



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.4992 of 2022

and W.M.P. (MD) .No.4102 of 2022

WEB COPY

R.1372 Lalgudi Circle Inland Fishermen
Co-operative Society,
Rep. by its President,
Mr.Sollin Selvam S/o Maruthappan,
Valadi Post, Lalgudi Taluk,
Trichy District.

.. Petitioner

Vs

1.The State of Tamilnadu,
Rep. by its Secretary,
Animal Husbandry Dairying and
Fisheries (FS-6) Department,
Fort St. George, Chennai - 600 009.

2.The Director of Fisheries,
3rd Floor,
Integrated Animal Husbandry Dairying and
Fisheries (FS-6) Department,
Nandanam, Chennai - 600 035.

3.The Assistant Director of Fisheries,
(Inland Fisheries),
16/2, Samadu Palli Street,
Kaja Nagar, Thiruchirappalli - 620 020.

4.The Assistant Engineer,
O/o. Assistant Engineer,
Water Re-source Department - Irrigation Division,
Lalgudi, Trichy.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the 4th respondent's Auction Notice in Letter No.10/2022/2/600/(600). Dated 07.03.2022, pertaining to 1) Lake in Sankendhi Village, 2) Eastern lake in Vellalur Village, 3) Western lake in Vellalur Village, 4) Lake in Pallapuram and 5) Lake in Pudur Uthamanur Village, Lalgudi Taluk, and quash the same as illegal and consequently direct the respondents to issue license for fishing right of 1) Lake in Sankendhi Village, 2) Eastern lake in Vellalur Village, 3) Western lake in Vellalur Village, 4) Lake in Pallapuram and 5) Lake in Pudur Uthamanur Village, Lalgudi Taluk,



in favour of the petitioner, based on the petitioner's representation and resolution, dated 12.08.2021 and 17.11.2021, within the time stipulated by this Court.

For Petitioner : Mr.Ananth C.Rajesh
For Respondents : Mr.M.Lingadurai
Special Government Pleader

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ORDER

This writ petition has been filed challenging the impugned tender notification, dated 07.03.2022, pertaining to 1) Lake in Sankendhi Village, 2) Eastern lake in Vellalur Village, 3) Western lake in Vellalur Village, 4) Lake in Pallapuram and 5) Lake in Pudur Uthamanur Village, Lalgudi Taluk.

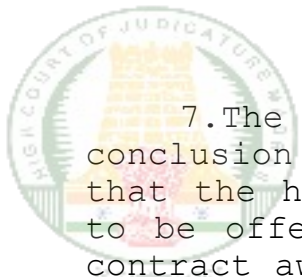
2.The petitioner has challenged the impugned auction notification on the ground that the said auction notification has been issued in violation of G.O.Ms.No.332, Animal Husbandry and Fisheries Department, dated 17.11.1993.

3.According to the petitioner as per the aforementioned Government Order, the priority should be given to the Fishermen Co-operative Society or Harijans engaged in fishing and thereafter Panchayat Localities and after that private individuals. According to the petitioner, the fourth respondent without considering the same, has straight away issued the auction notice without affording any priority to the petitioner's society as per G.O.Ms.No.332.

4.Heard Mr.Ananth C.Rajesh, learned counsel for the petitioner and Mr.M.Lingadurai, learned Special Government Pleader, who accepts notice on behalf of the respondents.

5.The learned counsel for the petitioner drew the attention of this Court to a similar issue raised in another writ petition filed by another Fishermen Society in W.P.(MD).No.18848 of 2021 and would submit that by an order dated 20.10.2021, passed in W.M.P.(MD).No.15671 of 2021 in W.P.(MD).No.18848 of 2021, the auction notification issued on similar lines without affording any priority, was directed to be stayed by the learned Single Judge. He also drew the attention of this Court to G.O.Ms.No.332, in support of the contentions raised by the petitioner in this writ petition.

6.However, learned Special Government Pleader has placed before this Court a Judgment of the Division Bench of this Court, dated 03.02.2021, passed in W.A.(MD).Nos.1251 of 2020 and 923 of 2020, in the case of ***The Director of Fisheries, Fisheries Department, Chennai Vs. S.T.Mani***, involving a similar issue. According to the learned Special Government Pleader, the grounds raised in this writ petition were also raised in the writ petition filed by another Fishermen Society.



7.The Division Bench after analyzing the case, came to the conclusion as seen from paragraphs 10 and 11 of the said Judgment that the highest amount offered by the successful bidder will have to be offered to the Fishermen Society to enable them to get the contract awarded in their favour. Paragraphs 10 and 11 of the said Judgment reads as follows:

"10.For the ensuing years, we call upon the official respondents, including the Secretary to Government, Fisheries Department, to adopt a different methodology as suggested by the learned Single Judge, by fixing the upset price and thereafter, call for tender. The highest amount offered by the successful bidder will have to be offered to the Bodi Fishermen Society. It is better to follow this methodology in future in all cases, as the Government would not lose the revenue and in any case, fixation of the upset price is a starting point and the same will not be the actual price that will fetch in an auction. It is a price, which will facilitate somebody to take part in the auction, being the minimum value of the subject matter of the licence.

11.The incidental issue is with respect to the impleaded respondents. On a perusal of the status report filed by respondent No.4, it is clear that various violations took place. These violations are with respect to contamination with the water and reaction to facilitate the highest fishing. The rights of the appellant in W.A.(MD).No.923 of 2020 is certainly subject to the rights of the impleaded respondent. Therefore, the official respondents shall make sure that their rights are not affected, which is inclusive of contaminating the water by polluting it for facilitating the larger capture of fishing and letting the water out, much to the suffering of the farmers. If such activities are carried on, the respondents are expected to cancel the licence."

8.The exercise directed by the Division Bench in the aforesaid Judgment is in the interest of the Fishermen Society. Their priority rights as prescribed under G.O.Ms.No.332, which the petitioner relies upon has not been disturbed. Hence, the same direction as given by the Division Bench of this Court in the decision referred to supra can also be given in the present case also, which will only be in the interest of the petitioner's society. Ultimately, any auction is conducted to get the best possible price. At the same time, the petitioner's right as per G.O.Ms.No.332, should also not get defeated. By the aforementioned exercise, directed by the Division Bench, the rights of the petitioner's society to get priority as per G.O.Ms.No.332, has not



9. For the foregoing reasons, the impugned auction notification cannot be quashed by this Court. But instead, the writ petition is disposed of by issuing the following directions.

a) The respondents are permitted to proceed with the impugned auction and complete the same.

b) The petitioner's society and its members are also allowed to participate in the auction.

c) Once the Highest Bidder is determined under the auction, the price quoted by the Highest Bidder shall be intimated to the petitioner's Society and the petitioner's Society or its members if interested in getting a contract awarded in its favour, shall quote the price quoted by the Highest Bidder and on payment of the same, within a period stipulated by the respondents, the petitioner or its members can get the contract awarded in their favour in accordance with the decision of the Division Bench referred to supra.

d) In case, the petitioner's society is not willing to accept the offer of the respondents, the respondents are at liberty to award the contract to the Highest Bidder.

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

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

TM

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 Secretary,
Animal Husbandry Dairying and
Fisheries (FS-6) Department,
Fort St. George, Chennai - 600 009.

2.The Director of Fisheries,
3rd Floor,
Integrated Animal Husbandry Dairying and
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O/o. Assistant Engineer,
Water Re-source Department - Irrigation Division,
Lalgudi, Trichy.

+1 CC to M/s.ANANTH C RAJESH, Advocate (SR-13408[F]
dated 22/03/2022)

+1 CC to M/s.SPL GP (SR-13869[F] dated 23/03/2022)

W.P. (MD)No.4992 of 2022

22.03.2022

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