



W.P(MD)No.27960 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.12.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.27960 of 2022

Sivakumar

Vs.

... Petitioner

- 1.The District Collector,
Madurai District.
- 2.The Executive Engineer,
Public Works Department,
Periyar Vaigai Division,
Benniquik Building,
Chokkikulam,
Madurai.
- 3.The Assistant Executive Engineer,
Public Works Department,
Periyar Vaigai Division,
Benniquik Building,
Madurai.
- 4.The Assistant Engineer,
Assistant Engineer Office,
Water Resources Department,
Thirumangalam,
Madurai District.
- 5.The Superintendent of Police,
Madurai District.



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6.Thinakaran

7.Irulandi

(R7 is impleaded vide order dated 20.12.2022 in
W.M.P.(MD)No.22630 of 2022)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the Respondents No. 1 to 4 to expeditiously conduct tender auction in respect of Chellappankottai Kanmai situated in Valandur Revenue, Usilampatti Taluk, Madurai District in fair manner in consonance with Tender Transparency Act with the help of the 5th Respondent by considering the representations dated 25.11.2022 and 30.11.2022 within a time stipulated.

For Petitioner : Mr.M.Karthikeya Venkitachalapathi

For Respondents : Mr.A.K.Manikkam

Special Government Pleader for R1 to R4

: Mr.B.Thanga Aravindh

Government Advocate (Crl.side) for R5

: Mr.N.Ananthapadmanabhan

for M/s.APN Law Associates for R6

ORDER

Heard the learned counsel on either side.

2. The issue pertains to fishery rights in respect of the petition mentioned kanmoi. There is no dispute that that it belongs to Public Works Department.



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3. The grievance of the petitioner is that the public works department is not conducting any auction in respect of the fishery rights. That led to filing of this writ petition.

4. The impleaded respondent contends that they should be given fishery rights in view of G.O.Ms.No.33 dated 27.02.1995 as amended by G.O.Ms.No. 201, dated 19.10.2017. Though the said G.O appears to favour the rights of the seventh respondent, in view of the order passed by the Hon'ble Division Bench in W.A.(MD)No.1251 of 2020 dated 03.02.2021, the Department is obliged to conduct public auction. Paragraph No.10 of the order passed by the Hon'ble Division Bench is 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 Fisherman Society. It is better to follow this methodology in future in all cases, as the Government would not loose 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.”

5. I consciously refrain from going into the contentions of the impleaded respondent. The said issue is left open. The second respondent is directed to conduct public auction in respect of the petition mentioned kanmoi as



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expeditiously as possible. The seventh respondent is very much entitled to participate in the said public auction.

6. The Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

21.12.2022

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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