

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 956 of 2015

- Jay Mata Di Swa Sahayta Samooh Through Its Secretary Smt. Amrika Bai W/o. Shri Ayodhya Chandravanshi, Aged About 36 Years, R/o. Village- Dongariyakala, P.S. Pandatarai, Tahsil- Pandariya, Civil And Revenue District Kabirdham (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Agriculture, Pisces Culture, Mahanadi Bhawan, Capital Complex, Raipur, District Raipur (Chhattisgarh)
2. Director Fisheries, Directorate Pisces Culture, Raipur, District Raipur (Chhattisgarh)
3. Collector, Kabirdham, District Kawardha (Chhattisgarh)
4. Sub Divisional Officer (Revenue), Pandariya, District Kabirdham (Chhattisgarh)
5. Chief Executive Officer, Janpad Panchayat, Pandriya, District Kabirdham (Chhattisgarh)
6. Gram Panchayat Dongariyakala, Through Its Sarpanch, P.S. Pandatarai, Block- Pandriya, Civil And Revenue District Kabirdham (Chhattisgarh)

---- Respondent

For Petitioner	Mr. Awadh Tripathi, Advocate
For Respondent/State	Mr. Bhaskar Pyasi, Panel Lawyer
For Respondent No.5	Mr. Sushobhit Singh, Advocate
For Respondent No.6	Mrs. Naushina Afrin Ali, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

28/10/2015

Heard finally with the consent of learned counsel for the parties.

(2) Assail in this petition is to the order dated 23.09.2014 passed by

the CEO, Janpad Panchayat, Pandariya, refusing to direct the concerned Gram Panchayat to execute the fishing lease in favour of the petitioner for Daihan Talab and Mahamaya Talab, Dongariyakala, Pandariya.

(3) The facts of the case, briefly stated, are that the concerned Gram Panchayat granted fishing lease of Daihan Talab and Dabri Talab to the petitioner for the period from 19.06.2008 to 30.06.2012 for which the Agreement was executed on 19.06.2008. The petitioner did not deposit yearly installments of lease rent in terms of the lease. He deposited the entire accumulated arrears on 17.08.2012. After expiry of the lease period in respect of the Daihan Talab, the Gram Panchayat issued advertisement for grant of fishing rights to two tanks namely Daihan Talab and Mahamaya Talab.

(4) According to the petitioner, a meeting of the Gram Panchayat was convened on 12.08.2012 for consideration of the applications submitted by the intending applicants, however, no resolution was passed in the meeting because of pandemonium. In a subsequent meeting dated 29.09.2012, a resolution was passed in favour of the petitioner for grant of fishing rights for a period of seven years. When no agreement was executed, the petitioner preferred WP (C) No.1377 of 2014 seeking direction to the respondents to take decision in the matter. The writ petition was disposed of on 30.07.2014 directing the CEO, Janpad Panchayat, Pandariya, to decide the matter within 45 days. The petitioner thereafter preferred a representation which has been rejected by the impugned order.

(5) Having heard learned counsel for the parties and on perusal of the papers, it would appear that because of commission of default by the petitioner in making deposit of the annual lease rent for Dahain

Talab and also for the fact that there were members in the petitioner's Self Help Group, who are having dual membership, the CEO has decided that the petitioner is not entitled for grant of lease. Moreover, the concerned Gram Panchayat has subsequently decided that the Tank would not be leased out for fishing purposes but it shall be set apart for exercise of *Nistari* rights by the villagers. The concerned Sub Divisional Officer has also issued an order on 11.05.2015 (Anneuxre R-6/5) earmarking the said tank for exercise of *Nistari* rights by the villagers and prohibiting fishing activity over the Tank.

(6) For the afore-stated reasons, more particularly for the policy decision taken by the Gram Panchayat and the order issued by the Sub Divisional Officer prohibiting cultivation of fisheries in the subject Tank, no case for interference in this petition is made out.

(7) The writ petition is accordingly dismissed.

Sd/-

Judge

(Prashant Kumar Mishra)

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