

GAHC010119582024



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

Case No. : WP(C)/3065/2024

DIBRUGARH FISHERY CO-OPERATIVE SOCIETY LIMITED
DIBRUGARH, DISTRICT- DIBRUGARH, ASSAM.
REPRESENTED BY ITS CHAIRMAN,
SRI BIKASH DAS, SON OF LATE BOPUL DAS,
RESIDENT OF NORTH AMOLAPOTTY,
DIBRUGARH TOWN, DISTRICT- DIBRUGARH, ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
FISHERY DEPARTMENT, DISPUR, GUWAHATI- 781006.

2:THE JOINT SECRETARY TO THE GOVERNMENT OF ASSAM
FISHERY DEPARTMENT
DISPUR
GUWAHATI- 781006.

3:THE MISING AUTONOMOUS COUNCIL
REPRESENTED BY THE PRINCIPAL SECRETARY

MISING AUTONOMOUS COUNCIL

GOGAMUKH
DHEMAJI
ASSAM.

4:THE PRINCIPAL SECRETARY
MISING AUTONOMOUS COUNCIL
GOGAMUKH
DHEMAJI

ASSAM.

5:THE DEPUTY COMMISSIONER
DIBRUGARH
ASSAM.

6:THE ASSAM FISHERIES DEVELOPMENT CORPORATION
REPRESENTED BY ITS MANAGING DIRECTOR

BIMALA PRASAD CHALIHA ROAD

CHACHAL
VIP ROAD
GUWAHATI

PIN- 781036

Linked Case : WP(C)/3195/2024

GOROIMARI MIN SILPA SS LTD
REPRESENTED BY THE SECRETARY NAMELY PADMODHAR DAS
AGE 58 YEARS

SON OF LATE KAHUA DAS

VILL- NO. 1 GOROIMARI

P.O.- MOHORAMUKH

P.S.- KOMARGAON

DIST.- GOLAGHAT (ASSAM)

PIN- 785619.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM

FISHERY DEPARTMENT
DISPUR
GUWAHATI

PIN- 781006.

2:THE ADDL. SECRETARY TO THE GOVERNMENT OF ASSAM
FISHERY DEPARTMENT
DISPUR
GUWAHATI
PIN- 781006.

3:THE ASSAM FISHERIES CORPORATION LTD.
REPRESENTED BY THE MANAGING DIRECTOR

CHACHAL
VIP ROAD
GUWAHATI
PIN- 781036.

4:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
CHACHAL
VIP ROAD
GUWAHATI
PIN- 781036.

5:THE MISING AUTONOMOUS COUNCIL
REPRESENTED BY THE PRINCIPAL SECRETARY

GOGAMUKH
DISTRICT- DHEMAJI (ASSAM)

PIN- 787034.

6:THE PRINCIPAL SECRETARY
MISING AUTONOMOUS COUNCIL
GOGAMUKH
DISTRICT- DHEMAJI (ASSAM)

PIN- 787034.

7:THE DISTRICT COMMISSIONER
GOLAGHAT
P.O. AND P.S.- GOLAGHAT

DISTRICT- GOLAGHAT (ASSAM)

PIN- 785621.

Linked Case : WP(C)/3206/2024

RABINDRA DAS
SON OF LATE MUNINDRA DAS

VILLAGE- UPPER TEMERA

PO- BADULIPAR

PS- DERGAON

DISTRICT- GOLAGHAT
ASSAM

PIN- 785611.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM

FISHERY DEPARTMENT
DISPUR
GUWAHATI
PIN- 781006.

2:THE ADDL. SECRETARY TO THE GOVERNMENT OF ASSAM
FISHERY DEPARTMENT
DISPUR
GUWAHATI
PIN- 781006.

3:THE ASSAM FISHERIES CORPORATION LTD.
REPRESENTED BY THE MANAGING DIRECTOR

CHACHAL
VIP ROAD
GUWAHATI
PIN- 781036.

4:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
CHACHAL
VIP ROAD
GUWAHATI
PIN- 781036.

5:THE MISING AUTONOMOUS COUNCIL
REPRESENTED BY THE PRINCIPAL SECRETARY

GOGAMUKH

DISTRICT- DHEMAJI (ASSAM)

PIN- 787034.

6:THE PRINCIPAL SECRETARY
MISING AUTONOMOUS COUNCIL
GOGAMUKH
DISTRICT- DHEMAJI (ASSAM)

PIN- 787034.

7:THE DISTRICT COMMISSIONER
GOLAGHAT
P.O. AND P.S.- GOLAGHAT

DISTRICT- GOLAGHAT (ASSAM)

PIN- 785621.

Linked Case : WP(C)/3086/2024

DIBRU DANGARI RIVER PART-I MIN SAMABAY SAMITY LTD.
DIGHAL TARANG
DIST.- TINSUKIA
ASSAM
REPRESENTED BY ITS SECRETARY SRI BIKASH DAS
62 YEARS
S/O- LATE SACHINDRA DAS
R/O- DIGHAL TARANG
P.O. DIGHAL TARANG
P.S. BAGHJAN DIST- TINSUKIA
ASSAM

VERSUS

THE STATE OF ASSAM AND 9 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY
FISHERIES DEPARTMENT
GOVT. OF ASSAM
DISPUR
GUWAHATI- 781006

2:THE DEPUTY COMMISSIONER
DHEMAJI
ASSAM

3:THE DEPUTY COMMISSIONER

LAKHIMPUR
ASSAM

4:THE DEPUTY COMMISSIONER
MAJULI
ASSAM

5:THE DEPUTY COMMISSIONER
SONITPUR
ASSAM

6:THE DEPUTY COMMISSIONER
GOLAGHAT
ASSAM

7:THE DEPUTY COMMISSIONER
SIVASAGAR
ASSAM

8:THE DEPUTY COMMISSIONER
DIBRUGARH
ASSAM

9:THE DEPUTY COMMISSIONER
TINSUKIA
ASSAM

10:THE MISSING AUTONOMOUS COUNCIL
REPRESENTED BY THE PRINCIPAL SECRETARY
GOGAMUKH
DHEMAJI
ASSAM

Linked Case : WP(C)/3207/2024

BHRIGU KUMAR DAS
SON OF SRI KHAGEN DAS

VILL- DAKHIN DOLIJOLIA

PO AND PS- DERGAON

DISTRICT- GOLAGHAT
ASSAM

PIN- 785611.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM

FISHERY DEPARTMENT
DISPUR
GUWAHATI
PIN- 781006.

2:THE ADDL. SECRETARY TO THE GOVERNMENT OF ASSAM
FISHERY DEPARTMENT
DISPUR
GUWAHATI
PIN- 781006.

3:THE ASSAM FISHERIES CORPORATION LTD.
REPRESENTED BY THE MANAGING DIRECTOR

CHACHAL
VIP ROAD
GUWAHATI
PIN- 781036.

4:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
CHACHAL
VIP ROAD
GUWAHATI
PIN- 781036.

