

GAHC010191312024



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

Case No. : WP(C)/4844/2024

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- 781006

2:THE DEPUTY COMMISSIONER
DIBRUGARH ASSAM

3:THE DEPUTY COMMISSIONER
DHEMAJI ASSAM

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

5:DHARMANANDA PEGU
C/O- PARAMA PEGU

VILLAGE MUKTIAR

P.S- SILAPATHAR

DIST-DHEMAJI

ASSAM
PIN-87805

Advocate for the Petitioner : MR. N BARDOLOI, MR.L DEKA,D D SARMA,MR. M DUTTA

Advocate for the Respondent : GA, ASSAM, SC, M A C

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

23.09.2024

Heard Mr. M. Dutta, learned counsel for the petitioner, who submits that the Mising Autonomous Council ('MAC' in short) had issued an NIT on 05.06.2024, for settlement of the fishery listed at Sl. No.36 amongst others, viz., the Kedi Nala to Sunari Ghat Meen Mahal with the respondent No.5 for a period of 2 years w.e.f. 01.07.2024 to 30.06.2026. He submits that the said fishery, which is at Sl. No.36 of the NIT dated 05.06.2024, overlaps the Brahmaputra Part IV Fishery.

2. The petitioner's counsel submits that the NIT dated 05.06.2024 was put to challenge in WP(C) 3156/2024 and that this Court had stayed the NIT, inasmuch as, Sl. No.36 of the NIT overlapped the Brahmaputra Part IV Fishery. He submits that despite the stay order passed by this Court on 21.06.2024 in WP(C) No.3156/2024, involving the fishery at Sl. No.36, the MAC has settled the fishery at Sl. No.36 of the NIT dated 05.06.2024, which overlaps the Brahmaputra Part IV Fishery, with the respondent No.5, vide letter dated 29.06.2024 issued by the Principal Secretary, MAC.

3. The petitioner's counsel submits that in view of the judgment of this Court

in WP(C) 3065/2024, the settlement of the Kedi Nala to Sunari Ghat Meen Mahal with the respondent No.5 vide letter dated 29.06.2024 issued by the Principal Secretary, MAC is not sustainable and has to be set aside.

4. Mr. D. Gogoi, learned counsel appearing for the MAC and Ms. U. Das, learned counsel for the respondent Nos. 2 & 3 submit that the present case is a covered case, inasmuch as, neither the General Council or the Village Council of the MAC has the authority to settle any fishery or natural water bodies exemplified in the notification dated 07.03.2017 issued in the name of the Governor by the Principal Secretary to the Government of Assam, Fishery Department, which has clearly been held by this Court in the judgment and order dated 20.08.2024 passed in WP(C) 3065/2024.

5. The judgment and order dated 20.08.2024 passed in WP(C) 3065/2024 has held that the MAC does not have the authority to settle any fishery or natural water bodies which are within the State of Assam and also within the MAC area. As such, the MAC do not have the authority to make settlement of any fishery with any person. The said power lies only with the Fishery Department, Government of Assam and the Assam Fishery Development Corporation.

6. In view of the finding of this Court that the MAC does not have the authority to settle any fishery or water bodies with any person within the State of Assam and which may also cover the fisheries/water bodies within the MAC area, the impugned settlement of the Kedi Nala to Sunari Ghat Meen Mahal with the respondent No.5, in terms of the letter dated 29.06.2024 issued by the Principal Secretary, MAC is unsustainable. The same is accordingly set aside.

7. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant