

(2006) 08 MAD CK 0194

In the Madras High Court

Case No : Writ Appeal No. 673 of 2005 and WAMP No. 1345 of 2005

Malayankulam Panchayat

APPELLANT

Vs

T. Vivekanandan and Others

RESPONDENT

Date of Decision : 21-08-2006

Acts Referred:

Tamil Nadu Panchayats (Lease and Licensing of Fishery Rights in Water Sources Vested and Regulated by Village Panchayats and Panchayat Union Councils) Rules, 1999 — Rule 11

Citation : (2006) 08 MAD CK 0194

Hon'ble Judges : S. Manikumar, J; P. Sathasivam, J

Bench : Division Bench

Advocate : R. Subramanian, SC for Hemalatha, for the Appellant; D. Geetha, Addl. Govt. Pleader for Respondents 3 to 6, for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—Considering the limited relief prayed for in the writ petition, the writ appeal itself is taken up for disposal.

2. Respondents 1 and 2 herein filed W.P. No. 18185 of 2002 seeking to quash the order of the District Collector, Kancheepuram District in No. 568/2002 (Velanmai) dated 15.04.2002 and forbear the respondents therein from in any way interfering with their rights in harvesting the fish for the lease period of 10 years from 23.05.2001.

3. The learned single Judge, by order dated 29.08.2003, after taking note of the order dated 23.05.2001 granting fish right for a period of 10 years in the Tank in question, has allowed the writ petition and quashed the order impugned.

4. The appellant Malayankulam Panchayat was not a party before the learned single Judge. After getting leave, they filed a present writ appeal. Though notice was ordered to contesting respondents 1 and 2 and duly served, no one represents them.

5. Heard the learned Counsel appearing for the appellant as well as the learned Additional Government Pleader for Respondents 3 to 6.

6. Mr. R. Subramanian, learned Counsel appearing for the appellant/panchayat, by drawing our attention to Rule 11 of Tamil Nadu Panchayats (Lease and Licensing of Fishery Rights in Water Sources Vested and Regulated by Village Panchayats and Panchayat Union Councils) Rules, 1999, has contended that the grant of lease for a period of 10 years as granted in the proceedings dated 23.05.2001 cannot be sustained. He has also contended that the respondents 4 to 6 failed to adhere to the above mentioned Rule 11. We verified the proceedings of the District Collector, Kancheepuram as well as the Assistant Director of Fisheries, Ponnery, Thiruvallur District, which show that the lease was granted in favour of respondents 1 and 2 herein for a period of 10 years harvesting fish in the tank in question. Rule 11 of the said Act reads as under:

11. Lease of fishery rights:- The lease of fishery rights in the water sources vested in the village panchayats or the panchayat union council shall be given after conducting public auction by the respective village panchayats or panchayat union council, as the case may be. Such lease (emphasis supplied) shall be for a period of five years. Lease amount shall be raised every year at the rate of 10 per cent over the lease amount of the previous year.

7. The above Rule makes it clear that lease of fishery right in the water sources vested in the village panchayats shall be given by way of public auction by the village Panchayat or Panchayat Union Council. It further shows that it shall be for a period of five years and lease amount shall be raised every year at the rate of 10% over the lease amount of the previous year.

8. As rightly pointed out by the learned Counsel appearing for the appellant, the proceedings dated 23.05.2001 is contrary to Rule 11 referred to above. This aspect was not considered by the learned single Judge. Accordingly, the order dated 15.04.2002 made in No. 568/2002(Velanmai) of the District Collector, Kancheepuram is quashed. The official respondents viz., respondents 3 to 6 are directed to proceed further by complying with Rule 11 of the Rules mentioned above. The writ appeal is allowed to this extent. No costs. WAMP No. 1345 of 2005 is closed.