5:THE MISING AUTONOMOUS COUNCIL
REPRESENTED BY THE PRINCIPAL SECRETARY

GOGAMUKH
DISTRICT- DHEMAJI (ASSAM)

PIN- 787034.

6:THE PRINCIPAL SECRETARY
MISING AUTONOMOUS COUNCIL
GOGAMUKH
DISTRICT- DHEMAJI (ASSAM)

PIN- 787034.

7:THE DISTRICT COMMISSIONER

GOLAGHAT
P.O. AND P.S.- GOLAGHAT

DISTRICT- GOLAGHAT (ASSAM)

PIN- 785621.

Linked Case : WP(C)/3156/2024

M/S SAIKHOWA SADIYA MEEN SAMABAI SAMITI LIMITED
A REGISTERED FISHERY CO-OPERATIVE SOCIETY

HAVING ITS REGISTERED OFFICE AT HATIGHULI

DHOLA
IN THE DISTRICT OF TINSUKIA

ASSAM
REPRESENTED BY ITS SECRETARY
SRI MAINA BISWAS
AGED ABOUT 63 YEARS.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY

FISHERIES DEPARTMENT

GOVERNMENT OF ASSAM

DISPUR
GUWAHATI- 781005.

2:THE COMMISSIONER AND SECRETARY
TRIBAL AFFAIRS (PLAIN) DEPARTMENT
GOVERNMENT OF ASSAM
DISPUR
GUWAHATI- 781006.

3:THE DEPUTY COMMISSIONER
DIBRUGARH
ASSAM.

4:THE DEPUTY COMMISSIONER
DHEMAJI
ASSAM.

5:THE MISSING AUTONOMOUS COUNCIL
REPRESENTED BY ITS PRINCIPAL SECRETARY

GOGAMUKH
DHEMAJI
ASSAM.

Linked Case : WP(C)/3079/2024

NITU DAS
S/O SRI BHAGADUTTA DAS
RESIDENT OF VILLAGE DIHINGTHAN
PO ITAGHULI
PS BORBARUA
DIST DIBRUGARH
ASSAM 786009

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM
FISHERY DEPARTMENT
DISPUR
GUWAHATI 781006

2:THE ADDITIONAL SECRETARY TO THE GOT. OF ASSAM
FISHERY DEPARTMENT
DISPUR
GUWAHATI 781006

3:THE ASSAM FISHERIES CORPORATION LIMITED
REPRESENTED BY THE MANAGING DIRECTOR
CHACHAL
VIP ROAD
GUWAHATI 781036

4:THE MANAGING DIRECTOR

ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
CHACHAL
VIP ROAD
GUWAHATI 781036

5:THE MISSING AUTONOMOUS COUNCIL.
REPRESENTED BY THE PRINCIPAL SECRETARY
GOGAMUKH

DIST DHEMAJI
ASSAM 787034

6:THE PRINCIPAL SECRETARY
MISSING AUTONOMOUS COUNCIL
GOGAMUKH
DIST DHEMAJI
ASSAM 787034

7:THE DISTRICT COMMISSIONER

DIBRUGARH
ASSAM
786001

Linked Case : WP(C)/3163/2024

GAMIRI KAIBARTA COOPERATIVE FISHERY SOCIETY LIMITED
REPRESENTED BY ITS SECRETARY
SRI GOPAL DAS
54 YEARS
SON OF LATE MILARAM DAS
RESIDENT OF VILLAGE- JAIPUR
DELHAWCHI

POST OFFICE AND POLICE STATION- GOHPUR
DISTRICT- BISWANATH
ASSAM
PIN- 784168.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY ITS PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM
FISHERY DEPARTMENT
DISPUR
ASSAM
GUWAHATI- 781006.

2:THE DISTRICT COMMISSIONER

BISWANATH DISTRICT
BISWANATH CHARIALI.

3:THE SUB DIVISIONAL OFFICER
SDO(C)

BISWANATH SUB-DIVISION

BISWANATH CHARIALI

4:THE SUB DIVISIONAL OFFICER
SDO(C)

GOHPUR SUB DIVISION
GOHPUR

5:THE MISSING AUTONOMOUS COUNCIL
GOGAMUKH
DHEMAJI

Linked Case : WP(C)/3071/2024

ANIL DAS
S/O- SRI DULESWAR DAS

RESIDENT OF VILLAGE- SANATAN GAON

P.O. AND P.S.- NORTH LAKHIMPUR

DISTRICT- LAKHIMPUR
ASSAM

PIN- 787001.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM

FISHERY DEPARTMENT
DISPUR
GUWAHATI-6.

2:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
CHACHAL
VIP ROAD
GUWAHATI-36.

3:THE DIRECTOR OF FISHERIES
ASSAM

MEEN BHAWAN
GUWAHATI-16.

4:THE DEPUTY COMMISSIONER
LAKHIMPUR
NORTH LAKHIMPUR.

5:THE DEPUTY COMMISSIONER
DHEMAJI
DISTRICT- DHEMAJI
ASSAM.

6:THE CIRCLE OFFICER
GHILAMARA REVENUE CIRCLE
LAKHIMPUR DISTRICT
PIN-

7:THE PRINCIPAL SECRETARY
MISSING AUTONOMOUS COUNCIL
GOGAMUKH
DISTRICT- DHEMAJI
ASSAM

PIN- 787034.

Linked Case : WP(C)/3087/2024

RANJIT DAS
SON OF LATE KAMINI DAS
RESIDENT OF VILLAGE- DIGHALTARANG
POST OFFICE- DIGHALTARANG
POLICE STATION- BAGHJAN
DISTRICT- TINSUKIA
ASSAM
PIN- 786151

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
FISHERY DEPARTMENT
DISPUR
GUWAHATI- 781006

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

DISPUR
GUWAHATI- 781006

3:THE MISING AUTONOMOUS COUNCIL
REPRESENTED BY THE PRINCIPAL SECRETARY
MISING AUTONOMOUS COUNCIL
GOGAMUKH
DHEMAJI
ASSAM

4:THE PRINCIPAL SECRETARY
MISING AUTONOMOUS COUNCIL
GOGAMUKH
DHEMAJI
ASSAM

5:THE DEPUTY COMMISSIONER
TINSUKIA
ASSAM

6:THE ASSAM FISHERIES DEVELOPMENT CORPORATION
REPRESENTED BY ITS MANAGING DIRECTOR
BIMALA PRASAD CHALIHA ROAD
CHACHAL
VIP ROAD
GUWAHATI
PIN- 781036

Linked Case : WP(C)/3198/2024

RAJEN DAS
SON OF LATE SONARAM DAS

VILL- PANBARI RESERVE FOREST

PO- BOKAKHAT BORGURI

PS- BOKAKHAT

DIST.- GOLAGHAT
ASSAM

PIN- 785611.

VERSUS

THE STATE OF ASSAM AND 6 ORS

REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM

FISHERY DEPARTMENT
DISPUR
GUWAHATI

PIN- 781006.

2:THE ADDL. SECRETARY TO THE GOVERNMENT OF ASSAM
FISHERY DEPARTMENT
DISPUR
GUWAHATI
PIN- 781006.

3:THE ASSAM FISHERIES CORPORATION LTD.
REPRESENTED BY THE MANAGING DIRECTOR

CHACHAL
VIP ROAD
GUWAHATI
PIN- 781036.

4:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
CHACHAL
VIP ROAD
GUWAHATI
PIN- 781036.

5:THE MISING AUTONOMOUS COUNCIL
REPRESENTED BY THE PRINCIPAL SECRETARY

GOGAMUKH
DISTRICT- DHEMAJI (ASSAM)

PIN- 787034.

6:THE PRINCIPAL SECRETARY
MISING AUTONOMOUS COUNCIL
GOGAMUKH
DISTRICT- DHEMAJI (ASSAM)

PIN- 787034.

7:THE DISTRICT COMMISSIONER
GOLAGHAT
P.O. AND P.S.- GOLAGHAT

DISTRICT- GOLAGHAT (ASSAM)

PIN- 785621.

Linked Case : WP(C)/3200/2024

ARUP DAS
SON OF LATE MAHARAJA DAS

VILLAGE- UPPER TEMERA

P.O.- BADULIPAR

PS- DERGAON

DISTRICT- GOLAGHAT
ASSAM

PIN- 785611.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM

FISHERY DEPARTMENT
DISPUR
GUWAHATI

PIN- 781006.

2:THE ADDL. SECRETARY TO THE GOVERNMENT OF ASSAM
FISHERY DEPARTMENT
DISPUR
GUWAHATI
PIN- 781006.

3:THE ASSAM FISHERIES CORPORATION LTD.
REPRESENTED BY THE MANAGING DIRECTOR

CHACHAL
VIP ROAD
GUWAHATI
PIN- 781036.

4:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.

CHACHAL
VIP ROAD
GUWAHATI
PIN- 781036.

5:THE MISING AUTONOMOUS COUNCIL
REPRESENTED BY THE PRINCIPAL SECRETARY

GOGAMUKH
DISTRICT- DHEMAJI (ASSAM)

PIN- 787034.

6:THE PRINCIPAL SECRETARY
MISING AUTONOMOUS COUNCIL
GOGAMUKH
DISTRICT- DHEMAJI (ASSAM)

PIN- 787034.

7:THE DISTRICT COMMISSIONER
GOLAGHAT
P.O. AND P.S.- GOLAGHAT

DISTRICT- GOLAGHAT (ASSAM)

PIN- 785621.

Linked Case : WP(C)/4662/2022

NATUN GOTONGA R H SELF HELP GROUP AND ANR
REP. BY ITS SECRETARY SRI SUREN DAS
HAVING ITS REGD. OFFICE AT VILL. NATUN GATANGA KOIBARTA GAON
P.O. SANTIPUR
P.S. AND DIST. SIVSAGAR
ASSAM-785667.

2: SUREN DAS
S/O. BHULA DAS
VILL. NATUN GATANGA KOIBARTA GAON
P.O. SANTIPUR
P.S. AND DIST. SIVSAGAR
ASSAM-785667.
VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM

FISHERIES DEPTT.
DISPUR
GUWAHATI
ASSAM-781006.

2:THE DEPUTY COMMISSIONER

SIVSAGAR
DIST. SIVSAGAR
ASSAM.

3:THE MISSING AUTONOMOUS COUNCIL
REP. BY THE PRINCIPAL SECRETEARY
MISSING AUTONOMOUS COUNCIL
GOGAMUKH
DHEMAJI
ASSAM.

4:THE PRINCIPAL SECRETARY

MISSING AUTONOMOUS COUNCIL
GOGAMUKH
DHEMAJI
ASSAM.

Linked Case : WP(C)/3205/2024

NARAYAN DAS
SON OF SRI BANABASHI DAS

VILLAGE- UPPER TEMERA

PO- BADULIPAR

P.S.- DERGAON

DISTRICT- GOLAGHAT
ASSAM

PIN- 785611.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM

FISHERY DEPARTMENT

DISPUR
GUWAHATI

PIN- 781006.

2:THE ADDL. SECRETARY TO THE GOVERNMENT OF ASSAM
FISHERY DEPARTMENT
DISPUR
GUWAHATI
PIN- 781006.

3:THE ASSAM FISHERIES CORPORATION LTD.
REPRESENTED BY THE MANAGING DIRECTOR

CHACHAL
VIP ROAD
GUWAHATI
PIN- 781036.

4:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
CHACHAL
VIP ROAD
GUWAHATI
PIN- 781036.

5:THE MISING AUTONOMOUS COUNCIL
REPRESENTED BY THE PRINCIPAL SECRETARY

GOGAMUKH
DISTRICT- DHEMAJI (ASSAM)

PIN- 787034.

6:THE PRINCIPAL SECRETARY
MISING AUTONOMOUS COUNCIL
GOGAMUKH
DISTRICT- DHEMAJI (ASSAM)

PIN- 787034.

7:THE DISTRICT COMMISSIONER
GOLAGHAT
P.O. AND P.S.- GOLAGHAT

DISTRICT- GOLAGHAT (ASSAM)

PIN- 785621.

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Linked Case : WP(C)/4659/2022

M/S SAIKHOWA SADIYA MIN SAMBAI SAMITI LIMITED
A REGD. FISHERY CO-OPERATIVE SOCIETY HAVING ITS REGD. OFFICE AT
HATIGHULI
DHOLA
DIST. TINSUKIA
ASSAM
REP. BY ITS SECRETARY
SRI MAINA BISWAS.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMMISSIONER AND SECY.
FISHERIES DEPTT.
GOVT. OF ASSAM
DISPUR
GUWAHATI-781006.

2:THE DEPUTY COMMISSIONER

DIBRUGARH
ASSAM.

3:THE DEPUTY COMMISSIONER

SIVASAGAR
ASSAM.

4:THE DEPUTY COMMISSIONER

LAKHIMPUR
ASSAM.

5:THE DEPUTY COMMISSIONER

DHEMAJI
ASSAM.

6:THE MISSING AUTONOMOUS COUNCIL
REP. BY ITS PRINCIPAL SECRETARY
GOGAMUKH DHEMAJI
ASSAM.

Linked Case : WP(C)/4651/2022

ROWMARI PHUKON FADIA SELF HELP GROUP
REPRESENTED BY ITS SECRETARY SRI RAJIB HAZARIKA
HAVING ITS REGISTERED OFFICE AT VILL- NATUN GATANGA AND
ROWMARI PHUKON FADIA GAON
P.O. SANTIIPUR
P.S. AND DISTRICT- SIVSAGAR
ASSAM - 785667.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
FISHERIES DEPARTMENT
DISPUR
GUWAHATI
ASSAM- 781006.

2:THE DEPUTY COMMISSIONER
SIVSAGAR
DISTRICT- SIVSAGAR
ASSAM.

