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W.P.(MD).No.11303 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.11303 of 2021

and

W.M.P.(MD)No.8827 of 2021

A.Prabakaran

... Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar-626 001.

2.The Commissioner,
Rajapalayam Panchayat Union,
Rajapalayam Post-626 117,
Virudhunagar District.

3.Sivakumar

... 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 to issue confirmation order in favour of petitioner's name based on the bid amount Rs.1,00,000/- (Rupees One Lakh only) as offered by the petitioner in respect of



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Chettiyarpatti Taluk, Dhalavaipuram Village, Rajapalayam Union,
Virudhunagar District is concerned.

For Petitioner	: Mr.M.Saravanakumar
For R1	: Mr.A.K.Manikkam
	Special Government Pleader
For R3	: Mr.C.Vakeeswaran

ORDER

This writ petition is filed for writ of ***Mandamus***, to direct the respondents to issue confirmation order in favour of petitioner's name based on the bid amount Rs.1,00,000/- (Rupees One Lakh only) as offered by the petitioner in respect of Chettiyarpatti Taluk, Dhalavaipuram Village, Rajapalayam Union, Virudhunagar District is concerned.

2. The contention of the petitioner is that there are 42 tanks under the control of the 2nd respondent for fishing rights. The 2nd respondent is the competent authority to conduct fishing auction in Rajapalayam Panchayat Union. The lessee will have to purchase fish seeds and rear the same in the



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tank and harvest the fish at any time when the water level recedes. The 2nd respondent issued auction notification in proceedings dated 04.02.2021 in respect of 20 tanks but without assigning any reason, the said auction was adjourned. The 2nd respondent issued another notification dated 19.02.2021 stating that public auction will be conducted on 04.03.2021 and the same was adjourned due to Election Code of Conduct of State Assembly.

3. The further contention of the petitioner is that for the past two years the 2nd respondent and his henchmen colluded and misused the pandemic situation and permitted some persons to cultivate the fish. The 2nd respondent without conducting public auction for the fishery rights had caused heavy loss to the Government and for the past two years the Government incurred Rs.75 Lakhs/- as loss. Hence the petitioner and other members made several representations and one such is made to the first respondent on 22.02.2021 and on also subsequent days to take effective steps for public auction. Since the same was not considered, the petitioner filed W.P.(MD)No.10601 of 2021



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directing the respondents to conduct auction.

4.In the meantime, the 2nd respondent issued auction notification, dated 17.06.2021 and stated that in respect of 19 tanks, public auction will be held on 25.06.2021. As per the norms, the 2nd respondent ought to issue permission letter when the demand draft is issued in order to participate in the public auction. The contention of the petitioner is that the 2nd respondent never permitted the individuals to raise the auction amount and contrarily closed the auction by enhancing Rs.3,000/- and fixed the lease amount to Rs.54,840/- and also stated that they are going to issue lease in favour of 3rd respondent for Rs. 57,100/-. The 3rd respondent is a son of Councilor and he has obtained demand draft in his name to participate in the public auction. The 2nd respondent violating the norms prescribed for auction has concluded the lease amount to the 3rd respondent to the tune of Rs.57,100/-. Hence, the petitioner has come forward to offer Rs.1 Lakh/- as fishery rights auction amount and prayed to confirm the auction in his favour.



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5. This Court directed the official respondents to produce the original records and the same was produced. On perusal of the original records, it is seen that in the list of participants who had deposited the amount, the 2nd respondent's name was inserted in ink and other names were printed. Likewise, one another name was also inserted in ink.

6. Moreover, the official respondents without issuing அனுமதி சீட்டு (permission letter) to the 2nd respondent had allowed him to participate in the auction. Without this permission the participants cannot produce the demand draft and participate in the auction. Hence the 3rd respondent was directed to produce the அனுமதி சீட்டு (permission letter) so that it can be confirmed whether he was granted such permission letter. Even after an opportunity to produce the permission letter, the learned Counsel for the 3rd respondent submitted that in spite of effort, the same could not be produced.

7. Therefore, this Court is of the considered opinion that the



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auction has not been conducted in a fair manner, hence, the auction that was conducted on 29.06.2021 ought to be quashed. Since the lease period was from 2020 – 2023, and the 3rd respondent has already completed 3 years, instead of quashing the auction, it would be deem fit to direct the official respondents to conduct a fresh auction. The official respondents shall follow the procedure strictly. The petitioner and other persons are permitted to participate in the auction. Since the auction that has been granted to the 3rd respondent was not cancelled, the 3rd respondent shall not participate in the coming auction.

8. With the above said observation, the writ petition is disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

21.09.2023

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

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To

The District Collector,
Virudhunagar District,
Virudhunagar-626 001.



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S.SRIMATHY, J.

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