



WP(MD)Nos.21447 to 21454 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)Nos.21447 to 21454 of 2018

and

WMP(MD)Nos.19334 to 19342 of 2018 & 2029, 2033 to 2039 of 2019

WP(MD)No.21447 of 2018:-

M/s.Theva Erudhayam Aqua Farms,
Partnership Firm Rep. by its Managing Partner
D.Durairaj

.. Petitioner

v.

1.The Member Secretary / Assistant
Director of Fisheries,
District Level Committee,
Coastal Aquaculture Authority,
Tuticorin,
Tuticorin District.

2.The Coastal Aquaculture Authority,
Ministry of Agriculture and Farmer Welfare,
Government of India,
GDR Tower, 12-A, Bharathi Street,
Vanavampettai, Madipakkam Po,
Chennai – 600 091.

.. Respondents



WP(MD)Nos.21447 to 21454 of 2018

WEB COPY Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari calling for the records relating to the impugned order passed by the first respondent in Na.Ka.No. 977/A4/2014-6 dated 17.09.2018 and quash the same.

For Petitioner : Mr.R.Asokan

For Respondents : Mr.J.K.Jeyaseelan,
Government Advocate
for R.1

No appearance for R.2

COMMON ORDER

The petitioners herein are engaged in the business of Aquaculture, also known as Aqua farming, which involves cultivating / culturing under controlled conditions in ponds and enclosures or otherwise, in coastal areas, of shrimp, prawn, fish or any other aquatic life in saline or brackish water. Any person who intends to carry on coastal aquaculture is required to make an application before the Coastal Aquaculture Authority



WP(MD)Nos.21447 to 21454 of 2018

constituted under the Coastal Aquaculture Authority Act, 2005 (in short 'the Act') for registration of the farm. The registration of the farm is for a period of five years from the date of issue of the Registration Certificate. The registration can be renewed by the Authority under Sub-Sections 10 & 11 of Section 13 of the Act. As per Section 13(11) of the Act, the Authority can refuse the renewal of registration.

2. For the purpose of farming, the petitioners have purchased lands in the coastal areas in Vaippar Village and have established Aqua farm. They have made also applications for registration and considering the particulars submitted by them, the Authority has registered the petitioners' aquaculture and issued Certificates of Registration in the year 2012 for a period of five years. After the expiry, the petitioners have made applications for renewal of registration and by the orders impugned, their request was rejected. Aggrieved over the same, the petitioners have filed these writ petitions.



WP(MD)Nos.21447 to 21454 of 2018

WEB COP 3. Learned Counsel appearing for the petitioners made his submissions as follows:-

3.1.As per Rule 9 of the Coastal Aquaculture Authority Rules, 2005, the application for registration is to be made to the District Level Committee set up by the Authority with necessary fees. The District Level Committee consists of the District Collector as the Chairman and the representatives of the Revenue Department, Agriculture Department, Environment Department, Zilla Parishad and the Assistant Director / District Level Fisheries Department as the Members. On receipt of the application under Rule 10, the District Level Committee verifies the particulars furnished in the application and forwards the same to the Authority with its recommendations. Thereafter, the Coastal Aquaculture Authority constituted under the Act passes an order, either registering the farm or refusing to register the farm.

3.2.As per Rule 10(5), where the application for registration is refused, the Authority is required to record its reasons for such refusal and a copy



WP(MD)Nos.21447 to 21454 of 2018

of the same along with the order of refusal should be furnished to the applicant. Against the said order of refusal, an appeal is provided under Sub-Rule 10 to the Chairperson who is empowered to affirm, vary or set aside the rejection order. Similar procedure is to be adopted for renewal of registration as well.

3.3.The petitioners have applied to the Authority for renewal of registration in Form III and paid the necessary fee, as prescribed under the Rules. By letter dated 17.09.2018, the Assistant Director of Fisheries / Member and Secretary of the District Level Committee, Tuticorin, ie., the first respondent herein, informed the petitioners that their applications for renewal of registration have been rejected by the District Level Committee due to the pendency of Land Acquisition cases in respect of the lands where the aquaculture is located and that the farms are prohibited from carrying out farming further.

3.4.The first respondent is only a member and convener of the District Level Committee and has no authority to pass any order in the matter of



WP(MD)Nos.21447 to 21454 of 2018

renewal of registration. Even the District Level Committee has no authority to issue any direction to the Farm registered under the Act. In the process of verification of the details of the particulars furnished in the application for registration, the District Level committee can call for further details from the application. The Coastal Aquaculture Authority alone has got the power to issue directions, orders to the Farms registered under the Act. The Authority alone has got the power to either register or refuse renewal of registration and to take actions against the unregistered Farms. In the case of refusal to renew registration, the Authority is required to afford an opportunity of personal hearing to the applicant before refusing the renewal of registration.

