

GAHC010152232024



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

Case No. : WP(C)/3811/2024

NO. 151/152 KARMARI NANDINI MEEN SAMANBAI SAMITY LIMITED
VILL.-CHOTOGARJAN, P.O. KARATIPAM, P.S. MAYONG, DIST. MORIGAON,
ASSAM, PIN- 782105, REPRESENTED BY ITS SECRETARY, SHRI PRADIP
SARKAR, S/O- SHRI MANIRAM SARKAR.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY TO THE
GOVERNMENT OF ASSAM, FISHERY DEPARTMENT, DISPUR, GHY-781006.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FISHERY DEPARTMENT
DISPUR GHY-781006.

3:THE SECRETARY TO THE GOVT. OF ASSAM
FISHERY DEPARTMENT
DISPUR GHY-781006.

4:THE ADDITIONAL SECRETARY TO THE GOVT. OF ASSAM
FISHERY DEPARTMENT
DISPUR GHY-781006.

5:THE DISTRICT COMMISSIONER
MORIGAON DISTRICT
MORIGAON ASSAM

6:THE ADDITIONAL DISTRICT COMMISSIONER (FISHERY)
MORIGAON DISTRICT
MORIGAON ASSAM

7:THE DISTRICT FISHERY DEVELOPMENT OFFICER
MORIGAON DISTRICT
MORIGAON ASSA

Advocate for the Petitioner : MR. K N CHOUDHURY, MS K DAS,MISS. R R KAKATI

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 31.07.2024

Heard Mr. K. N. Choudury, learned Senior counsel for the petitioner, who submits that the petitioner was settled with the No. 5 Sonai Nadi Part-III Meen Mahal of Morigaon District, for a period of seven years, vide order dated 22.09.2017. The possession of the fishery was handed over to the petitioner on 04.10.2017 and as such, the settlement period would expire only on 03.10.2017.

2. The petitioner's case is that there was illegal encroachment of the fishery, besides the area of the fishery being eroded by flood water. As the petitioner was unable to pay revenue to the Government, the petitioner has submitted a representation dated 21.08.2023 to the Commissioner & Secretary to the Government of Assam, Fishery Department, requesting re-assessment and remission of the revenue in respect of the said fishery, after making an enquiry.

3. The petitioner thereafter made a representation on 24.04.2024, surrendering the fishery to the Government, as he had not been able to run the fishery. Pursuant to the representation dated 24.04.2024 submitted by the petitioner, the Addl. Chief Secretary to the Government of Assam, Fishery Department wrote a letter to the District Commissioner, Morigaon, asking him to cause an enquiry on the claim of the lessee and submit a comprehensive report

for follow up action as follows:-

“1. Ascertain the existing area of the fishery if the grounds cited of siltation /erosion due to flood /erosion etc. is genuine.

2. Redefine the boundary of the fishery, if the claim of erosion/siltation as stated in Para 1 are genuine and submit proposal to Govt for issue of Notification.

3.. Consequently re-assess the revenue of the fishery U/R 48 through DFDO, Morigaon with Revenue officials of concerned Revenue Circle duly approved by you or

concerned ADC authorized by you. 4. "Submit report on Revenue so far deposited by the lessee society as per lease value and outstanding revenue due up to date of surrender of the fishery.

5. If possession of the fishery has not been taken over on surrender till now,, then Immediate steps to be taken for taking it over and keep it khas till fresh settlement after completion of required formalities

Copy of representation dated 24.4.2024 with enclosures is enclosed herewith for ready reference.”

4. The petitioner's counsel further submits that though the petitioner had made an application for surrender of the fishery, vide application dated 24.04.2024 and requested the Fishery Department to float a fresh tender, the application for surrender of the petitioner fishery has been withdrawn, vide letter dated 15.07.2024. Vide the said letter dated 15.07.2024, the petitioner has also asked the respondents to extend the period of lease, which has not been decided by the respondents till date.

5. The petitioner's counsel submits that the District Fishery Development Officer reassessed the revenue payment @ Rs.6,02,211/- per year on

21.06.2024. He submits that as the petitioner society does not have any source to pay the outstanding dues of the respondents, the settlement period may be extended by the respondents, to enable the petitioner to pay the revenue required to be paid to the respondents. He accordingly submits that the respondents should take a decision with regard to the prayer of the petitioner for extension of the settlement period of the fishery.

6. Mr. K. N. Choudhury, learned Senior Counsel submits that the present writ petition can be disposed of, if a direction is issued to the Addl. Chief Secretary to the Government of Assam, Fishery Department, to take a decision on the petitioner's representations dated 21.08.2023, 24.04.2024 and 15.07.2024.

7. Ms. U. Das, learned counsel for the respondent Nos. 5 & 6 and Mr. P. Sarmah, learned counsel for the respondents Nos. 1 to 4 submit that they have got no objection to the petitioner's counsel's prayer.

8. In view of the consent of the parties, this writ petition is disposed of, with a direction to the Addl. Chief Secretary to the Government of Assam, Fishery Department to take a decision on the petitioner's representations dated 21.08.2023, 24.04.2024 and 15.07.2024, within a period of two weeks from the date of receipt of a certified copy of this order along with a copy of the writ petition. A copy of the petitioner's representation dated 24.04.2024, which is not annexed to the writ petition, should also be given to the Addl. Chief Secretary to the Government of Assam, Fishery Department along with the writ petition. Till a decision is taken by the Addl. Chief Secretary to the Government of Assam, Fishery Department, the respondents should not issue any fresh tender notice in respect of the said fishery. The above directions are made subject to the

condition that a certified copy of this order along with the writ petition and a copy of the representation dated 24.04.2024 is furnished to the Addl. Chief Secretary to the Government of Assam, Fishery Department, within a period of seven days from today.

9. This writ petition is accordingly disposed of.

JUDGE

Comparing Assistant