

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

**Writ Petition Nos.13865, 14118, 14304, 14532, 16601,
16818, 17382 & 17808 of 2020**

W.P.No.13865/2020

Between:

- #1. Kaluvoy Fishermen Cooperative Society, rep. by its president Vajrala Srinivasulu, S/o.V. Sessaiah, Kaluvoy Village Mandal, SPSR Nellore District.
2. Dachuru Fishermen Cooperative society Rep. by its president K. Chenchiah S/o. Chenchu Ramaih, having its office at Dachuru village, Kaluvoy Mandal, SPSR Nellore District.

... Petitioners

AND

- \$ 1. The State of Andhra Pradesh rep. by its Principal Secretary to Animal Husbandry, Dairy Development and Fisheries Department, Velgapudi, Guntur District.
2. The State of Andhra Pradesh rep. by its Special Chief Secretary to Government (FAC) Animal Husbandry, Dairy Development and Fisheries Department, Velgapudi, Guntur District.
3. The Commissioner of Fisheries, Vijayawada, Krishna District.
4. The District Collector, Nellore, SPSR Nellore District.
5. The Joint Director of Fisheries, Nellore, SPSR Nellore District.

... **RESPONDENTS**

Date of Judgment pronounced on : 23-02-2021

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

1. Whether Reporters of Local newspapers May be allowed to see the judgments? : Yes/No
2. Whether the copies of judgment may be marked to Law Reporters/Journals: : Yes/No
3. Whether the Lordship wishes to see the fair copy Of the Judgment? : Yes/No

***IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI**

*** HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**

**+Writ Petition Nos.13865, 14118, 14304, 14532, 16601,
16818, 17382 & 17808 of 2020**

% Dated:23-02-2021

W.P.No.13865/2020

Between:

- #1. Kaluvoy Fishermen Cooperative Society, rep. by its president Vajrala Srinivasulu, S/o.V. Seshaiah, Kaluvoy Village Mandal, SPSR Nellore District.
2. Dachuru Fishermen Cooperative society Rep. by its president K. Chenchiah S/o. Chenchu Ramaih, having its office at Dachuru village, Kaluvoy Mandal, SPSR Nellore District.

... Petitioners

AND

- \$ 1. The State of Andhra Pradesh rep. by its Principal Secretary to Animal Husbandry, Dairy Development and Fisheries Department, Velgapudi, Guntur
2. The State of Andhra Pradesh rep. by its Special Chief Secretary to Government (FAC) Animal Husbandry, Dairy Development and Fisheries Department, Velgapudi, Guntur
3. The Commissioner of Fisheries, Vijayawada, Krishna District.
4. The District Collector, Nellore, SPSR Nellore District.
5. The Joint Director of Fisheries, Nellore, SPSR Nellore District.

... Respondents

W.P.No.14118/2020

Between:

- #1. Somasila Inland Fishermen Cooperative Society Ltd Regd.No.F 74 Rep by its President India Polaiah S/o India Subbaiah Aged about 51 years R/o Hill Colony Somasila Village Ananthasagaram Mandal S P S R Nellore District
2. Soamavarappadu Fishermen Cooperative Society Regd.No.F 42 Rep by its President Penumalli Ramesh S/o Ramakrishna R/o Somavarappadu Village Beside Cheruvukatta Pakkana Jaladanki Mandal S P S R Nellore District.
3. Yanadi Fishermen Cooperative Society Regd No F 92 Koakolluvaripalli Village Varikuntapadu Mandal Rep by its President Alluri Polaiah S/o A Kondaiah Aged about 55 years R/o Thurpurompidodla Thurpurompidodla Mandal S P S R Nellore District
4. Gandipalem Fishermen Cooperative Society Regd No F 88 Rep by its President Mirapalli Guravaiah S/o Guravaiah Aged about 31 years R/o 2111 Venugopala Rao Nagar Gandipalem Village Gandipalem Mandal S P S R Nellore District.
5. Kavali Fishermen Cooperative Society Ltd SC Regd No F 28 Rep by its President Yellanti Venkateswarlu S/o Yenadaiah R/o 1129 Adi Andhra Street Kavali Kavali Mandal S P S R Nellore District
6. Chinakraka Fishermen Cooperative Society Regd No F 25 Rep by its President Nilam Hajarathaiah S/o Kondaiah Aged about 57 years R/o Annavaram Village Jaladangi Mandal SPSR Nellore District
7. Kandanuthala Fishermen Cooperative Society Regd No F 68 Rep by its President Anchipakaia Suryanarayana S/o Kotaiah Aged about 44 years R/o Kandanuthala Village Bogavolu Mandal S P S R Nellore District

... Petitioners

AND

- \$ 1. The Government of Andhra Pradesh rep. by its Principal Secretary to Animal Husbandry, Diary Development and Fisheries Department, Velgapudi, Guntur District.
2. The Commissioner of Fisheries, Vijayawada, Krishna District.
3. The District Collector, Nellore, SPSR Nellore District.
4. The Joint Director of Fisheries, Ex-officio Additional Registrar of Cooperative Societies Nellore, SPSR Nellore District.

... Respondents

W.P.No.14304/2020

Between:

- #1. Fishermen Cooperative Society Koduru PatapalemV Rep By its President Sri Kanji Sriramulu S/o Anjaiah Aged about 64 years Koduru Patapalem Village TP Gudur Mandal SPSR Nellore Dist
2. Fishermen Cooperative Society Vidavaluru Rep By Its President Sri Purini Narisimham S/o Peda Narasimham Age 74 years Resident of Vidavaluru village Vidavaluru Mandal SPSR Nellore Dist
3. Fishermen Cooperative Society Thummalapenta Rep by its President Sri Vayala Saibabu S/o Shankariah Age 28 years Resident of Thummalapenta Peddapattapalem V Kavali Mandal

... Petitioners

AND

- \$ 1. The Government of Andhra Pradesh rep. by its Principal Secretary to Animal Husbandry, Diary Development and Fisheries Department, Velgapudi, Guntur District.
2. The Commissioner of Fisheries, Pranki, Vijayawada, Krishna District.
3. The Joint Director of Fisheries, Nellore, SPSR Nellore District.
4. The Assistant Director of Fisheries, Nellore SPSR Nellore District.

... Respondents

W.P.No.14532/2020

Between:

- #1. Veerannakanupuru Fisherman Cooperative Society R No F 33 Represented by its President Kanukuru Venkata Subbaiah S/o Narasaiah Age 65 years R/o Kanupuru Village Venkatachalam Mandal SPSR Nellore District
2. K D Reservoir Fisherman Cooperative Society R No K 239 Represented by Ex President Molakala Dasaiah S/o Narasaiah Age 58 years R/o Gandhi Jana Sangam Girijana Colony Padamatipalem Post Sangam Mandal SPSR Nellore District
3. Varakavipudi Fisherman Cooperative Society R No F 1 Represented by its Ex President Amari Srinivasulu S/o Pedasubbaiah Age 65 years R/o Harijanawada Varakavipudi Village T P Gudur Mandal SPSR Nellore District
4. Ananthasagaram Fisherman Cooperative Society R No F 26 Represented by its President Shaik Mahaboob Basha S/o Sattar Sa Age 55 years R/o Guntha Bazar Ananthasagaram Post and Mandal SPSR Nellore District
5. Pedaputhedu Fisherman Cooperative Society R No F 20 Represented by its Ex President Bathala Ravindra S/o Venkata Subaiah Age 60 years R/o Pedaputtedu Village and Post Dagadarthi Mandal SPSR Nellore District
6. New Alluru Fisherman Cooperative Society R No F 84 Represented by its President Valimeti Veera Raghavul S/o Veeraswamy Age 45 years R/o Allurpet Village Allur Mandal SPSR Nellore District

... Petitioners

AND

- \$ 1. The Government of Andhra Pradesh rep. by its Principal Secretary to Animal Husbandry, Diary Development and Fisheries Department, Velgapudi, Guntur District.
2. The State of Andhra Pradesh rep. by its Special Chief Secretary to Government (FAC) Animal Husbandry, Diary Development and Fisheries Department, Velgapudi, Guntur District.
3. The Commissioner of Fisheries, Vijayawada, Krishna District.
4. The District Collector, Nellore, SPSR Nellore District.
5. The Joint Director of Fisheries, Nellore, SPSR Nellore District.

... Respondents

W.P.No.16601/2020

Between:

- #1. Somasila Inland Fishermen Cooperative Society Ltd Regd No F 74 Rep by its President India Polaiah S/o India Subbaiah Aged about 51 years R/o Hill Colony Somasila Village Ananthasagaram Mandal S P S R Nellore District
2. Soamavarappadu Fishermen Cooperative Society Regd No F 42 Rep by its President Penumalli Ramesh S/o Ramakrishna R/o Somavarappadu Village Beside Cheruvukatta Pakkana Jaladanki Mandal S P S R Nellore District
3. Yanadi Fishermen Cooperative Society Regd No F 92 Koakolluvaripalli Village Varikuntapadu Mandal Rep by its President Alluri Polaiah S/o A Kondaiah Aged about 55 years R/o. Thurpurompidodla Thurpurompidodla Mandal S P S R Nellore District
4. Gandipalem Fishermen Cooperative Society Regd No F 88 Rep by its President Mirapalli Guravaiah S/o Guravaiah Aged about 31 years R/o 2111 Venugopala Rao Nagar Gandipalem Village Gandipalem Mandal SPSR Nellore
5. Kavali Fishermen Cooperative Society Ltd SC Regd No F 25 Rep by its President Yellanti Venkateswarlu S/o Yenadaiah R/o 1129 Adi Andhra Street Kavali Kavali Mandal SPSR Nellore District 6 Chinakraka Fishermen Cooperative Society Regd No F 25
6. Chinakraka Fishermen Cooperative Society Rep by its President Nilam Hajarathaiah S/o Kondaiah Aged about 57 years R/o Annavaram Village Jaladangi Mandal S P S R Nellore District
7. Kandanutala Fishermen Cooperative Society Regd No F 68 Rep by its President Anchipakala Suryanarayana S/o Kotaiah Aged about 44 years Rio Kandanuthala Village Bogavolu Mandal SPSR Nellore District
8. Fishermen Cooperative Society Atmakuru Regd No K19 Rep by its President Atmakuru Chenchiah Aged about 58 years R/o East S C Colony Vasil Village Atmakuru Mandal Nellore District

... Petitioners

AND

- \$ 1. The Government of Andhra Pradesh rep. by its Principal Secretary to Animal Husbandry, Diary Development and Fisheries Department, Velgapudi, Guntur District.
2. The Commissioner of Fisheries, Vijayawada, Krishna District.
3. The District Collector, SPSR Nellore District.
4. The Joint Director of Fisheries, Ex-officio Additional Registrar of Cooperative Societies Nellore, SPSR Nellore District.

... Respondents

W.P.No.16818/2020

Between:

- #1. Fishermen Cooperative Society Koduru Pathapalem (V) Rep By its President Sri Kanji Sriramulu S/o Anjaiah Age 64 Koduru Patapalem Village TP Gudur Mandal SPSR
2. Fishermen Cooperative Society Thummalapenta Rep by its President Sri Vayala Saibabu S/o Shankariah Age 28 Resident of Thummalapenta PeddapattapupalemV Kavali Mandal

... Petitioners

AND

- \$ 1. The Government of Andhra Pradesh rep. by its Principal Secretary to Animal Husbandry, Dairy Development and Fisheries Department, Velgapudi, Guntur District.
2. The Commissioner of Fisheries, Poranki, Vijayawada, Krishna District.
3. The District Collector, SPSR Nellore District.
4. The Joint Director of Fisheries, Nellore, SPSR Nellore District.
5. The Assistant Director of Fisheries, Nellore SPSR Nellore District.