3:THE MISSING AUTONOMOUS COUNCIL
REPRESENTED BY THE PRINCIPAL SECRETARY
MISSING AUTONOMOUS COUNCIL
GOGAMUKH
DHEMAJI
ASSAM.

4:THE PRINCIPAL SECRETARY
MISSING AUTONOMOUS COUNCIL
GOGAMUKH
DHEMAJI
ASSAM.

Advocate for the Petitioners : Mr. S. Banik, Advocate
Mr. A. Rahman, Advocate
Mr. N. K. Kalita, Advocate
Mr. D. Saikia, Advocate
Mr. N. Borah, Advocate
Mr. M. Dutta, Advocate

Advocate for the Respondents : Mr. S. Borthakur, Advocate
Mr. P. Sarma, Advocate
Mr. S. Baruah, Advocate

BEFORE

HONOURABLE MR. JUSTICE DEVASHIS BARUAH

Date of Hearing : 20.08.2024

Date of Judgment : 20.08.2024

JUDGMENT AND ORDER (ORAL)

Heard the learned counsels appearing on behalf of the petitioners in the batch of the writ petitions. Mr. S. Borthakur, the learned counsel appears on behalf of the Mising Autonomous Council (for short, referred to as 'MAC'); Mr. P. Sarma, the learned counsel appears on behalf of both the Fishery Department of the Government of Assam as well as the Assam Fishery Development Corporation Ltd. (for short, 'the AFDC') and Mr. S. Baruah, the learned counsel appears on behalf of the State of Assam.

2. In the instant batch of writ petitions, the petitioners herein who are either having settlement from the Fishery Department of the Government of Assam or under the AFDC or are intending settlement holders of the Fisheries under the Fishery Department of the Government of Assam as well as the AFDC have approached this Court challenging the Notice Inviting Tenders issued by the MAC on the ground that the MAC does not have the jurisdiction and authority to settle fisheries in terms with the extant law.

3. Be that as it may, this Court finds it relevant to deal briefly the NIT which has been challenged in the batch of writ petitions as herein under:-

WP(C) No.3065/2024

4. In this writ petition, the petitioner has assailed the NIT dated 05.06.2024 for settlement of Meen Mahals for the financial year 2024-26 from 01.07.2024 to 30.06.2024. As per the petitioner, the settlement process so initiated by MAC is in respect to Sessa Nadi Fishery which is a declared fishery.

WP(C) No.4651/2022

5. In this writ petition, the petitioner has assailed the NIT dated 07.07.2024 for settlement of Brahmaputra Part-II fishery for the financial year 2024-26 from 01.07.2024 to 30.06.2024 on the ground that the proposed settlement process infringes upon the Brahmaputra Part-II Fishery settled with the petitioner.

WP(C) No.4659/2022

6. In this writ petition, the petitioner has assailed the NIT dated 05.06.2024 for settlement of various fisheries which overlap the Brahmaputra Part-III, IV and V fisheries for the financial year 2024-26 from 01.07.2024 to 30.06.2024.

WP(C) No.4662/2022

7. In this writ petition, the petitioner has assailed the NIT dated 07.07.2022 for settlement of Darika Part-III/Darika Part-III Moridihing Mukhpanighat 1st portion Fishery of Sivasagar District for the financial year 2024-26 from 01.07.2024 to 30.06.2024 on the ground that the proposed settlement process infringes upon the Darika Part-III settled with the petitioner.

WP(C) No.3071/2024

8. In this writ petition, the petitioner has assailed the NIT dated 05.06.2024 for settlement of Meen Mahals for the financial year 2024-26 from 01.07.2024 to 30.06.2024 on the ground that the proposed fishery to be settled infringes upon the Bolahi Sampara Meen Mahal settled with the petitioner.

WP(C) No.3079/2024

9. In this writ petition, the petitioner has assailed the NIT dated 05.06.2024 for settlement of Meen Mahals for the financial year 2024-26 from 01.07.2024 to 30.06.2024 on the ground that the fishery proposed to be settled by the MAC infringes upon Merlangnakhona Beel settled with the petitioner.

WP(C) No.3086/2024

10. In this writ petition, the petitioner has assailed the NIT dated 05.06.2024 for settlement of Meen Mahals for the financial year 2024-26 from 01.07.2024 to 30.06.2024 on the ground that the fisheries so proposed to be settled by the MAC infringes upon the declared registered fisheries, namely, Brahmaputra Part-I and Dibang Nadi Fishery which are registered fisheries settled with the petitioner.

WP(C) No.3087/2024

11. In this writ petition, the petitioner has assailed the NIT dated 05.06.2024 for settlement of Meen Mahals for the financial year 2024-26 from 01.07.2024 to 30.06.2024 on the ground that the proposed settlement process infringes upon the Brahmaputra Part-I and Dibang Nadi Fishery settled with the petitioner.

WP(C) No.3156/2024

12. In this writ petition, the petitioner has assailed the NIT dated 05.06.2024 for settlement of Meen Mahals for the financial year 2024-26 from 01.07.2024 to 30.06.2024 on the ground that the fisheries so proposed to be settled by MAC infringes upon the declared registered fisheries being Brahmaputra Part III & IV.

WP(C) No.3163/2024

13. In this writ petition, the petitioner has assailed the NIT dated 06.06.2024 for settlement of Meen Mahals for the financial year 2024-26 from 01.07.2024 to 30.06.2024 on the ground that the proposed settlement infringes upon the Chaiduwar Kharoibeel Meen Mahal which is a registered declared fishery.

WP(C) No.3195/2024

14. In this writ petition, the petitioner has assailed the NIT dated 05.06.2024 for settlement of Meen Mahals for the financial year 2024-26 from 01.07.2024 to 30.06.2024 in so far as it relates to infringement of the Goroimari Group Meen Maham which had been settled with the petitioner by AFDC.

WP(C) No.3198/2024

15. In this writ petition, the petitioner has assailed the NIT dated 05.06.2024 for settlement of Meen Mahals for the financial year 2024-26 from 01.07.2024 to 30.06.2024 on the ground that the settlement process so initiated infringes upon the Ganak Dubai Duba Meen Mahal which had settled with the petitioner.

WP(C) No.3200/2024

16. In this writ petition, the petitioner has assailed the NIT dated 05.06.2024 for settlement of Meen Mahals for the financial year 2024-26 from 01.07.2024 to 30.06.2024 on the ground that the proposed settlement process infringes upon the Tinsukia Barbeel Meen Mahal settled with the petitioner.

WP(C) No.3205/2024

17. In this writ petition, the petitioner has assailed the NIT dated 05.06.2024 for settlement of Meen Mahals for the financial year 2024-26 from 01.07.2024 to 30.06.2024 on the ground that the proposed settlement process infringes upon the Moridiso Sengelisuti Meen Mahal settled with the petitioner.

