

GAHC010014882023



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

Case No. : WP(C)/370/2023

SIRISH NAMASUDRA AND 8 ORS.
S/O LATE LUCHANRAM NAMASUDRA, RESIDENT OF VILL.- BAZARBOND,
P.O. CHATAL, DISTRICT-KARIMGANJ, ASSAM, PIN-788720.

2: BIPLAB NAMASUDRA
S/O BIJOY NAMASUDRA
RESIDENT OF VILL-BAZARBOND
P.O. CHATAL
DISTRICT-KARIMGANJ
ASSAM
PIN-788720.

3: GOLAM USMANI
S/O ASHAB UDDIN
RESIDENT OF VILL-KHAGAIL
P.O. CHATAL
DISTRICT-KARIMGANJ
ASSAM
PIN-788720.

4: HUCHANUL KARIM
S/O AKRAM ALI
RESIDENT OF VILL-KHAGAIL
P.O. CHATAL
DISTRICT-KARIMGANJ
ASSAM
PIN-788720.

5: ABDUL AZIZ
S/O ABDUL JALIL
RESIDENT OF VILL- KHAGAIL
P.O- CHATAL
DISTRICT-KARIMGANJ
ASSAM

PIN-788720.

6: TAJ UDDIN
S/O AJIR UDDIN
RESIDENT OF VILL- KHAGAIL
P.O- CHATAL
DISTRICT-KARIMGANJ
ASSAM
PIN-788720.

7: KABIR AHMED
S/O LATE AFTAR HUSSAIN
RESIDENT OF VILL- KHAGAIL
P.O- CHATAL
DISTRICT-KARIMGANJ
ASSAM
PIN-788720.

8: TAJ UDDIN
S/O ABDUS SUKKUR
RESIDENT OF VILL- KHAGAIL
P.O- CHATAL
DISTRICT-KARIMGANJ
ASSAM
PIN-788720.

9: ACHAD UDDIN
S/O SALIKUR RAHMAN
RESIDENT OF VILL- KHAGAIL
P.O- CHATAL
DISTRICT-KARIMGANJ
ASSAM
PIN-788720

VERSUS

THE ASSAM FISHERIES DEVELOPMENT CORPORATION LTD AND 4 ORS.
REPRESENTED BY THE CHAIRMAN OF THE ABOVE ASSAM FISHERIES
DEVELOPMENT CORPORATION LTD, CHACHAL, VIP ROAD, GUWAHATI-
36.

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

3:THE CIRCLE OFFICER

RAM KRISHNA NAGAR REVENUE CIRCLE
P.O. RAM KRISHNA NAGAR
DISTRICT- KARIMGANJ
ASSAM
PIN- 788166.

4:THE ASSISTANT PROJECT MANAGER
AFDC LTD. BARAK VALLEY REGION
SILCHAR
DISTRICT-CACHAR
ASSAM
PIN-788009.

5:TAPAN KUMAR DAS
SECRETARY
SHON BEEL FISHERMEN CO-OPERATIVE SOCIETY LTD.
VILL- KALIBARI BAZAR
P.O- ANILGARH
PS-RAM KRISHNA NAGAR
DIST-KARIMGANJ
ASSAM
PIN-788156

Advocate for the Petitioner : MR B SINHA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 15-05-2024

Mr. B. Sinha, learned counsel for the petitioners; Mr. P. Sharma, learned Standing Counsel, Assam Fisheries Development Corporation for the respondent nos. 1, 2 & 4; and Mr. S. Baruah, learned Junior Government Advocate, Assam for the respondent no. 3.

2. The petitioners, 9 [nine] in nos., have joined together to institute the present writ petition under Article 226 of the Constitution of India raising a

grievance that the respondent no. 5 who is a settlement holder of a fishery viz. Shon Beel Meen Mahal ['the Fishery', for short] situate at Ram Krishna Nagar Revenue Circle, District – Karimganj, is violating the terms and conditions of settlement of the Fishery and as a result, there is threat to the biodiversity. It has been projected that Shon Beel Meen Mahal is a fishery which is settled by the respondent Assam Fishery Development Corporation to the successful bidders pursuant to bidding processes from time to time. After a bidding process initiated by a Tender Notice no. 11/2022 dated 22.08.2022, the Fishery viz. Shon Beel Meen Mahal came to be settled in favour of the respondent no. 5 by an Order of Settlement dated 30.08.2022 for a period of 7 [seven] years. According to the petitioners, pursuance to the settlement order, an agreement was executed between the respondent AFDC Ltd. on one side and the respondent no. 5 on the other side. The Fishery has a water area of 400 Hectors. The petitioners are inhabitants of the adjacent areas in and around the Fishery. The petitioners have contended that the AFDC Ltd. and the respondent no. 5, as per the agreement, are required to maintain and preserve the biodiversity of the area by maintaining at least 5% of the water level in the Fishery and as per Clause 7 of the agreement, the said respondent authorities are also required to keep the Fishery in such a manner that at no point of time, the Fishery should be dried out. Contrary to such terms and conditions, the said respondents have been maintaining the Fishery in such a manner that during the winter season, the water level of the Fishery used to go below the required level. It is the case of the petitioners that projecting such violations they have preferred a Representing before the respondent no. 2 on 02.01.2023 seeking consideration of their grievances as inhabitants of the areas in the vicinity of the Fishery. As the respondent no. 2 has not acted on the Representation, the

petitioners have approached this Court by the instant writ petition.

3. Mr. Sharma, learned Standing Counsel, Assam Fisheries Development Corporation has submitted that since the petitioners have already raised their grievances before the respondent no. 2 by submitting a Representation and as the Representation has not been disposed of, the writ petition can be disposed of, at this stage, by directing the respondent no. 2 to consider the Representation, stated to have been submitted by the petitioners, after due consideration by way of a speaking order.

4. Mr. Sinha, learned counsel for the petitioners has agreed to the said submission made by the learned Standing Counsel, Assam Fisheries Development Corporation.

5. 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 considered view that instead of keeping this writ petition pending, the same can be disposed of by directing the respondent no. 2 to take the Representation stated to have been submitted by the petitioners before him on 02.01.2023, on board and to pass a speaking order thereafter, after affording proper opportunities of hearing to both the sides, that is, the petitioners' side and the side of the respondent no. 5. It is accordingly ordered. It is further observed that the Representation is to be disposed of as expeditiously as possible, preferably within a period of 45 days from the date of submission of a certified copy of this Order and a copy of this writ petition alongwith the annexures, before the respondent no. 2 by the petitioners.

6. It is made clear that the respondent no. 2 is to consider the

Representation on its own merits as this court has not made any observation as regards the merits of the claim of either of the parties.

JUDGE

Comparing Assistant