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W.P.(MD)NO.11656 OF 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.11656 of 2021 and
W.M.P.(MD)Nos.9172, 9173 and 9175 of 2021

Pechiparai & Perunchani Reservoyers
Fishermen Cooperative Society Ltd.,
Rep. through its chief promoter,
T.Ramdoss. ... Petitioner

Vs.

1. The Secretary to Government,
Animal Husbandry and Fisheries Department,
Fort St. George,
Chennai 600 009.
2. The Commissioner of Fisheries and Fishermen Welfare,
Integrated Office for Animal Husbandry and Fisheries
Department, Nandanam,
Chennai – 600 035.
3. The Assistant Director of Fisheries,
Department of Fisheries,
Nandanam, Chennai.
4. The Assistant Director of Fisheries and
Fisherman Welfare,
Nagercoil,
Kanyakumari District.
(R-4 is suo motu impleaded
vide order dated 02.02.2023) ... Respondents

Prayer: Writ petition filed under Article 226 of the
Constitution of India, to issue a Writ of Certiorarified



Mandamus, to call for records pertaining to the tender cum auction notice fixing the last date to receive sealed tenders on 19.07.2021 upto 12 pm. and quash the same and consequently direct the respondents to give preference to the petitioner society to take lease of the Pechiparai and Chittar reservoirs as to allot the fishing rights to the petitioner society as an inland fishermen cooperative society operating well within its territorial area of operation.

For Petitioner : Mr.V.O.S.Kalaiselvam

For Respondents: Mr.M.Lingadurai,
Special Government Pleader.

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ORDER

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

2. The writ petitioner is an Inland-fishermen cooperative society. The petitioner challenges the tender notification issued by the first respondent. According to the petitioner, the fishery rights should be given to the petitioner and only if the petitioner is not willing to take the lease for the consideration



fixed by the department, then and then alone, it can be leased out through public auction.

3. The learned counsel reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned notification and grant relief as prayed for.

4. The relief sought for cannot be granted in view of the decision of the Hon'ble Division Bench rendered in W.A.(MD)No.1251 of 2020 vide order dated 03.02.2021. The Hon'ble Division Bench in the said decision had held as follows:-

“10.For the ensuing years, we call upon the official respondents, including the Secretary to Government, Fisheries Department, to adopt a different methodology as suggested by the learned Single Judge, by fixing the upset price and thereafter, call for tender. The highest amount offered by the successful bidder will have to be offered to the Bodi Fisherman Society. It is better to follow this methodology in future in all cases, as the Government would not loose the



revenue and in any case, fixation of the upset price is a starting point and the same will not be the actual price that will fetch in an auction. It is a price, which will facilitate somebody to take part in the auction, being the minimum value of the subject matter of the licence.

11.The incidental issue is with respect to the impleaded respondents. On a perusal of the status report filed by respondent No.4, it is clear that various violations took place. These violations are with respect to contamination with the water and reaction to facilitate the highest fishing. The rights of the appellant in W.A.(MD)No.923 of 2020 is certainly subject to the rights of the impleaded respondent. Therefore, the official respondents shall make sure that their rights are not affected, which is inclusive of contaminating the water by polluting it for facilitating the larger capture of fishing and letting the water out, much to the suffering of the farmers. If such activities are carried on, the respondents are expected to cancel the licence.”



5. At this stage, the learned counsel contended that the attention of the learned Single Judge as well as the Hon'ble Division Bench was not drawn to the relevant provisions in the revenue standing orders. He laid particular emphasis on RSO 211. He would also strongly contend that the policy of the Government is always open to encourage the cooperative movement. The cooperative movement has been constitutionally recognized also. The aforesaid contentions are no doubt attractive. But I am bound by the directions set out in the aforesaid decision of the Hon'ble Division Bench. That is why I am not in a position to interfere in the matter. This writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

02.02.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes/ No

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G.R.SWAMINATHAN,J.

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