

GAHC010181952023



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

Case No. : WP(C)/4756/2023

ABDUL JALIL
S/O- NASIB ALI, R/O- KANGTAR, P.O. JADHUTILLA, DIST.- KARIMGANJ,
ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, DEPARTMENT OF FISHERY, DISPUR, GUWAHATI-6

2:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
V.I.P. ROAD
CHACHAL
GUWAHATI- 36

3:THE ASSISTANT EXECUTIVE ENGINEER
AFDC LTD.
BVR
VIP ROAD
RANGPUR
SILCHAR-9

4:THE ASSISTANT PROJECT MANAGER
KANGTAR BEEL
KARIMGANJ
PIN- 788710

5:THE DEPUTY COMMISSIONER
KARIMGANJ
P.O. AND DIST.- KARIMGANJ
ASSAM

PIN- 788710

6:THE OFFICER-IN-CHARGE
KARIMGANJ POLICE STATION
KARIMGANJ
PIN- 78871

Advocate for the Petitioner : MRS S B CHOUDHURY

Advocate for the Respondent : SC, AFDC

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

25.08.2023

Heard Ms. S.B. Choudhury, learned counsel for the petitioner; Mr. G. Bakalial, learned Junior Government Advocate, Assam for the respondent nos. 1, 5 & 6; and Mr. P. Sarmah, learned Standing Counsel, AFDCL for the respondent nos. 2 – 4.

2. The petitioner has stated that he belongs to the Maimal Community of Karimganj district, with 'fishing' as his profession. The fishery named 'Kangtar Beel Fishery' ['the Fishery', for short] was settled in favour of the petitioner for a period of 7 [seven] years in the year 2013, vide an Order of Settlement dated 28.10.2013, by the respondent Assam Fishery Development Corporation Limited [AFDCL] at an annual revenue of Rs. 30,500/- per year. When 7 [seven] years period of settlement expired on 31.03.2020, the petitioner made a prayer for extension of settlement of the Fishery. Upon consideration of the case of the petitioner for extension, the period of settlement of the Fishery was extended for a further period of 3 [three] years up-to 31.03.2023 by an Order dated 12.10.2020 at an annual revenue of Rs. 37,125/-.

3. It is projected that during the extended tenure of settlement, some persons instituted a title suit being Title Suit no. 30/2021, against running of the Fishery by the petitioner. The

learned Court of Munsiff no. 1, Karimganj passed an order of temporary injunction in Title Suit no. 30/2021 and as a result, the petitioner faced a number of difficulties in running the Fishery resulting in huge loss revenue. When the respondent AFDCL published a Tender Notice on 14.01.2022, the petitioner approached this Court by way of a writ petition, W.P.[C] no. 2222/2022. During the pendency of the writ petition, W.P.[C] no. 2222/2022 during the currency of the extended period of settlement, the respondent AFDCL issued a Corrigendum dated 05.11.2022 whereby the Tender Notice dated 14.01.2022 published for settlement of the Fishery was cancelled. Thereafter, the petitioner submitted a Representation before the Managing Director, AFDCL on 20.01.2023 with a prayer to extend the period of lease by another 3 [three] years on the ground that the petitioner had suffered financial loss during the extended period of settlement. When the Representation dated 20.01.2023 was not disposed of within a reasonable time period, the petitioner preferred a writ petition, W.P.[C] no. 1931/2023 seeking a direction to the respondent authorities in the AFDCL to consider his Representation seeking extension of lease period of the Fishery.

4. The writ petition, W.P.[C] no. 1931/2023 came up for consideration on 04.04.2023. The Court after hearing the learned counsel for the parties, dismissed the writ petition holding that since the extended period of settlement had expired, there was no violation of any legal or fundamental right of the petitioner on the date of such consideration. By holding so, the Court did not find any ground to exercise its discretion under Article 226 of the Constitution of India. The Court had, however, observed that dismissal of the writ petition would not be a bar for the respondent AFDCL authorities to take a decision on the petitioner's Representation dated 20.01.2023 for extension of the lease period of the Fishery. When another Notice Inviting Tender [NIT] dated 07.08.2023 is published by the respondent AFDCL inviting bids for the Fishery with the last date of submission of bid as 21.08.2023, the petitioner has approached this Court by the instant writ petition seeking *inter alia* setting aside and quashing of the NIT dated 07.08.2023 and to grant further extension of the lease period in his favour. The petitioner has, also in the alternative, prayed for consideration and disposal of the Representation dated 20.01.2023 in terms of the direction already made in the Order dated 04.04.2023 passed in the writ petition, W.P.[C] no. 1931/2023.

5. When the writ petition was moved on 21.08.2023, Mr. Sarmah, learned Standing Counsel, AFDCL had sought for time to obtain instructions as to whether any decision had already taken on the petitioner's Representation dated 20.01.2023 in deference to the direction made in the Order dated 04.04.2023 [supra]. Today, Mr. Sarmah has submitted, on instruction, that the representation of the petitioner is going to be considered and disposed of by passing a speaking order within a period of 7 [seven] days from today. He has further submitted that the decision to proceed with the settlement of the Fishery in terms of the NIT dated 07.08.2023 will abide by the decision to be taken in the speaking order.

7. Ms. Choudhury, learned counsel for the petitioner has agreed to the said submission of Mr. Sarmah, learned Standing Counsel, AFDCL and has submitted that direction be given to consider and dispose of the Representation of the petitioner within a stipulated time period.

8. Having regard to the issues raised in this writ petition and the broad consensus arrived at by the learned counsel for the parties in the afore-stated manner, the writ petition instead of keeping it pending, is disposed of with a direction to the respondent authorities, more particularly, the Managing Director, AFDCL to take the Representation dated 20.01.2023, submitted by the petitioner, on board and thereafter, to dispose of the same, upon due consideration, by passing a speaking order within a period of 7 [seven] days from today. It is further observed that the bidding process initiated by the NIT dated 07.08.2023 for the Fishery will abide by the decision taken by the respondent authorities in the AFDCL, as per the speaking order to be passed.

9. This order disposes of the writ petition.

JUDGE

Comparing Assistant