

GAHC010019232023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/603/2023

ANIL DAS
S/O DULESWAR DAS R/O VILL. SANATAN GAON P.O. AND P.S. NORTH
LAKHIMPUR DIST. LAKHIMPUR ASSAM PIN 787001

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FISHERY DEPTT. DISPUR GUWAHATI 6

2:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD. CACHAL VIP
ROAD GUWAHATI 36

3:THE DIRECTOR OF FISHERY
ASSAM
MEEN BHAWAN NORTH LAKHIMPUR

4:THE DEPUTY COMMISSIONER
LAKHIMPUR
NORTH LAKHIMPUR

5:THE CIRCLE OFFICER
GHILAMARA REVENUE CIRCLE LAKHIMPU

Advocate for the Petitioner : MR. N BORAH

Advocate for the Respondent : SC, AFDC

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 06-02-2023

Heard Mr. N. Borah, learned counsel for the petitioner; Mr. B. Deuri, Junior Government Advocate, Assam for the respondent no. 1, 3, 4 & 5; and Mr. P. Sarma, learned Standing Counsel, Assam Fisheries Development Corporation [AFDC] for the respondent no. 2.

2. In view of the nature of grievance expressed in this writ petition instituted under Article 226 of the Constitution of India and having heard the learned counsel for the parties, the writ petition is taken up for disposal at the motion stage itself, as agreed to the learned counsel for the parties.

3. Responding to a Tender Notice dated 22.05.2022 published by the respondent no. 2 for settlement of a number of fisheries including Bolahi Sampara Meen Mahal, District – Lakhimpur [‘the Fishery’, for short], the petitioner submitted his bid for settlement of the Fishery in his favour and had emerged as the successful bidder. By an order of settlement dated 20.09.2022, the Fishery came to be settled in favour of the petitioner for a period of 7 [seven] years from 2022 to 2029. An agreement was thereafter, entered into by the petitioner with the respondent no. 2. As per the order of settlement, the period of settlement of the Fishery in favour of the petitioner is upto 31.03.2029.

4. It is the case of the petitioner that after the order of settlement, the petitioner was not able to take over possession of the entire areas of the Fishery and in that connection, he had submitted a representation before the respondent no. 2 on 27.09.2022. According to the petitioner, some parts of the Fishery were then under encroachment. Having regard to the difficulties expressed by the petitioner, the respondent no. 2 wrote to the jurisdictional Circle Officer i.e. the Circle Officer, Ghilamora Revenue Circle [the respondent no. 5] vide Letter dated 20.10.2022 to take necessary steps from his end to free the areas of the Fishery allegedly under illegal encroachment and to demarcate the areas of the Fishery. The

respondent no. 5 was also requested to handover the possession of the areas of the Fishery to the petitioner and to submit a compliance report to that effect. Pursuant thereto, the respondent no. 5 had handed over the possession of the Fishery by order dated 21.10.2022 to the petitioner, which the petitioner had duly acknowledged. It is the case of the petitioner that though the final order of settlement was issued on 20.09.2022, he was handed over possession on the areas of the Fishery on 21.10.2022 which were not under encroachment and the other parts of the Fishery, which were earlier under encroachment, were handed over to him on 21.10.2022. The encroached part of the areas of the Fishery was handed over to him only in the last part of November, 2022. Highlighting the above facts, the petitioner had submitted an another Representation before the respondent no. 2 on 01.12.2022 seeking waiver of the installment amount payable in respect of the Fishery for the months of October, 2022 and November, 2022. Aggrieved by non-consideration of the Representation dated 01.12.2022, the petitioner has approached this Court by this writ petition seeking a direction to the respondent authorities, more particularly, the respondent no. 2 to waive the installment amounts for the months of October, 2022 and November, 2022.

5. Mr. Sarma, learned Standing Counsel, AFDC for the respondent no. 2 has submitted that as the Representation of the petitioner dated 01.12.2022 is yet to be considered and disposed of, the writ petition is premature and the same may be disposed of with a direction to the respondent no. 2 to consider the Representation after causing necessary enquiry. He has submitted that option should be available to the respondent no. 2 to cause necessary enquiry as regards handing over the possession of the Fishery to the petitioner by calling for reports, wherever found necessary, from the concerned authorities through field verification, etc., and after giving a personal hearing to the petitioner.

6. Mr. Borah, learned counsel for the petitioner has agreed to the said submissions of the learned Standing Counsel, AFDC.

7. In view of the broad consensus arrived at by the learned counsel for the parties in the afore-stated manner, this Court is of the view that instead of keeping this writ petition pending, the same can be disposed of with a direction to the respondent no. 2 to take the

Representation dated 01.12.2022, submitted by the petitioner, on board and dispose of the same by passing a speaking order, after causing necessary enquiry as regards the date of handing over of the entire areas of the Fishery in question to the petitioner, by calling for reports from the concerned authorities, wherever found necessary, and after giving a personal hearing to the petitioner. It is accordingly ordered. It is observed that the respondent no. 2 will consider the Representation and pass the speaking order thereafter, as expeditiously as possible, preferably within a period of 2 [two] months from the date of receipt of a certified copy of this order along with a copy of the writ petition from the petitioner at office of the respondent no. 2. The speaking order to be passed, is to be communicated to the petitioner forthwith thereafter. It is made clear that this has not made any observation as regards the merits of the claim of the petitioner. No cost.

JUDGE

Comparing Assistant