

GAHC010116092024



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

Case No. : WA/192/2024

M/S DEHING PART 1 FISHERY CO OPERATIVE SOCIETY LTD
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

For petitioner/appellant(s) : Mr. S. Banik, Advocate
For respondent(s) : Mr. P. Sharma, Advocate for the
Respondent No.1;
Mr. D.K. Sharma, Advocate
for the respondents No.3, 4 and 5

– BEFORE –

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI

HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

09.09.2024

(Vijay Bishnoi, CJ)

This writ appeal is filed by the appellant being aggrieved with the order dated 30th May, 2024 passed by the learned Single Judge in WP(C) 2816/2024, whereby, the writ petition filed by the appellant has been dismissed by the learned Single Judge.

2. The appellant has approached the learned Single Judge stating that the Demow Nadi Fishery was settled in favour of him vide order dated 30th May, 2017 for a period of 7 (seven) years and the period of the said settlement is going to expire on 31st May, 2024. However, the respondents may be directed to extend the period of settlement since the appellant has suffered great loss in operating the Fishery on account of Covid-19 Pandemic and other instances.

- 3.** It is contended prayed before the learned Single Judge that the appellant be allowed to continue fishing in the Fishery in question on daily basis after the expiry of the period of settlement. The learned Single Judge having taken note of the provision of Assam Fishery Rules, 1953, particularly Rule 12 of the Rules of 1953 has concluded that there is no provision under the Rules of 1953 to settle a Fishery on daily basis in favour of any person.
- 4.** The learned Single Judge has therefore, refused to entertain the plea raised by the appellant and dismissed writ petition.
- 5.** The learned counsel for the appellant has fairly considered that as such, there is no provision under the Rules of 1953 to settle a fishery on daily basis in favour of any person. However, he pointed out another Single Bench of this Court in WP(C) 1911/2024 vide order dated 09.04.2024 has issued a direction to the Fishery Department to settle a Fishery in favour of the petitioner of that writ petition on daily basis till a particular period.
- 6.** It is submitted that the learned Single Judge in that writ petition has also advised the respondent State either to amend Rule 12 of the Fishery Rules, 1953 or to issue guideline for the entire State of Assam in respect of all the fisheries covered by the Assam Fishery Rules, 1953.
- 7.** Having gone through the order passed by the learned Single in WP(C)

1911/2024, we find that the said observation/direction made by the learned Single Judge was in view of the fact that on account of the operation of the Model Code of Conduct, the fishery in question, could not be settled by way of issuing tender and in that circumstance, the learned Single Judge has issued the same directions. However, taking note of the said observation/direction given by the learned Single Judge on 09.04.2024 in WP(C) 1911/2024, the State Government has already issued an order dated 12th April, 2024 and thereafter on 04.05.2024 directing all the official concerned not to settle any fishery on daily basis in the State of Assam.

- 8.** Having perused the order dated 12th April, 2024 and 4th May, 2024, we find that as per the direction issued by the State Government pursuant to the order passed by this Court, no Fishery can be settled on daily wage basis, as no such provision of this effect is there in the Rules of 1953.
- 9.** Taking into consideration the above facts and circumstance of the case, we are of the view that the learned Single Judge has rightly refused to grant any relief to the appellant in the facts and circumstances of the said case. It is also informed that pursuant to the direction given by the learned Single Judge in the impugned judgment, the settlement process has already been initiated and applications have also been invited from the interested persons in relation to the

fishery in question.

10. Looking to the above facts and circumstances of the case, we find that no case is made out and hence, the writ appeal is dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant