

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12874 of 2019

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Sheela Devi W/o Sh. Rajkumar Sahni, Resident of Village- Brahmotra, P.S. Laukha, Circle-Cum-Block-Khutauna, District- Madhubani.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Animal Husbandry Department, Govt. of Bihar, Patna.
2. The Collector Madhubani.
3. The District Fishery Officer-Cum Chief Executive Officer, Madhubani.
4. The Officer Incharge, Police Station- Laukha, Madhubani.
5. Sh. Dev Narayan Mukhiya, Son of not known, R/o P.S. Laukha, Circle-Cum-Block- Khutauna, District- Madhubani, President Khutauna Prakhand Mastsya Shakari Sahyog Samiti.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Namrata Mishra, Advocate Mr.Alok Ranjan, Advocate
For the State	:	Mr.Fakhruddin Ali Ahmad, AC to AAG-12

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 27-06-2019 Heard learned counsel for the petitioner and learned counsel representing the State.

It is the case of the petitioner that Sitaram Pokhra situated in Village Bouraha, Block Khutauna, Madhubani, Khesra No. 512, area 1.15 Acre was settled in favour of Khutauna Prakhand Matsya Shakari Sahyog Samiti. The petitioner being a member thereof was allotted the said Pokhara for a period of seven years from 16.10.2013 to 30.06.2018-19 and accordingly Patta for fish rearing and fishing was executed by the President of the Samiti Sh. Dev Narayan Mukhiya.



It is further stated that the petitioner had deposited the Patta amount/rent with the Secretary of the Society and was issued the receipt till 2017-18 and was using the Pokhara. For the year 2018-19 she had deposited money with the President of the Samiti but he had refused to issue the receipt. Thereafter, the petitioner had approached respondent no. 3 and on his advice she had deposited the amount of the said year in the bank account of the Co-operative Society in the Rahika Central Co-operative Bank Ltd., Madhubani on 13.12.2018. At this stage when the fishes have matured and the petitioner wanted to fish out the Pokhara, she was forcefully stopped by Gopal Sahni and Ram Sahni both sons of Mohan Sahni and Rajdev Paswan son of Laldei Paswan with the help of their muscleman as they claimed that the President of Samiti had allotted the Pokhara to them and had also issued receipt in their names but it was not specifically informed in whose name the Pokhara had been settled.

The grievance of the petitioner is that the President of the Samiti has illegally settled the Pokhara in favour of some persons and for that reason the petitioner is not being allowed to fish out the Pokhara. The Patta is valid till 30th June, 2019.

On the other hand, learned counsel for the State



submits that the petitioner has rushed to this Court at this belated stage when the Patta is going to expire on 30th June, 2019. It is stated that the statements made in the writ application are vague and the claim of the petitioner that she had paid the Patta amount for the year 218-19 to the President of Samiti is not substantiated from the record and, therefore, this Court sitting under Article 226 of the Constitution of India may not enter into the merit of the contentions and it would be just and proper if the matter is sent back to the District Fishery Officer (Respondent No. 3) to look into.

Having heard learned counsel for the petitioner and the State, in the nature of the grievance raised before this Court, this Court thinks it just and proper to direct the District Fishery Officer-cum-Chief Executive Officer, Madhubani (Respondent No. 3) to look into the grievance of the petitioner and find out the truth after giving an opportunity to the President of the Samiti to explain his stand and in case so required any other person in whose favour Pokhra has been settled.

Let the exercise be taken up within one week from today and the inquiry be concluded within 15 days from the date of service of notice on the President Sh. Dev Narayan Mukhiya. The petitioner will present herself before the Respondent No. 3



on 4th July, 2019 to participate in the inquiry.

Learned counsel for the petitioner has since stated that she had been doing fish rearing and now the fish have matured for taking out, respondent no. 3 shall look into the same and in case if the claim of the petitioner is found to be correct, then he will pass appropriate order. Till the inquiry is completed, in case the fish is there and have matured, respondent no. 3 shall be competent to take appropriate decision so that the fish being a perishable item if taken out of the Pokhara adequate step be taken to sale and deposit of amount which will be released to the successful party.

It goes without saying that all concerned shall be heard before passing an appropriate order.

Once the matured fish are taken out from the Pokhara, the petitioner has undertaken that she will not create any hindrance in the fish rearing to the party in whose favour the settlement will be made.

This writ application stands disposed off.

(Rajeev Ranjan Prasad, J)

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