

GAHC010142582024



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

Case No. : Review.Pet./126/2024

ABDUL JALIL
S/O- NASIB ALI, R/O- KANGTAR, P.O.- JADHUTILLA, DIST.- KARIMGANJ,
ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, DEPARTMENT OF FISHERY, DISPUR, GUWAHATI-6.

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

3:THE ASSISTANT EXECUTIVE ENGINEER
AFDC LTD.
BVR
VIP ROAD
RANGPUR
SILCHAR-9.

4:THE ASSISTANT PROJECT MANAGER
KANGTAR BEEL

KARIMGANJ
PIN- 788710.

5:THE DEPUTY COMMISSIONER
KARIMGANJ
P.O. AND DIST.- KARIMGANJ

ASSAM
PIN- 788710.

6:THE OFFICER-IN-CHARGE
KARIMGANJ POLICE STATION
KARIMGANJ
PIN- 788710

Advocate for the Petitioner : MS. S B CHOUDHURY

Advocate for the Respondent : SC, AFDC

BEFORE
HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

24.07.2024

Heard Ms. S.B. Choudhury, learned counsel for the review petitioner, who prays for review of the order dated 27.06.2024 passed in WP(C) No.3371/2024. Also heard Mr. P. Sarmah, learned counsel for the respondent AFDCL authorities and Mr. S.S. Roy, learned Government Advocate, appearing for the State respondents.

2. The brief fact of the case is that the review petitioner had been settled with the Kangtar Fishery in Karimganj District for a period of 7 years from 01.04.2013 to 31.03.2020 pursuant to a tender notice and on expiry of the period of 7 years, the petitioner was given an extension for operating the same fishery for a further period of 3 years without call of tender. Subsequent to the extension of the settlement period of the fishery by 3 years, the review petitioner had submitted a representation dated 20.01.2023 for further extension of the settlement period for one year. As the State respondents did not take any decision on the petitioner's representation dated 20.01.2023 and had instead issued a NIT dated 07.08.2023 for regular settlement of the fishery. The petitioner filed WP(C) No.4756/2023 challenging the said NIT.

3. WP(C) No.4756/2023 was disposed of vide order dated 25.08.2023. In WP(C) No.4756/2023, the review petitioner took the stand that some persons had instituted a title suit being Title Suit No.30/2021 against running of the fishery by the petitioner and due to the same, the petitioner faced a number of difficulties in running the fishery. Accordingly, the petitioner incurred huge losses. In the order dated 25.08.2023, it was recorded in para 3 of the said order that when the respondent AFDCL had published a tender notice on 14.01.2022, the petitioner had made a challenge to the same vide WP(C) No.2222/2022. The AFDCL thereafter issued a corrigendum dated 05.11.2022, whereby the tender notice dated 14.01.2022 for settlement of the fishery was cancelled. The petitioner thereafter submitted a representation before the Managing Director, AFDCL, on 20.01.2023, with a prayer to extend the period of lease by another 3 years on the ground that the petitioner had suffered financial loss during the extension period of settlement. When the representation dated 20.01.2023 was not disposed of within a reasonable time period, the petitioner preferred WP(C) No.1931/2023 seeking a direction to be issued to the respondent authorities in the AFDCL, to consider the representation seeking extension of the lease period.

4. The order dated 25.08.2023 passed in WP(C) No.4756/2023 also states that WP(C) No.1931/2023 was dismissed on 04.04.2023 holding that since the extended period of settlement of the fishery had expired, there was no violation of any legal or fundamental right of the petitioner on the date of such consideration. However, the Court had observed that dismissal of the writ petition would not be a bar for the respondent AFDCL authorities to take a decision on the petitioner's representation dated 20.01.2023 for extension of the lease period of the fishery. WP(C) No.4756/2023 was disposed of with a direction to the respondent authorities i.e. the Managing Director, AFDCL, to decide the petitioner's representation dated 20.01.2023 and that the bidding process initiated by the NIT dated 07.08.2023 would be subject to the speaking order passed on the petitioner's representation dated 20.01.2023.

5. The petitioner thereafter, filed WP(C) No.3371/2024 stating that the petitioner's representation dated 20.01.2023 had not been disposed in terms of the order dated

25.08.2023 passed in WP(C) No.4756/2023. Instead, the respondents had issued NIT dated 13.06.2024 for regular settlement of the fishery, which should be set aside. During the hearing of WP(C) No.3371/2024, it was stated by the counsel for the AFDCL that the petitioner's representation dated 20.01.2023 had been rejected and a copy of the same was furnished to the review petitioner's counsel.

6. WP(C) No.3371/2024 was dismissed vide order dated 27.06.2024, by holding that no extension of the settlement period could be given to any person without issuance of a tender notice and as the speaking order dated 02.09.2023, which had disposed of the petitioner's representation dated 20.01.2023, had not been put to challenge till date. The last sentence of the order dated 27.06.2024 passed in WP(C) No.3371/2024 states as follows:-

"The speaking order dated 02.09.2023 is made a part of the record and marked as Annexure-X."

7. As can be seen from the facts stated above, the petitioner's prayer for extension of the settlement period vide WP(C) No.1931/2023, had earlier been dismissed on 04.04.2023. The subsequent writ petition filed by the petitioner i.e. WP(C) No.4756/2023 was disposed of vide order dated 25.08.2023, by directing the Managing Director, AFDCL to decide the petitioner's representation dated 20.01.2023. The said representation has been decided by the respondent authorities vide speaking order dated 02.09.2023 and the same has not been put to challenge till date. Further, the order sought to be reviewed, i.e. order dated 27.06.2024 passed in WP(C) No.3371/2024 was dismissed, as the petitioner's representation for settlement of the fishery beyond the period of extension already undergone had been rejected.

8. Though the petitioner has tried to make out a case that he had made a loss during the 3 year extension period given to him on account of Title Suit No.30/2021, the said issue is no longer a live issue as far as the petitioner is concerned, as his earlier writ petition i.e. WP(C) No.1931/2023 praying for extension of the settlement period of the fishery had been dismissed on 04.04.2023. No appeal has been filed against the said

order. In any event, the boundary dispute with regard to the fishery does not involve any personal land of the petitioner and as such, the petitioner does not have any right to continue with the settlement of the fishery, just because the boundary of the fishery land is sub-judice in Title Suit No.30/2021. Further, only because the review petitioner has been made a party in Title Suit No.30/2021 does not give him any right to be given an extension beyond the 3 year extension period of the settlement of the fishery.

9. As this Court in WP(C) No.1931/2023 has dismissed the petitioner's prayer for extension of the settlement period, the same has attained finality as on date. Further, as the Government has rejected the petitioner's representation for extension of the settlement period, which is not under challenge, there is no ground made out for review of the impugned order dated 27.06.2024 passed in WP(C) No.3371/2024.

10. The review petition is accordingly dismissed.

Sd/- *Michael Zothankhuma*
JUDGE

Comparing Assistant