



WP(MD)No.3093 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : **08.12.2023**

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THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

W.P.(MD)No.3093 of 2021
and
W.M.P.(MD) No.2531 of 2021

Krishnan

...Petitioner

Vs.

1. The District Collector
Dindigul District.

2. The Chief Executive Officer/
The Assistant Director of Fisheries,
District Fish Farmer's Development Agency,
Dindigul.

...Respondents

PRAYER:- Petition - filed under Article 226 of the Constitution of India, to
issue a Writ of Certiorarified Mandamus, calling for the records pertaining



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to impugned order of the 2nd respondent made by his proceedings in Say.Mu.No.1377/E/2020 dated 08.02.2021 and quash the same as illegal and consequently direct the respondents to permit the petitioner to do fishery rights at Panchathangi Kulam, Pappampatti Village, Palani Taluk, Dindigul District for the period of 5 fasli years from 1430 to 1434 commencing from 01.07.2020 by executing a lease deed as per the terms and conditions of the tender notification dated 04.01.2021 issued by the 2nd respondent by his proceedings in Na.Ka.No.1377/E/2020.

For Petitioner : Mr. D. Venkatesh

For Respondent : Mr. B. Saravanan

Additional Government Pleader

ORDER

This Writ Petition was filed challenging the proceedings of the second respondent, dated 08.02.2021 and for a consequential direction to the respondents to permit the petitioner to exercise his fishery rights at Panchathangi Kulam, Pappampatti Village, Palani Taluk, Dindigul District, for a period of 5 years commencing from 01.07.2020.



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2. The case of the petitioner is that he participated in the auction that was conducted by the second respondent on 04.01.2021 and the petitioner was declared as a successful bidder on 11.01.2021 for the fishery rights at Panchathangi Kulam. The petitioner was also directed to make the entire payment towards the first year. Accordingly, on 11.01.2021, the petitioner paid a sum of Rs.40,000/- for the entire first year. The petitioner has also purchased the fish seeds and started exercising his fishery rights.

3. The grievance of the petitioner is that the second respondent through impugned proceedings, dated 08.02.2021 cancelled the confirmation of lease awarded in favour of the petitioner only on the ground that the District Collector did not approve the auction since a lower amount was offered as a bid. Aggrieved by the same, the present Writ Petition has been filed before this Court.

4. The second respondent has filed a counter affidavit. The second respondent has taken a stand that earlier on 14.12.2020, tender cum auction was conducted for leasing out the fishery rights and the petitioner



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alone participated in the tender and no other applications were received. In

view of the same, the District Collector directed to conduct a re-auction.

Accordingly, re-auction was conducted on 11.01.2021. During this re-auction, apart from the petitioner, two other persons participated. Since the petitioner had quoted the highest amount of Rs.40,000/-, his tender was accepted. It is further stated in the counter that the proposal was forwarded to the first respondent, namely, the District Collector, since the District Collector is the Chairman of Dindigul District Fish Farmer's Development Agency. The District Collector found that the amount that was quoted was very low and hence, directed to conduct yet another auction. Through the impugned communication, dated 08.02.2021, the petitioner was informed about the same. In the light of this stand taken by the second respondent, the second respondent has sought for dismissal of this Writ Petition.

5. When the matter came up for hearing on 28.11.2023, this Court passed the following order:

“The learned counsel appearing for the petitioner submitted that by virtue of the interim order passed by this Court, the petitioner is



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continuing to exercise his fishery rights and the learned Additional Government Pleader seeks time to get instructions.

2. Post this case on 05.12.2023.”

6. When the matter was taken up for hearing today, the learned Additional Government Pleader, on instructions, submitted that the petitioner is continuing his fishery rights by virtue of the interim order passed by this Court. The learned Additional Government Pleader further submitted that the petitioner did not make any payment for the second and third year, except the initial payment that was made for the first year to the tune of Rs.40,000/-.

7. The learned counsel for the petitioner submitted that the petitioner was always willing to pay the amount every year and the second respondent refused to receive the same. The learned counsel also brought to the notice of this Court the communication received from the second respondent to the effect that the amount sought to be paid by the petitioner



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was returned. The learned counsel submitted that the second respondent was supposed to execute a lease deed in favour of the petitioner for a period of five years and the same has not taken place till date.

8. This Court has carefully considered the submissions made on either side and perused the materials available on record.

9. In the considered view of this Court, during the first auction, only the petitioner participated and therefore, re-auction was called for. In the re-auction, apart from the petitioner, two more persons participated. The petitioner was declared as a successful bidder since he quoted Rs.40,000/-. This amount was found to be very low by the District Collector and therefore, the District Collector directed a fresh auction to be conducted. Such decision taken by the District Collector cannot be held to be illegal. Ultimately, the Fisheries Department will have to earn a reasonable income by leasing the fishery rights.

10. By virtue of the interim order passed by this Court, the petitioner has continued to exercise his fishery rights till date. It is true that



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the petitioner had attempted to make the payment and the second respondent has refused to receive the same.

11. Taking into consideration the facts and circumstances of the case, it will be left open to the petitioner to exercise his fishing rights till 31.12.2023. Whatever amount is due and payable by the petitioner for the second and third year till 31.12.2023 shall be collected by the second respondent from the petitioner. Thereafter, the second respondent shall take immediate steps to conduct re-auction for the fishery rights at Panchathangi Kulam. It goes without saying that the petitioner can participate in the re-auction and the fishery rights shall be given in favour of the successful bidder.

12. This Writ Petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

08.12.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
RM



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To

1. The District Collector
Dindigul District.
2. The Chief Executive Officer/
The Assistant Director of Fisheries,
District Fish Farmer's Development Agency,
Dindigul.



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N.ANAND VENKATESH, J.

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