WP(C) No.3206/2024

18. In this writ petition, the petitioner has assailed the NIT dated 05.06.2024 for settlement of Meen Mahals for the financial year 2024-26 from 01.07.2024 to 30.06.2024 on the ground that the proposed settlement process infringes upon the Gela Singa Meen Mahal settled with the petitioner.

WP(C) No.3207/2024

19. In this writ petition, the petitioner has assailed the NIT dated 05.06.2024 for settlement of Meen Mahals for the financial year 2024-26 from 01.07.2024 to 30.06.2024 on the ground that the proposed settlement process infringes upon the Pungani Meen Mahal settled with the petitioner.

20. The facts are not in dispute. The question involved is a question of law on the interpretation of the various provisions of the Assam Land & Revenue Regulation, 1886 (for short, 'the Regulation'); read with the Fishery Rules, 1953 (for short, 'the Rules of 1953'); the Mising Autonomous Council Act, 1995 (for short, 'the Act of 1995') as well as the Notification issued by the Governor of Assam dated 07.03.2017. Let this Court take note *infra* the submission made by the learned counsels of the parties before this Court.

21. Mr. S. Banik, the learned counsel appearing on behalf of some of the petitioners has drawn the attention of this Court to Section 16 of the Regulation and submitted that a perusal of said provision would show that the Deputy Commissioner with the previous sanction of the State Government, may by proclamation, published in the prescribed manner, declare any collection of water, running or still, to be a fishery and no right in any fishery so declared shall be deemed to have been acquired by the public or any person either before or after the commencement of the Regulation, except as provided in the Rules framed under Section 155 of the Regulation. The learned counsel for the petitioners further drew the attention of this Court to Sections 155 and 156 of the Regulation which empowers the State to make rules which is consistent with the Regulation in relation to various matters, including granting of licences, or the forming of right, to work mines, stones and lime quarries, salt wells and oil wells, to fish in fisheries proclaimed under Section 16 of the Regulation and to carry on gold washing operation. The learned counsel for the petitioners submits that the power to impose penalty for the breach of any rules so framed under Section 155 of the Regulation is provided in Section

156 of that Regulation. On the basis thereof, the learned counsel for the petitioners submitted that the State Government has been empowered to frame Rules to fish in fisheries proclaimed under Section 16 of the Regulation by the Deputy Commissioner with the approval of the State Government. He therefore submitted that in view of the Section 16 of the Regulation, no person, unless provided under the Rules framed under Section 155 & 156 of the Regulation, can have any right in any fishery so proclaimed.

22. In that context, the learned counsel for the petitioners drew the attention of this Court to the Rules of 1953 which were made under Sections 155 & 156 of the Regulation. Drawing reference to the various provisions of the Rules of 1953, the learned counsel for the petitioners submitted that these rules provide that there has to be a register of Government Fishery (including navigable rivers which are public property) which is required to be kept by the District and Sub-Divisional Officer. The procedure of the Sale of the Fisheries is stipulated in the said Rules of 1953. The learned counsel for the Petitioners referred to Rule 5 and submitted that the conditions for Sale are stipulated and as per Rule 8, who is the Settling Authority for such fisheries have been mentioned.

At this stage, this Court finds it relevant to take note of that the Rules of 1953 only relate to registered fisheries or in other words, those fisheries which are declared by way of proclamation by the Deputy Commissioner with the approval of the State Government and duly kept in the Register mentioned in terms of Rule 3 of the Rules of 1953. This aspect of the matter is relevant as would be seen at the later stages of the instant judgment.

23. The learned counsel for the petitioners further referred to an order dated 07.03.2017 which was published in the Assam Gazette on 24.05.2017. It is the submission of the learned counsel for the petitioners that this order so passed in the name of the Governor is an order in the terms with Article 166 (2) of the Constitution to supplement the Rules of 1953 as would be very well seen from the perusal of the order itself in as much as the same have been issued in exercise of the powers under Sections 155 and 156 of the Regulation read with Section 6 of the Indian Fishery Act, 1897. Drawing reference to the said order dated 07.03.2017, the learned counsel for the petitioners submitted that the administrative control of all natural water bodies, viz. beels, oxbow lakes, low lying areas, swamps, derelict water bodies, dead river courses, river tributaries and reservoirs were transferred to the Fishery Department of the Government of Assam from the Revenue and Disaster Management Department.

24. The learned counsel for the petitioners therefore submitted that upon a conjoint reading with Section 16 of the Regulation read with the order dated 07.03.2017 would show that the absolute right in respect to all natural water bodies including any collection of water, running or still have been now vested upon the Fishery Department of the Government of Assam. He further submitted that the order dated 07.03.2017 would be a law in terms with Article 13 (2) of the Constitution of India.

25. Mr. S. Banik, the learned counsel for the petitioners further continuing with his submissions drew the attention of this Court to the Act of 1995. He referred to Sections 18 and 43 of the Act of 1995 which provides executive powers in relation to the Council Area over various subjects including the fisheries to the General Council and Village Council

under the MAC. He, however, submitted that this executive power so conferred can only be exercised provided Byelaws are framed by the General Council with the due approval of the State Government as is mandated in Section 23 of the Act of 1995. The learned counsel for the petitioners submitted that the status of the byelaws which are to be framed in terms with Section 23 of the Act of 1995 are subordinate to the Rules which can only be made by the State Government in terms with Section 79 of the Act of 1995. The learned counsel referred to Section 81 of the Act of 1995 which stipulates that the provisions of the Act of 1995 shall have no effect as regards any law, whether made before or after the coming into effect of the Act of 1995, unless such law provides for exclusion of the Council Area of such application. Emphasis was also placed on the Explanation to Section 81 of the Act of 1995 wherein it has been mentioned that the 'law' shall include any enactment, ordinance, regulation, order, byelaw, etc.

26. The learned counsel for the petitioners therefore submitted that unless and until the Notification dated 07.03.2017 or the Rules of 1953 had specifically excluded the Council Area, the Notification dated 07.03.2017 as well as the Rules of 1953 shall have an overriding effect upon the powers conferred upon the General and Village Councils under the MAC. Accordingly, as per the learned counsel for the petitioners, as by the order dated 07.03.2017, all natural bodies, viz. beels, oxbow lakes, low lying areas, swamps, derelict water bodies, dead river courses, river tributaries and reservoirs as well as any collection of water, running or still would now come only within the ambit of the Fishery Department of the Government of Assam, the General Council cannot exercise any power to settle any natural water body as fishery as had been sought to be done.

27. The learned counsel for the petitioners further submitted that the question involved in the instant proceedings is not who has a right to carry out the fishing activities, but the question arises in the instant proceedings as to whether the MAC has the right to settle and in the instant case, as the MAC does not have the administrative control and authority over the collection of water, running or still or for the matter the natural water bodies which stood vested upon the Fishery Department of the Government of Assam on the basis of the order dated 07.03.2017, the question of the MAC initiating process for settlement by issuance of Notice Inviting Tenders which have been challenged in the instant batch of writ petitions.

28. The learned counsels appearing on behalf of the other writ petitioners in the batch of writ petitions have also made submissions which are similar in content to what Mr. S. Banik, the learned counsel had submitted and for the sake of brevity and to avoid repetition, this Court is not incorporating those submissions.

29. Per contra, Mr. S. Borthakur, the learned counsel appearing on behalf of the MAC submitted that a perusal of Sections 18 & 43 of the Act of 1995 would show that the Executive power in relation to various subjects including the fisheries have been conferred upon the General Council as well as the Village Council, as the case may be, in relation to the Council Area or in relation to the Village Council Area respectively. This Executive power so conferred includes the power to settle the fisheries falling within the Council Area. He therefore submitted that by virtue of Section 18 of the Act of 1995 which starts with a non-obstante Clause, the General Council of the MAC has the power to settle natural water

bodies other than declared registered fisheries. He further submitted that the notification dated 07.03.2017 cannot be construed to effect the rights of the General Council of the MAC to exercise its executive powers over the fisheries with the Council Area in view of Sections 18 of the Act of 1995. He however, submitted that a reading of Section 81 of the Act of 1995 would show that nothing in the Act of 1995 would affect the application of any law whether made before or after the Act of 1995 unless specifically excluded the Council Area and therefore submitted that it is only in respect to the declared registered fisheries wherein the MAC would not have jurisdiction in view of Section 16 of the Regulation read with the Rules of 1953. Be that as it may, the learned counsel submitted that the same would not apply as regards other natural water bodies, if it falls within the Council Area or the Village Council Area, as the case may be. He further submitted that if the interpretation so given by the learned counsels for the petitioners are to be accepted, the power which has been conferred upon the General Council as well as the Village Council by the provisions of Sections 18 & 43 of the Act of 1995 would become otiose and it is a well settled principle of law that a legislative provision cannot be made redundant by giving a strict literal interpretation. Rather, a harmonious and purposive interpretation has to be given so that the powers which have been conferred upon the General Council or the Village Council shall remain unaffected unless and until the Act of 1995 is amended or repealed.

30. Mr. P. Sarma, the learned counsel appearing on behalf of the Fishery Department of the Government of Assam as well as the AFDC submitted that MAC by issuance of the notice inviting tenders in question had

transgressed upon the boundaries of the registered fisheries under the Fishery Department as well as 186 beels which were handed over to the AFDC. He submitted that the MAC has no authority over the Government Fisheries as well as the fisheries under the AFDC falling under the Council Area of the MAC as it is only the Government of Assam as well as AFDC who have been empowered. The General Council as per Mr. Sarma, do not have the administrative control over the registered fisheries as well as all natural water bodies and thus the MAC cannot invoke its powers under Section 18 of the Act of 1995 in respect to fisheries. In addition to that, the learned counsel further submitted that without compliance to Section 23 of the Act of 1995, the executive power so conferred upon the General Council or the Village Council cannot be exercised as the administration, regulation and control have to be prescribed.

31. I have heard the learned counsels appearing on behalf of the parties at length and have given my anxious consideration to their respective submissions.

32. The point for determination in the instant proceedings is as to whether the General Council of the MAC has the jurisdiction by virtue of Section 18 of the Act of 1995 to settle the fisheries falling within the Council Area. In addition to that, a supplementary point of determination arises as to whether in absence of the prescription to be made by the Government of Assam under Section 79 of the Act of 1995 and/or the Bylaws required to be framed as per Section 23 of the Act of 1995 would the General Council have the power to exercise the executive power in so far as fisheries are concerned.

33. From the facts as narrated in the writ petitions, it is apparent that

the petitioners in the instant batch of writ petitions are either sitting lessee of fisheries settled either by the Fishery Department of the Government of Assam or by the AFDC or are prospective applicants to certain settlement to be carried out by the Fishery Department and the AFDC. The facts in the instant proceedings further show that the petitioners herein have assailed the impugned notice Inviting Tenders by the MAC in as much as the impugned Notice Inviting Tenders are in respect to certain water bodies which fall within their settled registered fisheries by the Government of Assam or the AFDC as the case may be. The primary question which arises as to whether the MAC has the jurisdiction to do so in view of the extant law?

34. Chapter-II of the Regulation relates to ***Rights over the Land***. In this Chapter, we have Sections 4 to 16 of the Regulation. Section 4 relates to land which are exempted from the Chapter-II. Those lands are lands which are included in any forest constituted a reserved forest under the law for time being in force or any other land which the Government by way of a Notification exempt from the operation of Chapter-II of the Regulation. It is also very pertinent to mention that 'Rights to fishery' is included in Chapter-II of the Regulation, in the form of Section 16 of the Regulation. The inclusion of 'Rights to Fishery' within the ambit of Chapter-II of the Regulation is of great significance in as much as the State Government retains the right over any collection of water, running or still. Keeping the above perspective in mind, Section 16 of the Regulation is reproduced herein below:-

Rights in fishery

“16. The Deputy Commissioner, with the previous sanction of the State

Government, may, by proclamation published in the prescribed manner, declare any collection of water, running or still, to be a fishery; and no right in any fishery so declared shall be deemed to have been acquired by the public or any person, either before or after the commencement of this Regulation, except as provided in the rules made under section 155:

Provided that nothing in this section shall effect any express grant of a right to fish made by or on behalf of the Government or on any fishery rights acquired by a proprietor before the commencement of this Regulation, or the acquisition by a proprietor of such rights in any fishery forming after the commencement of this Regulation in his estate."

35. A perusal of the above quoted Section 16 of the Regulation would show that the Deputy Commissioner with the previous sanction of the State Government may by proclamation, published in the prescribed manner thereby declaring any collection of water, running or still, to be a fishery. This aspect of the matter is very relevant as the power conferred upon the Deputy Commissioner to declare any collection of water, running or still as fishery does not limit the jurisdiction to any area within Assam unless injuncted by law within the meaning of Article 13 of the Constitution. Therefore, the administrative control is with the Deputy Commissioner to declare any collection of water, running or still as fishery, however subject to the approval of the State Government.

Upon such declaration being made in the manner prescribed, no right in such fishery declared shall be deemed to have been acquired by the public or any person, either before or after the commencement of the Regulation, except as provided in the Rules made under Section 155 of the Regulation. The proviso to the said Section mandates that irrespective of the stipulations contained in the main provision, the State Government

can make an express grant of right to fish. Furthermore, the stipulation contained in the main provision shall not affect any fishery rights acquired by a proprietor before the commencement of the Regulation or the acquisition by the proprietor of such rights in any fishery forming after the commencement of the Regulation in his estate.

36. The words "any collection of water, running or still" are of wide amplitude and taking into consideration that Section 16 of the Regulation is included in Chapter-II of the Regulation, it signifies that the State Government has the executive powers over any collection of water, running or still and upon being declared as a fishery, the right to fish is subject to the Rules made under Section 155 of the Regulation. The above observation is also in tune with Article 162 of the Constitution read with Entry 21 of the State List in the 7th Schedule to the Constitution.

