

GAHC010107862024



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

**Case No. : WP(C)/2816/2024**

M/S DEHING PART-I FISHERY CO-OPERATIVE SOCIETY LIMITED,  
DIBRUGARH  
DISTRICT- DIBRUGARH, ASSAM,  
REPRESENTED BY ITS SECRETARY,  
SRI PRAFULLA HAZARIKA,  
SON OF LATE HITESWAR HAZARIKA,  
AGED ABOUT 47 YEARS,  
RESIDENT OF VILLAGE- DEHINGTHAN,  
POST OFFICE- ITAKHULI,  
POLICE STATION- BORBORUA,  
DIBRUGARH, DISTRICT- DIBRUGARH,  
ASSAM, PIN- 786007.

VERSUS

THE STATE OF ASSAM AND 4 ORS  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE  
GOVERNMENT OF ASSAM,  
FISHERY DEPARTMENT, DISPUR.

2:THE JOINT SECRETARY TO THE GOVERNMENT OF ASSAM  
FISHERY DEPARTMENT.

3:THE DEPUTY COMMISSIONER  
DIBRUGARH  
ASSAM.

4:THE ADDITIONAL DEPUTY COMMISSIONER (R)  
DIBRUGARH  
ASSAM.

5:THE CIRCLE OFFICER  
MORAN REVENUE CIRCLE  
MORAN

DIBRUGARH

**Advocate for the Petitioner : MR. S BANIK**

**Advocate for the Respondent : SC, FISHERY**

**BEFORE  
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

**ORDER**

**30.05.2024**

Heard Mr. S. Banik, learned counsel for the petitioner, who submits that the Demow Nadi Fishery is a 40% category fishery which has been settled with the petitioner, vide order dated 30.05.2017, for a period of 7 years, at an annual revenue of Rs.61,000/- w.e.f. 01.06.2017.

2. The petitioner's counsel submits that the period of settlement is going to expire tomorrow, i.e., on 31.05.2024. As the petitioner Society could not do fishing for around 3 years due to Covid-19 pandemic, the petitioner Society suffered losses. Against such a backdrop, a representation dated 06.05.2024 was submitted by the petitioner Society to the authorities, requesting that it be allowed to operate the fishery on a daily basis, at an enhanced revenue of 5% of the earlier revenue given, until regular settlement of the fishery was made by way of a tender process. He submits that as the State respondents have not taken a decision on the petitioner's representation dated 06.05.2024, a direction should be issued to the State respondents to take a decision on the petitioner's representation dated 06.05.2024.

3. Mr. P. Sarmah, learned Standing Counsel, Fishery Department submits that in terms of the order dated 09.04.2024 passed by this Court in WP(C) No.1911/2024, the fisheries can be settled only in terms of Rule 12 of the Assam Fishery Rules, 1953,

after issuing a tender notice. He submits that allowing the petitioner to continue fishing in the fishery on a daily basis, after the expiry of his period of settlement is over, is illegal and cannot be allowed.

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

5. Rule 12 of the Assam Fishery Rules, 1953 provides only one method of settlement of a fishery, i.e., after regular tender notice has been issued allowing all fisheries, co-operative societies and individuals to participate in the tender process for 60% and 40% category government fisheries. There is no provision for granting settlement of fishery on a daily basis in the Assam Fishery Rules, 1953. It is also noticed that in pursuance to the order dated 09.04.2024 passed in WP(C) No.1911/2024, the Government of Assam, Fishery Department has issued an order dated 12.04.2024 in respect of 60% category government fisheries stating that there will be no settlement of the 60% category government fisheries on a daily basis w.e.f. 11.05.2024.

6. Though the order dated 12.04.2024 issued by the Government of Assam, Fishery Department does not mention 40% category of government fishery, Rule 12 of the Assam Fishery Rules, 1953 encompasses 40% category of government fisheries also. Besides the above, this Court finds that there has been no averment made in the writ petition and or any annexure annexed in the writ petition, to show that the petitioner had written any letter to the Government of Assam prior to 06.05.2024, stating that the petitioner Society had suffered loss for 3 years due to the Covid-19 pandemic. It is surprising that the petitioner has submitted a letter dated 06.05.2024, when his period of settlement of the fishery is going to expire on 31.05.2024, while the Covid-19 pandemic had started in March, 2020. The above appears to show that the prayer made by the petitioner to be allowed to run the fishery beyond the prescribed period of 7 years on account of alleged loss is only an afterthought.

7. The order dated 12.04.2024 issued by the Government of Assam, Fishery Department had been made in terms of the order dated 09.04.2024 passed in WP(C) 1911/2024. In para 17 of the said order dated 09.04.2024 this Court had held that if for any compelling reasons, daily settlement of a fishery has to be extended beyond 10.05.2024, the tender process for settling the fishery on daily basis shall be notified, so as to enable all the fishery co-operative societies in the said area to participate in the process. The petitioner's representation, on the other hand, would be going against para 17 of the order dated 09.04.2024, as the prayer for settlement of the fishery on daily basis, after the expiry of the settlement period, would be in the absence of any tender process.

8. In view of the reasons stated above, this Court finds that the petitioner Society cannot be said to be an aggrieved person, as no right of his has been violated. Accordingly, this Court is not inclined to direct the respondents to take a decision on the petitioner's representation, as this could open the floodgates for similar petitions, to run fisheries on daily basis, in violation of Rule 12 of the Assam Fishery Rules, 1953.

9. The writ petition is accordingly dismissed, as this Court is not inclined to exercise its discretion in this case.

**JUDGE**

**Comparing Assistant**