

GAHC010068762022



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

Case No. : WP(C)/2532/2022

RANGLAL MANDAL AND ANR
S/O- LATE MADAN MONDAL, R/O- VILLAGE PAVAKATI, P.O- BHURGAON,
P.S- MAYONG, DIST- MORIGAON, ASSAM, PIN-782411

2: M/S 129 HARIA DABLONG MIN SAMABAI SAMITI LTD.
REP. BY ITS SECRETARY KUSHAL DAS
S/O- LATE BOLO RAM DAS

AGE ABOUT 43YRS

R/O- VILLAGE AMKATA

P.O- JAGI BHAKATGAON

P.S- JAGIROAD
MORIGAON DISTRICT
PIN-78241

VERSUS

THE ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED AND 3
ORS
REP. BY ITS MANAGING DIRECTOR, BIMALA PRASAD CHALIHA ROAD,
VIP ROAD, CHACHAL GUWAHATI-36, KAMRUP (M) ASSAM

2:THE CHAIRMAN
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD. BIMALA PRASAD
CHALIHA ROAD
VIP ROAD
CHACHAL GUWAHATI-36
KAMRUP (M) ASSAM

3:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD. BIMALA PRASAD

CHALIHA ROAD
VIP ROAD
CHACHAL GUWAHATI-36
KAMRUP (M) ASSAM

4:THE PROJECT MANAGER
MIDDLE ASSAM REGION
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
CHARAN BEEL
DISTRICT- MORIGAON
PIN-78241

Advocate for the Petitioner : MR D J MEDHI

Advocate for the Respondent : SC, AFDC

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

12.06.2024

1. Heard Ms. U. Baruah, learned Senior Counsel assisted by Mr. S. Khound, learned counsel for the petitioners. Also heard Mr. P. Sharma, learned counsel appearing for the respondent nos.1, 2, 3 & 4.

2. The case of the petitioners is that pursuant to a judgment and order dated 08.08.2019 passed in W.P.(C) No. 5620/2019, a Notice Inviting Tender was issued on 23.10.2019. The petitioners participated in the said Notice Inviting Tender and were selected as the highest bidder. Subsequent thereto, on 14.11.2019, after perusal of the comparative statement, the Managing Director vide a Communication dated 17.12.2019 accorded the administrative approval to the settlement to be made in favour of the petitioners. In pursuance to the said approval, an agreement was entered into on 17.12.2019 between the petitioners

and the Assam Fisheries Development Corporation, whereby the fishery was settled initially for a period of 4 years but upon satisfactory completion it could be extended up to 7 years. The further case of the petitioners is that the Managing Director of Assam Fisheries Development Corporation had issued an order on 15.12.2021 stating *inter alia* that all Beels which were settled in any mode without inviting tender shall stand cancelled, subject to any *status-quo* order of this Court and the Project Managers of those Districts where those Beels fell were directed to take possession of those Beels. The petitioners apprehend that on the basis of the said order the settlement made in favour of the petitioners may be cancelled, for which the petitioners have approached this Court.

3. The learned Standing Counsel for the AFDC has submitted that the instant writ petition is premature as no steps to that regard have been taken as of now. He however submits that a perusal of the order impugned shows that the said order would be applicable, in respect of all settlements made without inviting tender and as it is the case of the petitioners that the Beel was settled by way of a tender, the same would be regulated as per the terms and conditions of the agreement.

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

5. The prayer of the petitioners in this writ petition is as follows :

“a) *A Writ in the nature of Certiorari may not be issued for setting aside and quashing the impugned order dated 15.12.2021 bearing Memo No.AFDC/384/2010/P6-1/2619-26 issued by the Respondent No.3 and/or any*

consequential orders thereto,

b) A Writ in the nature of Mandamus for allowing the Petitioners to operate/manage the Pakaria Beel, in Morigaon District as per the terms of the Agreement dated 30.01.2020, and/or

c) and/or be pleased to pass further Order or Orders as Your Lordship may deem fit and proper.”

6. With regard to the prayer for setting aside the order dated 15.12.2021, as the petitioners’ counsel has submitted that the fishery had been settled through a tender process which has not been denied by Mr. P. Sharma, learned counsel for the respondents, it is apparent that the said impugned order would not cover the case of the petitioners.

7. With regard to the petitioner’s prayer to operate/manage the Pakaria Beel, in Morigaon District as per the terms of the Agreement dated 30.01.2020, Mr. P. Sharma, learned Standing Counsel for the AFDC has submitted that the settlement of the said fishery with the petitioners would be regulated in terms of the Agreement dated 30.01.2020.

8. In view of the above, there is nothing left to adjudicate in this writ petition, in terms of the prayer of the petitioner. However, as the letter dated 18.12.2019 issued by the Project manager, Upper & Lower Assam Region, I/c Pakaria Model Beel, provides that the said Beel is to be managed for a period 3 (three) years and onwards which may be extended to 7 (seven) years, subject to satisfactory completion of experimental 4 (four) years, the respondents have the right to take a decision, as to whether there shall be extension of the

Pakaria Beel beyond the period of four years with the petitioner, which period had expired in April, 2024. The respondents shall accordingly take a decision, as to whether the settlement of the Pakaria Beel should be extended with the petitioners beyond four years, within a period of 15 (fifteen) days from the date of receipt of a certified copy of this order and intimate the same to the petitioners.

10. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant