

GAHC010110172024



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

Case No. : Review.Pet./103/2024

ABDUL HANNAN BARBHUIYA
S/O- LT. KHALILUR RAHMAN BARBHUIYA, VILL- NOON NAGAR, P.O.
KATIGORAH, P.S. KATIGORAH, DIST.- CACHAR, ASSAM

VERSUS

MD MASIUR RAHMAN AND 7 ORS
S/O- LT. JAIN UDDIN, VILL- BEHARA PART-VI, P.O. HILARA, P.S.
KATIGORAH, DIST.- CACHAR, ASSAM, PIN- 788805

2:THE COMMISSIONER AND SECRETARY
GOVT. OF ASSAM
DEPTT. OF REVENUE
DISPUR
GHY-6

3:THE COMMISSIONER AND SECRETARY
GOVT. OF ASSAM
DEPTT. OF FISHERY
DISPUR
GHY-6

4:THE DEPUTY COMMISSIONER

CACHAR
ASSAM SILCHAR
788001

5:THE SETTLEMENT OFFICER
CACHAR AND HAILAKANDI DISTRICT
SILCHAR
CACHAR

ASSAM 788001

6:THE ASSTT. SETTLEMENT OFFICER
KATIGORAH REVENUE CIRCLE
KATIGORAH
DIST.- CACHAR
ASSAM 788805

7:HE DISTRICT FISHERIES DEVELOPMENT OFFICER
CACHAR
SILCHAR
ASSAM

8:NURUL HAQUE BARBHUIYA
S/O- LT. ABDUL SATTAR BARBHUIYA
VILL- NOON NAGAR
P.O. KATIGORAH
P.S. KATIGORAH
DIST.- CACHAR
ASSAM
78880

For the petitioner (s) : Mr. S. D. Purkayastha, Advocate

For the respondent (s) : Mr. P. Sarma, SC, Fishery Deptt.
Mr. I. Alam, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

02.08.2024

Heard Mr. S. D. Purkayastha, the learned counsel for the review petitioner and Mr. P. Sarma, the learned counsel appearing on behalf of the Fishery Department, Government of Assam as well as Mr. I. Alam, the learned counsel appearing on behalf of the writ petitioners.

2. The instant review petition has been filed seeking review of the order dated 04.01.2024 passed in WP(C) No.4634/2020. The ground alleged in the instant review petition is that the petitioner herein who was

the respondent No.7 in the writ proceedings did not violate any terms and conditions of the permission, and as such, the judgment and order dated 04.01.2024 is required to be reviewed in so far as interfering with the allotment made in favor of the review petitioner.

3. This Court has perused the judgment and order dated 04.01.2024. From a perusal of the said judgment, more particularly at paragraph No.9, it is clear that this Court had assigned various reasons for forming the opinion in the said judgment. One of such grounds assigned for allowing the writ petition and thereby interfering with the allotment made in favour of the respondent Nos.7 & 8 was that even assuming that the permission so granted was a valid permission, then also the respondent Nos.7 & 8 did not comply with the terms and conditions of the permission.

4. This Court further finds it very pertinent to observe that in the said judgment, it was categorically held that the permission so granted by the respondent No.4 also illegal and unauthorized. Under such circumstances, the ground on which the review has been sought for, in the opinion of this Court, is not a ground on which a review application can be entertained.

5. Mr. S. D. Purkayastha, the learned counsel for the review petitioner submitted that the observation so made in the said judgment dated 04.01.2024 which has been sought to be reviewed to the effect that there were certain illegalities committed by the review petitioner would affect the review petitioner in participating in the future settlement proceedings of the fishery, and as such, this Court may clarify the said aspect of the matter.

6. It is seen from the judgment and order dated 04.01.2024 that this

Court had interfered with the allotment made in favor of the respondent Nos.7 & 8 of the writ petition. This Court held that the permission so granted by the Settlement Officer in favour of the respondent Nos.7 & 8 of the writ petition was not in accordance with law.

7. Under such circumstances, the observations so made in the judgment and order sought to be reviewed has to be taken as observations made in the context of the respondent authorities committing illegalities in granting the permission to the review petitioner. In that view of the matter, in the opinion of this Court, the observation so made would not bar the petitioner to participate in future settlements.

8. In addition to that, this Court further observes that as the permission so granted in favor of the respondent Nos.7 & 8 by the respondent No.4 has been held to be bad in law, the question of violation of the said permission would not affect the review petitioner in applying for future settlement in as much as when the permission was illegal and bad in law, the violation thereof would have no consequences.

9. With the above clarifications, the review petition stands disposed of.

JUDGE

Comparing Assistant