

GAHC010011672022



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

Case No. : WP(C)/680/2022

BHAGYA DAS AND ANR.
S/O. SRI MOHAN DAS, R/O. KENDUGURI, P.O. AND P.S. HOJAI, DIST. HOJAI,
ASSAM.

2: RABINDRA BISWAS
S/O. LT. PRASANNA BISWAS
R/O. TORADUBI
P.O. TETELISARA
P.S. KAMPUR
DIST. HOJAI
ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM FISHERY
DEPTT., GUWAHATI-06, DIST. KAMRUP, ASSAM.

2:THE MANAGING DIRECTOR

ASSAM FISHERIES DEVELOPMENT CORPORATION LTD. VIP ROAD
CHACHAL
GUWAHATI-36
DIST. KAMRUP
ASSAM.

3:THE DEPUTY COMMISSIONER

HOJAI
P.O. AND DIST. HOJAI.

4:THE OFFICER ON SPECIAL DUTY

ASSAM FISHERIES DEVELOPMENT CORPORATION LTD. P.O. AND DIST.

HOJAI.

5:THE CIRCLE OFFICER

HOJAI
P.O. AND DIST. HOJAI.

6:PREMDAHAN DAS
S/O. LT. DHIRENDRA DAS
R/O. SHIVPUR
P.O. JOGIJAN
P.S. HOJAI
ASSAM

Advocate for the Petitioner : MR R S CHAUHAN

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

07.02.2024

1. Heard Mr. R.S. Chauhan, learned counsel for the petitioner and Mr. P. Sarma, learned Standing Counsel for the AFDC. Mr. D. Kalita, learned counsel appears for the respondent no.6.

2. Mr. Chauhaun, learned counsel for the petitioners submits that the petitioners were engaged by the AFDC to manage Warizendang Part-II Min Mahal ['the Fishery', for short] under Direct Management System in PPP mode by an order dated 03.05.2021 passed by the respondent no. 2. By the order, the petitioners were allowed to manage the Fishery for a period of 4 [four] year w.e.f. 03.05.2021. The petitioners are aggrieved by an order dated 06.01.2022

passed by the respondent no. 2, whereby, the order dated 03.05.2021 has been cancelled. Seeking directions to the respondent no. 2 to allow the petitioners to run the Fishery till the end of the peak season and to pay a compensation of Rs. 16,10,000/- with interest since 03.05.2020, this writ petition has been filed.

3. The prayer of the petitioners is to the following effect :

“(I) A writ in the nature of Mandamus shall not be issued directing the respondent No-2 to allow the petitioners to run Warizendang Kenduguri Min Mahal till the end of peak season.

(II) A writ in in the nature of Mandamus shall not be issued directing the respondent No-2 to pay the compensation of Rs.16,10,000/- with since 3.5.21 till its interest thereon realisation.

(III) A writ in the nature of Mandamus should not be issued directing the respondent No-2 to pay such compensation w.e.f 3.5.21 on which the petitioners were given Warizendang Kenduguri Min Mahal under PPP mode of settlement and incur money thereafter and upon cause or causes being shown and upon hearing the parties make the Rule absolute and/or pass such further order or orders as Your Lordships may deem fit and proper.”

4. This Court vide order dated 04.02.2022 has declined to consider prayer nos.2 & 3 of the petitioners made in the writ petition. Thus, the only prayer that has to be considered is with regard to whether a direction should be issued to the respondent no.2, to allow the petitioners to run the Warizendang Kenduguri Min Mahal till the end of the peak session.

5. Mr. .P. Sarma, learned counsel for the AFDC submits that the decision to allow the petitioners to manage the fishery has been revisited, as the order

dated 03.05.2021 was not preceded by any competitive bidding process. The Board of Directors of the respondent Corporation had taken a decision in its meeting dated 15.12.2021, to revisit all the matters of settlement of fisheries, wherein, no competitive bidding process was undertaken prior to settlement of the concerned fisheries. He also submits that a bunch of similar matters, the leading case being WP(C) 2192/2022, wherein identical prayers had been made, have been dismissed by this Court, vide order dated 21.09.2022. As such, the present case should also be dismissed.

6. I have heard the learned counsels for the parties.

7. As can be seen from the submissions made by the learned counsels for the parties, the petitioner had been settled with the fishery in question without any tender notice having taken place. A Coordinate Bench of this Court vide judgment and order dated 21.09.2022 passed in WP(C) 2192/2022 had dismissed the prayer of the petitioners therein to continue with the settlement of the fisheries, on the ground that the initial settlement done by the AFDC was not preceded by any procedure recognized by law. In the present case also, the initial settlement of the fishery with the petitioner having been done without any tender process, the petitioner can have no right to claim the settlement of the fishery beyond the period he has been looking after the fishery.

8. In view of the fact that this case is a covered case, as the settlement of the fishery with the petitioner was in violation of Article 14 of the Constitution of India, this Court does not find any ground to allow the writ petition.

9. The writ petition is accordingly dismissed.

JUDGE

Comparing Assistant