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2026:GAU-AS:9840

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

Case No. : WP(C)/1743/2025

SRIDHAM SARKAR AND ANR
S/O- SUBUDH SARKAR, R/O- VILL.- GUIJAN NO. 5, P.S. GUIJAN, P.O. RANGAGHORA, DIST. TINSUKIA, ASSAM-786147.

2: JADU SARKAR
S/O- SUBUDH SARKAR
R/O- VILL.- GUIJAN NO. 5
P.S. GUIJAN
P.O. RANGAGHORA
DIST. TINSUKIA
ASSAM-786147

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM, ENVIRONMENT AND FOREST DEPARTMENT, DISPUR, GUWAHATI-6, ASSAM

2:PRINCIPAL CHIEF CONSERVAATOR OF FORESTS AND HEAD OF FOREST FORCE
O/O THE PCCF AND HOFF
ASSAM
ARNAYA BHAWAN
PANJABARI
GUWAHATI-37

3:DISTRICT COMMISSIONER
DIST- DIBRUGARH
ASSAM

4:DISTRICT COMMISSIONER
DIST- TINSUKIA
ASSAM

5:DIVISIONAL FOREST OFFICER
DIBRUGARH DIVISION
ASSAM

6:DIVISIONAL FOREST OFFICER
TINSUKIA DIVISION
ASSAM

7:THE RANGE FOREST OFFICER
DIBRUGARH RANGE
DIBRUGAR

Linked Case : WP(C)/1376/2024

NOREN MORAN AND 3 ORS
S/O- JOTIN MORAN

R/O- VILLAGE NO-1
KORDOIGURI

P.O- KORDOIGURI
P.S- BAGHJAN

DIST- TINSUKIA
PIN-786156
ASSAM

2: LUHIT MORAN
S/O- TILESWAR MORAN

R/O- VILLAGE NO-2
BISHNUPUR
HATIHAL GAON
P.O- KORDOIGURI

P.S- DOOMDOOMA (TALAP)
DIST- TINSUKIA
PIN-786156
ASSAM

3: SUJIT SARKAR
S/O- RAJKUMAR SARKAR

R/O- VILLAGE DIGHALTARANG

P.O AND P.S- DIGHALTARANG
DIST- TINSUKIA
PIN-786151
ASSAM

4: SANJIB DAS
S/O- PREMAKANTA DAS

R/O- VILLAGE NO-50
GUIJAN
MISING GAON
P.S- GUIJAN

P.O- RANGAGHORAA
DIST- TINSUKIA
PIN-786147
ASSAM
VERSUS

THE STATE OF ASSAM AND 6 ORS
THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
ENVIRONMENT AND FOREST DEPARTMENT
DISPUR
GUWAHATI-781006
ASSAM

2:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST
AND HEAD OF FOREST FORCE

O/O THE PCCF AND HOFF
ASSAM

ARANYA BHAWAN
PANJABARI
GUWAHATI
ASSAM
PIN NO. 781037

3:DISTRICT COMMISSIONER
DIBRUGARH
ASSAM

4:DISTRICT COMMISSIONER
TINSUKIA
ASSAM

5:DIVISIONAL FOREST OFFICER
DIBRUGARH DIVISION

ASSAM

6:DIVISIONAL FOREST OFFICER
TINSUKIA DIVISION
ASSAM

7:THE RANGE FOREST OFFICER
DIBRUGARH RANGE
DIBRUGARH

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

For the Petitioner(s) : Mr. U.S. Bora, Advocate

For the Respondent(s) : Mr. D. Gogoi, Standing Counsel

- Date on which Judgment was reserved : N/A
- Date of Pronouncement of Judgment : **17.07.2026**
- Whether the pronouncement is of the Operative Part of the Judgment : No
- Whether the full Judgment has been Pronounced : Yes

JUDGMENT AND ORDER (ORAL)

Heard Mr. U.S. Bora, the learned counsel appearing on behalf of the petitioners in the both the writ petition and Mr. D. Gogoi, the learned Standing Counsel appearing on behalf of the Forest Department of the Government of Assam.

2. Both the writ petitions are taken up together, as the issues involved therein are one and the same.

3. It is the case of the petitioners in both the writ petitions that they are engaged in the business of farming and trading of ornamental fishes species, which are mainly *Channa stewartii; Channa bleheri* and *Channa aurantimaculata* and on account of similarity of the features with another fish of the same species, namely, *Channa barca*, the petitioners have been harassed, for which, the petitioners have approached this Court for constitution of an expert committee to identify and differentiate between the fish species, namely *Channa barca*, with the other ornamental fishes species, namely, *Channa stewartii; Channa bleheri* and *Channa aurantimaculata*. The petitioners have also sought directions upon the respondent authorities to permit them to carry on fishing, cultivation, and other trade and business activities of the ornamental fish's species, namely, *Channa stewartii; Channa bleheri* and *Channa aurantimaculata*.

4. During the course of the hearing, the learned counsel appearing on behalf of the petitioners submitted that some of the ornamental fish's species which were traded by the petitioners were seized and thereupon sent to Zoological Survey of India, Freshwater Fish Section, Government of India, to identify as to whether the fishes seized from the petitioners were suspected *Channa barca* species. The learned counsel for the petitioners,

referring to a report dated 27.03.2025 issued by the Scientist-C, Zoological Survey of India submitted that the said Zoological Survey of India carried out the analysis and confirmed that the fishes which were seized were not *Channa barca* (Hamilton 1822) species. Rather, were *Channa stewartii*, (Playfair 1867) species. The said report was placed before this Court during the course of the hearing, which is kept on record and marked with the letter "X".

