

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25047 of 2019

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Arun Sahni, Male, aged about 38 years, Son of Tikko Sahni, R/o Village +
P.O.- Jahangeera, P.S. Sultanganj, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Fisheries Department, Bihar, Patna.
2. The Divisional Commissioner, Bhagalpur Pramandal, Bhagalpur.
3. The Director Fisheries, Bihar, Patna.
4. The Dy. Director Fisheries, Bhagalpur Pramandal, Bhagalpur.
5. The District Fisheries Officer Cum Chief Executive Officer, Bhagalpur.
6. Sultanganj Prakhand Matasyajivi Sahyog Samiti Ltd. Sultanganj through its Secretary Arun Bind, S/o Manijar Bind, R/o Village- Asiya Chak, P.O. Nonsar, P.S. Sultanganj, District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Deepak Kumar, Advocate
For the State	:	Md. Khurshid Alam, A.A.G.12

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 13-12-2019 Heard both sides.

By the impugned order (Annexure-1), the Commissioner, Bhagalpur Division, dismissed the petition of the petitioner on the ground that the appeal under Section 14(i) of the Bihar Fish Jalkar Management Act, 2006 is not maintainable as the petitioner has not filed any order of the District Fisheries Officer. Appeal before Commissioner of the Division is provided against any order of settlement made by District Fisheries Officer. Section 14(i) of the Bihar Fish Jalkar Management Act, 2006 reads as follows:



“14. Appeal and Revision:- An appeal against all the decisions regarding short term settlement taken by the District Fisheries Officer and Deputy Director may be filed before the Director Fisheries.”

By Amending Act 20 of 2010, in sub-section (i) of Section 14, the words ‘Director Fisheries’ has been substituted by the words ‘Divisional Commissioner’, therefore, on bare perusal of the provisions as contained in Section 14 of the Bihar Fish Jalkar Management Act, the order of settlement, issued by the District Fisheries Officer in favour of Arun Bind, Mantri Prakhand Matasyajivi Sahyog Samiti Limited, Sultanganj, is appealable but the Commissioner appears to have erred in law in holding that the order of settlement is not appealable.

Taking into consideration the facts that the order of the Commissioner, Bhagalpur Division appears on the face of it illegal and not sustainable and since the matter requires remand, therefore, I think it proper to remand the case to the court of Divisional Commissioner, Bhagalpur without hearing the Respondent No.6 with a direction to the Divisional Commissioner, Bhagalpur to hear the petitioner-appellant and other respondents and pass order afresh in accordance with law.

In the result, the writ petition is allowed. The order



dated 16.10.2019, passed in Matasya Appeal Case No.5/2019-20
(Annexure-1) is set aside and the matter is remitted to the
Commissioner, Bhagalpur Division to decide the matter afresh
in accordance with law.

(Prabhat Kumar Jha, J)

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