

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.16070 of 2021 &
W.M.P.No.16992 of 2021

P.K.Raja

... Petitioner

vs.

1. The Director of Fisheries,
Directorate of Fisheries Office,
Chennai.
2. The Joint Director of Fisheries,
The Joint Director of Fisheries Office,
Chennai.
3. The Deputy Director of Fisheries,
Deputy Director of Fisheries,
Dharmapuri.
4. The Assistant Director,
Fishery Department,
Mettur Dam,
Salem - 1.
5. The Revenue Divisional Officer,
Revenue Divisional Officer,
Thiruchangodu.
6. The Tahsildar,
Tahsildar Office,
Thiruchangodu.
7. The Inspector of Fisheries,
Inspector of Fisheries Office,
Namakkal.
8. The Executive Engineer,
PWD, Water Resource Department,
Sarabanga Basin Division,
S.K.Garden, Kondalampatti,
Salem.

9. The Assistant Executive Engineer,
PWD, Water Resource Department,
Sarabanga Basin Sub division,
Rasipuram.
10. The District Collector,
Collector Office,
Namakkal District.
11. The Chairman,
FMR 13, Fishermen Co-operative Society,
Pallipalayam,
Erode District.
12. P.K.Thangavel,
The Chairman,
FMR 13, Fishermen Co-operative Society,
Pallipalayam,
Erode District.

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India for writ of Mandamus directing the respondents to consider the representation dated 08.07.2021 and issue direction to the respondents to ensure equal distribution of sub-lease allotment to the members of the society namely FMR 13, Fishermen Co-operative Society, Pallipalayam, Erode District in respect of catching of fishes in ten lakes namely 1. Malasumuthiram Periya Eri, 2. Malasumuthiram Chinna Eri, 3. Mamundi Agrharam Eri, 4. Palamedu Eri, 5. Kootapalayam Eri, 6. Paruthipalli Eri, 7. Illupilli Eri, 8. Maanikampalayam Eri, 9. Emapalli Eri, 10. Thevanaampalayam Eri in Thiruchengode Taluk, Namakkal District.

For Petitioner : Mr.V.Jayaprakash Narayanan

For Respondents 1 to 10 : Mr.T.Seenivasan,
Additional Government Pleader

For Respondent 11 & 12 : Mr.R.S.Anandan

ORDER

This writ petition has been filed for a mandamus seeking for a direction to the respondents to consider the petitioner's representation dated 08.07.2021 and issue direction to the respondents to ensure equal distribution of sub-lease allotment to the members of the society viz., FMR 13, Fishermen Co-operative Society, Pallipalayam, Erode District, the respondents 11 & 12 in respect of catching of fishes in ten lakes namely 1. Malasumuthiram Periya Eri, 2. Malasumuthiram Chinna Eri,

3.Mamundi Agrharam Eri, 4. Palamedu Eri, 5. Kootapalayam Eri, 6. Paruthipalli Eri, 7. Illupilli Eri, 8. Maanikampalayam Eri, 9. Emapalli Eri and 10.Thevanaampalayam Eri in Thiruchengode Taluk, Namakkal District.

2. Heard Mr.V.Jayaprakash Narayanan, learned counsel for the petitioner, Mr.T.Seenivasan, learned Additional Government Pleader appearing for the respondents 1 to 10 and Mr.R.S.Anandan, learned counsel for the respondents 11 & 12.

3. All the members of the eleventh respondent Society are inland fisherman community and all of them are engaged in inland fishing and their livelihood is fully dependent upon the fishing activities. According to the petitioner, he is a member of the eleventh respondent Society. According to the petitioner, there are ten lakes managed by the eleventh respondent Society viz., 1.Malasumuthiram Periya Eri, 2.Malasumuthiram Chinna Eri, 3.Mamundi Agrharam Eri, 4. Palamedu Eri, 5. Kootapalayam Eri, 6. Paruthipalli Eri, 7. Illupilli Eri, 8. Maanikampalayam Eri, 9. Emapalli Eri and 10.Thevanaampalayam Eri in Thiruchengode Taluk, Namakkal District. The aforementioned lakes are under the control of Public Works Department, Fisheries Department and Revenue Department.