... Respondents

W.P.No.17808/2020

Between:

- #1. Kaluvoy Fishermen Cooperative Society, rep. by its president Vajrala Srinivasulu, S/o.V. Seshaiyah, Kaluvoy Village Mandal, SPSR Nellore District.
2. Dachuru Fishermen Cooperative society Rep. by its president K. Chenchaiyah S/o. Chenchu Ramaih, having its office at Dachuru village, Kaluvoy Mandal, SPSR Nellore District.

... Petitioners

AND

- \$ 1. The State of Andhra Pradesh rep. by its Principal Secretary to Animal Husbandry, Dairy Development and Fisheries Department, Velgapudi, Guntur District.
2. The State of Andhra Pradesh rep. by its Special Chief Secretary to Government (FAC) Animal Husbandry, Dairy Development and Fisheries Department, Velgapudi, Guntur District.
3. The Commissioner of Fisheries, Vijayawada, Krishna District.
4. The District Collector, Nellore, SPSR Nellore District.
5. The Joint Director of Fisheries, Nellore, SPSR Nellore District.

... Respondents

W.P.No.17382/2020

Between:

- #1. Veerannakanupuru Fisherman Cooperative Society R No F 33 Represented by its President Kanukuru Venkata Subbaiah S/o Narasaiah Age 65 years R/o Kanupuru Village Venkatachalam Mandal SPSR Nellore District
2. N D Reservoir Fisherman Cooperative Society R No K 239 Represented by ExPresident Molakala Dasaiah S/o Narasaiah Age 58 years R/o Gandhi Jana Sangam Girijana Colony Padamatipalem Post Sangam Mandal SPSR Nellore District
3. Varakavipudi Fisherman Cooperative Society R No F 1 Represented by its ExPresident Amari Srinivasulu S/o Pedasubbaiah Age 65 years R/o Harijanawada Varakavipudi Village T P Gudur Mandal SPSR Nellore District
4. Ananthasagaram Fisherman Cooperative Society R No F 26 Represented by its President Shaik Mahaboob Basha S/o Sattar Sa Age 55 years R/o Guntha Bazar Ananthasagaram Post and Mandal SPSR Nellore District

5. Pedaputhedu Fisherman Cooperative Society R No F 20 Represented by its Ex President Bathala Ravindra S/o Venkata Subaiah Age 60 years R/o Pedaputtedu Village and Post Dagadarthi Mandal SPSR Nellore District
6. New Alluru Fisherman Cooperative Society R No F 84 Represented by its President Valimeti Veera Raghavul S/o Veeraswamy Age 45 years R/o Allurpet Village Allur Mandal SPSR Nellore District
7. Thurimerla Girijana Fisherman Cooperative Society R No F 17 rep by President Thiriveedhi Akkulaiah S/o Chenchuramaiah Age 60 years R/o Turimerla Village and Post Dagadarthi Mandal SPSR Nellore District

... Petitioners

AND

- \$ 1. The Government of Andhra Pradesh rep. by its Principal Secretary to Animal Husbandry, Diary Development and Fisheries Department, Velgapudi, Guntur District.
2. The State of Andhra Pradesh rep. by its Special Chief Secretary to Government (FAC) Animal Husbandry, Diary Development and Fisheries Department, Velgapudi, Guntur District.
3. The Commissioner of Fisheries, Vijayawada, Krishna District.
4. The District Collector, Nellore, SPSR Nellore District.
5. The Joint Director of Fisheries, Nellore, SPSR Nellore District.

