

GAHC010233412022



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

Case No. : WA/361/2022

M/s Gauripur Coop. Fishery Society Ltd.

Represented by its President, Sri Shiben Namasudra,
village- Gauripur,
P.O.- Gauripur, District- Dhubri, Assam
PIN- 783331

....Appellant

-Versus-

1. The State of Assam, represented by
the Commissioner & Secretary to the Government of
Assam, Fishery Department, Dispur, Guwahati- 781006

2. The Commissioner & Secretary to the Government
of Assam, Fishery Department, Dispur, Guwahati-
781006

3. The Joint Secretary
to the Government of Assam, Fishery Department,
Dispur, Guwahati- 781006

4. The Registrar of Cooperative Societies, Assam,
Khanapara, Guwahati-781022

5. The Deputy Commissioner, Dhubri
District- Dhubri, Assam, PIN-783301

6. The Additional Deputy Commissioner (Fishery),
Dhubri District- Dhubri, Assam, PIN-783301

7. The Circle Officer, Gauripur Revenue Circle, District-
Dhubri, Assam, PIN-783301

8. M/S Geramari Gaon Panchayat Min Samabay Samity
Ltd.,
Village- Bagurapara, P.O. Asharikandi,
District- Dhubri, Assam, PIN-783301

....**Respondents**

– B E F O R E –

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

For the appellant : Mr. M.K. Choudhury, Sr. Advocate
Assisted by Mr. D.J. Medhi, Advocate

For the respondents : Mr. G. Bordoloi,
S.C., Cooperation Deptt. For respondent No.4
Mrs. S. Sarma, Govt. Advocate
For respondent Nos.5, 6, 7
Mr. K.N. Choudhury, Sr. Advocate
Assisted by Ms. A. Talukdar, Advocate

Date of hearing & judgment : **19.09.2024**

JUDGMENT & ORDER (ORAL)

(Vijay Bishnoi, C.J.)

1. This writ appeal is filed by the appellant being aggrieved with the judgment and order dated 11.11.2022 passed by the learned Single Judge in writ petition, being, WP(C) No.6885/2022 whereby the learned Single Judge while disposing of the writ petition filed by the writ petitioner (appellant herein) has refused to cancel the settlement of Gr. No.1/87 Dharnad Brahmaputra Part-I and Satkuri Nadi Fishery made in favour of the respondent No.8 herein.
2. The brief facts of the case are that the appellant as well as the respondent No.8 herein participated in the tender process pursuant to the tender notice dated 27.02.2020 along with other bidders for settlement of the above-referred fishery in the Dhubri district. The bid offered by the respondent No.8 society was accepted by the Joint Secretary to the Government of Assam in the Fishery Department and the fishery was settled in its favour.
3. Being aggrieved with the same, the appellant approached the Writ Court alleging that the bid submitted by the respondent No.8 herein was not liable to be accepted because Bakijai Clearance Certificate issued in the name of the respondent No.8 society, which was necessary as per terms of the tender, had not been furnished by the respondent No.8 society along with the said bid. It is submitted that along with its bid, the respondent No.8 society submitted a Bakijai Clearance Certificate, which was issued in the name of its Secretary and as per clause 4 of the Tender Notification, the said certificate could not have been considered and only a certificate issued in the name of the bidder society could have been taken into consideration.

The learned Single Judge has agreed with the said submission of the writ petitioner/appellant and has held that the Joint Secretary to the Government of Assam in the Fishery Department illegally treated the Bakijai Clearance Certificate issued in

the name of the Secretary of the respondent No.8 society as valid Bakijai Clearance Certificate and the said decision of the Joint Secretary was contrary to the provisions of clause 4 of the Tender Notification.

4. However, taking into consideration the fact that the respondent No.8 society filed a writ petition, being, WP(C) 7056/2022 alleging that though the Secretary of the respondent No.8 society applied for issuance of Bakijai Clearance Certificate in the name of the society but the authorities concerned erroneously issued the said certificate in the name of the Secretary of the respondent No.8 society, therefore, the authorities concerned be directed to issue correct Bakijai Clearance Certificate in the name of the Society.

The learned Single Judge has further observed that WP(C) 7056/2022 came to be disposed by this Court vide order dated 04.11.2022 directing the Deputy Commissioner, Dhubri to issue a Bakijai Clearance Certificate in the name of the respondent No.8 society. It is further observed that pursuant to the said order dated 04.11.2022 passed in WP(C) 7056/2022, a Bakijai Clearance Certificate was issued in the name of the respondent No.8 society and as such, although the reasoning of the Joint Secretary, whereby the fishery in question was settled in favour of the respondent No.8 society, is contrary to the provisions of clause 4 of the tender notification but, since subsequently a corrected certificate was issued in favour of the respondent No.8 society pursuant to the direction of this Court, the said decision of the Joint Secretary to the Government of Assam in the Fishery Department is not liable to be interfered with.

The writ petition [WP(C) 6885/2022] was disposed of by the learned Single Judge with a limited interference by directing the Joint Secretary to the Government of Assam in the Fishery Department to pass a fresh order on the issue of acceptance of Bakijai Clearance Certificate of the respondent No.8 society.

5. Having heard the learned counsel appearing for the parties and after going through the material available on record, particularly, taking into consideration the fact that a Bakijai Clearance Certificate was issued in the name of the respondent No.8 society pursuant to the direction given by this Court on 04.11.2022 in WP(C) 7056/2022, we do not find any illegality in the conclusion arrived at by the learned Single Judge in the impugned judgment and order.

6. It is also to be noted that the appellant was one of the respondents in WP(C) 7056/2022 but it did not challenge the order dated 04.11.2022 passed in the said writ petition and, on this ground also, we do not find any case for interference in this writ appeal.

Hence, this writ appeal is dismissed being devoid of merit.

JUDGE

CHIEF JUSTICE

Comparing Assistant