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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2022

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.25588 of 2018
and
Contempt Petition No.356 of 2020
&
W.M.P.Nos. 15147 and 15148 of 2021

M/s.Sree Bannari Amman Agencies,
A Partnership firm,
Represented by its Managing Director,
Pon.Nandhagopalan,

No.200/3, Irish Garden,
Sirupooluvapati Main Road,
Tiruppur District - 641 603.

... Petitioner in both W.P.
and Contempt Petitions

Versus

- 1.The Government of Tamil Nadu,
Rep. by Secretary to Government,
Animal Husbandry and Fisheries Department,
Fort St.George, Chennai - 600 009.
- 2.The Director of Fisheries,
(Inland Fisheries),
Administrative Office Buildings,
DMS Complex, Teynampet,
Chennai - 600 006.
- 3.The Deputy Director of Fisheries,
(Inland Fisheries),
Fisheries Complex, Petchiamman Padithurai,
Madurai-625 001.
- 4.The Assistant Director of Fisheries,
(Inland Fisheries),
120, Aruppokottai Road,
Raja Mani Hall,
Virudhunagar - 626 001.

...Respondents 1 to 4 in W.P.No.25588 of 2018



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1.Mr.G.S.Sameera, I.A.S.,
The Director of Fisheries,
(Inland Fisheries),
Administrative Office Buildings,
DMS Complex, Teynampet,
Chennai - 600 006.

2.Mr.M.Kasinathapandian,
The Deputy Director of Fisheries,
(Inland Fisheries),
Fisheries Complex, Petchiamman Padithurai,
Madurai-625 001.

3.Mr.N.Soundarapandian,
The Assistant Director of Fisheries,
(Inland Fisheries),
120, Aruppokkottai Road,
Raja Mini Hall,
Virudhunagar - 626 001.

... Respondents 1 to 3 in Cont.P.No356 of 2020

PRAYER in W.P.No.25588 of 2018:

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Mandamus, directing the respondents herein to extend the lease granted to the petitioner dated 03.10.2013 for fishing rights in the reservoir for a period of 2 years with respect to Kullurchandai reservoir, Virudhunagar District and consequentially, forbearing the respondents, their men or agents from in anyway interfering with the enjoyment of the fishing rights under the lease deed dated 03.10.2013 in favour of the petitioner for the extended period of 2 years.

PRAYER in Cont.P.No.356 of 2020:-

Contempt Petition filed under Section 11 of Contempt of Court Act to punish the respondents herein for disobeying the order dated 03.10.2019 passed in W.M.P.No.27287 and 27292 of 2019 in W.P.No.25588 of 2018.

For Petitioner : Mr.M.Santhanaraman
(in both Petitions) for Mr.C.Kasirajan

For Respondents : Mrs.C.Meera Arumugam
(in both Petitions) Additional Government Pleader

COMMON ORDER

Writ Petition in W.P.No.25588 of 2018 has been filed by the petitioner, seeking for issuance of a Writ of Mandamus, to



direct the respondents herein to extend the lease granted to the petitioner, dated 03.10.2013 for fishing rights in the reservoir for a period of 2 years with respect to Kullurchandai reservoir, Virudhunagar District and consequentially, to forbear the respondents, their men or agents from in anyway interfering with the enjoyment of the fishing rights under the said lease deed, dated 03.10.2013, for the extended period.

2. Contempt Petition in Cont.P.No.356 of 2020 has been filed the writ petitioner seeking to punish the respondents herein for disobeying the order passed by this Court, dated 03.10.2019, in W.M.P.No.27287 and 27292 of 2019 in W.P.No.25588 of 2018.

3. The facts in brief are as follows:-

i) The petitioner was a successful bidder in the tender called for by the Department of Fisheries, and the petitioner and the second respondent entered into a lease by way of sealed tender for fishing rights, in the Kullurchandai Reservoir situated at Virudhunagar District, for a period of 5 years, commencing from 03.10.2013 to 02.10.2018. During the said lease period, since renovation work was carried out by the Public Works Department and due to natural calamities, like drought and lack of rainfall, the petitioner suffered huge loss over those lease period, and hence, the petitioner made representations, dated 12.04.2017, 05.01.2018 and 03.09.2018, seeking for extension of lease period for another two years. Since the said representations evoked no response, the petitioner has approached this Court by way of this Writ Petition seeking for the relief, as stated in the preamble portion of this order.

ii) Pending the Writ Petition, this Court passed an interim order, dated 02.11.2018, directing the respondents to pass appropriate orders, thereby, extending the lease period from 03.10.2018 to 02.10.2019, to the petitioner.

iii). Pursuant to the aforesaid order passed by this Court, dated 02.11.2018, the second respondent, subject to the petitioner making payment of Rs.2,65,268/-, extended the lease for a period of one year, which commenced from 08.02.2019. Aggrieved over the same, the petitioner made a representation, dated 12.07.2019, seeking for extension from 03.10.2018 to 02.10.2019, instead of commencing from 08.02.2019, by taking into account of the fact that the earlier lease period has lapsed on 02.10.2018. However, the said request was rejected by the first respondent, vide order, dated 21.08.2019.

