

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12726 of 2014

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Phulwaria Prakhand Matasyajivi Sahayog Samiti through its Chairman/
Mantri Mahatam Sahani, Son of Late Bhagan Sahani, Resident of Village-
Rajpur Khap, Police Station- Phulwaria (Shripur O.P), District- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Animal Husbandry and Fisheries Resources, Govt. of Bihar, Patna.
3. The Director, Department of Fisheries, Govt. of Bihar, Patna.
4. The District Magistrate, Gopalganj
5. The District Fisheries -cum- Chief Executive Officer, Gopalganj.
6. The Superintendent of Police, Gopalganj.
7. The Circle Officer, Phulwaria Anchal, Gopalganj.
8. The Officer-in- charge, Phulwaria, Gopalganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Lokesh Kumar Singh, Adv.

For the Respondent/s : Mr. Lalan Kumar, AC to GP-23

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 27-06-2016 Heard the parties.

The grievance of the petitioner in the present proceeding filed under Article 226 of the Constitution of India is that, though Sairats/Jalkars in question, fully detailed in paragraph 1 of the writ petition, have been settled with the petitioner-society for a period of 7 years vide office order dated 12.10.2012 (Annexure-1), but, in view of illegal encroachment made by some anti-social elements (names not disclosed), the petitioner-society is not in a position to harvest the fish from the Sairats in question.

Learned counsel appearing on behalf of the petitioner submits that, for redressal of valid grievances, the petitioner society approached the various authorities including the respondent District Magistrate, Gopalganj, but till date neither the

representation of the petitioner-society has been disposed of nor its valid grievances have been redressed.

Though, this writ petition was filed way back on 24.07.2014, but, despite passage of almost two years, the counter affidavit has not been filed on behalf of the respondents. The learned State counsel appearing on behalf of the respondents submits that, despite communication made by him to the authorities concerned, he has not been able to receive any instruction. Therefore, the counter affidavit could not be filed.

In view of the nature of the grievances/claims raised on behalf of the petitioner-society in the present writ petition and in view of the fact that no counter affidavit has been filed on behalf of the respondents despite passage of almost two years, this Court is of the opinion that, instead of keeping the matter pending awaiting counter affidavit from the respondents, the interest of justice shall be sub-served, if the petitioner is granted liberty to file a fresh comprehensive representation with all supporting documents before the respondent District Magistrate, Gopalganj and raising all the pleas, which have been raised in the present writ petition. It is ordered accordingly.

If such a fresh comprehensive representation is filed by the petitioner-society within a period of one month from today with a certified copy of the present order, then the respondent District Magistrate, Gopalganj shall be obliged to consider and decide the claims raised on behalf of the petitioner by a reasoned and speaking order, after giving an opportunity of hearing to all concerned including the petitioner and the authorities concerned of the respondent State, besides others, if any, at an early date, preferably within a period of three months from the date of filing

of such fresh comprehensive representation by the petitioner.

If on consideration of the materials and after hearing the parties, the respondent District Magistrate, Gopalganj comes to a conclusion that the claims raised on behalf of the petitioner are admissible to it, then the consequential steps shall be taken for grant of such admissible claims without any unnecessary further delay.

It is clarified that this Court has not gone into the merits of the claims raised on behalf of the petitioner in the present writ petition and the same is left to be decided by the respondent District Magistrate, Gopalganj strictly in accordance with law.

The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

Arvind/-

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