3.5.The role of the first respondent as Convener of the District Level Committee is to convene the meeting of the Committee and to forward the report of the Committee to the Authority and nothing more. Either as a Member of the Committee or as the Convener of the Committee, the first respondent cannot assume the powers of the Authority and issue directions or orders under the Act or Rules made thereunder.



WEB COP 3.6. When the renewal application for registration is yet to be decided by the Coastal Aquaculture Authority and no order has been passed by the Authority either granting renewal or refusing renewal, the first respondent has no authority to issue directions to stop farming pending the renewal application.

Therefore, he prayed for appropriate orders.

4. Learned Government Advocate, by relying upon the counter affidavit filed by the first respondent, made his submissions as follows:-

4.1. The applicant has to submit the application for renewal of registration two months before the expiry date of the registration certificate. Whereas, the petitioners had submitted the application to the first respondent, Assistant Director of Fisheries / Member Convenor of District Level Committee, Coastal Aquaculture Authority, Thoothukudi, for renewal of registration of the coastal aquaculture farm on 01.02.2017 one month after the expiry date of the registration violating Sub-Section 10 of Section 13 of Coastal Aquaculture Authority Act, 2005.



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4.2.The petitioners have purchased certain lands, which were assigned by the Government to landless people and put-up their farms in the assigned lands. Since there is a violation of assignment conditions, the Government has cancelled the assignment and taken over the lands. In this regard, litigations are pending before this Court in WP(MD)Nos.23566 to 23575, 23606, 24696, 24697, 24721 to 24750 of 2016, 667 to 685, 19073 to 19100 of 2017. Possession of own land is the basic norms for registration and renewal of registration of coastal aquaculture farm. Here, the petitioners do not have the ownership of the land of their farm and they have intentionally hidden the land dispute and cancellation of the land assignment in their renewal applications filed in the year 2018.

4.3.As per Rule 10(3), the District Level Committee has to examine the application for renewal of registration of a coastal aquaculture farm and forward it to the Authority through the State Level Committee. The District Level Committee has to inspect the concerned farm to ensure that the farm meets the norms specified in the guidelines. Since the petitioners do not



WP(MD)Nos.21447 to 21454 of 2018

have ownership of the lands, where the farms are located, the Chairperson of the District Level Committee has not forwarded the petitioner's application for renewal of registration. This was intimated to the petitioners.

4.4. In the 10th State Level Committee meeting of Coastal Aquaculture Authority held on 12.01.2018, the Member Secretary / Chairperson of State Level Committee of Coastal Aquaculture Authority has instructed District Level Fisheries Officer / Member Convenor of District Level Committee of Coastal Aquaculture Authority to monitor the functioning of all the shrimp farms which are functional, farms which are at present defunct, farms in poromboke and other government lands without valid land ownership and notices to be served to the unauthorized and defunct farms. Thereafter, at the time of the District Level Committee meeting of Coastal Aquaculture Authority conducted on 31.07.2018, the Chairperson of District Level Committee of Coastal Aquaculture Authority has instructed the Member Convenor / Assistant Director of Fisheries, the first respondent herein, to issue notice to all the farms that do not have the proper registration of



WP(MD)Nos.21447 to 21454 of 2018

coastal aquaculture farm. Hence, a notice was issued on 17.09.2018 intimating the petitioners about the decision taken in the District Level Committee meeting and instructing them to stop the farm activities.

5.This Court considered the rival submissions made on either side and perused the materials placed on record.

6.The petitioners' farms were registered by the second respondent in the year 2012 for a period of five years, for running the Aqua farming. The registration expired by 2018 and the petitioners have applied for renewal of registration, as required under Sub-Sections 10 & 11 of Section 13 of the Act. The applications for renewal of registration have to be made as per Rule 12 of the Coastal Aquaculture Authority Rules. The relevant provisions are extracted as under:-

“Section 13 – Registration for coastal aquaculture

... ..

(9) Notwithstanding anything contained in this section, any traditional coastal aquaculture farm which lies within the Coastal Regulation Zone declared by the notification of the Government of India



*in the Ministry of Environment and Forests (Department of Environment, Forests and Wildlife) No. S.O. 114 (E), dated the 19th February, 1991 and is not used for coastal aquaculture purposes on the appointed day shall be registered under sub-section (5) by producing before the Authority, by the person who is the owner of such farm, **the documentary proof of such ownership** failing which such farm shall not be registered under sub-section (5) and if such person after such registration does not utilise such farm, within one year, for coastal aquaculture purposes, the registration shall be cancelled by the Authority.*

(10) A person, who intends to renew the registration of a farm made under sub-section (5) or in pursuance of sub-section (9), may make an application within two months before the expiry of such registration to the Authority in the prescribed form accompanied with the prescribed fees and the Authority shall, after receiving such application, renew the registration and for such purpose make an entry with its seal on the registration certificate relating to such form issued under sub-section (6).

(11) The Authority may refuse to renew the registration of a farm under sub-section (10) if the Authority is satisfied that the person to whom such registration is made has failed to utilise such farm for coastal aquaculture purposes or without any reasonable cause has violated any provision of this Act or the rules or regulations made thereunder or any



direction or order made by the Authority in pursuance of section 11:

Provided that such refusal to renew the registration shall not be made without providing such person an opportunity of being heard.

..."

"Rule 12 – Application for renewal of registration and the fees to be paid:-

(1) Every application for renewal of registration of a coastal aquaculture farm shall be made before two months of the expiry of such registration to the Authority in Form III and the Authority shall renew the registration for a further period of five years.

(2) The fees payable for renewal of registration shall be same as specified under sub-rule (2) of rule 9 for registration.

(3) Every application for renewal of registration of a coastal aquaculture farm shall be made to the District Level Committee, which upon examination shall forward it to the Authority through the State Level Committee.

(4) The time-frame for consideration of renewal of registration shall be as specified in the regulations.

(5) Where the Authority is satisfied that further continuation of the said coastal aquaculture farm is harmful to the coastal environment it shall refuse to renew the registration: Provided that before refusal to renew the registration, the Authority shall give the concerned person an



opportunity to be heard; Provided further that a copy of the order together with the reasons for the refusal to renew the registration shall be communicated to the person concerned.

(6) Any person aggrieved by an order of refusal of renewal may within thirty days from the date of receipt by him of a copy of the order of refusal, appeal to the Chairman who may affirm, vary or set aside such order."

7.These are the provisions under which the Authority has to take a decision on the renewal application. The first respondent has taken a stand that the petitioners are running the Aqua farm in the lands which were assigned by the Government for landless poor. It appears that the assignees have sold the assigned lands to some third parties, from whom, the petitioners have purchased the lands and are doing the farming activities.

8.For violation of assignment conditions, the District Collector, Tuticorin has cancelled the assignments vide R.C.No.T1/25393/2010 dated 04.08.2016 and the legality of the cancellation of assignment order is put under challenge before a Division Bench of this Court in WP(MD)Nos.



WP(MD)Nos.21447 to 21454 of 2018

23566 to 23575, 23606, 24696, 24697, 24721 to 24750 of 2016, 667 to 685, 19073 to 19100 of 2017. According to the petitioners' Counsel, the order of the District Collector cancelling the assignments has been stayed by the Division Bench and the matters are pending consideration.

9.As per Sub-Section 9 of Section 13, a person, who is intending to conduct the Aquaculture farming, has to produce the documentary proof of ownership for the lands before the competent authority. Since the District Collector has already taken a stand and cancelled the assignments, being the Chairman of the District Level Coastal Authority, the District Collector, who is supposed to recommend to the State Level Committee after verifying the particulars, by relying on the orders passed in R.C.No.T1/25393/2010 dated 04.08.2016, has not recommended the application. This decision of the District Level Committee was communicated by the first respondent. Therefore, this Court is not inclined to interfere with the impugned orders, by entertaining these writ petitions.



WP(MD)Nos.21447 to 21454 of 2018

10.The petitioners have already filed litigations challenging the cancellation of assignments in WP(MD)Nos.23566 to 23575, 23606, 24696, 24697, 24721 to 24750 of 2016, 667 to 685, 19073 to 19100 of 2017 and the same are pending before the Division Bench of this Court. Therefore, the petitioners are at liberty to make a fresh application for renewal before the District Level Committee, depending upon the outcome of these litigations.

11.The petitioners claimed that the District Level Committee is not competent to pass an order preventing them from running the Aquaculture farm pending the renewal application. The fact remains that the petitioners were provided with registration only for a period of five years from 2012. As per Section 14 of the Act, if any person carries on coastal aquaculture or traditional coastal aquaculture or causes the coastal aquaculture or traditional coastal aquaculture to be carried on in contravention of sub-section (1) of section 13, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to one lakh rupees, or with both. Therefore, without there being any registration, nobody is entitled to engage in the farming activities.



WP(MD)Nos.21447 to 21454 of 2018

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In the result, all these writ petitions are dismissed, with the liberty as aforesaid. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
NCC : Yes / No
Internet : Yes
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01.12.2023

To

The Member Secretary / Assistant
Director of Fisheries,
District Level Committee,
Coastal Aquaculture Authority,
Tuticorin,
Tuticorin District.



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WP(MD)Nos.21447 to 21454 of 2018

B.PUGALENDHI, J.

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WP(MD)Nos.21447 to 21454 of 2018

01.12.2023