

GAHC010138372021



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

Case No. : WP(C)/4353/2021

12 NO. JIA KALAH I MSSS LIMITED
REP. BY ITS SECRETARY, SRI HEMKANTA BARMAN, AGED ABOUT 68
YEARS, SON OF LATE DAYAL BARMAN, R/O- MANDIRA NISILAMARI, P.O.
MANDIRA, P.S. MANDIRA BOKO, DIST.- KAMRUP, ASSAM- 781127.

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE ADDITIONAL CHIEF SECRETARY TO THE GOVT. OF ASSAM,
FISHERY DEPARTMENT, DISPUR, GUWAHATI- 781006.

2:THE ADDITIONAL CHIEF SECRETARY TO THE GOVT. OF ASSAM
FISHERY DEPARTMENT
DISPUR
GUWAHATI- 781006.

3:THE DEPUTY SECRETARY
FISHERY DEPARTMENT
GOVT. OF ASSAM
DISPUR
GUWAHATI- 781006.

4:THE DEPUTY COMMISSIONER
AMINGAON
PIN- 781031
ASSAM

5:THE DISTRICT FISHERY DEV. OFFICER
AMINGAON
ASSAM

6:CIRCLE OFFICER

NAGARBERA REVENUE CIRCLE
NAGARBERA
ASSAM- 781127.

7:ASHIRBAD FISHERY MAHAL SOCIETY
REP. BY SHRI BHUPEN KUMAR DAS
R/O- VILL. AND P.O. HEKRA
P.S. BOKO
MOUZA- NAGARBERA
DIST.- KAMRUP
ASSAM
PIN- 781127

Advocate for the Petitioner : MR S KHOUND

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY
JUDGMENT & ORDER [ORAL]

Date : 22-02-2024

The fishery named 48 Kharkhari Fishery, Amingaon, District – Kamrup [hereinafter referred to as ‘the Fishery’, in short, for the sake of brevity] is a 60% category fishery and is required to be settled as per the provisions contained in Rule 12 of the Assam Fishery Rules, 1953. The Fishery was previously settled with M/s Jia Kalahi Meen Samabai Samity Limited for a period of 7 [seven] years from 24.07.2012 to 23.07.2020. When the term of the earlier settlement of the Fishery expired on 23.07.2020, the Deputy Commissioner, Kamrup was instructed to initiate steps for settlement of the Fishery for the next term of settlement by the State Government in the Fishery Department on 03.11.2020. On receipt of such instruction, the Deputy Commissioner as the Tender Inviting Authority got the revenue of the Fishery assessed through the District Fishery Development Officer [DFDO], Kamrup under Rule 48 of the Assam Fishery Rules, 1953 @ ₹ 78,000/- per annum. The State Government accorded approval to the annual revenue of the Fishery on 17.11.2020. By a Tender Notice dated 09.02.2021, the Deputy Commissioner invited bids for settlement of the Fishery for a period of 7

[seven] years fixing the annual revenue as ₹ 78,000/- and the last time/date of submission of bids was fixed up-to 03-00 p.m., 19.02.2021. The Tender Notice had **inter alia** stated that the Fishery would be settled with co-operative societies/self help groups [SHGs]/non-government organizations [NGOs] formed with fishermen and the bidders should belong to the concerned district and be in the neighbourhood of the Fishery.

2. In response to the Tender Notice dated 09.02.2021, 4 [four] nos. of bidders including M/s Jia Kalahi Meen Samabai Samity Limited [‘the petitioner society’ and/or ‘M/s Jia Kalahi Society’, for short] and M/s Ashirbad Fishery Mahal Society [‘the respondent society’ and/or ‘M/s Ashirbad Society’, for short], submitted their bids quoting different bid values. The names of the bidders and their respective bid values, in descending order, are as under :-

Sl.	Name of the Society	Annual Bid Value	Total Bid Value
1.	Ashirbad Fishery Mahal Society	₹ 13,00,000/-	₹ 91,00,000/-
2.	M/s 12 No. Jia Kalahi Meen Samabai Samity Limited	₹ 11,21,121/-	₹ 78,47,847/-
3.	34 No. Sathisala Fishery Co-operative Society Limited	₹ 5,66,000/-	₹ 39,62,000/-
4.	M/s Lakhimi Meen Besa Kina Samabai Samity Limited	₹ 3,21,000/-	₹ 22,47,000/-

3. The Tender Settling Authority in the Fishery Department, Government of Assam, after receipt of the tender documents of 4 [four] participant bidders, on being forwarded by the Tender Inviting Authority, has found the bid of the respondent society as the highest valid bid and the Fishery has been settled in favour of the respondent society at a total settlement value of ₹ 91,00,000/- for a period of 7 [seven] years @ ₹ 13,00,000/- per annum by an Order of settlement dated 04.08.2021.

4. The Order of settlement dated 04.08.2021 has been made the subject-matter of challenge by the petitioner society in this writ petition instituted under Article 226 of the Constitution of India seeking **inter alia** a direction to set aside and quash the Order of Settlement dated 04.08.2021, whereby, the Fishery has been settled with the respondent society and the bid of the petitioner society has been rejected and also for a direction in the nature of mandamus to the respondent authorities to settle the Fishery in favour of the petitioner society on the ground the petitioner society was the highest valid bidder in the bidding process initiated by the Tender Notice dated 09.02.2021.

5. I have heard Mr. S. Khound, learned counsel for the petitioner; Mr. S. Baruah, learned Junior Government Advocate, Assam for the respondent no. 1 to 6; and Mr. A.C. Sarma, learned senior counsel assisted by Mr. S. Das, learned counsel for the respondent no. 7.

6. The petitioner society has assailed the Order of Settlement made in favour of the respondent society on the following grounds :- [i] the respondent society submitted a fishing experience certificate issued by the Circle Officer, Nagarbera Revenue Circle on 06.10.2020 whereby it has been certified that all the members of the respondent society are fishermen; [ii] the respondent society has submitted a certificate regarding 100% actual fishermen from an unauthorized organization viz. M/s Guwahati Anusuchit Jati Parishad and not from the jurisdictional Assistant Registrar of Co-operative Societies; [iii] the neighbourhood certificate submitted by the respondent society does not indicate in any manner the distance of the respondent society from the Fishery; and [iv] the respondent society has submitted their Balance Sheets for only 2 [two] years i.e. 2018-2019 and 2019-2020 whereas the Tender Notice requires submission of Balance Sheets of a bidder for a period of 3 [three] years.

7. The challenges on the afore-mentioned grounds have been sought to make relatable to a Notification bearing no. FISH-19/65/2017-FISHERY/1 [eCF No. 50022] dated 18.01.2018 issued by the Fishery Department, Government of Assam. The petitioner society has also contended that the ground of rejection of its bid is untenable as its bid has been rejected only on the ground that the PAN Card submitted by the petitioner society with its bid is in the name of the secretary of the petitioner society. The Order of Settlement dated 04.08.2021 has, otherwise, observed that the petitioner society has submitted all other documents in terms of the Tender Notice, save and except the PAN Card which is in the name of the secretary of the petitioner society.

8. Mr. Khound, learned counsel for the petitioner elaborating further, has submitted that the fishing experience certificate submitted by the respondent society does not conform to the requirement of Clause-[Ka] of the Tender Notice and Clause-3 of the Notification dated 18.01.2018. The Certificate dated 06.10.2020 submitted by the respondent society has only stated that the members of the respondent society are fishermen but it is silent on the aspect of their fishing experience. As per Clause-3 of the Notification dated 18.01.2018, the fishing experience certificate is to be issued by the District Fishery Development Officer and, therefore, the Circle Officer would not be the competent authority to issue a fishing experience certificate. But in the case in hand, the respondent society has submitted the

