



W.P(MD)No.21:

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.11.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.21987 of 2022
and
W.M.P.(MD)No.16155 of 2022

Thamiraparani Tourist Boat Owners
Association Karaiyar,
Rep. by its Vice President
P.Vairamani

... Petitioner

Vs

- 1.The Government of Tamil Nadu,
Rep. by its Secretary,
Department of Forest and Environment,
St.Fort George,
Chennai.
- 2.The Executive Engineer,
Papanasam Power House,
Tamil Nadu Electricity Board,
Papanasam Lower Camp Post,
Tirunelveli District.
- 3.The Chairman,
The Additional Principal Conservator of Forest,
(Project Tiger),
Coimbatore.
- 4.The Member Secretary and Chief Conservator of Forest
and Field Director,
Kallakadu Mundanthurai Tiger Reserve,



Tirunelveli,
Tirunelveli District.

5.The Principal Chief Conservator of Forest and
Chief Wildlife Warden,
Chennai – 600 015.

6.The Deputy Director/Wild Life Warden,
Project Tiger,
Ambasamudram,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to implement the order passed by this Court Vide W.P(MD)No.538 of 2019, dated 27.04.2019 within stipulated period specify by this Court.

Prayer amended as per the order of this Court dated 25.11.2022.

For Petitioner	: Mr. S.Palani Velayutham
For R1,R3 to R6	: Mr.S.Shanmugavel Additional Government Pleader
For R2	: Mr.S.Deenadayalan Standing Counsel

ORDER

The petitioner has prayed for issuance of a Writ of Mandamus, directing the respondents to implement the order passed by this Court Vide W.P(MD)No.538 of 2019, dated 27.04.2019 within stipulated period specify by this Court.



W.P(MD)No.21:

WEB COPY

2.Heard Mr.S.Palani Velayutham, learned counsel appearing for the petitioner, Mr.S.Shanmugavel, learned Additional Government Pleader appearing for the respondents 1,3 to 6 and Mr.S.Deenadayalan, learned Standing Counsel appearing for the second respondent.

3.The learned counsel appearing for the petitioner would submit that The Petitioner's case is that the petitioner is the Vide President of the petitioner's registered Association vide Registration No.23 of 2004 registered under Tamil Nadu Act, 27 of 1975 (Co-operative Societies Act) and the same has been registered in the Office of District Registrar, Cheranmahadevi, Tirunelveli District. Totally there are 24 members and all are the owners of Tourist Boat at Karaiyar, Papanasam. They are operating the Boat service at Karaiyar Uppar Dam, Papanasam. the said area had been designed as a Sanctuary, more particularly, "Tiger Sanctuary" named as Tiger Project. In the meantime, their License for operating the Ferry Service in the said Lake came to be expired on 31.03.2013. Every year without fail, the said license for their members are being renewed by the respondents 3 & 4. The authorities were not renewing the license. Hence, the petitioner's association filed writ petition in W.P(MD)No.9991 of 2013. As per the order of this Court, dated 26.06.2013, the respondents granted license from 01.04.2013 to 31.03.2014. Thereafter, they applied for the renewing the licence. On receiving the renewal request of the petitioner's association, the first respondent rejected



W.P(MD)No.21:

the same vide proceedings, dated 19.04.2014. Therefore, the petitioner's association filed another writ petition in W.P(MD)No.15199 of 2015 seeking a direction, directing the first respondent to renew the license in relation to ferry service in the Hope Lake Area. This Court by order dated 16.11.2017 disposed of the writ petition by making an observation that such being the case, this writ petition is disposed of, leaving it open to the petitioner to submit necessary documents before the first respondent. On such filing, the first respondent shall consider the same and pass appropriate orders on merits and in accordance with law, after affording due opportunity of hearing to all the necessary parties and also keeping in mind the cases referred to above, which were already disposed of.

4. He would further submit that after receiving the said application, the authorities did not consider the same and kept under cold storage. Again the petitioner filed another writ petition in W.P(MD)No.538 of 2019. On 27.04.2019, this Court passed the following order:-

“The Deputy Director/Wife Life Warden, Project Tiger, Ambasamudram as given an assurance that, Forest Department would give priority to poor people in the Departmental works like Forest protection, fire line maintenance, exotic weed, removal grasslands management, maintenance of Water bodies, driving back elephants and patrolling etc.,

It is also further observed that, if any private party is given any



W.P(MD)No.21

license to run the ferry services, the interest of the members of the petitioner's Association would be taken care to some extent by giving them alternative employment.”

