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W.P.(MD)NO.4606 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.4606 of 2024

P.Sankar

... Petitioner

Vs.

1. The Assistant Director of Fisheries,
O/o.Assistant Director of Fisheries,
Petchiyamman Padithurai,
Madurai – 625 002.

2. The Special Officer,
O/o.Assistant Director of Fisheries,
A2407, Madurai Taluk,
Fisherman Cooperative Society(South),
Petchiyamman Padithurai,
Madurai – 625 002.

3. P.Jayaraman

4. Balachandran

(R-3 & R-4 are impleaded vide order dated 01.03.2024
in W.M.P.(MD)Nos.4882 & 4937 of 2024)

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the first respondent to consider the petitioner's representation dated 05.02.2024 by extending the share fishing right for the period from 01.03.2024 to 30.04.2024.



For Petitioner : Mr.C.Mayil Vahana Rajendran
For R-1 & R-2 : Mr.D.Gandhiraj,
Special Government Pleader.
For R-3 : Mr.T.Aswin Rajasimman
For R-4 : Ms.M.Benazir Begum

* * *

ORDER

Heard both sides.

2. The case on hand relates to exercise of share fishing rights in Ayyavaithanendhal tank in Avaniyapuram Village. It was the subject matter of Rev.Aplw(MD)No.36 of 2023 and Cont.P.(MD)No.484 of 2023. It was disposed of vide order dated 03.04.2023. Based on the direction given by this Court, applications were invited from those General Body members who were willing to take part in doing fishing. 66 persons were ultimately chosen. They were divided in two groups; group A and group B. Group A comprises 30 members and group B comprises 36 members. The Assistant Director of fisheries issued proceedings on 28.08.2023 effecting division of fishing period. As per the said proceedings, group A was to do fishing from 01.09.2023 and end on 30.11.2023 and the turn of group B was to commence on 01.12.2023



and end on 29.02.2024. The petitioner herein belongs to the second group. He states that he and six others were expelled from the membership of the Society by the General Body on 28.11.2023 and that therefore, he was prevented from taking part in the fishing activities for about 45 days. He therefore wants to seek corresponding extension of the license period for two more months. Since the said request was not considered, the present writ petition came to be filed.

3. When the matter was taken up for hearing, the first respondent made a submission that he is inclined to issue proceedings granting the relief sought for by the petitioner. This was vehemently opposed by the impleaded respondents.

4. The learned counsel appearing for the petitioner points out that the expulsion of the petitioner and others could not take effect because the first respondent declined to grant approval to the expulsion. Aggrieved by the same, the Society has filed revision under Section 153 of the Tamil Nadu Cooperative Societies Act before the Deputy Director of Fisheries. The revision petition is still pending.

5. According to the petitioner's counsel, Shankar is continuing as a member of the Society and that therefore, his *locus standi* cannot be questioned. Since Shankar was prevented from taking part in the fishing



activities, he should be granted the benefit of extension.

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6. I carefully considered the rival contentions and I take note of the stand taken by the first respondent.

7. I endorse the stand of the learned counsel appearing for the petitioner that Shankar and others continue to be the members of A2407, Fishermen Cooperative Society(South). However, the status of the petitioner would depend on the order to be passed by the Deputy Director of Fisheries.

8. The issue does not pertain to the individual right of the petitioner herein. He might have been prevented from taking part in fishing activities. What was recognised by this Court was only group fishing right. The persons who came forward to take part in the fishing activities are in two groups; group A and group B. The turn of group A was to commence on 01.09.2023 and end on 30.11.2023 and the turn of group B was to commence on 01.12.2023 and end on 29.02.2024. Group B comprises 36 members. The petitioner and six others were alone prevented from taking part in the fishing activities. Group B as such was not restrained from taking part in the fishing activities. The remaining members could have very well taken part. Therefore, the hardship experienced by the petitioner and others cannot result in extension of the



share fishing period of the group. From 01.03.2024, group A is entitled to take charge of the tank in question. The Deputy Director of Fisheries is directed to dispose of the revision on merits and in accordance with law within a period of ten weeks from the date of receipt of a copy of this order. The petitioner is given liberty to proceed against the society for appropriate compensation.

9. With this liberty to the petitioner and others to move this Court again for relief, this writ petition stands dismissed. No costs.

01.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
PMU

To:

1. The Assistant Director of Fisheries,
O/o.Assistant Director of Fisheries,
Petchiyamman Padithurai, Madurai – 625 002.
2. The Special Officer,
O/o.Assistant Director of Fisheries,
A2407, Madurai Taluk,
Fisherman Cooperative Society(South),
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G.R.SWAMINATHAN,J.

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