certificate on the aspect of fishing experience from the Circle Officer, Nagarbera Revenue Circle. It is his further submission that Clause [Ga] of the Tender Notice requires a certificate to the effect that the members of the registered fishery cooperative society belong to Scheduled Castes [SC] and they are 100% actual fishermen. As per Clause-1 of the Notification dated 18.01.2018, a fishery cooperative society has to submit the 100% actual fishermen certificate from the Assistant Registrar of Cooperative Societies. By referring to the Certificate dated 10.11.2020 submitted by the respondent society, Mr. Khound has submitted that the same is a certificate issued by an organization named M/s Guwahati Zilla Anusuchit Jati Parishad, which is not competent to issue any 100% actual fishermen certificate. Clause [Nya] of the Tender Notice has mandated for submission of a neighbourhood certificate near to the fishery to be settled. Clause-2 of the Notification dated 18.01.2018 has mentioned that the neighbourhood certificate is to be issued by the concerned Revenue Circle Officer with clear indication of specific distance of the bidder society to the concerned fishery. The respondent society has submitted a certificate as regards its neighbourhood to the Fishery from the Circle Officer, Nagarbera Revenue Circle vide a Certificate dated 06.10.2020, which has merely mentioned that the members of the respondent society are inhabitants of the bank of the river, without mention of any specific distance of the respondent society from the concerned Fishery. Mr. Khound has further submitted that Clause [Jha] of the Tender Notice requires submission of annual balance sheets and profit & loss account statements of the registered cooperative society. When Clause [Jha] is read with Clause-9 of the Notification dated 18.01.2018, it emerges that the requirement is of submission of annual balance sheets and profit & loss account statements for the preceding three consecutive years, duly verified by the competent authority in the Cooperation Department. In the process of bidding, the respondent society has submitted annual balance sheets and profit & loss account statements for only two years : 2018-2019 & 2019-2020, he has contended. In so far as the reason assigned for rejection of the bid of the petitioner society in the Order of Settlement dated 04.08.2021 is concerned, Mr. Khound has submitted that the bid of the petitioner has been declared non-compliant on the sole ground that the PAN Card submitted by the petitioner society is in the name of its secretary. It is his submission that the same is a curable irregularity.

9. Mr. Baruah, learned Junior Government Advocate, Assam has submitted that Clause [Ka] of the Tender Notice does not mention about the authority from whom the fishing experience certificate has to be submitted, unlike Clause [Kha] of the Tender Notice which requires submission of the bakijai clearance certificate from the jurisdictional Deputy Commissioner. As regards 100% actual fishermen

certificate is concerned, the Tender Notice has not set forth in any specific terms about the authority from whom such a certificate is required to be obtained. On the aspect of neighbourhood certificate, Mr. Baruah has submitted that from the records, it has emerged that neither the certificate submitted by the petitioner society nor the certificate submitted by the respondent society mentions about their respective distance from the Fishery. While the petitioner society's certificate has mentioned about locality, the respondent society's certificate has mentioned that their members are inhabitants of the bank of the river. As regards submission of annual balance sheets and profit & loss account statements, he has submitted that the Tender Notice has not mentioned about the number of years in respect of which those annual balance sheets and profit & loss account statements are required to be submitted. As regards submission of PAN card, he has submitted that Clause [Chha] of the Tender Notice is specific to the extent that the PAN card should be in the name of the bidder society. As the petitioner society has submitted a PAN Card in the name of the secretary only, the bid of the petitioner society has rightly been declared to be non-compliant.

10. Mr. Sarma, learned senior counsel appearing for the respondent society while substantially adopting the submissions of Mr. Barua, learned State counsel, has additionally submitted that the fishing experience certificate has clearly mentioned that the certificate is issued by the Circle Officer pursuant to receipt of reports from the concerned Lat Mandal and Gaonburah who in their reports, have reported that all the members of the respondent society are fishermen. As all the members of the respondent society are fishermen, it cannot be said outrightly that these members do not have any fishing experience. With regard to 100% actual fishermen certificate, he has submitted that the certificate issued by M/s Guwahati Zilla Anusuchit Jati Parisad has clearly mentioned that the respondent society falls under an area where majority of the inhabitants belong to Scheduled Castes [SCs] and all the members of the respondent society also belong to Schedule Castes [SCs]. It is his further submission that the said certificate dated 10.11.2020 has to be read along with the Certificate dated 06.10.2020 issued by the jurisdictional Circle Officer, whereby, it has been reported that all the members of the respondent society are fishermen. As regards neighbourhood certificate, Mr. Sarma submitted in similar lines like Mr. Barua, learned State counsel. That the members of the respondent society are inhabitants of the bank of the river is a clear pointer to the fact that the members of the respondent society are in the immediate neighbourhood of the Fishery. As regards requirement to submit annual balance sheets and profit & loss account statements of the bidder, he has submitted that the Tender Notice is silent as regards the number of years for which those documents are to be

submitted. In any matter, the respondent society has submitted the annual balance sheet and profit & loss account statements of the respondent society for a period of two years. In the matter of PAN Card, he has submitted that while the respondent society has fulfilled the condition laid down in the Tender Notice, the petitioner society has not submitted a PAN Card in its name. As the petitioner society has submitted the PAN card in the name of the secretary of the petitioner society only and the requirement is that the bidder society has to be an income tax assessee, the bid of the petitioner society has rightly been declared to be a non-compliant one.

11. I have given due consideration to the submissions of the learned counsel for the parties. I have also perused the materials brought on record by the parties through their pleadings and the records of settlement, in original, produced by the learned State Counsel.

12. The State Government has enacted the Assam Fishery Rules, 1953 in exercise of the powers conferred by Section 155 and Section 156 of the Assam Land and Revenue Regulation, 1886 and by Section 6 of the Indian Fisheries Act, 1897. As Rule 12 of the Assam Fishery Rules, 1953 is in the forefront of the *lis*, Rule 12 is quoted hereinbelow :-

12. Except those referred to in sub-rule No. 8[b] above, all registered Fisheries shall be settled under tender system of sale in place of sale auction :

Provided that the Government shall settle a 60% category fishery with special category of co-operative Societies, Non-Government Organization and Self Help Groups consisting of 100% actual fishermen in the neighbourhood of the fishery concerned by the Tender System.

13. The Tender Notice dated 09.02.2021 has mentioned that a participant bidder is required to submit the following documents along with its bid :-

[ka] Fishing experience certificate;

[kha] Bakijai Clearance Certificate issued by the Deputy Commissioner;

[Ga] Certificate regarding Scheduled Caste [SC] community/Maimal community and actual fishermen certificate;

- [Gha] Indian Postal Order/Banker's cheque/Bank draft of Rs. 10;
- [Unga] 15% of the minimum revenue fixed by the Government for the first year, as earnest money in the form of call deposit;
- [Cha] Registration Certificate of the Co-operative Societies;
- [Chha] PAN Card in the name of bidders' society/Self Help Group/Non-Government Organization;
- [Ja] Attested photograph of the person having authority to submit on behalf of the society;
- [Jha] Annual Balance Sheet and Profit & Loss statements of the cooperative society; and
- [Niya] Certificate of residence nearest to the Fishery.

14. While the learned counsel for the petitioner has strenuously urged about non-compliant nature of the respondent society's bid in the context of the Notification dated 18.01.2018, the learned counsel for the respondents have conjointly submitted that even if it is accepted for the sake of argument that both the bids of the contesting parties are assumed to be defective in nature, then also, the petitioner society cannot succeed as the bid value offered by the respondent society is substantially higher than the bid value offered by the petitioner society. Contention has been advanced on behalf of the State respondents and the respondent Society to the effect that one of the prime criteria in the matter of settlement is maximisation of revenue and in the case in hand, the respondent society has offered the highest bid value of Rs. 91,00,000/- for 7 [seven] years whereas the petitioner society had offered a bid value of Rs. 78,47,847/- for the period of 7 [seven] years, which is about Rs. 12 lakhs lesser than the bid of the respondent society.

15. The records of settlement, in original, have been produced. As per the proviso to Rule 12 of the Assam Fishery Rules, 1953, in a process of settlement for 60% category fishery, non-Government organizations [NGOs] and self-help groups [SHGs] can participate apart from the fishery cooperative societies. The only conditions, as per Rule 12, are that such NGOs/SHGs should consist of 100% actual fishermen and such NGOs/SHGs should be in the neighbourhood of the Fishery. It is also noticed from the records that the petitioner society has only submitted a Bakijai clearance certificate from the Deputy Commissioner, Kamrup which is issued in the name of the president of the petitioner society. In the Order of Settlement dated 04.08.2021, the bid of the petitioner society is shown to be rejected on

the ground that the PAN Card submitted by the petitioner society is only in the name of the president of the petitioner society. Non-submission of the Bakijai clearance certificate in the name of the petitioner society is not shown as a ground of rejection.

16. On perusal of the records of settlement, it is further noticed that the respondent society is a society registered under the Societies Registration Act, 1860. The respondent society with its bid, has submitted a Certificate of Registration, issued on 05.04.2020 by the Registrar of Societies, Assam having a validity period from 02.05.2020 to 03.09.2023. The respondent society is, thus, not a society registered under the provisions of the Assam Cooperative Societies Act, 2007 like the petitioner society. Though Rule 12 permits participation of Non-Government Organizations [NGOs]/Self-Help Groups [SHGs] in the bidding process for settlement of a 60% category fishery, the Tender Notice has not mentioned about the kind of document required to be submitted by the NGOs/SHGs along with its bid. In the Certificate issued by the jurisdictional Circle Officer on 06.10.2020 and submitted by the respondent society, it has been certified that all the members of the respondent society belong to the Scheduled Caste [SC]. In view of the certificate issued by the jurisdictional Circle Officer that all the members of the respondent society are fishermen, the contention advanced by the petitioner society that to substantiate that its members belong to the SC community the respondent society has sought to draw support from a certificate issued by an unauthorized organization named M/s Guwahati Zilla Anusuchit Jati Parishad does not carry much weight. Vide another Certificate issued on 06.10.2020, the same authority, that is, the Circle Officer, Nagarbera Revenue Circle has certified that all the members of the respondent society are fishermen. The respondent society has submitted a Balance Sheet, as on 31.03.2020, and an Income-Expenditure Account for the Financial Year : 2019-2020, along with an Audit's Report dated 12.08.2020. The Tender Settling Authority in the Fishery Department, Government of Assam has accepted the afore-mentioned documents/certificates submitted by the respondent society as compliant to the terms and conditions of the Tender Notice. In the absence of any specific condition laid down in the Tender Notice that each of such certificates is to be obtained from a specific authority, it is not possible to hold oughtrightly that the afore-mentioned certificates/documents submitted by the respondent society along with its bid, are deficient in any manner and does not deserve acceptance at the hands of the Tender Settling Authority

