

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21470 of 2011

=====

Babban Singh, Son of Ram Prasad Singh, resident of Vilage- Badwan
Kala, P.S.-Adhaura, Distt.-Kaimur

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Irrigation, Old Secretariat,
Bihar, Patna
3. The Principal Secretary, Department of Environment and Forest,
Bihar, Patna
4. The Executive Engineer, Minor Irrigation Division, Bhabua at Kaimur.
5. The Divisional Forest Officer, Forest Division, Bhabua At Kaimur

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Adv.
Mr. Jaya Prakash Singh, Adv.
For the Respondent/s : Mr. Kinkar Kumar, SC-27

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-05-2016

Heard learned counsel for the petitioner and the
respondents.

2. The present writ petition has been filed for a direction to
the respondent authorities to return the security money and reserve
money deposited by the petitioner in terms of the general settlement
notice dated 08.12.2008 with respect to Buchcha Reservoir Scheme,
along with interest thereon as well as compensation.

3. Learned counsel for the petitioner makes a short
submission to the effect that pursuant to a tender notice dated
08.12.2008, the petitioner was awarded the general settlement of
fishing with respect to Buchcha Reservoir Scheme. He deposited the
first installment of security money in all amounting to Rs. 1,15,000/-,



out of the bid amount of Rs. 2,30,000/-. The petitioner was however unable to avail the settlement rights as on the very first day on 07.11.2009, the Officials of the Forest Department seized the carriage vehicle of the petitioner during the fishing operation along with the materials on the ground that the Forest Department had the rights over the reservoir and the Irrigation Department could not have made the settlement in favour of the petitioner. It is therefore submitted that the petitioner is entitled to refund of the amounts in question inasmuch as despite having complied with the terms of the tender notice, he was prevented from exercising his rights of fishing for no fault on his part.

4. Learned counsel for the respondents appears and has been heard. He relies on the counter affidavits on behalf of the respondents but however is unable to controvert the facts stated by the petitioner. It is submitted that the respondent Irrigation Department had been settling the fishing rights relating to the reservoir from time to time in the past and it is for the first time that the respondent Forest Department has staked claim over the reservoir, disputing the authority of the Irrigation Department to make settlement of the fishing rights in favour of the petitioner.

5. Having heard the parties and on consideration of the materials on record, this Court is of the view that the petitioner cannot be made to suffer by reason of the inter se dispute between two Departments of the Government, each claiming control over the reservoir. The petitioner clearly acted within his rights settled to him under the tender after he had fulfilled all the conditions therefor. If by

reason of an inter departmental dispute, the petitioner was prevented from reaping the fruit of his selection under the tender, he is surely entitled to refund of the deposit made by him in terms of the tender.

6. In the above view of the matter, this Court directs that in case the petitioner files a representation within two weeks from the date of receipt/production of a copy of this judgment before the Executive Engineer, Minor Irrigation Department, Bhabua at Kaimur (respondent no. 4) giving details and particulars of the amounts claimed to be refundable to the petitioner, the respondent no. 4 shall consider and determine the amount so refundable and ensure payment of the same within a period of eight weeks thereafter together with simple interest calculated @ 6% per annum on the total amount refundable from the date of deposit up to the date of actual payment. It is made clear that the petitioner shall be at liberty to raise a claim for appropriate compensation while representing before the respondent no. 4.

7. With the above observations and directions, the writ petition stands allowed.

(Vikash Jain, J)

Md. Ibrarul/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	12.05.16
Transmission Date	