



W.P.No.15824 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 22.09.2023

Pronounced on : 09.10.2023

CORAM : JUSTICE N.SESHASAYEE

W.P.No.15824 of 2023
and WMP.Nos.15272 & 15274 of 2023

M.Kaliya Perumal

... Petitioner

Vs

- 1.The Secretary to Government
Animal Husbandry and Fisheries Department
Fort St.George
Chennai - 600 009.
- 2.The Executive Engineer
Water Resources Department
Public Works Department -
Irrigation, Lower Pennaiyar Basin Division
Villupuram District.
- 3.The Assistant Executive Engineer
Water Resources Department
Lower Pennaiyar Basin Division
Thirukovillur
Villupuram District.
- 4.The Assistant Engineer
Water Resources Department



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Irrigation Division-I
Villupuram District.

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5.J.Manimaran

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus, to call for the records of the second respondent's impugned approval order vide Letter No.Ko.18/429/2023/K1/SE/PO dated 20.04.2023 granting permission to the 5th respondent for fishing in Vadakuchchipalayam Village Lake, (Kappiyampuliyur Lake) Villupuram District, for the year 2023, and quash the same as it is arbitrary, illegal and consequentially direct the first to fourth respondent to consider the petitioner's representation dated 13.04.2023.

For Petitioner : Mr.M.Antony Jesurajan

For Respondent : Mr.M.Bindran
Additional Government Pleader R1 to R4

ORDER

The petitioner herein is the Panchayat President of Vadakuchchipalayam Village in Villupuram District. He has filed this petition seeking to quash the proceedings of the 2nd respondent granting permission to the 5th



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respondent for fishing in Vadakuchchipalayam lake, which lies in Survey No.222 of Vadakuchchipalayam village, for the year 2023, and to direct the respondents 1 to 4 to consider his representation dated 13.04.2023. The lake measures an extent of 88.31.0 hectares.

2. The backdrop or the context in which this petition is filed is as below :

- Vadakuchchipalayam and Kappiyampuliyur are adjacent villages. Both these villages have separate lakes. While so, a certain Rajendran had filed W.P.No.3286 of 2022 before this Court for considering a representation of his, dated 19.01.2022, for auctioning the fishing rights at Kappiyampuliyur-Vadakuchchipalayam Village. On 21.07.2022, this Court allowed the petition, and directed the respondents to consider the representation of Rajendran.
- On 28.10.2022, the petitioner learnt that the second respondent herein was preparing to conduct a tender for fishing rights in Vadakuchchipalayam lake comprised in Survey No.222, which measures an extent of 88.31.0 hectares. There petitioner herein thereafter made a representation dated 28.10.2022 to the second respondent, for granting preference to the Panchayat, to which it is



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entitled to in terms of G.O.(Ms) No.201, and G.O.(Ms) No.165, both issued by the Department of Animal Husbandry, Dairy and Fisheries Department, dated, 19.10.2017 and 25.09.2012 respectively. This representation was received by the second respondent on 18.11.2022, but it evoked no response.

- While so, the petitioner learnt that some officials of PWD with collusion of private parties are trying to manipulate the name of the lake and trying to create confusion among the villagers.
- Thereafter, on 21.11.2022, the petitioner sent another representation to the District Collector, Villupuram, to declare that the lake in Survey No.222 as '*Vadakuchchipalayam Village Lake Hisa Eri*' and not as '*Kappiyampuliyur Lake*'. This was ultimately forwarded to the 3rd respondent herein.
- It is in this backdrop, on 28.02.2023, the 4th respondent issued a public notice for auctioning the fishing rights at Kappiyampuliyur Village Lake. It does not make any reference to Vadakuchchipalayam Hisa Lake or Survey No.222.
- In the meantime, the petitioner filed O.S.No.16/2023, before the District Munsif Court, Vikravandi, to declare the said lake as



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Vadakuchchipalayam Lake, and not as Kappiyampuliyur Lake or any other lake.

- The petitioner again sent another representation dated 13.03.2023 addressed to all the four respondents and others, to grant fishing rights over the said lake at Vadakuchchipalayam Village and to bar others from fishing in it.
- On 16.03.2023, the 4th respondent responded to it, but it is an evasive reply, wherein he had indicated that pursuant to the auction notice dated 28.02.2023, the auction was conducted on 08.03.2023, and the 5th respondent was declared as the successful bidder. The petitioner later learnt that the fifth respondent was granted fishing rights in Vadakuchchipalayam Hisa lake (Kappiyampuliyur Lake).
- On 13.04.2023, the petitioner sent yet another representation to respondents 1, 2 and 4, praying for cancellation of the fishing rights granted to the 5th respondent in the aforesaid lake. This evoked no response. However, on 20.04.2023, vide impugned proceedings, the second respondent had approved the auction conducted by the fourth respondent, and granted permission to the fifth respondent for fishing in Vadakuchchipalayam village lake (Kappiyampuliyur Lake), even



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though it had received the representation of the petitioner dated 13.04.2023, by then.

Hence, the petitioner is before this Court.

3.The 4th respondent has filed his counter, wherein it is averred:

- (a) There is no lake called *Kappiyampuliyur lake*. The only lake available is *Vadakuchchipalayam lake* in Survey No.222. and it is called '*Vadakuchchipalayam Hisa lake*'. This lake abuts two villages namely *Vadakuchchipalayam* and *Kappiyampuliyur* village. Therefore, the assertion of the petitioner that the lake is an exclusive lake of *Vadakuchchipalayam* village is misleading.
- (b) The total ayacut of *Vadakuchchipalayam Hisa lake* is 263.47 hectares, of which, 90.33 hectares of ayacut is in *Vadakuchchipalayam* village, and the remaining 173.14 hectares of ayacut is in *Kappiyampuliyur* village. Thus, even though the lake falls within *Vadakuchchipalayam* village, it supports irrigation for both *Vadakuchchipalayam* and *Kappiyampuliyur* villages.
- (c) So far as auction is concerned, it is a public auction, and it is not



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confined to any particular village, and anyone from any village can participate in it, and the auction is conducted in the name of Vadakuchchipalayam Hisa lake. The upset price for the fishing auction for the year 2022-2023 was fixed by the Fisheries Department, vide its proceedings in Na.Ka.No.2385/B/2022, dated 25.10.2022. The auction notice was issued by the 4th respondent on 28.02.2023, and the auction was conducted on 08.03.2023, in which, the 5th respondent emerged as the highest bidder.

(d) At no time, the 4th respondent issued any public notice for grant of fishing right mentioning the lake as Kappiyampuliyur lake, without reference to Vadakuchchipalayam village. The lake is always known as '*Vadakuchchipalayam Hisa lake*', and since the lake abuts these two villages, '*Kappiyampuliyur Lake*' is added and shown in brackets in the impugned proceedings. And this is done only for identity, and not for any other purpose.

4. The learned counsel for the petitioner submitted that in the auction notice dated 28.02.2023, the lake is described as '*Vadakuchchipalayam Hisa lake*', and in the auction proceedings recorded on 08.03.2023, the lake is



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described as '*Vadakuchchipalayam Hisa lake (Kappiyampuliyur lake)*'

whereas in the proceedings of the 2nd respondent dated, 20.04.2023, the same lake is mentioned as '*Vadakuchchipalayam, Kappiyampuliyur lake*'.

Thus the same lake is described in three different ways in three different documents pertaining to the same auction. When the entire lake is within Vadakuchchipalayam village, quite unnecessarily, the authorities have added '*Kappiyampuliyur lake*'. This is a deliberate mischief organised by the respondents.

5. Per contra, Mr.M.Bindran, learned Additional Government Pleader appearing for respondents 1 to 4, assisted by the fourth respondent himself, explained the issue with the help of village plan of Vadakuchchipalayam and Kappiyampuliyur villages. As per village plan, the lake is seen situated in Survey No.222 of Vadakuchchipalayam village. This lake has an irregular shape. For a small stretch on the east, it forms the western boundary of adjacent Kappiyampuliyur village. This apart, out of the total ayacut area, a substantial portion falls in Kappiyampuliyur Village. This is only to indicate that the villagers of Kappiyampuliyur also have an equal interest in the lake. And, even though the lake lies well within



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Vadakuchchipalayam revenue village, it is not the exclusive property of Vadakuchchipalayam village, nor it benefits the irrigation of lands in Vadakuchchipalayam village alone.

6. The petitioner challenges the proceedings of the 2nd respondent confirming the auction held on 08.03.2023, only on the ground that the name of the lake is not given the way the petitioner wishes. What is not disputed is that the lake though entirely situated within Vadakuchchipalayam village is also form part of the western boundary of Kappiyampuliyur village, and this is not disputed by the respondents either. The petitioner merely takes an objection that the lake should have been described only as Vadakuchchipalayam Hisa lake without any additional description as Kappiyampuliyur lake. The respondents however, contend that the additional description is only intended for identity of the lake vis-a-vis the auction for fishing rights, but beyond it, it does not attach any significance to it.

7. The petitioner seeks this Court to review the administrative action of the second respondent in confirming the auction for fishing in



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Vadakuchipalayam lake vide proceedings dated 20.04.2023, not on any ground that may taint the auction for its procedural violation, or acts of unfairness and malafides, but on the ground that the name of the lake is not given in the way he wants. There is no dispute about the identity of the lake. The petitioner wants it be to called exclusively as Vadakuchipalayam Hisa lake, but still does not dispute the fact that this lake forms part of the western boundary of Kappiyampuliyur village. The respondents plead that because this lake borders Kappiyampuliyur, for sake of identification it was added (*Kappiyampuliyur lake*), and indicated within its name, but not in substitution of the name. How a lake must be called cannot be a ground for interfering with the administrative action involved in fishing auction in the lake. It involves factors beyond the name of the lake.

8. While the petitioner does not pointedly challenge the impugned proceedings dated 20.04.2023, on the ground that it has been done in violation of G.O.(Ms) No.201, dated 19.10.2017, and G.O.(Ms) No.165, dated 25.09.2012, issued by the Department of Animal Husbandry, Dairy and Fisheries Department, his representation dated 13.04.2023, requires consideration based on the same. However, the copy of these government



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orders were not produced. Now, without setting aside the impugned proceedings, this Court merely directs the authorities concerned to consider the representation of the petitioner and to ascertain whether the impugned proceedings dated 20.04.2023 issued by the second respondent is done in violation of the aforesaid G.Os, if they are applicable. It may however has to clarify that even if these two G.Os are applicable, its application cannot be confined to villagers of Vadakuchipalayam village alone.

9. This petition is partly allowed in the manner indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

.10.2023

Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking order
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To:

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N.SESHASAYEE.J.,

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Pre-delivery order in
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09.10.2023