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W.P.(MD)NO.11834 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.11834 of 2021 and
W.M.P.(MD)Nos.9291 and 9292 of 2021

FMD-1 Vaigai Anai Inland
Fisherman Cooperative Society,
Rep. by its authorised representative,
P.Jayaraja,
Vaigaidam,
Varatharaja Nagar Post,
Periyakulam Taluk,
Theni District.

... Petitioner

Vs.

1. The Commissioner of Fisheries and
Fisherman Welfare,
Tamil Nadu Fisheries and
Fisherman Welfare Department,
Nandhanam,
Chennai – 600 035.

2. The Assistant Director of Fisheries,
Vaigai Reservoir,
Theni District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notification issued by the first respondent in tender Ref. No.23399/F3/2018-19 Vaigai dated 30.06.2021 and quash the same as illegal and consequently direct the respondent to



grant the lease for fishing in the Vaigai reservoir, Theni District as per Revenue Standing Order 211, within the time that may be stipulated by this Court.

For Petitioner : Mr.M.Ajmalkhan,
Senior counsel,
for M/s.Ajmal Associates.

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

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ORDER

Heard the learned Senior 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 Senior 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 Senior 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

PMU

To:

1. The Commissioner of Fisheries and Fisherman Welfare,
Tamil Nadu Fisheries and Fisherman Welfare Department,
Nandhanam, Chennai – 600 035.
2. The Assistant Director of Fisheries,
Vaigai Reservoir, Theni District.



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G.R.SWAMINATHAN,J.

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