in a tank expired on 30.06.2021. Each writ petition relates to a specific tank.

2. The petitioner states that the TFW-1 Theni Fisherwomen Co-operative Society was formed for the welfare of fisherwomen in the Theni District. The said Society was granted a licence in respect of



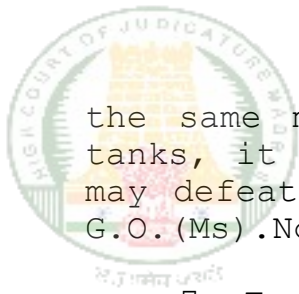
fishing rights in three tanks from 2018 to 2021. The petitioner relies upon G.O.(Ms).No.201, Animal Husbandry, Dairying and Fisheries (FS-6) Department, dated 19.10.2017. In terms thereof, the petitioner claims priority in respect of the grant of lease/licence of fishing rights. Therefore, the petitioner contends that the respondents should fix the upset price in respect of the grant of fishing rights and offer the same to the petitioner. Such licence of fishing rights should be granted to the petitioner in case the petitioner agrees to accept such licence at the offered upset price. Only in the event of refusal by the Society to accept the same, the respondents may offer it to others through a tender or auction process. The impugned notice is assailed on this ground.

3. Mr.P.Subbaraj, learned counsel for the State, appears on behalf of the respondents. He submits that the Division Bench of this Court in W.A(MD).Nos.1251 of 2020 and 923 of 2020 passed an order directing the Secretary to Government, Fisheries Department, to adopt a particular methodology. Such methodology entails the fixation of an upset price followed by a tender or auction. Pursuant to such tender or auction, upon receiving the highest bid, such highest bid would be offered to the Society concerned.

4. On the other hand, learned counsel for the petitioner points out that the relevant tanks in the present case have limited capacity. Even the upset price fixed in the past was in the range of about Rs.26,000/- for the smallest tank to about Rs.84,000/- for the largest of the three tanks. Therefore, it is submitted that the methodology that may be adopted in respect of large reservoirs should not be extended to small tanks as in the present case.

5. The mandate of G.O.(MS).No.201 is that local Fishermen Co-operative Societies should be given priority in respect of the grant of licences or leases for fishing rights. At the same time, the interest of the State should be borne in mind. Such interest is served if the licence is granted at a reasonable price. Therefore, it is necessary to strike the appropriate balance between the need to offer priority to the Fishermen Co-operative Society concerned and the need to ensure that licences are issued at a reasonable price. A one-size-fits-all approach may not be appropriate. In other words, the relevant waterbodies are of varying sizes and dimensions. While a more stringent procedure may be appropriate in respect of large reservoirs, the same procedure may not be appropriate in the context of smaller waterbodies. Therefore, the respondents should formulate a policy which specifies the methodology for different categories of waterbodies.

6. From the facts on record, the three tanks involved in the present cases appear to be small in size. In specific, the sizes of these three tanks are between 12.82 hectares and 23.99 hectares. If the grant of licence in respect of such small tanks are subject to



the same methodology as may be appropriate in the case of large tanks, it may not yield the expected results. More importantly, it may defeat the object and purpose of G.O.(MS).No.201 as modified by G.O. (Ms).No.33, dated 27.02.1995.

7. For reasons set out above, it is just and necessary that the respondents arrive at an appropriate upset price and make an offer to the petitioner in terms of G.O.(Ms).No.201. The respondents are directed to make such offer to the petitioner in respect of the three relevant tanks within a period of four weeks from the date of receipt of a copy of this order. Upon receipt of such offer, the petitioner is directed to indicate acceptance or refusal within two weeks from the date of receipt of such offer.

8. W.P(MD).Nos.15688 to 15690 of 2021 are disposed of on these terms without any order as to costs. Consequently, connected WMP (MD).Nos.12640, 12643, 12645, 12655 and 12650 of 2021 are closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar(CS)

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To

1. The Commissioner of Fisheries and
Fisherman Welfare,
Tamil Nadu Fisheries and Fisherman
Welfare Department,
Nandanam, Chennai-600 035.

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

W.P. (MD)Nos.15688 to 15690 of 2021

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