37. The proclamation thereby declaring any collection of water, running or still to be a fishery as well as the manner in which rights in such fishery can be acquired, sold etc. is required to be prescribed by way of Rules framed under Section 155 of the Regulation. Clause (f) of the Rule 155 deals with the power of the State Government to make Rules consistent with the Regulation in relation to fish in fisheries proclaimed under Section 16 of the Regulation. Before proceeding further, this Court finds it relevant to take note of that Section 156 of the Regulation which empowers the State Government to impose penalty for breach of the Rules, in addition to other consequences. The extent of the penalty that can be prescribed is also mandated in Section 156 of the Regulation.

38. On the basis of the said powers so conferred under Section 155 (f)

and Section 156 of the Regulation, the Rules of 1953 were made. A perusal of the Rules of 1953 stipulates the prescription as regards the register of fisheries is to be made; the procedure for sale of fisheries; who is the settling authority and how the fishing rights are to be regulated, etc. Rule 17 of the said Rules of 1953 categorically mandates that fishing, without a lease previously obtained from the Deputy Commissioner of the District concerned or such other officer as he may appoint for the purpose, in the fisheries of the province proclaimed under Section 16 of the Regulation is prohibited. It further stipulates that any person fishing in the proclaimed waters must carry his lease or an authority from the lessee and produce it when called upon to do so by any officer authorized. Before further proceeding, this Court finds it relevant to take note of Rule 1 (a) of the Rules of 1953 as the same has relevance to the scope of the Rules of 1953 are concerned. Rule 1 (a) defines the term 'fishery' to mean water declared to be a fishery by proclamation issued under Section 16 of the Regulation and includes kheos or fish ways, dobas and beels. Therefore, a conjoint reading of Section 16 and Section 155 (f) of the Regulation read with the Rules of 1953, it would be seen that the Rules of 1953 are only applicable in so far as declared fisheries are concerned which are required to be maintained in the Register as mandated in Rule 3 of the Rules of 1953. This aspect assumes importance taking into account that it is the State Government who has the absolute rights over a declared fishery, the details of which are kept in the Register maintained by the District or the Sub-Divisional Officer. It is however open to the State Government by virtue of the proviso to Section 16 of the Regulation to grant the right to fish. It is also very pertinent to observe that the Rules

of 1953 do not exclude Council Area as defined in 2 (d) of the Act of 1995 from the purview of the said Rules of 1953. Under such circumstances, the only conclusion that can be deduced is that declared fisheries are to be dealt with in terms Rules of 1953 and the Authority entitled to make settlement is the Authority as mentioned in Rule 8 of the Rules of 1953 and none others. A priori therefore is the MAC would have no right to settle any fishery or right upon a fishery unless the State Government exercise the powers in terms with the proviso to Section 16 of the Regulation or there is a legislative enactment overriding Section 16 of the Regulation or the Rules of 1953. This aspect would be dealt with in the subsequent stage of this judgment while discussing the provisions of the Act of 1995 and more particularly Section 81 of the Act of 1995.

39. In the backdrop of the above, this Court further finds it relevant to take note of the order dated 7th of March 2017 issued in the name of the Governor by the Principal Secretary to the Government of Assam, Fishery Department. The contents of the said order is reproduced herein below:-

“ORDER

Dated the 7th March, 2017

No. FISH. 224/2014.-*In exercise of power conferred by Section 155 and 156 of Assam Land & Revenue Regulation, 1886 (Regulation 1 of 1886) read with Section 6 of Indian Fisheries Act, 1897 (Act No. 4 of 1897) the Governor of Assam is pleased to vest the administrative control of all natural water bodies viz. beels, ox-bow lakes, low laying areas, swamps, derelict water bodies, dead river courses, river tributaries and reservoirs with the Fishery Department henceforth which are presently being settled by Revenue & Disaster Management Department and are administered by concerned Deputy Commissioner/SDO of a district/civil sub-division for proper scientific method of*

conservation and management and for sustainable development of such rich natural resources in a productive manner or overall economic development of people living in the vicinity of such natural water bodies.

Accordingly, the Revenue & Disaster Management Department shall hand over possession of such natural water bodies under the Department through concerned DC/SDO to Fishery Department represented by DFDO of the concerned district. Consequently upon above, the land record of concerned Revenue Circle & Sadar records shall be modified to reflect the administrative control of such natural water bodies by the Fishery Department.

It is further ordered that, in case of any such natural water body already leased out by concerned DC/SDO; the right of fishing over such natural water bodies by the lessee shall not in any way get affected till expiry of the lease period subject to the condition that such lessee shall not obstruct in any way the steps taken by the Fishery Department for development of such natural water bodies in the intervening period till completion of lease.”

40. A perusal of the said order would show that the administrative control over all natural water bodies upon which the Revenue Department was exercising the administrative control was transferred to the Fishery Department of the Government of Assam. A conjoint reading of Section 16 of the Regulation with the order dated 07.03.2017 would show that while Section 16 of the Regulation referred to collection of water, running or still which could be declared as a fishery, the order dated 07.03.2017 provide with details what would be construed to be a natural water body. However, there appears to be a fundamental difference in as much as in Section 16 of the Regulation, any collection of water, running or still, could be declared to be a fishery as per the manner prescribed and in such declared fishery, the rights to the fishery shall be subject to the Rules to be framed in terms with Section 155 (f) of the regulation whereas vide the

order dated 07.03.2017, all the administrative control of the natural water body was transferred from the Revenue Department to the Fishery Department whether there is a proclamation declared or not. This aspect of the matter is a clear pointer to the fact, that the State Government would only have executive powers over any collection of water, running or still including all natural water bodies in the State of Assam. Be that as it may, for the sake of clarity, it observed that the said observation would not be applicable in so far as the 6th Schedule Area of the State of Assam provided the Governor exercises the powers mentioned in Paragraph No.6(2) of the 6th Schedule to the Constitution.

41. The Act of 1995 is an enactment to provide for establishment of the MAC within the State of Assam with an aim to grant maximum autonomy within the framework of the Constitution comprising of satellite areas and core areas for social, economic, educational, ethnic and cultural advancement of the Mising and other Schedule Tribe communities residing therein. Chapter-II of the said Act deals with the constitution of the General Council and Chapter-III deals with the powers and functions of the General Council.

42. Section 18 of the Act of 1995 start with a non-obstinate Clause in the following manner "Notwithstanding anything contained in any other law or rules for the time being in force, the General Council shall have executive powers in relation to the Council Area over following subjects". Clause (11) of Section 18 stipulates 'Fisheries'.