17. One of the contentions of the petitioner society is that the afore-mentioned documents/certificates submitted by the respondent society are not in conformity with a Notification bearing no. FISH-

19/65/2017-FISHERY/1[eCF No.50022] dated 18.01.2018 issued by the Fishery Department, Government of Assam. From the said Notification, it transpires that the Notification has been issued finding a need to streamline the procedure of submission of documents/information along with a bid, submitted in response to a tender notice for settlement of a 60% category fishery. The said Notification has been issued so that there is uniformity and transparency in all such tender processes initiated by tender notices through the Deputy Commissioners/the Sub-Divisional Officers [Civil]. The Notification has indicated that the documents mentioned therein are to be submitted to the Tender Inviting Authority, that is, the Deputy Commissioners/Sub-Divisional Officers [Civil] along with the bid by the participating bidders. It is the contention of the petitioner society that the documents/certificates mentioned in the Notification which are also mentioned in the Tender Notice, are required to be submitted only from the authorities specified in the Notification.

18. The issue of enforceability or otherwise of the Notification dated 18.01.2018 has come up for consideration before a Division Bench of this Court in a writ appeal, Writ Appeal no. 186/2023 [M/s Dharnad Brahmaputra Fishery Co-operative Society Limited vs. the State of Assam and others] and two other writ appeals. In the common Judgment and Order rendered by the Division Bench on 16.06.2023, it has been observed that if the Settling Authority does not follow the provisions of the Notification, then it would not be open for a bidder to seek for enforcement of the provisions contained therein. As per the Notification dated 18.01.2018, the bidders seeking settlement of a 60% category, that is, fishery cooperative societies/SHGs/NGOs are required to submit 100% actual fisherman certificate from the Assistant Registrar of the Cooperative Societies. The Notification has further indicated that a bidder has to submit the fishermen experience certificate from the District Fishery Development Officer. The Notification has stipulated that a neighbourhood certificate is to be issued by the jurisdictional Circle Officer indicating clearly the specific distance of the fishermen cooperative society/SHG/NGO to the concerned fishery. It is mentioned therein that the clauses indicated therein are to be incorporated in the Tender Notice for settlement of 60% category fisheries.

19. When the terms and conditions of the Tender Notice dated 09.02.2021 are examined, it is found that though it mentioned about submission of the documents/certificates, it did not indicate specifically about the authorities from whom such documents/certificates were to be obtained, save and except in respect of the Bakijai clearance certificate, which was required to be obtained from the Deputy Commissioner. In respect of some of the documents/certificates, it is the very nature of the

documents/certificates which indicate about the authorities from whom such documents/certificates are to be obtained e.g. the Certificate of Registration as a cooperative society. Apart from the Tender Notice dated 09.02.2021, wherein clauses from the Notification were not incorporated, it is also evident from the Order of Settlement dated 04.08.2021 that the Settling Authority in the Fishery Department, Government of Assam has chosen not to enforce the provisions of the Notification dated 18.01.2018. Thus, in view of the observations made by the Division Bench of this Court in the common Judgment and Order dated 16.06.2023, it is not open for the petitioner to seek enforcement of the provisions of the Notification dated 18.01.2018 to contend that the fishing experience certificate, the fishermen certificate and the neighbourhood certificate, all dated 06.10.2020, given by the jurisdictional Circle Officer in favour of the respondent society, ought not to have been accepted for settlement of the Fishery in favour of the respondent society.