5. The said order was passed on 27.04.2019, but now more than 3 years got lapsed, till date no solar powered boats service in the Hope Lake Area, Karaiyar, Uppar Dam, Papanasam, Tirunelveli District were given to anybody else. Therefore, the petitioner's association sent several representations dated 06.09.2019 and 10.12.2019 to all the respondents seeking alternative employment or permission for commencing ferry service in the Hope Lake Area. But the respondents failed to consider the same. Hence, the petitioner has approached this Court by way of filing the present writ petition for the above said relief.

6.The learned Additional Government Pleader appearing for the respondents 1, 3 to 6 would submit that the order of this Court dated 27.04.2019. The following number of poor people, who involved in Thamiraparani Tourist Boat Owners Association ,were engaged in the department works carried out in Mundanthurai Range of this division as follows:-

- 1) Forest Protection Works – 10 Nos.
- 2) Fire Line Management Works-1km/20 Nos.



W.P(MD)No.21

3) Exotic weed removed works-15 Nos

4) Grass and Management works-19 Nos.

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7. In addition to, as and when the Government orders are sanctioned under various schemes first priority are being given to the poor people of the above Association for carrying out the department works regularly, in order to protect the livelihood of the families of boat owners. This Court has passed an order that the Forest Department would give priority to poor in departmental work if any private purely is given any license to run the ferry service. As far as division is concerned no such license has been issued to run ferry service in the slope lake of Karaiyar dam. As per the direction of this Court, the departmental works are being given to the poor people engaged in the Boat service. As such various Forest Departmental works, like forest protection fire line maintenances, exotic weed removal, driving back elephants and patrolling etc., are being given to the poor people of the petitioner's association. Further one solar boat was given on 27.03.2019 by Mahindra Marine Private Limited and it was operated by test drive in Manimuthar dam from 01.01.2020 to 18.01.2020. Thereafter, the solar boat could not be operated due to some other repair and till date, no other boats have been purchased. Further, the company authorities told that an amount of Rs. 23 lakhs are required to be rectified for all the above defects. Under these circumstances, the tourists are not allowed in the core area of Kalakad Mundanthurai



W.P(MD)No.21

Tiger Reserve and also purchase of further two boats are not possible in Kalakad

Mundanthurai Tiger Reserve since the Papanasam Reserve Forest area had been

declared as critical tiger and buffer area vide G.O.No.201, Environment and Forests

Department, dated 13.08.2013. The area comes under Papanasam Reserve Forest

declared under Tamil Nadu Forest Act 1882 vide notification, dated 20.12.1883 and

27.11.1890. The said area has also been declared as Tiger Sanctuary by notification of

the State Government, dated 02.08.1962 and it has been declared as critical tiger habitat

by State Government Order Ms.No.145, Environment and Forest (FR-5) Department,

dated 28.12.2007. The Hon'ble Supreme Court of India in SLP No.21339/2011 banned

tourism activity in and around the core zone of the all Tiger Reserves in the country.

The said ferry service running in Papanasam Dam is part of the core area of the Tiger

Reserve. Consequent to the operation of Hon'ble Supreme Court direction in SLP,

tourism was discontinued in the core area of Kalakad Mundanthurai Tiger Reserve with

effect from 24.07.2012. Hence, no one is allowed to travel to Banatheertham falls after

receipt of the Government Order and he prayed for dismissal of the writ petition.

8.Considering the limited scope of the prayer sought for by the petitioner, without going into the merits of the matter, this Court directs the respondents to consider the request of the petitioner's association and also giving employment whenever the opportunity arises in future without fail.



W.P(MD)No.21

9.This Writ Petition stands disposed of with the above directions. No costs.

WEB COPY

Consequently, connected miscellaneous petition is closed.

Index : Yes/No
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25.11.2022



W.P(MD)No.21:

To

WEB COPY

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W.P(MD)No.2187

V.BHAVANI SUBBAROYAN, J.

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W.P(MD)No. 21987 of 2022

25.11.2022