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W.P.(MD)No.9025 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.06.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.9025 of 2017

and

W.M.P(MD)Nos.6891, 6892 & 6893 of 2017

Murugesan

... Petitioner

Vs

The Assistant Director,
Fisheries Department,
Ramanathapuram.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent pertaining to the order bearing R.C.No.1870/A2/2013 dated 27.04.2017 and quash the same and consequently direct the respondents not to interfere with the fishing activities of the petitioner by using the Tractor bearing Registration No.TN-65-Q-7305 and TN-65-Q-6844.

For Petitioner : Mr.S.C.Herold Singh

For Respondent : Mr.M.Sarangan
Additional Government Pleader



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ORDER

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Heard the learned counsel for the writ petitioner and the learned Additional Government Pleader appearing for the respondent.

2. The petitioner applied to the first respondent for pulling the fishing nets spread on sea-bed by using roller-fixed tractors. The first respondent by the impugned communication dated 27.04.2017 declined the said request. Questioning the same, this writ petition has been filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He pointed out that since human resource has become scarce, the petitioner is constrained to fall back on an innovative method. He submitted that there is no prohibition for deploying such tractors. He submitted that the petitioner had a fundamental right to carry on business under Article 19(1)(g) of Constitution of India. He wants this Court to set aside the impugned order and allow the writ petition as prayed for.

4. Per contra, the learned Additional Government Pleader appearing for the respondent submitted that no case for interference has been made out.



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5. I carefully considered the rival contentions and went through the material on record.

6. There is no dispute that the Tamil Nadu Marine Fishing Regulation Act, 1983 is applicable to the case on hand. The said Act was enacted to regulate, restrict and prohibit fishing by fishing vessels in the sea along the whole or part of the coastline of Tamil Nadu. The expression “fishing vessel” has been defined in Section 3(e) of the Tamil Nadu Marine Fishing Regulation Act, 1983 as follows:-

“3(e) “fishing vessel” means a ship or boat, whether or not fitted with mechanical means of propulsion, which is engaged in sea-fishing for profit and includes-

(i) a deep sea-fishing vessel,

(ii) a mechanised fishing vessel,

(iii) a catamaran,

(iv) a country craft, including Vallom, or

(v) a canoe, engaged in sea-fishing;”



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7. Section 5 of the Act empowers the Government to regulate, restrict or prohibit fishing in any specified area by such class or classes of fishing vessels as may be specified by notification. A careful reading of the statutory scheme leads one to the conclusion that only a fishing vessel as statutorily defined can be deployed for fishing purposes. The roller-fixed tractors contemplated by the writ petitioner would not fall within the definition set out in Section 3(e) of the Act. Since the roller-fixed tractors cannot be termed as fishing vessels as statutorily defined, the request sought for cannot be granted.

8. The first respondent by the impugned communication pointed out that the bio-diversity in the area is likely to be affected if the fishing is allowed to go on in the manner suggested by the writ petitioner. I carefully went through the impugned order. It is well reasoned. Only to protect the environment as well as the livelihood of the local fishermen, the petitioner's request for using roller fixed tractors was not permitted. No case for interference is made out. This writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

15.06.2022

Index : Yes / No
Internet : Yes/ No
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To

The Assistant Director,
Fisheries Department,
Ramanathapuram.



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G.R.SWAMINATHAN, J.

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