4. As per Government Order viz., G.O.Ms.No.332, Animal Husbandry & Fisheries Department dated 17.11.1993, the fishing rights over the lakes will be given on priority basis to the Fishermen Co-operative Societies registered in the locality. In the present case, as per G.O.Ms.No.332, Animal Husbandry & Fisheries Department dated 17.11.1993, the fishing rights over the aforesaid ten lakes will be given on priority basis to the eleventh respondent which is the Fishermen Co-operative Society. The petitioner states that the fourth respondent vide its proceedings dated 14.10.2019 in terms of G.O.Ms.No.332, Animal Husbandry & Fisheries Department dated 17.11.1993 has allotted the aforementioned 10 lakes to the eleventh respondent Society who in turn sub-leased the fishing rights to its group of members by passing an appropriate resolution. According to the petitioner, for the financial year 2020-21 (01.07.2019 - 30.06.2020), the petitioner was given fishing rights in one of the lakes namely Illupilli Eri and the amount fixed by the fourth respondent for lease was paid by him and his group jointly.

5. According to the petitioner, he and his group have faced much difficulty in catching fishes in the lake due to interference by the local people by doing illegal fishing and causing some damages to their fishing nets and vessels. The petitioner has given a complaint to the eleventh respondent and the police department with regard to the interference made by

the local people. The petitioner also claims that he has invested huge amount of money for carrying out the fishing activities at Illupilli Eri in Thiruchengode Taluk, Namakkal District which was allotted to him for the period from 01.07.2019 to 30.06.2020. But according to him, he was unable to generate income due to the interference caused by the local people who have been doing illegal fishing in the very same lake. The petitioner had earlier given a representation to the eleventh respondent requesting the eleventh respondent to allot the very same lake to him for the subsequent years also as he has invested huge amount of money in the said lake in which the sufficient income was not generated by him.

6. However, it is the contention of the eleventh respondent that for the subsequent period from 01.07.2020 to 30.06.2021, the petitioner was allotted a different lake to the petitioner at Mamundi Agrharam and not Illupilli Eri. Therefore, according to the eleventh respondent, the question of granting the very same lake which was allotted to the petitioner for the period from 01.07.2019 to 30.06.2020 depends upon various factors and the petitioner cannot pick and choose the lake.

7. However, the learned counsel for the eleventh respondent on instructions would submit that the eleventh respondent shall consider the representation of the petitioner seeking for allotment of Illupilli Eri on merits and in accordance with law in its meeting subject to the condition that the majority of the members are agreeable for the request made by the petitioner. It is also contended by the learned counsel for the eleventh respondent that the fourth respondent has to pass final orders allotting the aforesaid ten lakes to the eleventh respondent Society and only thereafter, the petitioner's representation can be considered on merits and in accordance with law.

8. The fourth respondent has also filed a counter affidavit stating that it is an internal issue between the petitioner and the eleventh respondent and they have no role to play.

9. This court is of the considered view that no prejudice would be caused to the official respondents, if the petitioner is directed to give a fresh representation seeking for allotment of Illupilli Eri in his favour for the period from 01.07.2022 to 30.06.2023 to the eleventh respondent and the eleventh respondent is directed to consider the same on merits and in accordance with law based on the majority decision of its members.

10. For the foregoing reasons, this Court directs the petitioner to give a fresh representation seeking for allotment of Illupilli Eri in his favour for the period from 01.07.2022 to

30.06.2023 to the eleventh respondent. After getting allotment order for the ten lakes from the fourth respondent, the eleventh respondent shall pass final orders on the petitioner's representation on merits and in accordance with law based on the majority decision of its members, within a period of four weeks from the date of allotment order from the fourth respondent, after affording a fair hearing to the petitioner including granting him the right of personal hearing.

11. With the aforesaid direction this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Director of Fisheries,
Directorate of Fisheries Office,
Chennai.
2. The Joint Director of Fisheries,
The Joint Director of Fisheries Office,
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3. The Deputy Director of Fisheries,
Deputy Director of Fisheries,
Dharmapuri.
4. The Assistant Director,
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5. The Revenue Divisional Officer,
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- 10.The District Collector,
Collector Office,
Namakkal District.
- 11.The Chairman,
FMR 13, Fishermen Co-operative Society,
Pallipalayam,
Erode District.

+1cc to Mr.V.Jayaprakash Narayanan, Advocate, S.R.No.42774
+1cc to Mr.R.S.Anandan, Advocate, S.R.No.42785

W.P.No.16070 of 2021

BR(CO)
CT/25/07/2022