



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.13522 of 2022 &W.M.P.Nos.12714 &12715 of 2022

P.Saravanan

... Petitioner

vs.

1. The Government of Pondicherry,
Rep. by its Under Secretary (LA),
Local Administration Department,
Secretariat,
Puducherry.
2. The Chief Engineer,
O/o. Public Works Department,
Central Office,
Puducherry.
3. The Executive Engineer,
Irrigation Division,
Public Works Department,
Puducherry.
4. The Assistant Engineer,
Irrigation Sub Division IV,
PWD, Bahour,
Puducherry.

...Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India for writ of Certiorarified Mandamus calling for the records relating to the impugned notification made in No.2079/PW/EE1/JE(P)-85/2022-23 dated 23.05.2022 passed by the 3rd respondent quash the same and consequently direct the respondents to permit the petitioner by granting fishing right in the Bahour Lake, Puducherry for the year 2022-23 and 2023-24 directly without resorting to the public auction to complete the lease hold right in terms of notification made in No.2935/PW/EE1/JE/(P)-85/2014-15 dated 03.11.2014 issued by the third respondent.

For Petitioner : Mr.G.Ethirajulu





WEB COPY

respondents that the petitioner had voluntarily vacated the lake, the writ petition W.P.No.1258 of 2016 came to be dismissed on 17.11.2021 and directed the petitioner to approach the civil forum. Aggrieved by the said order of the learned Single Judge, the petitioner has preferred a writ appeal in W.A.No.68 of 2022 which according to the petitioner, has been admitted and notice has been ordered by the Division Bench of this Court.

4. Pending the said writ appeal, the present writ petition has been filed challenging the impugned auction notification dated 23.05.2022 under which, the auction for the very same fishing lake is scheduled to be conducted on 09.06.2022. It is the contention of the petitioner that only due to the belated handing over of the lake by the respondents earlier and the illegal termination of the lease, the petitioner has suffered huge losses and therefore, they cannot hold a fresh auction without permitting the petitioner to enjoy the entire three years period as per the earlier lease contract.

5. The respondents have filed written submissions before this Court denying the allegations of the petitioner. According to them, the petitioner has enjoyed the fishing rights up to 2017 and the statement made by the petitioner that he had enjoyed fishing rights only upto 2016 is incorrect. The respondents would reiterate that voluntarily the petitioner vacated the lake and it is not correct to state that the petitioner was evicted by the respondents. They also deny the allegation of the petitioner that the lake was handed over to the petitioner belatedly. According to the respondents, though the petitioner had paid the lease amount only for 2 years, had enjoyed the lease for almost three years.

6. They would also submit that the petitioner does not have any locus standi to stall the impugned auction notification. They would also submit that having failed in the writ petition earlier wherein the petitioner had raised the very same grounds, the petitioner cannot once again agitate the same rights by filing a fresh petition.

7. Heard Mr.G.Ethirajulu, learned counsel for the petitioner and Mr.C.T.Ramesh, learned Additional Government Pleader (Pondicherry), appearing for the respondents.

Discussion:

8. The grounds raised in this writ petition are almost identical to the one raised in the earlier writ petition filed by the very same petitioner in W.P.No.1258 of 2016. In that writ petition, he had challenged the cancellation of



WEB COPY

the lease granted in his favour, whereas in the present writ petition he has challenged the auction notification under which the respondents are conducting auction in respect of fishing rights for the very same lake. The petitioner's contentions were considered in the earlier writ petition which came to be dismissed on 17.11.2021 and directed the petitioner to approach the Civil Court as there were disputed questions of fact involved. Aggrieved by the same, the petitioner had also filed a writ appeal before the Division Bench of this court in W.A.No.68 of 2022 which according to the petitioner has been admitted by the Division Bench and is still pending and no interim order has been granted in favour of the petitioner by the Division Bench. Without waiting for the outcome of the writ appeal, the petitioner has once again filed this writ petition challenging the auction notification for the very same lake.

9. The period of lease earlier granted in favour of the petitioner was from 2014-17. Now we are in the year 2022. Any auction is conducted only in public interest to get the best possible revenue. The petitioner if really interested in continuing with the fishing rights could have participated in the impugned auction. But instead of participating in the same, he has chosen to file the present writ petition seeking to stall the said auction.

10. Unless and until the impugned auction is so arbitrary and irrational shocking the conscience of the court, this court cannot interfere with the same. As observed earlier, here is a case where the petitioner's lease is only for the period from 2014-17. Even according to the petitioner, he had enjoyed the benefit of the lease up to 2016, though according to the respondents, the petitioner had benefited from the lease upto 2017 much beyond the two years period for which the lease amount was paid by him to the respondents. The impugned auction is the first auction to be conducted by the respondents subsequent to the year 2014 in which, the petitioner was the successful bidder. When the same contentions were raised in the earlier round of litigation by the very same petitioner and was rejected by another learned Single Judge in another writ petition which is now the subject matter of a writ appeal, the petitioner ought not to have filed another writ petition in the form of the present one seeking for stalling the auction to be conducted by the respondents for the very same lake. Auction is conducted in public interest to get the best possible revenue to eliminate partiality and corruption.

11. The action of the respondents in initiating auction, in the considered view of this Court does not seem to be arbitrary or illegal which shocks the conscience of



this Court.

12. For the foregoing reasons, this court does not find any merit in this writ petition. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

WEB COPY

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

nl

To

1. The Under Secretary (LA)
The Government of Pondicherry,
Local Administration Department,
Secretariat,
Puducherry.
2. The Chief Engineer,
O/o. Public Works Department,
Central Office,
Puducherry.
3. The Executive Engineer,
Irrigation Division,
Public Works Department,
Puducherry.
4. The Assistant Engineer,
Irrigation Sub Division IV,
PWD, Bahour,
Puducherry.

+1cc to Mr.G.Ethirajulu, Advocate, S.R.No.33419

W.P.No.13522 of 2022

RLP(CO)
CT/17/06/2022