5. From the above, it is therefore clear that there are literatures available thereby to distinguish the fish of the variety, namely *Channa barca* (Hamilton 1822), from the other species i.e. *Channa stewartii*, (Playfair 1867) and others etc. As literatures are duly available, it is the Authorities concerned who have to devolve the procedure by which the identification could be carried out on the basis of the literatures available.

6. As already literatures are available by which the Zoological Survey of India is able to distinguish the species, as would be apparent from the document which is kept on record and marked with the letter "X", it is the opinion of this Court that there is no requirement of constitution of an expert committee to identify and distinguish the various species i.e. *Channa barca* with *Channa*

stewartii; Channa bleheri and *Channa aurantimaculata*.

7. Let this Court now deal with the second prayer made by the petitioners to the effect that the petitioners should be permitted to carry on cultivation and the trade and business of ornamental fish species, namely, *Channa stewartii; Channa bleheri* and *Channa aurantimaculata*.

8. Mr. D. Gogoi, the learned Standing Counsel, Forest Department, referring to the affidavit filed on behalf of the respondent No. 5 in WP(C) No. 1376/2024, submitted that only the fish species, namely *Channa barca*, is protected under the Wildlife (Protection) Act, 1972. He further submitted that the other fish species, namely *Channa stewartii; Channa bleheri* and *Channa aurantimaculata*, are not protected under the said Act and as such, there is no inhibition or prohibition on carrying on the fishing, cultivation, trade, or business of the said three species.

9. This Court also takes note of the affidavit filed on behalf of the respondent No. 5 and, more particularly, paragraphs 10 and 14, wherein the aforesaid aspect has been categorically mentioned, for which, the said paragraphs being relevant are reproduced hereinbelow:

"*10. That with regard to Paragraph 6 of the instant writ petition, it is most humbly submitted that the respondent authorities have neither restricted the trade nor issued any communication in this regard to restrict the trade of fish species which are not protected under the Wildlife Protection Act, 1972 as amended upto date. However, it is pertinent to mention that there have been several instances of Channa barca fish being traded in the name of other similar looking fish in the past within the state of Assam. This is evident from several cases filed by the Orang Tiger Reserve authorities for Channa barca poaching and smuggling. Such confusion of species in trade can be avoided by ensuring proper certification of the traders and their specimens by the Fisheries Department thereby promoting the livelihood of fishermen communities through trade of non-restricted species. Also, exploitation of biodiversity at this scale involving international trade too must follow the mandates of Biodiversity Act, 2002 and also comply with the "access benefit sharing principles" of the Act. Through certifications by the concerned department and compliance to the access benefit sharing principles of the Act, the trade will in fact be promoted and thereby sustainably enhancing the livelihoods of the people.*

14. That with regard to Paragraph 10 of the instant writ petition, it is once again submitted that the respondent department has neither restricted the trade nor issued any communication in this regard to restrict the trade of fish species which are not protected under the Wildlife Protection Act, 1972 as amended upto date. If the petitioner feels that their opportunity to ensure fair trade, petitioners may obtain a verification certificate from the competent authority confirming that the traded species are not scheduled or protected under the Wildlife (Protection) Act, 1972, as amended up-to-date. Additionally, they must ensure that the trade and supply of Channa stewarti (Kola Cheng), Channa bleheri (Deu Cheng), and Channa aurantimaculata (Naga Cheng) fishes comply with the Biological Diversity Act, 2002. This act stipulates the

"sustainable use" of biological diversity components in a manner and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations. It also requires the fair and equitable sharing of benefits arising from the use of biological resources with the local community and the Biodiversity Management Committees. As Section 41(3) of the Biological Diversity Act, 2002, the Biodiversity Management Committees may levy charges by way of collection fees from any person for accessing or collecting any biological resource for commercial purposes from areas falling within its territorial jurisdiction."

10. The learned counsel for the petitioners further submitted during the course of the hearing that the petitioners are not adverse to obtaining the permissions, as referred to in paragraph 14 of the affidavit filed on behalf of the respondent No. 5.

11. Taking into account the above, both the writ petition stands disposed of with the following observations and directions:

(i) There is no necessity for constitution of an expert committee for the purpose of identification and differentiation of the varieties of fish species, namely, *Channa barca; Channa stewartii; Channa bleheri* and *Channa aurantimaculata*, inasmuch as literatures are available with the Zoological Survey of India, by which the aforesaid species of fishes can be identified and differentiated as would be apparent from the

document which is kept on record and marked with the letter "X".

(ii) There is no prohibition subject to compliance of the necessary provisions of law upon the petitioners from carrying on fishing, cultivation, trade, or business in respect to the species of fishes, namely, *Channa stewartii; Channa bleheri* and *Channa aurantimaculata*. However, the petitioners shall not carry on any fishing, cultivation, trade, or business in respect to the fish species namely, *Channa barca*, as the said species is an endangered species and is included in the Schedule of the Wildlife (Protection) Act, 1972.

(iii) It is, however, observed that the observations made in Clause (ii) hereinabove shall remain subject to the provisions of the Wildlife (Protection) Act, 1972, the Rules framed thereunder; the Biological Diversity Act, 2002, and the Rules framed thereunder.

(iv) There shall be no order as to costs.

JUDGE

Digitally signed by Satyam Sharma
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Comparing Assistant