43. Section 20 (1) of the Act of 1995, however, starts with the following sentence "Subject to the provisions of any other law for the time being in

force, the General Council shall have the power to collect within the Council Area such taxes as are payable under law for the time being in force in the manner as may be prescribed". Be that as it may, it would also be seen that it is only the Government of Assam who can appoint the date from when such collection can be made by way of a notification in the Official Gazette. Sub-Section (2) of Section 20 of the Act permits the General Council to levy fees and rates however subject to such maximum rate as the Government may prescribe. Sub-Section (4) of Section 20 of the Act of 1995 stipulates that the collection of tolls, fees or rates and the terms and conditions for imposition thereof shall be such as may be prescribed by the byelaws. Therefore, from a cursory perusal of Section 20 of the Act of 1995 itself, it would be seen that the power to impose, levy or collect taxes even in respect to the subjects mentioned in Clause (1) to (34) of Section 18 of the Act of 1995 is subject to the prescription to be set out by the Rules to be framed by the Government or the Byelaws to be made by the General Council with the approval of the Government.

44. Section 23 of the Act of 1995 stipulates that the General Council may subject to the Act of 1995 or the Rules which have been framed and further subject to the approval of the Government make byelaws to be applicable within the Council Area with respect to all or any of the matters enumerated in Sections 18, 19, 43 & 44 of the Act of 1995 for the Regulation, Control and Administration thereof, and such byelaws shall have effect upon publication in the Official Gazette. Taking into account the mandate of Section 23 of the Act of 1995, which requires the byelaws to have the approval of the State Government, it is clear that for the purpose of Regulation, Control and Administration of the matters

enumerated in Section 18 of the Act of 1995 including fisheries, the General Council of the MAC cannot exercise any powers of Regulation, Control and Administration of the fisheries without the byelaws being made with the due approval of the State Government. This aspect is important in as much as admittedly there are no byelaws made under Section 23 of the Act of 1995 in so far as fisheries are concerned.

45. At this stage, this Court finds it relevant to take note of Section 79 of the Act of 1995 which only empowers only the State Government to make Rules. Admittedly, neither the Rules have been made in terms with Section 79 by the State Government, nor any byelaws have been made in terms with Section 23 of the Act of 1995 in so far as fisheries are concerned.

46. In the backdrop of the above, let this Court take note of Section 81 of the Act of 1995. Taking into account its relevance, the same is reproduced herein under:-

“Saving: 81. *Nothing in this act shall affect the application of any law, whether made before or after this Act, to the Council area unless such law specifically provides for exclusion of the Council area of such application.”*

Explanation: *For the purpose of this section 'Law' shall, include any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instruments having the force of law.”*

47. A perusal of the said provision stipulates that the provisions of the Act of 1995 shall not affect the application of any laws, whether made before or after the Act of 1995 has come into force to the Council Area, unless such law specifically provides for exclusion of the Council Area of such application. The Explanation also is equally important in as much as

the term “law” has been stipulated to include any enactment, ordinance, regulation, order, byelaw, rules, schemes, notification or other instrument having the force of law. In view of the Explanation, the order dated 07.03.2017, would be a law within the meaning of Section 81 of the Act of 1995. Therefore, by virtue of section 81 of the Act of 1995, Section 16 of the Regulation, Rules of 1953 as well as the notification dated 07.03.2017 would apply to the Council Area of the MAC taking into account that the said provisions as well as the order dated 07.03.2017 do not exclude the Council Area from its application. A priori ergo is that any collection of water, still or running including all natural water bodies as exemplified and explained in the notification dated 07.03.2017 would administratively vest upon the Fishery Department of the Government of Assam.

48. The question therefore arises as to whether in such a situation where the declared fishery as well as all natural water bodies are outside the administrative control of the MAC can the General Council of the MAC settle any fishery. The answer to the same has to be in the negative taking into account that the Rules of 1953 as well as the notification dated 07.03.2017 would have an overriding effect in view of Section 81 of the Act of 1995 and consequently, if the MAC does not have the administrative control over the natural water bodies, whether a declared fishery or not, it would have no right to grant settlement or for that matter initiate any process for settlement.

49. This Court further finds it relevant to analyze the submissions from another angle in view of the submissions made by the learned counsel appearing on behalf of the MAC to the effect that Section 18 & 43 of the Act of 1995 has to be harmoniously and purposively interpreted with

Section 81 of the Act of 1995 keeping in view of the preamular object behind the enactment of the Act of 1995. It is a well settled principle of interpretation that a statutory provision should be construed according to the intent of they that made it. Normally, such intent is gathered from the language of the provision. If the language employed by the legislature is precise and plain, and thus by itself proclaims the legislative intent in unequivocal terms, the same must be given effect to, regardless of the consequences that may follow. In the foregoing paragraphs of the instant judgment, it would be seen that though the Act of 1995 was enacted to give maximum autonomy to the MAC, but a reading of the provisions of the Act of 1953, viz. Sections 20, 23, 44, 45, 79, 81 etc. would show that the State Government retains the overall control over the functioning of the MAC. The power to impose, levy and collect tax is subject to the State Government issuing Notification, framing Rules as well as granting approval to the byelaws to be framed. It is also seen that the powers of the General Council as well as the Village Council are also subservient to the powers of the State Government to carry out the purpose of the Act. The reason is obvious from a reading of Article 162 of the Constitution which only confer upon the State Government the executive power in respect to the matters to which the Legislature of the State has the power to make laws. In the instant case, Entry 21 of List II of the 7th Schedule to the Constitution relates to Fisheries. It is also pertinent to mention that MAC is a creation of an Act of the State Legislature which cannot be at par with the District Councils mentioned in the 6th Schedule of the Constitution wherein as per Paragraph No.6 (2) of the 6th Schedule, the executive power could be vested by the Governor. Under such

circumstances, this Court is of the opinion that taking into account the provisions of the Act of 1995 and more particularly Section 81 of the Act of 1995, no interpretation can be given thereby to hold that the MAC have authority to settle fisheries when they don't have the administrative control over any declared fishery including any natural water bodies.

50. Another aspect of the matter, which is the supplementary point for determination is as to whether in absence of the prescription which is required to be made by the Government of Assam by framing Rules under Section 79 of the Act of 1995 and further without there being any Byelaws made which are required to be made in terms with Section 23 of the Act of 1995, whether the General Council can exercise the executive powers in respect to fisheries. The answer has to be in the negative in as much as Section 23 of the Act of 1995 categorically states that the Regulation, Control and Administration of the subjects mentioned in Section 18 of 1995 has to be prescribed by the Byelaws. As there are no Byelaws for regulation, administration and control of fisheries, the MAC cannot exercise its executive powers over the fisheries.

51. In that view of the matter, this Court is of the opinion that neither the General Council or the Village Council of the MAC has the authority to settle any fishery or even natural water bodies as exemplified in the notification dated 07.03.2017 and consequently they cannot also initiate process for settlement.

52. Accordingly, the impugned tender notices challenged in the batch of the writ petitions, i.e. NIT dated 07.07.2022; 05.06.2024 and 06.06.2024 are all set aside and quashed.

53. Before parting with the record, this Court however observes that the observations so made shall not preclude the Mising Autonomous Council to challenge the notification dated 07.03.2017, if so advised.

JUDGE

Comparing Assistant