20. It was the specific condition of the Tender Notice that a participant cooperative society/SHG/NGO had to submit the PAN Card issued in its name. The petitioner society did not submit any PAN Card issued in its name along with its bid at the time of submission of its bid. It has been pointed out by Mr. Sarma, learned senior counsel appearing for the respondent society that apart from the said deficiency, the bid of the petitioner society has suffered from another infirmity in that the petitioner society has not submitted the bakijai clearance certificate certifying that the petitioner society was not a defaulter at the time of submission of bid. Upon perusal of the records of settlement, it is noticed that the petitioner society had submitted a bakijai clearance certificate dated 18.02.2021 which is issued in the name of the president of the petitioner society. Thus, it is clear that the bid of the petitioner society is also deficient on the count that it has not submit the bakijai clearance certificate in its name. It has been held in *Raunaq International Limited vs. I.V.R. Construction Limited and others*, reported in [1999] 1 SCC 492, that any judicial relief at the instance of a party which does not fulfill the requisite criteria seems to be misplaced. As the settlement of the 60% Fishery has been sought in the name of the petitioner society, the bakijai clearance certificate, as sought for by the Tender Notice, ought to have been obviously in the name of the petitioner society. It has been observed in *Afcons Infrastructure Ltd. vs. Nagpur Metro Rail Corporation Ltd.*, reported in [2016] 16 SCC 818, to the effect that there could be occasion where a participant bidder can also bring to the notice of the tendering authority that an ineligible bidder is also ineligible for additional reason or reasons that are not within the contemplation of the tendering authority. Thus, it is established that the bid of the petitioner Society is not compliant on more than one ground, contrary to the Order of Settlement

impugned by the petitioner society herein. The same is a relevant and vital aspect, which cannot be ignored.

21. In view of the above discussion, the only issue remain is whether in a writ proceeding instituted at the instance of a bidder whose bid is otherwise found to be deficient on one or more counts, a settlement process like the one in hand requires any interference.

22. It is settled that while exercising the power of judicial review in respect of award of contracts, the court should concern itself primarily with the question whether there has been any infirmity in the decision-making process. The court's jurisdiction under Article 226 in such matters is limited and the court should normally exercise judicial restraint unless illegality or arbitrariness on the part of the tendering authority is apparent on the face of the record. The tendering authority having authored the tender notice and the terms and conditions of the tender document/process, is the best person to understand and appreciate the requirements and interpret the tender notice and the tender document/process. It is possible that the tendering authority may give an interpretation to the tender document that is not acceptable to the constitutional court but that by itself is not a reason for interfering with the interpretation given. A writ court while exercising its power of judicial review in matters like awarding of tender does not sit like a court of appeal over the tendering authority in respect of a process of settlement. The issue of the acceptance or rejection of a bid should be looked at not only from the point of view of an unsuccessful party but also from the point of view of the tendering authority.

23. A process of settlement for a 60% category fishery is undertaken with twin objectives, *firstly*, earning of revenue to the State exchequer; and *secondly*, to protect the interests of the fishermen community. From the materials on record, it is discernible that the members of the respondent society belong to Scheduled Castes [SC] community and they are also fishermen. That apart, the bid value offered by the respondent society is about Rs. 12 lakh higher than the bid value offered by the petitioner society. It has been observed in *Jagdish Mandal vs. State of Orissa and others*, reported in [2007] 14 SCC 517; and also reiterated in *Michigan Rubber [India] Limited vs. State of Karnataka and others*, reported in [2012] 8 SCC 216, that a court before interfering in tender or contractual matters in exercise of judicial review, should pose itself the two questions :- [i] whether the process adopted or decision made by the authority is mala fide or intended to favour someone; or

whether the process adopted or decision made is so arbitrary and irrational the court can say : ‘the decision is such that no responsible authority acting reasonably and in accordance with relevant law could have reached’; and [ii] whether public interest is affected. If the answers are in the negative, there should be no interference under Article 226. When the facts and circumstances obtaining in the case are considered vis-à-vis the two questions above, this court is of the view that the answer to none of the two questions could be reached in an affirmative manner. This Court is also of the considered view that by settling the Fishery in favour of the respondent society by the Order of Settlement dated 04.08.2021 the twin objectives behind settlement of the 60% category fishery have been met.

24. In view of the discussions made above and for the reasons assigned therein, this Court finds no merit in the present writ petition and the same is liable to be dismissed. It is accordingly held so. There shall, however, be no order as to cost.

JUDGE

Comparing Assistant