

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1942 of 2010

IN

Civil Writ Jurisdiction Case No. 16615 of 2009

- =====
1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
 2. The Secretary, Department of Fisheries and Animal Husbandry, Government of Bihar, Patna
 3. The Director, Department of Fisheries, Government of Bihar, Patna
 4. The Deputy Director, Fisheries, Headquarter, Patna
 5. The District Fisheries Officer cum Chief Executive Officer, Madhubani
- Appellant/s

Versus

1. Jhanjharpur Anchal Matsyajivi Sahyog Samiti Ltd. through the Secretary namely Baidyanath Mukhiya
2. Baidyanath Mukhiya, son of Chanchal Mukhiya, resident of Village Naruar, P.S. Bhairabasthan, District Madhubani

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Madhuresh Ptasad, GP-12

For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 01-07-2016

Heard learned counsel for the State. No one appears on behalf of the contesting private respondent.

Present intra-court appeal is directed against the judgment and order of the learned Single Judge date 12.01.2010, passed in C.W.J.C. No. 16615 of 2009 (Jhanjharpur Anchal Matsyajivi Sahyog Samiti Ltd. & Anr. Vs. The State of Bihar and Ors.).

We have perused the records.

The only question that arose in this appeal is that



whether the learned Single Judge was right in directing the State to make proportionate refund of the settlement amount for settlement of Jalkar, the settlement of which had been delayed because of administrative lapse. The facts are not in dispute. The writ petitioner society had opted for Jalkar settlement for the year 2008-09 by the time the settlement order was issued and parwana issued for exploiting the Jalkar only about 49 days were left. However, society was directed to deposit full amount for the entire year. They thus claim proportionate refund for not having been able to exploit the Jalkar for the entire year. The Director Fisheries, for reasons not known necessitated that as the settlement was for the entire year the payment has to be made irrespective of the period.

In the counter affidavit filed in the writ proceedings State has taken the same stand, rather it has gone one step forward. It has submitted in the counter affidavit that the petitioners having taken the settlement of the Jalkar and now cannot claim refund of the said amount. We are not impressed. The factum that the settlement was delayed not because of the writ petitioners but because of the administrative lapse is not in dispute. If that be so, then justice, equity and good conscience all demand the State to act fairly. Accordingly, the order of proportionate refund cannot by any stretch of imagination be said to be either

wrong, unfair or arbitrary and unwarranted in any manner.
Therefore, we find no merit in this appeal. It is, accordingly,
dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Arjun/Rajesh

AFR/NAFR	AFR
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