



W.P.No. 31065 and 31897 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **12.01.2023**

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.Nos. 31065 and 31897 of 2022
and
W.M.P.No. 33515 of 2022

M. Kumaran

... Petitioner in
W.P.Nos. 31065
and 31897 of 2022

Vs

1. Executive Engineer
Water Resources Department,
Melpennaiyur Basin Division,
Dharmapuri District -5.
2. Assistant Executive Engineer,
Water Resources Department,
Chinnar Subdivision,
Dharmapuri District.
3. Assistant Executive Engineer,
Public Works Department,
K.G.R.P. Water Resources Division,
Palacode Taluk,
Dharmapuri District.

.... Respondents
W.P.Nos. 31065
and 31897 of 2022



W.P.No. 31065 and 31897 of 2022

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Prayer in W.P.No. 31065 of 2022: Writ petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Mandamus, directing the respondent authorities to extend the contract for growth of fish in the Jerthalal lake belonging to respondent Water Resources Department in Palacode Taluk, Dharmapuri District, for a further period one year by considering representation dated 08.10.2022 & 27.10.2022 taking into consideration the bid amount of Rs. 1,17,100/- paid by the petitioner as bid amount for the second year also considering the loss suffered by the petitioner in view of ejectment of excess water from the lake without any notice to the petitioner.

Prayer in W.P.No. 31897 of 2022: Writ petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned tender notification dated 15.11.2022 Lr.No.Ko.11/2022/Voo.Po./Palacode and quash the same and consequently direct the respondent authorities to extend the contract for growth of fish in the Jerthalal lake belonging to respondent Water Resources Department in Palacode Taluk, Dharmapuri District in favour of the petitioner for a further period of one year by considering representation dated 08.10.2022 & 27.10.2022 considering the loss suffered by the petitioner in view of ejectment of excess water from the lake without any notice to the petitioner.

For Petitioner : R. Ramesh Raja
For Respondents : Mr. Arun
Additional Government Pleader
Assisted by Mr. P. Sanjai Gandhi



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COMMON ORDER

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The petitioner in both the writ petitions M.Kumaran, had participated in an auction which was conducted on 28.01.2022 and was the highest bidder quoting a sum of Rs. 1,71,000/- and his bid was also confirmed by the first respondent.

2. The auction was for fishing rights for the fasli 1.07.2021-30.06.2022 in Jerthalal Lake, at Palacode Taluk in Dharmapuri District. He has been enjoying the fishing rights. Thereafter, the respondents had issued a notice for fresh auction on 15.11.2022. Aggrieved by such notice, he had filed W.P.No. 31897 of 2022, complaining that during the existing period of the lease, the auction notice had issued. There had been a stay of the auction notice. He had earlier filed W.M.P.No. 30482 of 2022, to correct the contract period as from 28.01.2022 to 28.01.2023 and not from 01.07.2021 to 30.06.2022. Since arguments were advances in both the writ petitions, a common order is passed in both the writ petitions.

3. In W.P.No. 31819 of 2022, my learned predecessor had granted an order of interim stay on 29.11.2022. In effect, the petitioner has been continuing to enjoy the fishing rights in the



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aforementioned tank till date consequent to the interim stay granted in his favour. However, it is represented by the learned counsel for the petitioner that his rights are not absolute and there are several other general public who have encroached and who are also doing the fishing activities and it is complained that the petitioner is put to loss on that ground also.

4. Be that as it may, the letter which is relied on by the learned counsel for the petitioner and learned Additional Advocate General is the Award of the license which is dated 15.02.2022. In the said grant of license, it had been very specifically stated that the period of lease is from 01.07.2022 to 30.06.2022. After receiving that communication, till approaching this Court by filing W.P.No. 31065 of 2022, the petitioner has not complained that the period of lease has been wrongly given. It is the fasli year which has been mentioned which runs from the first of July, till the 30th of June the next year. It is also seen that the petitioner has been enjoying the fishing rights not only till, January 2022, but subsequently till November, 2022 and thereafter when the auction notice was issued and thereafter consequent to the order of the stay by this Court till this date namely January, 2023. In effect the petitioner has been enjoying additional



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fishing rights for more than six months from the last date of the lease period namely 30.06.2022. In this connection, the learned Additional Advocate General also pointed out an order of the learned Single Judge in W.P.No. 8678 of 2022 dated 10.06.2022 in **K. Ramesh Babu vs Superintending Engineer, Palar River Basin Division, Public Works Department/Water Resource Department, and two others**, wherein in similar circumstances the learned Single Judge was confronted with the question of granting extension of lease after the period of lease has been expired and when the respondents had brought the fishing rights to auction. It had been observed as follows:

" It was only the Public Works Department who had granted lease in favour of the petitioner. Therefore, the petitioner is bound by the terms and conditions imposed by the Public Works Department under the allotment order dated 05.02.2021 issued to the petitioner which clearly stipulates that the lease is only valid upto 25.01.2022. The period which clearly stipulates that the lease is only valid upto 25.01.2022. The period of one year has already come to an end. The Public Works Department is desirous of now bringing the Fisheries Rights for auction in order to generate more revenue. The petitioner can very well participate in the said auction. Instead of participating in the auction, the petitioner has filed this writ petition without any legal rights as his lease is only for a period of one year which has already got expired. Since, the auction is conducted only in public interest and the petitioner has not established



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his rights for extension of the lease, which has already got expired on 25.01.2022, there is no merit in this writ petition."

5. Learned Additional Advocate General also pointed a judgment of the Division Bench of this Court of the Madurai Bench dated 29.10.2018 in ***Chandramohan vs The Executive Engineer, Public Works Department and another***, wherein again, the Division Bench had stated as follows:

" As per the tender conditions, the lease period is only between 28.12.2015 and 30.06.2016 and it also specifically states that even if there is a drought or any natural calamities, extension of lease would not be given. Agreeing to all the above conditions, the appellant/writ petitioner had taken part in the auction and secured the lease. If the said tender notification was against the said G.O.No.332, it was open to the appellant/writ petitioner to challenge the same even before taking part in the auction. Having taken part in the auction only for a limited period, he cannot challenge only the specific condition that the lease period will not be extended for any reason."

6. The reasonings of leaned Single Judge and of the Hon'ble Division Bench are that once the period of lease is stipulated, there cannot be any extension and it is only appropriate that the rights to fish are brought to auction.



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7. I am therefore not inclined to grant the relief sought for in the writ petitions. The writ petitions stand dismissed. No costs. Consequently, the W.M.P.No. 33515 of 2022 stands allowed and W.M.P.Nos. 31343, 31344 and 30482 of 2022 are closed.

8. The respondents are at liberty to issue a fresh auction notice. The petitioner is of course always at liberty to participate in any fresh auction notice if issued by the respondents herein.

12.01.2023

Index: Yes/no
mrn



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C.V.KARTHIKEYAN, J.

(mrn)

To

1. The Executive Engineer
Water Resources Department,
Melpennaiyur Basin Division,
Dharmapuri District -5.
2. The Assistant Executive Engineer,
Water Resources Department,
Chinnar Subdivision,
Dharmapuri District.
3. The Assistant Executive Engineer,
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