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**(2014) 12 MAD CK 0340**  
**In the Madras High Court**  
**Case No : Writ Petition No. 12235 of 1995**

M. Ganesan

APPELLANT

Vs

The Govt. of Tamil Nadu

RESPONDENT

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**Date of Decision :** 10-12-2014

**Acts Referred:**

**Citation :** (2015) 4 LW 27

**Hon'ble Judges :** Sanjay Kishan Kaul, C.J;M. Sathyanarayanan, J

**Bench :** Division Bench

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## Judgement

Sanjay Kishan Kaul, C.J.—The writ petition has been filed by the petitioner, stated to be in public interest, against the activities carried on by respondents 5 to 8 in the form of Prawn culture, which is alleged to be causing systematic destruction of prime agriculture wet lands. The petitioner claims to be the President of Nagai District Fisherpeople's Forum and concerned with the environmental issues.

2. There is alleged to be a large scale increase qua such aquaculture and in Writ Petition No. 561 of 1994, the Hon'ble Supreme Court, by an order dated 27.03.1995, is stated to have appointed a 13 Member Scientific Committee to inspect the coastal areas of Tamil Nadu and submit a report. On the basis of the report of the Committee, directions were issued on 09.05.1995 that no part of agricultural lands and salt farms be converted to aquaculture farms and there should not be any ground water withdrawal for aquaculture purposes. Certain other orders were issued, but it is alleged that despite interim orders, aqua farms continued in the coastal areas of Nagapattinam.

3. In order to regulate the industry of aqua farming, the State Legislature enacted Tamil Nadu Aquaculture (Regulation) Act, 1995 (hereinafter referred to as "the Aquaculture Act"). Section 3 mandates obtaining licence from the Director of Fisheries for establishing a Aquaculture unit and where the unit was already in existence prior to the commencement of Aquaculture Act, it was mandatory to obtain licence within three months from the date of the Act, i.e.,

10.04.1995. District Committees for the said purpose were also set up. Despite the provisions of the Aqua Culture Act, it is alleged that respondents 5 to 8 are setting up Prawn Farms having ecological impacts in the area.

4. In the grounds of challenge, it is alleged that there is violation of provisions of the Aqua Culture Act and that the setting up of the Prawn Farms would be a threat to the local eco system. There is stated to be no permission obtained by the three aqua farms. The prayer made is to direct the respondents authorities not to permit aquaculture in the villages in Sirgazhi Taluk and specific directions are also sought against respondents 5 to 8.

5. Learned counsel for the petitioner submits that the Aquaculture Act was examined by the Hon"ble Supreme Court in S. Jagannath Vs. Union of India and others, . The Shrimp Culture activity was found neither directly relatable to water front nor needing foreshore facilities and it was held that in ecological fragile coastal areas, it has an adverse impact on environment and thus, could not be permitted to operate. A High Power Authority was directed to be constituted for granting permission for installation of shrimp industry. Thus, in so far as the present petition is concerned, it pre-dates the aforesaid decision of the Hon"ble Supreme Court.

6. Learned counsel for private respondents 5 to 7 states that the 5th and 7th respondents have already closed their activity. In so far as the 6th respondent is concerned, it is stated to have obtained permission to continue the activity, which is valid upto June, 2015.

7. It is also pointed out to us that there have been subsequent development in view of the legislation by the Government of India being the Coastal Aquaculture Authority Act, 2005, which was published in the Gazette on 23.06.2005. It came into force on 16.12.2005. Section 13 of the said Act provides for registration for coastal aquaculture and we would reproduce the relevant portion as under:

"13.(1) Save as otherwise provided in this section, no person shall carry on, or cause to be carried on, coastal aquaculture in coastal area or traditional coastal aquaculture in the traditional coastal aquaculture farm which lies within the Coastal Regulation Zone referred to in sub-section (9) and is not used for coastal aquaculture purposes on the appointed day unless he has registered his farm with the Authority under sub-section (5) or in pursuance of sub-section (9), as the case may be.

(2) Notwithstanding anything contained in sub-section (1), a person engaged in coastal aquaculture, immediately before the appointed day, may continue to carry on such activity without such registration for a period of three months from that day and if he makes an application for such registration under sub-section (4) within the said period of three months till the communication to him of the disposing of such application by the Authority."

8. In exercise of power conferred by Section 24 of that Act, Coastal Aquaculture

Authority Rules, 2005 were framed and Rule 10 provides for the manner of considering application for registration. In terms of Rule 12 (3), the application for renewal of registration is to be made to the District Level Committee, which, upon examination, is to forward it to the Authority through the State Level Committee. It is, under these provisions, that the 6th respondent has obtained the certificate.

9. Learned counsel for the petitioner submits by referring to the judgment of the Hon'ble Supreme Court in *In Re: Bhavani River - Sakthi Sugars Ltd.*, that in matters of environment through public interest litigation, mere grant of permission would not suffice and this Court should examine the environmental impact.

10. We did endeavour to persuade the learned counsel for the petitioner that since much water has flown since the filing of the petition, it may be more appropriate to withdraw the petition and file a fresh petition in the current scenario. This, however, did not appeal to the counsel.

11. We are of the view that the gravamen of the challenge laid in the petition, where a writ of mandamus has been sought against private respondents, is firstly based on an Act, which, as per the own admission of the learned counsel for the petitioner, stands nullified, in view of the judgment in *S.Jagannath's* case, *supra*. This is so as the Parliament had enacted the Environment Protection Act, 1986, under which CRZ notification had been issued, which would have overriding effect and prevail over the law made by the Legislature of the States. This gravamen has, thus, disappeared. Not only that there has been subsequent legislation in the form of the Coastal Aquaculture Authority Act, 2005 and no part of that Act naturally is under challenge before us, as the petition was filed a decade before the Act came into being. Two of the private parties have already closed the business, while the third one obtained permission under the said Act. There is no challenge to that permission, as it has been issued only in the year 2010 and the petitioner claims that it came to his notice only when it has been filed in Court.

12. We are, thus, of the view that the petition has worked itself out by the passage of time, in view of the various subsequent development which we have enumerated aforesaid and nothing really survives to be decided in the conspectus of the facts set out, grounds urged and the relief sought in the present petition. If the petitioner has any other grievance arising from those subsequent events, that would be an aspect of fresh cause of action.

13. We, thus, dispose of the writ petition, as having become infructuous. No costs.