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W.P.No.35166 of 2022 & 3349 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2023

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THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.35166 of 2022 & 3349 of 2023

and

WMP.Nos.34639 & 34640 of 2022 and 3411, 3413 & 10068 of 2023

Perumal

...Petitioner in W.P.No.35166 of 2022

Kuppanatham Dam Fishermen Welfare Association,

S.No.SRG/Thiruvannamalai/113/2022,

Rep. by its President,

Mr.S.Thomas, S/o.Shanmugam,

Kuppanatham Village and Post, Chengam Taluk,

Thiruvannamalai District.

...Petitioner in W.P.No.3349 of

2023

Vs.

1. The Collector,
Thiruvannamalai District, Thiruvannamalai.
2. The Executive Engineer,
Public Works Department (WRO),
Central Pennaiyar Basin Division,
Thiruvannamalai - 606 603.
3. The Assistant Director of Fisheries,
Department of Fisheries and Fishermen Welfare,
Vellore.
4. The President,
FCV-47, Santhanur Dam Pangu,

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Inslan Fishermen Women Co-Operative Society,
Sathanur Dam Road, Malligapuram,
Thiruvannamalai District.

...Respondents in both W.Ps.

Prayer in W.P.No.35166 of 2022: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for records pertaining to the proceedings of the 2nd respondent in Letter No. 2029/2022/K.3 dated 14.11.2022 awarding fishing rights to the 4th respondent for 2 years namely 2022-2023 to 2023-2024 (Fasli 1432 and Fasli 1433) and quash the same as illegal incompetent and ultravires and consequently direct the 2nd respondent to conduct public auction for leasing the fishing rights in KuppaNathatham Reservoir, situated at Kallathur Village, Chengam Taluk, Tiruvannamalai District within a period that may be stipulated by this Honble court and for consequential orders.

Prayer in W.P.No.3349 of 2023: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent herein relating to his impugned order in letter in No.2029/2022/K.3 dated 14.11.2022 and quash the same and consequentially direct the respondents 1 to 3 to conduct the public auction for fishing the Kuppanatham reservoir rights situated at Kallathur Village, Chengam Taluk, Thiruvannamalai District within a time to be stipulated by this Hon'ble Court.

In both W.Ps.

For Petitioners : Mr.Singaravelan, SC,
for Mr.R.Jayaprakash

For Respondents : Mr.V.Arun, AAG,
Assisted by Mr.M.Alagu Goutham, GA.

COMMON ORDER

Though the petitioner in W.P.No.35166 of 2022 filed a Miscellaneous



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petition in WMP.No.35166 of 2022, seeking to fix an early date for the hearing of the main Writ petition, however, in view of the consent expressed by the learned counsel on either side, the main Writ petition itself is taken up for final disposal.

2. Since the issue involved in both the Writ petitions are similar in nature, they are disposed of by way of this common order.

3. The case of the petitioners is that the Kuppanatham Reservoir situated in the petitioners' village is the main source of water for drinking and irrigation purpose in their village. The Department of Fisheries and Fishermen Welfare of Tamil Nadu lease out the fishing rights in the above said Reservoir as per the terms and conditions of the Government order in G.O.Ms.No.332 dated 17.11.2003 and the fishing rights for the period 2017 to 2022 through public auction was given to the 4th respondent. While so, when the lease was about to expire, the 4th respondent filed a Writ petition in W.P.No.19425 of 2022 seeking for renewal of lease period for another 5 years on the ground that, during the Covid-19 pandemic situation, their members were unable to fully operate the lease and have faced a huge loss, and pursuant to the order of this Court dated 16.08.2022, the 2nd respondent



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without conducting any public auction renewed the lease of the 4th respondent for another 2 years, vide the present impugned order bearing Letter No.2029/2022/K.3 dated 14.11.2022, which is unsustainable. Hence, challenging the same, the petitioners have come up with these Writ petitions.

4. Learned Senior counsel appearing for the petitioners submitted that, earlier, the fishing rights in respect of the Kuppanatham Reservoir was granted in favour of the 4th respondent for the period 2017-2022. While so, when the above said lease period was about to end, the 4th respondent made a false claim before the 3rd respondent, as if, due to Covid-19 pandemic situation, their members were unable to do fishing work at the fullest and have faced severe loss, however, the same was not considered by the 3rd respondent. Aggrieved by the same, the 4th respondent approached this Court by way of filing the Writ petition in W.P.No.19425 of 2022 seeking for renewal of lease period for another 5 years. However, it is pertinent to note that, though, this Court, vide dated 16.08.2022 directed the third respondent only to pass final orders on the 4th respondent's representation dated 15.07.2022, the 2nd respondent without conducting any public



auction and without following the rules stipulated in G.O.Ms.No.332 dated 17.11.2003, renewed the lease of the 4th respondent for another 2 years, vide the present impugned order, which caused serious loss to the public and the act of the 2nd and 3rd respondents in not conducting their proceedings in public and transparent manner and not serving the impugned order to any public is wholly unsustainable. Hence, he prayed for appropriate orders.

5. On the above said contentions, heard learned Additional Advocate General appearing for the respondents and perused the materials available on record.

6. Though very many grounds have been raised by the learned counsel on either side, at the time of arguments, the learned counsel appearing for the petitioners restricted the prayer and sought for liberty of this Court to file appropriate application before the official respondents, after expiry of the further extended lease period in favour of the 4th respondent.

7. In view of the above, this Court without interfering with the order impugned in these Writ petitions, grants liberty to the petitioners to the



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petitioners to approach the 2nd respondent by way of filing appropriate claim petition, after the expiry of the further extended lease period of two years granted in favour of the 4th respondent. If such claim is made, the 2nd respondent shall considered the same and pass appropriate orders in accordance with law, after affording an opportunity of personal hearing to the petitioners and the 4th respondent.

8. With the above observations, these Writ petitions stand dismissed.

No costs. Consequently, connected Miscellaneous petitions are closed.

30.03.2023
(1/2)

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Speaking Order : Yes/ No

Index : Yes/ No

To

1. The Collector,
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Central Pennaiyar Basin Division,
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3. The Assistant Director of Fisheries,

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Department of Fisheries and Fishermen Welfare,
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4. The President,
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M.DHANDAPANI, J.

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