... Respondents

! Counsel for petitioners : Smt. M. Vidyavathi
Sri G. Vijaya Babu
Sri G. Siva Prasada Reddy

^Counsel for Respondents : Additional Advocate General

<GIST :

>HEAD NOTE:

? Cases referred:

1. (2012) 10 SCC 1

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**Writ Petition Nos.13865, 14118, 14304, 14532, 16601,
16818, 17382 & 17808 of 2020****COMMON ORDER:**

Heard Smt. M. Vidyavathi, Sri G. Vijaya Babu and Sri V. Sivaprasada Reddy for the petitioners and learned Additional Advocate General for the respondents.

2. As the issues raised in all the writ petitions are one and the same, all the writ petitions are being disposed of by this common order.

3. Prior to 1987, fishing rights in all tanks and water sources were being disposed of in the following order of precedence: 1) Cooperative societies of fishermen or harijans engaged in fishing on the basis of average five years rental or departmental development proceeds as the case may be; 2) Panchayat boards or local bodies; and 3) Private individuals on the basis of bids at public auctions. The Government after examining the existing policy of allotment of fishing rights and after taking into account the views of the fishermen organisations and associations as well as the representatives of the public, had issued G.O.Ms.No.776 dated 31.12.1990, setting out the procedure for allotment of fishing rights in various tanks and water bodies. The water bodies, for the purposes of grant of fishing rights were categorised as Water bodies vested with Gram Panchayats, Major reservoirs, medium and minor reservoirs and lakes, river courses, canals and swamps. The fishing rights in Major reservoirs, was to be by

way of leases granted under auction basis. In all other water bodies, fishing rights were to be given to Fishermen societies on a preferential basis. In the absence of such fishermen societies or refusal of such societies, fishing rights were to be offered to the Gram Panchayat/municipality failing which fishing rights were to be auctioned. The Government stipulated that the lease period would be for a period of three years with an option of extension of two more years, if the lessee was a fishermen cooperative society.

4. It may also be noted that G.O.Ms.No.343, Panchayat Raj Department, dated 10.04.1998 also provided for the method in which the fishing rights in the tanks controlled by the Gram Panchayats, were to be given out. The Government had also issued G.O.Rt.No.282, dated 26.11.2019 granting leasehold rights for the period 2019 to 2022 to various fishermen societies.

5. While the matters stood thus, the Government issued Memo No.1085942/FISH/A3/2020, dated 21.07.2020. In this Memo it was stated that the Government had accorded permission to the Commissioner of Fisheries Andhra Pradesh to take up a pilot project, in SPSR Nellore District, by conducting public/open auction in selected public water bodies instead of entrusting fishing rights to the fishermen cooperative societies. This new system is said to have been initiated for development of fishery wealth at optimum level and realisation of more revenue to the Government in SPSR Nellore District. A list of 27 water bodies where such auction is to take place was attached to the Memo. The said Memo has been challenged in W.P.Nos.13865 of 2020,

14118 of 2020, 14304 of 2020 and 14532 of 2020. This Court by way of interim orders had granted interim suspension of the said Memo.

6. At that stage, the Government again issued G.O.Rt.No.144, dated 08.09.2020 according permission to the Commissioner of Fisheries, Andhra Pradesh, Vijayawada to take up a pilot project in selected public water bodies by conducting open auction instead of entrustment to the fishermen cooperative societies for development of fishery wealth at optimum level and realisation of more revenue to the Government in SPSR Nellore District. This G.O., was effectively a repetition of Memo dated 21.07.2020 and was to apply to 27 tanks in Nellore District.

7. Some of the fishermen societies, which are operating in Nellore District, have approached this Court by way of the W.P.Nos.16601 of 2020, 16818 of 2020, 17382 of 2020 and 17808 of 2020 challenging G.O.Rt.No.144, dated 08.09.2020.

