

GAHC010221552018



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

Case No. : WP(C)/6924/2018

M/S. DIBRU-DANGORI PART-I MEEN SAMABAY SAMITY LTD.
REP. BY ITS SECY., SRI BIKASH DAS, S/O- LT SACHINDRA MOHAN DAS,
R/O- DIGHALTARANG, TINSUKIA- 786151, DIST- TINSUKIA, ASSAM, AGED
ABOUT 53 YRS

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP. BY THE ADDL. CHIEF SECY. TO THE GOVT. OF ASSAM, FISHERY
DEPTT., DISPUR, GHY-6

2:THE ADDL. CHIEF SECY. TO THE GOVT. OF ASSAM
FISHERY DEPTT.
DISPUR
GHY-6

3:THE DY. COMMISSIONER
TINSUKIA
DIST- TINSUKIA
ASSAM
PIN- 786125

4:THE CIRCLE OFFICER
DOOMDOOMA REVENUE CIRCLE
DOOMDOOMA
DIST- DOOMDOOMA
ASSAM
PIN

For the petitioner (s) : Mr. D. J. Medhi, Advocate

For the respondent (s) : Mr. P. Sarma, SC, Fishery Deptt.

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH

29.01.2024

The instant writ petition has been filed seeking a writ in the nature of mandamus directing the respondent authorities to pass an appropriate order re-fixing the settlement of Dangori Part-II Fishery of Tinsukia District made with the petitioner vide the order of settlement dated 24.12.2012 for another 7 years w.e.f. 22.08.2017 to 21.08.2024.

2. From a perusal of the materials on record, it reveals that the petitioner herein was granted the settlement of the fishery in question for a period of 7 years w.e.f. the date of delivery of possession of the fishery to the Society. The record reveals that the possession was handed over to the petitioner on 24.08.2017 by the certificate of possession of handing over/taken over dated 22.08.2017. It is the case of the petitioner that the said period be extended for another 7 years from the date of handing over the possession taking into account that the settlement so made in favour of the petitioner was for 7 years. It is the further case of the petitioner that as the respondent authorities did not take steps in that regard, the petitioner therefore approached this Court by filing the present writ petition on 28.09.2018.

3. This Court had issued notice vide the order dated 01.10.2018. The record reveals that an affidavit-in-opposition was filed by the Additional Chief Secretary to the Government of Assam, Fishery Department on 28.01.2019 wherein it has been mentioned that the Deputy Commissioner,

Tinsukia was instructed by the Chief Secretary to the Government of Assam, Fishery Department to examine the status of all fisheries falling within Dibru-Saikhowa National Park (DSNP)/Dibru-Saikhowa Biosphere Reserve (DSBR) partially/fully in the light of the orders passed by this Court in WP(C) No.4834/2016 and WP(C) No.7533/2016. Accordingly, a committee was constituted by the Deputy Commissioner, Tinsukia to examine the matter. As per the findings of the committee, commercial fishing is not viable in Dangori Nadi Part-II fishery and it was suggested for formation of Eco-Development Committee comprising of local fishermen residing in the fringe of Dibru-Saikhowa National Park (DSNP)/Dibru-Saikhowa Biosphere Reserve (DSBR). It was mentioned that the petitioner's Society was operating the fishery on the strength of the order passed by this Court dated 31.08.2018 in WP(C) No.457/2018. Further to that, it was mentioned that the fishery in question was settled for a period of 7 years from the date of possession vide order dated 24.12.2012. It was further mentioned that the Government has not been able to take a decision on the matter of the tenure of lease of 7 years effective from the date of actual handing over of the possession of the fishery in view of the report so submitted by the Committee constituted by the Deputy Commissioner, Tinsukia wherein it was recommended for closure of the fishery in question. An affidavit-in-reply has also been filed by the petitioner to the affidavit-in-opposition so filed by the respondent No.2.

4. In the backdrop of the above, this Court has also taken note of the submissions made by the learned counsels for the parties. It has been submitted by the learned counsel for the petitioner that from 2019, the

petitioner is not in possession of the fishery in question. This Court has also taken note of the affidavit-in-opposition filed by the respondent No.2 wherein it has been mentioned that the fishery in question which was settled with the petitioner is not viable for commercial fishing and as such there was recommendation for formation of a Eco-Development Committee comprising of local fishermen residing in the fringe of Dibru-Saikhowa National Park (DSNP)/Dibru-Saikhowa Biosphere Reserve (DSBR).

5. This Court upon hearing the learned counsels for the parties is of the opinion that the relief which has been sought for by the petitioner cannot be granted for three reasons. First, the perusal of the order of the settlement clearly shows that the settlement was made for a period of 7 years. The value of the fishery was taken as in the year 2012. Granting an extension beyond the initial period of 7 years from the date of passing of the settlement order would not be in public interest as the same would occasion loss of revenue.

6. Secondly, the question of granting an extension would only arise if settlement order is in existence. Admittedly, the petitioner is not in possession of the fishery since 2019. Under such circumstances, the question of granting an extension to the petitioner does not arise.

7. Apart from the above two reasons, this Court also finds it very pertinent to observe that the report has been duly submitted that the fishery in question is not commercially viable for fishing and the said report still exist without any challenge.

8. Considering the above, this Court therefore do not find any ground

for issuance of a writ in the instant writ petition for which the instant writ petition stands dismissed.

JUDGE

Comparing Assistant