

GAHC010076002024



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

Case No. : WP(C)/2081/2024

TRIMURTI ANUSUSHITA JATI SIKHITA NIBONUWA SELF HELP GROUP AND
ANR
BEARING REGD. NO- GDB/DHK/67 AND HAVING ITS REGD OFFICE AT
VILLAGE- TELIADUNGA, PUKHURIPAR, P.O- BHARALUWA TINALUI,
P.S- GAURISAGAR, DIST- SIVASAGAR, ASSAM, PIN-785664 AND REP. BY ITS
SECRETARY DILIP HAZARIKA

2: DILIP HAZARIKA
S/O- LATE JHURAM HAZARIKA

SECRETARY OF

TRIMURTI ANUSUSHITA JATI SIKHITA NIBONUWA SELF HELP GROUP

R/O- VILLAGE- TELIADUNGA
PUKHURIPAR

P.O- BHARALUWA TINALI
P.S- GAURISAGAR
DIST- SIVASAGAR
ASSAM
PIN-78566

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM, FISHERY DEPARTMENT
DISPUR, GUWAHATI-06, KAMRUP (M), ASSAM

2:THE SECRETARY
TO THE GOVERNMENT OF ASSAM
FISHERY DEPARTMENT
DISPUR

GUWAHATI-06.

3:THE ADDL. SECRETARY
TO THE GOVERNMENT OF ASSAM
FISHERY DEPARTMENT
DISPUR
GUWAHATI-06.

4:THE DEPUTY SECRETARY
TO THE GOVERNMENT OF ASSAM
FISHERY DEPARTMENT
DISPUR
GUWAHATI-06.

5:THE DEPUTY COMMISSIONER
SIVASAGAR
ASSAM

6:DHRUBAJYOTI HAZARIKA
S/O- AMRIT HAZARIKA

R/O- VILLAGE NATUN GATANGA KAIBARTTA GAON

P.O- SANTIPUR
DIST- SIVASAGAR

PIN-785667

7:M/S NATUN GATANGA DHRUBAJYOTI SHG
REP. BY ITS SECRETARY

SRI DHRUBAJYOTI HAZARIKA

R/O- VILLAGE NATUN GATANGA
KAIBARTTA GAON

P.O- SANTIPUR
DIST- SIVASAGAR
PIN-78566

Advocate for the Petitioner : MR. H. BURAGOHAIN

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

29.05.2024

Heard Mr. H. Buragohain, learned counsel for the petitioner. Also heard Mr. P. Sarmah, learned counsel appearing for the Fishery Department and Mr. R. Sensua, learned counsel appearing for the respondent Nos. 6 & 7.

2. The petitioner has challenged the order dated 15.03.2024 bearing memo No. eCF No. E-285340/121 issued by the respondent No.3, by which the authorities have settled the Brahmaputra Part- II Fishery in the district of Sivasagar, in favour of the respondent Nos.6 & 7 on a daily basis @Rs.920/- per day, till regular settlement of the fishery is made through a tender process.

3. The petitioner's counsel submits that this Court in its order dated 20.02.2024 passed in WP(C) 2764/2022 had directed that the settlement of the Brahmaputra Part- II Fishery in Sivasagar District, should be made after issuance of a fresh NIT and the settlement of the said fishery on a daily basis with the respondent No.8 in WP(C) No.2764/2022 should not be made, till final settlement on the basis of an NIT was made by the State respondents.

4. The petitioner's counsel submits that the order dated 20.02.2024 passed in WP(C) No.2764/2022 was put to challenge by the respondent No.8 vide W.A. No.134/2024. However, W.A. No.134/2024 was dismissed by the Division Bench of this Court vide order dated 15.05.2024. The petitioner's counsel submits that despite the direction passed by this Court, directing the State respondents to

issue a fresh NIT and not to settle the fishery on a daily basis, till regular settlement was made through an NIT, the Addl. Secretary to the Government of Assam, Fishery Department, vide order dated 15.03.2024, had settled the fishery on a daily basis with the respondent Nos. 6 & 7 @Rs.920/- per day. He submits that the impugned order dated 15.03.2024 flies in the face of the orders passed by the Single Bench and the Division Bench of this Court and as such, the same should be set aside.

5. Mr. P. Sarmah, learned counsel for the Fishery Department submits that the order dated 15.03.2024, on the basis of which the respondent Nos. 6 & 7 have been allowed to operate the Brahmaputra Part- II Fishery in Sivasagar District, has been superseded vide order dated 12.04.2024 passed by the Commissioner & Secretary to the Government of Assam, Fishery Department, inasmuch as, no settlement of any 60% category government fishery will be allowed to run on a daily basis after 11.05.2024, in terms of the said order dated 12.04.2024. He accordingly submits that the respondent Nos. 6 & 7 cannot/could not run the fishery on a daily basis subsequent to the order dated 12.04.2024 .

6. Mr. R. Sensua, learned counsel for the respondent Nos. 6 & 7 submits that the respondent Nos. 6 & 7 were running the fishery on a daily basis, on the strength of the order dated 15.03.2024 passed by the Addl. Secretary to the Government of Assam, Fishery Department. He however does not know if the respondent Nos. 6 & 7 are running the fishery any longer, subsequent to the order dated 12.04.2024 issued by the Fishery Department.

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

8. The order dated 20.02.2024 passed in WP(C) 2764/2022 had categorically directed the Fishery Department to issue a fresh NIT for settlement of the said fishery and that the said fishery should not be settled on a daily basis with the respondent No.8, till final settlement of the fishery had been made pursuant to the NIT to be published by the Fishery Department. The said order has not been interfered with by the Division Bench of this Court in W.A. No.134/2024. Interestingly, the Addl. Secretary to the Government of Assam, Fishery Department had settled the fishery with the respondent Nos. 6 & 7 on a daily basis, despite this Court having directed that the settlement of the fishery on a daily basis should not be made with the respondent No.8 in WP(C) 2764/2022. The import of the direction passed by this Court in the order dated 20.02.2024 in WP(C) 2764/2022 was that the fishery should not be settled with any person on a daily basis. However, as the respondent No.8 had been running the fishery on a daily basis, it was categorically directed that the respondent No.8 should not be allowed to run the fishery on a daily basis. Prima facie, it appears that the Addl. Secretary to the Government of Assam, Fishery Department has been circumventing the order of this Court passed in WP(C) 2764/2022, which is not appreciated and would have to be acted upon sternly by this Court. However, in view of the order dated 12.04.2024 issued by the Commissioner & Secretary to the Government of Assam, Fishery Department, which has stated that none of the 60% category of government fishery will be allowed to run on a daily basis after 11.05.2024, this Court is overlooking the impugned order dated 15.03.2024, inasmuch as, the same has been superseded by the order dated 12.04.2024 issued by the Commissioner & Secretary to the Government of

Assam, Fishery Department. The Fishery Department is directed to strictly comply with the order dated 20.02.2024 passed in WP(C) No.2764/2022 and the order dated 12.04.2024 issued by the Commissioner & Secretary to the Government of Assam, Fishery Department. The Fishery Department shall cause a spot verification to be made, with respect to whether the private respondents are still running the Brahmaputra Part- II Fishery in the district of Sivasagar and if the same is still being run on a daily basis, the respondents should put a stop to it immediately.

9. The writ petition is accordingly disposed of.

10. The order dated 12.04.2024 issued by the Commissioner & Secretary to the Government of Assam, Fishery Department is made a part of the record and marked as 'Annexure-X.'

JUDGE

Comparing Assistant