



W.P(MD)No.1050 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2023

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P(MD) No.1050 of 2016 and
WMP(MD) Nos.867 & 868 of 2016

G.Auroselvan

Petitioner

vas.

1.The Commissioner of Fisheries,
Fisheries Department,
DMS Compound,
Theynampet,
Chennai – 600 006.

2.The Assistant Director of Fisheries,
Fisheries Department,
Vaigai Dam,
Theni District.

3.The Manager of the Government Pleader Office,
Office of the Government Pleader,
Madurai Bench of Madras High Court,
Madurai.

Respondents

(R3 is suo motu impleaded vide Court order dated 08.02.2023 in WP(MD) No.1050 of 2016 by BPJ)



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records, relating with the order of the second respondent made in Na.Ka.No.578/A/2009, dated 22.09.2015 and to quash the same as it is arbitrary and illegal and in consequence to direct the respondents to reimburse the petitioner to the tune of Rs.16,01,000/- for the loss caused to the petitioner, due to unilateral cancellation of the petitioner's fishing lease, in Meersamudhram Kanmoi, during the year 2009-2010.

For Petitioner	:Mr.R.Surya Narayanan
For R1	:Mr.A.Kannan
	Additional Government Pleader

ORDER

This Writ petition is filed as against the order of the second respondent in Na.Ka.No.578/A/2009, dated 22.09.2015, cancelling the petitioner's fishing lease.

2.The learned counsel appearing for the petitioner submits that the petitioner was awarded with a fishing right in Meerasamudhram Kanmoi, situated at Theni-Allinagaram, Theni



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District in the year 2007 for a period of three years from 2007 to 2010. The petitioner has also harvested fishes for the first two years. However, during the third year of lease 2009-2010, on certain allegations made as against the petitioner that the petitioner has polluted the tank with some debris, his fishing right for the year 2009-2010 was cancelled by the second respondent on 05.10.2009, based on the direction of the District Collector, Theni. The petitioner has challenged the above cancellation order in W.P.No.10940 of 2009 that no opportunity was provided to him before cancellation. However, the writ petition was dismissed by this Court on 08.12.2009. Challenging the same, the petitioner filed writ appeal in W.A.No. 712 of 2009 and the same was also dismissed by this Court on 12.03.2015. However, the Division Bench of this Court, while dismissing the writ appeal permitted the petitioner to institute an appropriate proceedings, if the petitioner is having any grievance that he has invested some amount for the purpose of development of harvesting of fishes. Accordingly, this petitioner made a representation to the second respondent and the same was dismissed



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by the second respondent on 22.09.2015 in Na.Ka.No.578/A/2009.

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Challenging the same, the petitioner has filed this writ petition and for a consequential direction to the respondents to re-imburse a sum of Rs.16,01,000/- to the petitioner.

2.1.The learned counsel appearing for the petitioner further submits that during the year 2009-2010, the petitioner has procured fish seeds from the outsiders for a sum of Rs.9,00,00/- and has also engaged some workers and spent more than Rs.16,00,000/- for harvesting fishes in the lake. However, the second respondent has unilaterally cancelled the fishing right, due to which, the petitioner suffered a loss of Rs.16,00,000/-. The Division Bench of this Court, while dismissing the writ appeal has permitted the petitioner to approach the concerned authorities to get the relief of compensation for the amount spent by him. In the strength of the order passed by the Division Bench of this Court in W.A.No. 712 of 2009, the petitioner has approached the second respondent. However, the second respondent dismissed the claim of the



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petitioner without considering the order of this Court.

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3.The learned Additional Government Pleader appearing for the respondents submits that the petitioner has entered into the lease agreement dated 03.01.2008, for a sum of Rs.1,51,000/- for the period from 2007 to 2010. The Department has received several complaints from the public with the specific allegations that bad smell was emanated from the lake. Therefore, a field inspection was conducted by the officers of Public Works Department and found that the petitioner has polluted the lake and recommended for cancellation of the lease. Accordingly, the second respondent has cancelled the lease by order dated 05.10.2009. The writ petition and the writ appeal filed by the petitioner were dismissed by this Court. However, this Court while dismissing the writ appeal has permitted the petitioner to institute a separate proceedings, claiming the amount, if any, which he has spent for the development of harvesting of the fishes. According to the learned Additional Government Pleader, the lease is purely based on the contract between the parties



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and they have to strictly abide by the terms and conditions of the Contract. As per clause 10 of the lease agreement, if the parties are intended to do some development activities, they have to obtain prior permission from the competent authorities. By referring the tender condition No.21, he further submits that if any dispute arises between the tenderer and the party, the aggrieved party has to approach the competent civil Court alone. The learned Additional Government Pleader has also referred the Government order in G.O.Ms.No.253, Public Works Department, dated 24.02.1981, wherein, it has been specifically stated that if any individual claims beyond the value of Rs.50,001/-, their appropriate remedy is only before the Civil Court.

4.This Court considered the rival submissions made and also perused the materials placed on record.

5.The petitioner obtained a lease for fishing right in Meerasamudhram Kanmoi, situated at Theni-Allinagaram, Theni



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District for three years from 2007 to 2010. He successfully harvested fishes for the first two years. The fishing right of the petitioner has been cancelled by the authority based on complaints received as against the petitioner that he has not maintained the lake in a proper manner and bad odour is emanated from the lake. The official team inspected the lake. Based on the report of the team, the third year lease was cancelled. Challenging the same, the petitioner filed writ petition. Having lost in the writ petition, the petitioner preferred a writ appeal and the same was also dismissed. The learned Additional Government Pleader has taken a specific stand that if the petitioner is having any grievance that he had spent some amount for the development of fishing in the lake, he has to work out his remedy only before the competent civil Court. The petitioner cannot maintain his claim by way of a writ petition.

6.In view of the above, this Writ Petition is dismissed with a liberty to the petitioner to work out his remedy before the competent civil Court. No costs. Consequently, connected



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Miscellaneous Petitions are closed.

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Index : Yes/No
Internet: Yes/No
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B.PUGALENDHI, J

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