

GAHC010258062024



2024:GAU-AS:12613-DB

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

REVIEW PETITION No.212 of 2024

No.1, 1(A) & 2 Upper Part Brahmaputra Fishery Co-Operative Society Limited, Panikhaiti, Pragjyotishpur, represented by its Secretary Sri Dwijen Hazarika, Son of Nabin Hazarika, Resident of M.C. Road, Uzan Bazar, PO: Uzan Bazar, PS: Latashil, District: Kamrup (M), Assam.

.....Review Petitioner

-Versus-

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

5. The Registrar of Co-Operative Societies, Assam, Guwahati – 781001, Kamrup (M), Assam.

6. The Assistant Registrar of Co-Operative Societies, Assam, Guwahati, Kamrup (M), Assam.

7. The Deputy Commissioner, Kamrup (M), Assam.

8. The Circle Officer, Chandrapur Revenue Circle, Chandrapur, Kamrup (M), Assam.

9. The District Fishery Development Officer, Guwahati, Kamrup (M), Assam.

10. No.11 Part-V Kolong Nadi Anchalik Meen Samabai Samity Limited, a registered Fishery Co-Operative Society, Niz-Gobardhan, PO: Chandrapur, District: Kamrup (M), Assam and is represented by its Secretary Sri Jagadish Barman resident of Niz-Gobardhan, PO: Chandrapur, District: Kamrup (M), Assam.

11. Shri Jagadish Barman,

Son of Late Jay Govinda Barman,

Secretary of No.11 Part-V Kolong Nadi Anchalik Meen Samabai Samity Limited, Resident of Niz-Gobardhan, PO: Chandrapur, District: Kamrup (M), Assam.

.....**Respondents**

- B E F O R E -

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI

HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

For the petitioner(s) : Mr. K.N. Choudhury, Senior Advocate, assisted by Mr. S. Dey, Advocate.

For the Respondent(s) : Mr. D.K. Sarmah, Additional Senior Government Advocate, Assam for respondent Nos.1, 2, 3, 7, 8 & 9.
: Mr. S. Dutta, Standing Counsel, Revenue Department for respondent No.4.
: Ms. M.D. Borah, Standing Counsel, Co-Operation Department for respondent Nos.5 & 6.

Date of Judgment : **11.12.2024.**

JUDGMENT & ORDER (ORAL)

(Kaushik Goswami, J)

Heard Mr. K.N. Choudhury, learned Senior Counsel, assisted by Mr. S. Dey, learned counsel for the review petitioner. Also heard Mr. D.K. Sarmah, learned Additional Senior Government Advocate, Assam appearing for the respondent Nos.1, 2, 3, 7, 8 & 9; Mr. S. Dutta, learned Standing Counsel, Revenue Department appearing for the respondent No.4 and Ms. M.D. Borah, learned Standing Counsel, Co-Operation Department appearing for the respondent Nos.5 & 6.

2. By way of this review petition, the petitioner is seeking review of the judgment & order dated 29.11.2024 passed by this Court in Writ Appeal No.233/2023.

3. Pertinent that that this Court, by the aforesaid judgment & order dated 29.11.2024 passed in the aforesaid writ appeal, upheld the common judgment & order dated 14.06.2023 passed by the learned Single Judge in WP(C) No.9225/2019 and WP(C) No.8174/2019, whereby the learned Single Judge had interfered with the decision of the respondent authorities in awarding the settlement of the Kamrup Pragjyotishpur Brahmaputra Fishery to the review petitioner/writ appellant Society and had further directed grant of settlement of the subject fishery in favour of the respondent No.10/writ petitioner.

4. Mr. K.N Choudhury, learned Senior Counsel, by placing reliance on the certificate of registration of the respondent No.10/writ petitioner issued by the Assistant Registrar of Co-operative Societies, Guwahati and also the letter dated 31.08.2010 issued by the jurisdictional Circle Officer, submits that the distance of the villages of other members of the writ petitioner Society are situated at a much greater distances from the subject fishery, however, the same has not been taken into consideration by this Court while rendering the judgment under review, though the same were enclosed to the writ petition. He accordingly submits that an error apparent on the face of the record has occasioned warranting review of the same.

5. Having heard the learned Senior Counsel for the review petitioner, it appears that the aforesaid documents sought to be relied upon by the review petitioner to show that some of the members of the respondent No.10/writ petitioner Society resided at

a much greater distances from the subject fishery, were neither brought to the notice of this Court while arguing the matter on 25.11.2024 nor any such argument was made. That apart, it is clearly mentioned in the Settlement Order dated 18.11.2019 that the respondent No.10/writ petitioner Society is located at a distance of 1 Kilometer as per Speaking Order dated 23.09.2019. Further, it is apparent that the Settlement Authorities has taken the respondent No.10/writ petitioner Society under zone of consideration. It further appears that the Settlement Authorities had chosen the review petitioner's bid as the review petitioner's Society reside at the bank of the subject fishery, whereas the respondent No.10/writ petitioner and other qualified bidders are located at a distance of 1 Kilometer. Be it mentioned here that neither the findings of the Speaking Order dated 23.09.2019 nor the findings of the Settlement Authority vide Order dated 18.11.2019 was challenged by the review petitioner. On the strength of the aforesaid findings, the subject fishery was settled with the review petitioner which upon being challenged by the respondent No.10/writ petitioner, the same was interfered with by the learned Single Judge and which upon coming up on appeal before us, this Court after considering the arguments of the learned Counsel appearing for the contesting parties and perusal of the material available on record upheld the judgment of the learned Single Judge by interfering with the settlement of the subject fishery made in favour of the review petitioner.

6. That being so, no error, as argued by the learned Senior Counsel for the review petitioner has occasioned in the judgment &

order passed by this Court under review. In fact, the review petitioner by way of the present review petition is seeking rehearing of the issue of neighbourhood which is impermissible. It is well settled law that review is not for rehearing but only for correcting the error which is apparent on the face of the record. The review is also not an appeal in disguise.

7. Thus, we are of the considered view that the grounds sought for review of the judgment & order dated 29.11.2024 passed by this Court in Writ Appeal No.233/2023 are devoid of any merit whatsoever and hence, no review, as sought for, is warranted.

8. Accordingly, the review petition fails and is hereby dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant