

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2084 of 2017

=====

1. Manohar Sahni @ Manohar Kumar Chaudhary, Son of Vishwanath Sahni @ Vishwanath Chaudhary, Resident of Village & P.O.-Salehpur, P.S.-Vishambharpur, District-Gopalganj through its Secretary, Kuchaikot Prakhand Matsyajivi Cooperative Society Ltd., Kuchaikot, Gopalganj

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Animal Husbandry and Fisheries Resources Department, Patna,
2. The Director, Fisheries Directorate, Government of Bihar, Patna
3. The District Magistrate, Gopalganj
4. The District Fisheries Officer-cum-Chief Executive Officer, Gopalganj

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Binod Kumar Sinha

For the Respondent/s : Mr. Raj Kishore Roy-GP18

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL ORDER

5 05-10-2018 Heard Mr. Narayan Singh, learned counsel for the petitioner and learned counsel for the State.

The petitioner filed this writ petition for the following reliefs:

(i) For issuance of writ in the nature of mandamus/ directions to respondent authority concerned to restore the settlement of Jalkar to the petitioner's society namely Kuchaikot Prakhand Matsyajivi Cooperative Society Ltd., Kuchaikot, Gopalganj as the settlement of Jalkar in favour of the petitioner's society has been cancelled by the authority concerned without asking any show cause.



(ii) For direction to the respondent authority concerned to restrain them from opening bid of the settlement of aforesaid Jalkars of the petitioner's society.

(iii) For any other appropriate writ, order, direction save and except in accordance with law.

The learned counsel for the petitioner submits that vide Memo No.393 dated 06.09.2012, the District Fisheries Officer-cum-Chief Executive Officer, Gopalganj settled 138 Jalkars from 20.07.2012 to 30.06.2019 in favour of the society of the petitioner. The petitioner could not deposit the reserve jama for the year 2015-16 in time due to short of rain. The respondent issued letter No.244 dated 13.04.2016 directing the petitioner to deposit the reserve jama of Rs.1,53,850/-, the annual reserve jama within three days failing which the settlement made in favour of the petitioner would be cancelled. The petitioner filed representation but the District Fisheries Officer cancelled the settlement made in favour of the petitioner and directed the Certificate Officer to realize Rs.1,53,850/- from the petitioner. The petitioner also deposited Rs.1,53,850/- on 10.06.2016 before the Certificate Officer and the District Fisheries Officer received the same amount on 14.06.2016 but in the meantime, respondent no.4 invited application from the different societies for settlement of Jalkars through open bid in spite of the directions issued by the



District Magistrate, Gopalganj. Settlements of the ponds were not restored to the petitioner. Learned counsel for the petitioner further submits that before start of proceeding of resettlement of Jalkars through open bid, society of the petitioner could not be allowed to participate in the limited bid. It is further submitted that this Court vide order dated 06.09.2017 stayed the cancellation of Jalkars settled in favour of the petitioner but the authority did not pay any heed to the order of this Court. The authority settled these 64 ponds in favour of another person and only 74 Jalkars remained to be settled. The petitioner also deposited reserve jama amounting to Rs.1,53,850/- for the year 2016-17.

The State filed counter-affidavit. Learned counsel for the State submits that Jalkars were settled with the society of the petitioner under the provisions of Bihar Fish Jalkars Management Act, 2006 in the year 2012. The petitioner did not deposit the reserve jama of Rs.1,53,850/- for the settlement year 2015-16 nor the petitioner make any claim under Section 12 of the Act. According to the provisions as contained in Section 7 of Jalkar Management Act, the settlee has to deposit the first installment by 15th of July for the start of the settlement year from 1st July. The petitioner did not deposit the reserve jama by 15th July, 2015 and the second installment by 31st of January, 2016 of that settlement year. Consequently, respondent No.4 sent letters through letter



No.307 dated 11.07.2015, letter No.346 dated 10.08.2015, letter No.575 dated 30.12.2015 and letter No.237 dated 07.04.2016 and letter No.244 dated 13.04.2016 but the petitioner did not pay any heed and consequently, after taking permission from the Collector as provided under the Act, the settlement made in favour of the petitioner was cancelled vide letter No.278 dated 27.04.2016 according to the provisions of Section 7. The order of cancellation of settlement is appealable before the Secretary, Department of Animal and Fish Resources within 30 days from the date of issuance of the letter but the petitioner did not prefer any appeal. Consequently, in view of the provisions as contained in Section 8 of the Act, the majority of the 64 Jalkars were settled in open and limited bid but the petitioner did not make new settlee as respondent in this case and the new settlee is fishing the ponds after regularly depositing the reserve jama. It is further submitted that the petitioner has also forged the certificate said to have been issued by the Collector and submitted at the time of limited bid for settlement of Jalkars through limited bid and Collector ordered for institution of F.I.R. against the petitioner for forging the letters.

On consideration of submissions of both sides and on perusal of the record, I do not find any force in the submission of the learned counsel for the petitioner. 138 Jalkars were settled in favour of the petitioner from the settlement year of 2012 for seven



years. The settlement year start from 1st July of the year and runs till 30th June. The petitioner did not deposit the reserve jama for the settlement year of 2015 and 2016 by 15th of July, 2015 and under the Act, the settlee is required to deposit first installment of reserve jama by 15th of July and the second installment by 15th of January but the petitioner did not deposit the first and the second installment for the settlement year 2015-16. The Act also provides that the settlee may claim for remission for depositing reserve jama in the event of any natural calamity such as flood, short of rainfall etc. but the petitioner did not claim any remission. Respondent No.4 issued several letters for directing the petitioner to deposit the first and second installment of the reserve jama but the petitioner did not pay any heed nor deposited the first installment of the settlement year 2015-16. When the petitioner did not even deposit the second installment by 15th of January, 2016, the respondent No.4 issued several letters directing him to deposit the entire reserve jama by 20th of April, 2016 but the petitioner did not deposit the money. Consequently, the respondent after taking approval from the Collector, as required under the Act, cancelled the settlement of Jalkars made in favour of the petitioner and issued notice for settlement of Jalkars through limited bid as provided under the Act but the petitioner again tried to scuttle the limited bid to be held for settlement of the Jalkars by



forging the letter of the Collector. 64 Jalkars were settled in favour of Harendra Yadav and new settlee deposited the entire amount of reserve jama in the settlement year 2015-16, 2016-17 and 2018-19. The petitioner did not bring this fact before this Court about the settlement of 64 Jalkars in favour of Harendra Yadav and obtained order of stay of canceling the Jalkars from this Court on 06.09.2017 after concealing the material facts. The petitioner even did not make the new settlee as respondent.

Thus, I find that the cancellation of settlement of Jalkars made in favour of the petitioner was done in accordance with law and the same is not vitiated. Therefore, I do not find any merit in this writ petition. Accordingly, this writ petition is dismissed. However, since the petitioner has deposited reserve jama for the year 2016-17 and 2017-18 and 74 Jalkars are yet to be settled, the authority may consider the desirability of settlement of the aforesaid 74 Jalkars with the petitioner till the end of the settlement year of 2018-19 as the petitioner had already deposited the reserve jama.

(Prabhat Kumar Jha, J)

Saurabh/-

U			
---	--	--	--

