

GAHC010187702023



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

Case No. : WP(C)/4930/2023

ABHI DAS
SON OF BANABASI DAS, RESIDENT OF VILLAGE- LAILURI, P.S.- LAILURI,
P.O. RUPAHIHAT, DISTRICT- NAGAON, ASSAM, PIN- 782120

VERSUS

ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED AND 3 ORS
REPRESENTED BY THE CHAIRMAN, CHACHAL, VIP ROAD, GUWAHATI-
781036, ASSAM

2:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
CHACHAL
VIP ROAD
GUWAHATI
PIN- 781036
ASSAM

3:THE DEPUTY COMMISSIONER
NAGAON
ASSAM
PIN- 782001

4:THE CIRCLE OFFICER
SAMAGURI REVENUE CIRCLE
NAGAON
ASSAM
PIN- 78214

Advocate for the Petitioner : MR. M K CHOUDHURY

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 30-08-2023

Heard Mr. M.K. Choudhury, learned Senior Counsel assisted by Mr. A. Borthakur, learned counsel for the petitioner; Mr. P. Sharma, learned Standing Counsel, Assam Fisheries Development Corporation Limited [AFDCL] for the respondent nos. 1 & 2; and Ms. U. Das, learned Additional Senior Government Advocate, Assam for the respondent nos. 3 & 4.

2. Having regard to the submissions made by the learned counsel for the parties and the nature of prayer made, the writ petition is taken up for disposal at the motion stage itself, as agreed to by the learned counsel for the parties.

3. A fishery named Haribhanga Meen Mahal [‘the Fishery’ for short] is run under the aegis of Assam Fisheries Development Corporation [AFDC] Limited. Pursuant to a competitive bidding process initiated by a Notice Inviting Tender [NIT], published on 17.02.2016, the Fishery came to be settled in favour of the petitioner for a period of 7 [seven] years as he emerged as the successful bidder therein. The Fishery was settled at an amount of Rs. 35,55,551/- per year i.e. Rs. 2,48,88,857/- for the entire 7 [seven] years. The possession of the Fishery was handed over to the petitioner on 07.04.2016 and the petitioner continued to run the Fishery thereafter. During the interregnum, more particularly, during Covid-19 period, certain difficulties in operating the Fishery were faced by the petitioner. When the matter was represented before the respondent AFDC authorities, by way of representation seeking concession in

annual settlement amount, the respondent AFDC authorities passed an order on 17.09.2019 reducing the annual settlement amount for the Fishery from Rs. 35,55,551/- per year to Rs. 22,40,000/- per year effective from the Financial Year : 2018 – 2019. On 23.12.2019, similar order like the one on 17.09.2019 was passed giving concession in relation to the annual settlement amount to the petitioner. Some development works for clearance of water hyacinth and aquatic plants in the Fishery was also undertaken by the respondent AFDCL under the AFDC Beel Development Scheme, 2020 – 2021.

4. According to the petitioner, such development works had affected him in running the Fishery. On 28.12.2022, the petitioner submitted a representation before the respondent no. 2 praying for extension of the period of settlement of the Fishery by another 4 [four] years.

5. Finding that the representation dated 28.12.2022 was not receiving due consideration at the ends of the respondent AFDCL authorities, the petitioner preferred the writ petition, W.P.[C] no. 1838/2023 seeking a direction to the respondent AFDCL authorities to consider the petitioner's prayer for extension of the settlement period in respect of the Fishery. The writ petition was disposed of by an order dated 31.03.2023 with a direction to the respondent no. 2 to take a decision on the petitioner's representation for extension of the settlement period of the Fishery.

6. The petitioner has canvassed that on the expectation that the settlement period of the Fishery would be extended, he incurred substantial amount to release fish fingerlings in the Fishery, while waiting for the decision on the representation.

7. On 28.06.2023, the respondent no. 2 served the petitioner a notice stating that the petitioner had outstanding dues amounting to Rs. 58,82,941/- qua the Fishery till 31.03.2023. By the said notice, the petitioner was asked to pay the said amount within 10 [ten] days from the receipt of the notice. The notice dated 28.06.2023 was followed by another order dated 30.06.2023. By the order dated 30.06.2023, the representation submitted by the petitioner for extension of the settlement period of the Fishery was rejected and an order has been made to take possession of the Fishery immediately.

8. It is submitted at the Bar that subsequent to 30.06.2023, the Fishery has been settled, pursuant to a tender process, in favour of the bidder, who emerged as the successful bidder therein.

9. Mr. Choudhury, learned Senior Counsel for the petitioner has submitted that during the period since after the expiry of the settlement period and till 30.06.2023, when the order rejecting the petitioner's prayer for extension of the settlement period of the Fishery was passed, the petitioner had made substantial investment for release fish fingerlings in the Fishery on the expectation that the settlement period would be extended. Mr. Choudhury, learned Senior Counsel for the petitioner has submitted that though the writ petition has been preferred seeking inter alia a direction to the respondent AFDCL authorities to calculate, release or repay the amount of money spent by the petitioner in releasing fish fingerlings in the Fishery, the petitioner instead of pursuing the writ petition, wants to submit a representation before the respondent no. 2 as regards the matter of release of fish fingerlings in the Fishery during the afore-mentioned period incurring substantial expenditure on the part of the petitioner.

10. Mr. Sharma, learned Standing Counsel, AFDCL has submitted that the petitioner has already been served with a notice intimating him that he has defaulted in depositing revenue to the extent of Rs. 58,82,941. The petitioner has not yet deposited the said amount. He has submitted that notwithstanding the said situation, the petitioner submits any representation before the respondent no. 2 as regards the release of fish fingerlings mentioned above, the same would be given due consideration by the respondent no. 2.

11. In view of the broad consensus arrived at in the afore-stated manner, this Court is of the considered view that instead of keeping the writ petition pending, the same can be disposed of by observing that in the event the petitioner submits any representation before the respondent no. 2 raising his grievances indicated above, along with all the supporting documents in respect of such grievance, within a period of 15 [fifteen] days, the respondent no. 2 is to give due consideration to such representation and to pass a reasoned order within a period of 1 [one] month from the date of receipt of such representation. The writ petition is disposed of observing accordingly. It is made clear that this Court has not made any observation as regards the merits of the claim of the petitioner and the respondent no. 2 is to examine the claim of the petitioner on its own merits and on the basis of the records available at his end. No cost.

JUDGE

Comparing Assistant