



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2021

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN

W.P(MD)NO.20746 of 2021

and

W.M.P(MD)Nos.17358 and 17359 of 2021

P.Muthukrishnan

... Petitioner

vs.

1.The Superintending Engineer,
Public Works Department (WRO),
Tirunelveli,
Tirunelveli District.

2.The Executive Engineer,
Public Works Department (WRO),
Thamirabarani Basin Division,
Tirunelveli-2.

3.The Assistant Executive Engineer,
Public Works Department (WRO),
Mel Thamirabarani Basin Sub Division,
Cheranmahadevi,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in Ila.A4/157/Ko.204/2021, dated 30.06.2021 issued by the second respondent and consequently direct the respondents herein to extend the lease period and grant fishing right to the petitioner with regard to Vagaikulam Tank, Cheranmahadevi, Tirunelveli District, on payment of necessary charges under norms of the Public Work Department.

For Petitioner

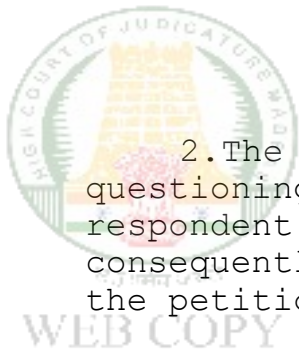
: Mr.R.J.Karthick

For Respondents

: Mr.N.Satheesh Kumar
Additional Government Pleader

O R D E R

Heard Mr.R.J.Karthick, learned Counsel for the petitioner and
<https://hcservices.ecourts.gov.in/hcservices/>
Mr.Satheesh Kumar, learned Additional Government Pleader for the
respondents.



2.The Writ Petition has been filed in the nature of Certiorari, questioning the order, dated 30.06.2021, passed by the second respondent bearing number Ila.A4/157/Ko.204/2021 and also consequently, to extend the lease period and grant fishing rights to the petitioner herein.

3.In the affidavit filed in support of the Writ Petition, the petitioner stated that he was declared as a successful bidder and was granted lease for the period from 14.10.2020 to 13.02.2021 for fishing rights in Vagaikulam Tank, Cheranmahadevi in Thirunelveli District. He had also paid the requisite amounts as required. He also claims that he has spent further amounts towards purchase of fish lings to let them into the tank. They can be harvested when they grow up. However, there were heavy rains in January and February in the tank area and Vagaikulam Tank over-flowed and naturally, the flowing water also dragged the fish and the petitioner could not therefore harvest the fish in that area. Moreover, the fish lings will have to be given a period of six months to grow and only then, they can be caught and sold in the domestic market.

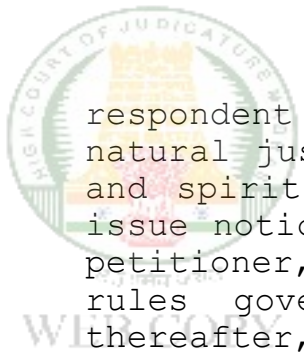
4.The petitioner claims that he was therefore not able to enjoy the rights and as a matter of fact, the amount spent by him was highly disproportionate and such expenditure was extremely also disproportionate to the returns expected for which he had bid for the auction in the first place.

5.In the mean while, the second phase of the lock down also came and this was yet another reason for the petitioner to give a representation on 18.06.2021, seeking extension of the lease period of three years.

6.The third respondent, passed the impugned order on 30.06.2021.

7.Let me not examine that particular order further in detail, because on one narrow ground the order will necessarily have to be interfered with and the matter remitted back to the third respondent for fresh consideration. In the impugned order, there is a reference to the particular writ petition which neither relates to fishing rights nor relates to any right claimed by the petitioner or to any other individual with respect to any fishing rights. It is totally unconnected.

8.The third respondent had made a mistake. Any order with an obvious error on the face of it will necessarily have to be interfered with and struck out. It calls for review of the order. Consequential orders cannot be passed by this Court, but rather this Court will have to place a direction on the said authority to re-examine the entire aspect and pass a fresh order. The petitioner naturally can take advantage of this aspect and claims that he should also be heard prior to passing of any fresh order. The third



respondent is given that particular option and if principles of natural justice are to be adhered in letter and spirit, let letter and spirit guide the third respondent in his actions and let him issue notice to the petitioner, receive any representation from the petitioner, balance that with the existing rights available or the rules governing the grant of auction of fishing rights and thereafter, take a considered decision.

9.The third respondent is under an obligation to pass orders within a period of twelve weeks from the date of receipt of a copy of this order. Within that period, he should issue notice to the petitioner, grant 10 working days for reply or a representation and some how schedule the enquiry to be completed within the period of 12 weeks.

10.With the above observations and without answering any other issue raised by the writ petitioner, this Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar (AD I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

lr/sn

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 Superintending Engineer,
Public Works Department (WRO),
Tirunelveli, Tirunelveli District.

2.The Executive Engineer,
Public Works Department (WRO),
Thamirabarani Basin Division,Tirunelveli-2.

3.The Assistant Executive Engineer,
Public Works Department (WRO),
Mel Thamirabarani Basin Sub Division,
Cheranmahadevi,Tirunelveli District.

+1 CC to M/s.R.J.KARTHICK, Advocate (SR-37232[F] dated 03/12/2021)
+1 CC to M/s.SPL GP (SR-37218[F] dated 03/12/2021)