

GAHC010271122024



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

Case No. : WP(C)/6818/2024

MONOJ DAS
S/O SUKANA RAM DAS, R/O VILL- BANIKUCHI, P.O. AND P.S.-
SARTHEBARI, DIST- BARPETA, ASSAM, PIN-781307

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, FISHERY DEPARTMENT, DISPUR, GHY-6

2:ASSAM FISHERIES DEVELOPMENT CORPORATION LTD
BIMALA PRASAD CHALIHA ROAD
CHACHAL
VIP ROAD
GHY-36

3:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
BIMALA PRASAD CHALIHA ROAD
CHACHAL
VIP ROAD
GHY-36

4:THE MANAGER
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD
BIMALA PRASAD CHALIHA ROAD
CHACHAL
VIP ROAD
GHY-36

5:THE REGISTRAR OF CO-OPERATIVE SOCIETIES
ASSAM

KHANAPARA
GHY-22

6:THE ASSTT. REGISTRAR OF COOPERATIVE SOCIETIES
BARPETA
DIST- BARPETA
PIN-781305

7:THE DISTRICT COMMISSIONER
BARPETA DISTRICT
BARPETA
ASSAM

8:THE BATGAON NAYAPARA FISHERY CO-OPERATIVE SOCIETY
REPRESENTED BY THE SECRETARY
JAYDEV DAS
S/O NABADEEP DAS
R/O BATGAON
NAYAPARIA
BARPETA
ASSAM
78130

Advocate for the Petitioner : MR. N BORAH, MR M.J. BHARALI

Advocate for the Respondent : SC, FISHERY, GA, ASSAM,SC, AFDC

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

18.12.2024

1. Heard Mr. N. Borah, learned counsel for the petitioner, who submits that the petitioner participated in the Tender Notice No.07/2024 dated 22.08.2024 issued by the Assam Fisheries Development Corporation Limited, for settlement of Borkona Fishery under Barpeta District for 7 years w.e.f. 2024-2025 to 31.03.2031.

2. The petitioner's counsel submits that the petitioner and the respondent no.8 have both been declared technically qualified bidders. The petitioner's counsel submits that in terms of the letter dated 18.11.2024 issued by the Senior Inspector/Auditor of Cooperative Societies, which is addressed to the Assistant Registrar of Cooperative Societies, Barpeta, the following observations have been made against the respondent no.8 :-

- a) The Secretary of the Society has not maintained the Member Register of the Society properly.*
- b) The management of the Society did less circulation/promotion of every year's Annual General Meeting's notification.*
- c) In the last AGM dated 07/07/2024, signatures of the deceased and non shareholders have been reflected in AGM Proceedings.*
- d) In the AGM dated 07/07/2024 the signatures are showing some anomalies as a number of signatures are compared with the original signatures taken during enquiry, on the attendance sheet and statement of the shareholders, and are suspected to be questionable.*
- e) In the complaint petition submitted by Hemchandra Thakuria, addressing to the Managing Director, Assam Fisheries Development Corporation Ltd. the former mentions about Gharipad Das. But, Gharipad Das is actually Gaurpad Das who is illiterate and uses thumb impression. Gaurpad Das in his statement also used his thumb impression. But the attendance list of AGM dated 07/07/2024 shows his signature which is in contrary to him using thumb impression.*
- f) As per previous report of enquiry officer dated 27/06/2024, all the shareholders are from fishermen community.*
- g) The current BOD was selected on 30/09/2020 in the AGM of the Society. As per official records, it is seen that the Society has been submitting the AGM proceedings every year since 2020-21 till 2023-24."*

3. The petitioner's counsel submits that in view of the above, Clause 6.6 and Clause 16 of the tender notice has been violated.
4. Mr. P. Sharma, learned counsel for the AFDC submits that if fraud has been committed, the matter can be looked into by the AFDC, as fraud vitiates everything.
5. In view of the submissions made by the counsels for the parties and keeping in view the letter dated 18.11.2024 issued by the Senior Inspector/Auditor of Cooperative Societies, which is addressed to the Assistant Registrar of Cooperative Societies, Barpeta, this Court is of the view that as the final selection of the successful tenderer has not been made by the AFDC, the AFDC should look into the contents of the observations made by the Senior Inspector/Auditor of Cooperative Societies, vide letter dated 18.11.2024, which is addressed to the Assistant Registrar of Cooperative Societies, Barpeta (Annexure-E series). The AFDC should consequently take a decision with regard to the selection of the successful tenderer after considering the observations made in the said letter. Any decision to be made by the AFDC which could prejudice the respondent no.8, should be made, only after giving an opportunity of hearing to the respondent no.8.
6. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant