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WP.No.28565 of 2024

In the High Court of Judicature at Madras

Dated : 25.9.2024

Coram :

The Honourable Mr.Justice M.DHANDAPANI

Writ Petition No.28565 of 2024
& WMP.Nos.31137 & 31138 of 2024

1.M.Elaiyaraja
2.P.Muniappan
3.L.Kantha

...Petitioners

Vs

1.The Executive Engineer (WRO),
Public Works Department,
Upper Pennaiyar Basin Division,
Dharmapuri-5.

2.The Assistant Director of Fisheries,
Inland Fisheries, Krishnagiri.

3.FMR 1, Kaveripattinam
Paruvatharajakula Fisherman
Cooperative Society, rep.by its
Administrator, No.59/203,
Agaram Road, Kaveripattinam
Post, Krishnagiri District.

4.S.Ramakrishnan
5.P.Kalaidasan
6.R.Kumaran
7.S.Nagaraj
8.V.Vinoth
9.P.Thirumal

...Respondents

PETITION under Article 226 of The Constitution of India praying
for the issuance of a Writ of Certiorarified Mandamus to call for the



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records of the letter No.953(856)/Ko.29/2024 (Fishers Ki.Giri)/tha4/
dated 31.7.2024 on the file of the first respondent and the
consequential order of the third respondent granting fishing lease at
Vilangamudi Jambu Tank, Krishnagiri District in Na.Ka.No.418/e/2022
dated 10.9.2024 in favour of respondents 4 to 9, quash the same and
direct respondents 1 to 3 to conduct the open auction among the
members of the third respondent society.

For Petitioners	:	Mr.M.S.Palaniswamy
For R1 & R2	:	Mr.Yokesh Kannadasan, SGP
For R3	:	G.Velu, AGP

ORDER

This writ petition has been filed challenging (i) the order dated 31.7.2024 passed by the first respondent and (ii) the consequential order dated 10.9.2024 passed by the third respondent granting the fishing rights in favour of respondents 4 to 9.

2. Heard the learned counsel for the petitioners, the learned Special Government Pleader appearing for respondents 1 and 2 and the learned Additional Government Pleader appearing for the third respondent. In view of the nature of order and no adverse order this Court proposes to pass, the writ petition itself is taken up for final



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disposal without ordering notice to respondents 4 to 9.

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3. The case of the petitioners is as follows :

(i) The petitioners are the members of the third respondent society. Vilangamudi Jambu Tank, Kaveripattinam, Krishnagiri District is under the control and maintenance of the first respondent. In line with the Government Order of the year 1993, the inland fishermen cooperative society must be given priority for the fishing rights in the lake and tank and only when the inland fishermen cooperative society is not willing to take the fishery lease, the first respondent can resort to conduct public auction.

(ii) Pursuant to the resolution of the third respondent society during 2018, the second respondent was requested to get fishery rights from the first respondent. Thereafter, the first respondent followed the Government Order of the year 1993 and granted permission to the second respondent to lease out the said tank for a period of five years and to fix the lease amount. In turn, the second respondent granted the lease hold right to the third respondent society for a period of five years and fixed the lease amount. As a consequence, the third respondent society conducted an auction among its members for granting fishing rights in the Vilangamudi Jambu Tank from 2018 to 2023 and the petitioners became the



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successful bidders. The third respondent society also issued the allotment order to the petitioners.

(iii) As the period in the allotment order was wrongly mentioned as 2017 to 2021 instead of 2018 to 2023, the petitioners along with one Mr.S.Sathyamoorthi filed W.P.No.16879 of 2022 before this Court forbearing respondents 1 to 3 and their men or agent or anybody claiming through them from interfering with their lease hold rights of fishing at Vilangamudi Jambu Eri, Krishnagiri District till completion of lease period on 30.6..2023 and it was allowed on 05.7.2022. As per the said order of this Court, the petitioners also enjoyed the fishing rights till 30.6.2023.

(iv) Even after expiry of the said lease period, respondents 1 and 2 had not taken any steps to grant the leasehold rights at Vilangamudi Jambu Tank, Krishnagiri District. In that regard, the petitioners sent a representation dated 06.6.2023 to respondents 1 and 2. As the said representation did not evoke any response, the petitioners filed W.P. No.33627 of 2023 before this Court seeking to direct respondents 1 and 2 to dispose of their representation dated 06.6.2023 in the light of the common order dated 21.6.2023 passed in W.P.No.6819 of 2023 etc. batch.

(v) Further pursuant to the common order of this Court dated 27.3.2024 in W.P.No.30333 of 2023 etc. batch, G.O.Ms.No.52 Animal



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Husbandry, Dairying, Fisheries and Fishermen Welfare (FS6)

Department dated 08.7.2024 came to be issued framing combined guidelines. However, by proceedings dated 31.7.2024, the first respondent erroneously granted the fishing rights of Vilangamudi Jambu Tank for a period of three years from 2024 to 2027 to the third respondent society through the second respondent based on the order dated 13.12.2023 in W.P.No.27933 of 2023 with 10% enhancement of the average amount fixed during last three years.

(vi) The petitioners are aggrieved by the order dated 31.7.2024 passed by the first respondent, as, no such order was passed by this Court in W.P.No.27933 of 2023 on 13.12.2023. In turn, the second respondent also passed an order dated 08.8.2024. Thereafter, as a consequence, by proceedings dated 10.9.2024, the third respondent granted the fishery rights of Vilangamudi Jambu Tank to respondents 4 to 9. According to the petitioners, respondents 1 to 3 colluded with respondents 4 to 9. Challenging both the order dated 31.7.2024 of the first respondent and the order dated 10.9.2024 of the third respondent, the petitioners are before this Court.

4. The learned counsel for the petitioners submitted that if the members of the third respondent society makes an application for grant of leasehold right, the third respondent society has to conduct a



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public auction and the highest bidder should be declared as the successful bidder. However, in this case, the said procedure was not followed. Instead, in the present case, the third respondent society individually granted lease in favour of the private respondents.

5. This Court has carefully considered the submissions of the learned counsel for the petitioners and perused the materials available on record and more particularly the impugned orders.

6. As per Revenue Department Standing Order 211, the cooperative societies comprised of fishermen or harijans engaged in fishing should be given the first opportunity. In this case, it is not disputed that the petitioners are not the members of the third respondent. Even assuming that respondents 4 to 9 are the members of the third respondent society, the third respondent society cannot pick and choose persons, to whom the leasehold right should be granted. In the considered view of this Court, if there is a dispute between the members of the third respondent society, the remedy available to them is before the competent civil court and not under Article 226 of The Constitution of India.



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7. Accordingly, the writ petition is dismissed. No costs.

Consequently, the connected WMPs are also dismissed.

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Index : Yes (or) No

Neutral Citation : Yes (or) No

To

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RAP



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RAP

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W.M.P.No.31136 of 2024
in W.P.No.28565 of 2024

M.DHANDAPANI,J

In view of amendment to the Court fee rules, this petition is allowed, subject to payment of separate Court fee, within a period of two weeks, from the date of receipt of a copy of this order, failing which this order shall be applicable only to the first petitioner.

25.9.2024

rap

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