8. Smt. M. Vidyavathi, learned counsel appearing for some of the petitioners would submit that, as there is no legislation covering the field, G.O.Ms.No.776, dated 31.12.1990 had been issued in exercise of the executive powers of the State under Article 162 of the Constitution of India. She would submit that both Memo No.1085942/FISH/A3/2020, dated 21.07.2020 and G.O.Rt.No.144, dated 08.09.2020 are violative of G.O.Ms.No.776 and as such would have to be struck down. She would submit that G.O.Ms.No.776 has not been repealed or superseded and as such Memo No.1085942/FISH/A3/2020, dated 21.07.2020 and G.O.Rt.No.144

dated 08.09.2020 would have to be set aside as the proposed public auction is at variance with the system of awarding fishing rights to the fishermen cooperative societies by way of nomination and without public auction.

9. She would submit that the purpose of issuing G.O.Ms.No.776 dated 31.12.1990 was to ensure that the fishermen in the state, who belong to weaker sections of the society, are protected from the vagaries of public auction and to ensure that the fishermen who are members of these societies, are assured of a livelihood. In such circumstances, the Government cannot evolve a new policy of public auction which would effectively destroy the livelihood of the members of these societies.

10. Sri G. Vijaya Babu, learned counsel appearing for some of the petitioners would submit that Section 56(1) (b) of the Panchayat Raj Act empowers the Gram Panchayats to grant fishing rights and such right cannot be taken over by the Government under the guise of a policy initiated under Memo No.1085942/FISH/A3/2020, dated 21.07.2020 and G.O.Rt.No.144 dated 08.09.2020.

11. The learned Additional Advocate General appearing for the respondents would place reliance on the audited statements of account of various fishermen cooperative societies filed along with the Counter affidavit. These audited statements show that the fishermen societies are all running in losses though fishing rights were being given on highly concessional basis to these societies. He submits that these accounts would go to show that none of the benefits were

reaching the members of the society. He would submit that under the guise of representing the fishermen of the area, some members were cornering all the benefits and showing losses in these societies because of which no benefit reached any of the members of the fishermen cooperative society. He would submit that the claim of the petitioners that taking away fishing rights from these societies would cause losses to the members of the society is incorrect.

12. The learned Additional Advocate General brought the attention of this Court to the judgment of the Hon'ble Supreme Court in, **Natural Resources Allocation, In Re, Special Reference No.1 of 2012**¹, to contend that Marine Wealth in the irrigation tanks and other tanks belong to the state and the distribution of such wealth or exploitation of such wealth has to be done in a transparent manner and the optimal method of such exploitation would be to conduct auctions for such fishing rights. He would submit that keeping these two issues in mind the Government by way of a pilot project is seeking to undertake public auction for 27 selected tanks in Nellore District alone. He submits that none of these tanks are vested with the Gram Panchayats and as such auction of fishing rights in these tanks would not be contrary to Section 56 (1) (b) of the Panchayat Raj Act.

13. The learned Additional Advocate General would also submit that G.O.Ms.No.776 only provides for first preference being given to the fishermen cooperative societies while granting leases of fishing rights. He would submit that the grant of lease under the

¹ (2012) 10 SCC 1

provisions of the G.O., are on the basis of fixation of rent while the new system proposed is to grant fishing rights by way of public auction and as such there is no violation of G.O.Ms.No.776 dated 31.12.1990.

14. Sri V. Sivaprasad Reddy, learned counsel appearing for some of the petitioners submits that the contention of the learned Additional Advocate General on the question of auction is not correct as G.O.Ms.No.776 provides for both nomination of fishing rights as well as public auction of such fishing rights by prescribing procedure for both systems and as such the insistence of grant of fishing rights only by way of public auction is violative of the spirit and letter of G.O.Ms.No.776.

