



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2021

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THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P. (MD)No.22192 of 2021

and

W.M.P. (MD)No.18755 of 2021

WEB COPY

P.Karuppasamy

... Petitioner

vs.

1.The Assistant Director of Fisheries,  
Tirunelveli.

2.The Executive Engineer,  
Public Works Department (W.R.O.),  
Uppar Vaippar Basin Division,  
Rajapalayam.

3.The Assistant Engineer,  
Public Works Department (W.R.O.),  
Uppar Vaippar Basin Division,  
Vasudevanallur, Tenkasi 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 records relating to the impugned order of the third respondent in Letter No.30/Vu.Po(Vasu)/2021, dated 01.12.2021 and quash the same and consequently, to direct the respondents to extend the period of lease considering the COVID-19 and heavy rainfall.

For Petitioner :Mr.H.Arumugam

for Mr.P.Murugesan

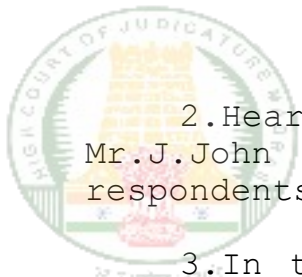
For Respondents :Mr.J.John Rajadurai

Government Advocate

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### **O R D E R**

This Writ Petition has been filed in the nature of Certiorarified Mandamus seeking interference with the order of the third respondent/Assistant Engineer, Public Works Department, W.R.O., Uppar Vaippar Basis Division, Vasudevanallur, Tenkasi District, dated 01.12.2021 and to set aside the same. The petitioner by representation, dated 19.11.2021 had sought extension of period of lease. He had reasons for such extension, namely, onslaught of the COVID-19 pandemic and thereafter, heavy rains, which prevented fishing in the said area.



2. Heard Mr.H.Arumugam, learned Counsel for the petitioner and Mr.J.John Rajadurai, learned Government Advocate for the respondents.

3. In the affidavit filed in support of this Writ Petition, it had been stated that the petitioner is a Farmer having agricultural lands and also involved in aquaculture. He had obtained fishing lease also with respect to Periyakulam Tank having been the successful bidder on 02.01.2019. He could not enjoy the harvesting of fishing during the COVID-19 lockdown period. He had paid the entire amount in terms of the condition of the lease. Thereafter, there were also heavy rains which once again prevented him from enjoying the benefit of the bid, in which he had participated and had paid substantial amounts and had been declared as successful bidder. He had therefore given a representation seeking consideration of extension of period of lease on those grounds.

4. The impugned order came to be passed refusing extension. But it is assailed by Mr.H.Arumugam, learned Counsel for the petitioner on the ground that the two reasons specifically stated, namely, onslaught of COVID-19 and the heavy rains, which prevented the petitioner from getting the benefit of fishing in the said area, had not been answered. It is specifically stated by the learned Counsel that the order had necessitated filing of the present Writ Petition.

5. It would only be appropriate that when any representation is given stating some reasons, the authority should answer such representation addressing the issues raised and inform the person, as to whether those issues had been taken into consideration or rejected. It is one of the fundamental principles, which surround any administrative order. If an administrative order lacks that, judicial review would certainly lie. The authority can take any decision they want, provided proper procedure is followed. In the instance case, the third respondent could even issue notice to the petitioner to determine the dates on which owing to Lockdown, the petitioner could not harvest the fish in the area, examine the dates on which owing to heavy rains, he could not harvest the fish and thereafter, could have come to a conclusion whether the extension of lease period is warranted or should be rejected. Let the third respondent therefore follow that principle.

6. I would direct the third respondent to follow such procedure and issue notice to the petitioner for appearance forthwith and thereafter, enquire with the petitioner and then pass an order on the representation and on the issues raised by the petitioner. In view of the exercise to be done once again by the third respondent, the order now under question in the Writ Petition is set aside and a direction is given to the third respondent to rehear and pass appropriate orders on or before 15.01.2022



7. With the said directions, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar (CS)

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To

1. The Assistant Director of Fisheries,  
Tirunelveli.

2. The Executive Engineer,  
Public Works Department (W.R.O.),  
Uppar Vaippar Basin Division,  
Rajapalayam.

3. The Assistant Engineer,  
Public Works Department (W.R.O.),  
Uppar Vaippar Basin Division,  
Vasudevanallur, Tenkasi District

+1 CC to M/s.SPL GP ( SR-40236[F] dated 23/12/2021 )

+1 CC to M/s.P.MURUGESAN, Advocate ( SR-40202[F] dated 23/12/2021 )

W.P. (MD) No. 22192 of 2021  
22.02.2021

RD(31.12.2021) 3P 6C