iv). Aggrieved by such rejection, the petitioner has filed two Miscellaneous Petitions, viz., i) W.M.P.No.27287 of 2019 and



ii) W.M.P.No.27292 of 2019. Insofar as W.M.P.No.27287 of 2019 is concerned, the petitioner has sought for stay of the operation of the order passed by the first respondent, dated 21.08.2019. So far as the other Miscellaneous Petition is concerned, viz., W.M.P.No.27292 of 2019, the same has been filed for granting fishing rights to the petitioner for the period of one year, i.e. from 08.02.2019, (i.e. the date, on which, the petitioner was given possession to Kullu Sandhari Reservoir) to 07.02.2020, pending disposal of this Writ Petition.

v) This Court, vide order, dated 03.10.2019, disposed of W.M.P.No.27287 of 2019 and W.M.P.No.27292 of 2019, thereby, extending the lease period to the petitioner, in terms of the earlier order passed by this Court, dated 02.11.2018, i.e from 02.08.2019 to 07.02.2020. However, it is the case of the petitioner that the respondents have not permitted the petitioner to carry out the fishing activities as per the interim order passed by this Court, dated 03.10.2019, which necessitated the petitioner to file Contempt Petition.

vi) Since the issue involved in the Writ Petition is inextricably linked to the issue raised in the Contempt Petition, both the Writ Petition and the Contempt Petition were taken up, heard together and disposed of vide this Common Order.

4. When the Petitions are taken up for hearing today, the learned Additional Government Pleader for the respondents submitted that, they have obtained the legal opinion and commenced the fish catching activities in the presence of the petitioner with effect from 20.06.2020 to 19.09.2020. During these 3 months period, there were about 40 days and the total sale proceeds realized during the said period was a sum of Rs.41,27,955/-. Out of the said amount, a sum of Rs.14,05,156/- was paid to the fishermen share and, as on date, a sum of Rs.27,22,799/- is lying in the Assistant Director of Fisheries, Savings Account in SBI, Virudhunagar District, viz., fourth respondent in Writ Petition.

5. Now, learned counsel for the petitioner submitted that insofar as the relief sought for in the main Writ Petition, he is not pressing for the same, and the petitioner would be satisfied, if the sum of Rs.27,22,799/- viz., profit earned during the period of 40 days is paid to the petitioner, since, it is the respondents, who have not acted in terms of the order of this Court and refused to grant the fishing rights, and hence, the petitioner is entitled to at least the profit accrued during those 40 days.

6. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader for the respondents and perused the materials available on record.



7. The issue that falls for consideration is that, Whether the petitioner is entitled for fishing rights for three months period?

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7.1 It is obvious that, the respondents have not acted in terms of the order passed by this Court, vide its order, dated 03.10.2019, and the stand taken by the respondents is that against the order passed by this Court, they are about to file appeal/review.

7.2 Once this Court passed an order, directing the respondents to consider the claim of the petitioner, unless and until, there is any order, modifying/cancelling the earlier order passed by the Court, dated 03.10.2019, the respondents are bound to act upon such order, dated 03.10.2019, and they cannot take shelter, under the pretext they are going to file an appeal or review against such order, and thereby, can deny the rights of the petitioner in terms of the order passed by this Court on 03.10.2019. It is no doubt true that the respondents have not filed any appeal against the order passed by this Court, dated 03.10.2019, even till date. Therefore, certainly, the respondents does not have any right to catch fish during the period, over which, the petitioner has been given rights to catch the fish. Hence, the petitioner is entitled to the fishing rights for the similar period even right now. However, after taking the legal opinion, the respondents have carried out the fishing activities for a period of 3 months starting from 20.06.2020 to 19.09.2020, in the presence of the petitioner, and earned a sum of Rs.27,22,799/- and since the respondents failed to comply with the order passed by this Court, dated 03.10.2019, the said amount is payable to the petitioner, which is stated to have been lying in the Assistant Director of Fisheries, viz., fourth respondent, Savings Account in SBI, Virudhunagar District.

7.3 The learned Additional Government Pleader for the respondents submitted that the respondents have not moved any appeal or review so far, and that if any order is passed, the same would be complied with.

8. In light of the submissions made by both sides and in view of the fact that petitioner's right to carry out the fishing activities for a period of three months was affected, and that, the petitioner would be satisfied if that a sum of Rs.27,22,799/- is granted, which would compensate the revenue loss accrued during those 40 days, out of the 3 months, i.e. from 20.06.2020 to 19.09.2020, this Court deems it fit that, it would be appropriate to direct the respondents to pay a sum of Rs.27,22,799/- to the petitioner.



9 Accordingly, the respondents are hereby directed to pay a sum of Rs.27,22,799/- (Rupees Twenty Seven Lakhs Twenty Two Thousand Seven Hundred and Ninety Nine only) with accrued interest within a period of 4 weeks from the date of receipt of a copy of this order. It is made clear that the petitioner shall not have any more claim with the respondents.

10. In the result, the Writ Petition is disposed of with the aforesaid direction, and Contempt Petition is closed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-III)

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Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Animal Husbandry and Fisheries Department,
Fort St.George,
Chennai - 600 009.
- 2.The Director of Fisheries,
(Inland Fisheries),
Administrative Office Buildings,
DMS Complex,
Teynampet,
Chennai - 600 006.
- 3.The Deputy Director of Fisheries,
(Inland Fisheries),
Fisheries Complex, Petchiamman Padithurai,
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120, Aruppokkottai Road,
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W.P.No.25588 of 2018
and
Contempt Petition No.356 of 2020

CA (CO)
SB(08/03/2022)