CONSIDERATION OF THE COURT:

15. G.O.Ms.No.776 dated 31.12.1990 essentially provides for grant of fishing rights to fishermen cooperative societies at highly subsidised rates and without any public auction being conducted. G.O.Ms.No.282 dated 26.11.2019 would further fortify the contention of the petitioners that the system put in place under G.O.Ms.No.776 only permits grant of fishing rights to fishermen cooperative societies and only in the absence of such societies, fishing rights can be given to any other person. Memo No.1085942/FISH/A3/2020, dated 21.07.2020 and G.O.Rt.No.144 dated 08.09.2020 are a departure from the above system and seek to grant fishing rights by way of a public auction to any person who is the highest bidder, albeit, to a limited area, namely SPSR Nellore District. It would have to be held that Memo No.1085942/FISH/A3/2020, dated 21.07.2020 and G.O.Rt.No.144

dated 08.09.2020 are at variance with G.O.Ms.No.776 and effectively modify the policy and procedure set out in G.O.Ms.No.776.

16. As it is the admitted case on both sides that there is no legislation covering this issue, G.O.Ms.No.776 has to be deemed to have been issued by the State, exercising its executive power under Article 162 of the Constitution of India. The decision of the Government is normally issued as G.O.Ms., (Government Order Manuscript) or G.O.Rt., (Government Order Routine). These G.Os., are issued in the name of the Governor as all executive action of the Government, under Article 266 of the Constitution, has to be done in the name of the Governor. A memo is a communication of the Government either calling for information or conveying information but would not amount to a decision of the Government and is signed by the communicating authority. In the hierarchy of such executive legislation, a Memo of the Government cannot supersede or depart from the provisions of any earlier Government Order. In these circumstances, Memo No.1085942/FISH/A3/2020, dated 21.07.2020 will have to give way and has to be set aside.

17. G.O.Rt.No.144 would also have to be treated as issued under Article 162 of the Constitution of India. While issuing this G.O., the Government has not superseded G.O.Ms. No.776. G.O.Rt.No.144 operates only in the District of Nellore while the operation of G.O.Ms.No.776 is over the entire state, as such, G.O.Rt.No.144 would have to be treated as a modification of G.O.Ms.No.776. It is always open to the Government to modify or replace an existing Government order. It could be by way of specific explicit modification or

supersession or by way of an implied modification or supersession. In the present case G.O.Rt.No.144 makes a deliberate departure from the earlier policy set out in G.O.Ms.No.776 and would have to be treated as an implicit modification of G.O.Ms.No.776 as far as SPSR Nellore District is concerned. It would be within the power of the Government to modify G.O.Ms.No.776 by issue of G.O.Rt.No.144.

18. As far as change of policy is concerned, G.O.Rt.No.144 is said to have been issued as the Government was unhappy with the result of the earlier system of grant of fishing rights and wanted to try out a new system as a pilot project. The justification being given for attempting a new experiment is the stand of the Government that the earlier system was not benefitting the target group of fishermen and the natural resources of the State were being exploited in a non transparent manner and to the detriment of the State. Though this contention has been vehemently denied by the learned Counsel for the Petitioners, it cannot be said that the Government cannot evolve new policy. It would be trite to say that in such matters the Government has to be given a play in the joints and the courts cannot impose a strait jacket on the policy making power of the Government. No violation of any provision of law has been shown to justify any interference from this court.

19. In the circumstances, W.P.Nos.13865 of 2020, 14118 of 2020, 14304 of 2020 and 14532 of 2020 are allowed setting aside Memo No.1085942/FISH/A3/2020, dated 21.07.2020. However, W.P.Nos.16601 of 2020, 16818 of 2020, 17382 of 2020 and 17808 of

2020 challenging G.O.Rt.No.144, dated 08.09.2020 are dismissed.

There shall be no order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

R. RAGHUNANDAN RAO, J.

23rd February, 2021

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Js.

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

Writ Petition Nos.13865, 14118, 14304, 14532, 16601,
16818 & 17382,17808 of 2020

23rd February, 2021

Js.