

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2119 of 2020

Rinku Devi, aged about 38 years, female, W/o Sri Chitranjan Singh, Resident of Village- Kaluchak Bishwapuriya, P.S.-Kharik, Dist- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Divisional Commissioner, Bhagalpur Division, Bhagalpur.
3. The District Magistrate, Bhagalpur.
4. The Director, Fisheries, Bihar, Patna.
5. The District Fisheries Officer-cum-Chief Executive Officer, P.O. and P.S.- Bhagalpur, Dist-Bhagalpur.
6. The Kharik Prakhanda Matasyajivi Sahyog Samiti Ltd. through its Mantri and Kosha Adhyaksh (Chairman and Treasures), Abhishek Sahni, S/o Sri Dinesh Sahni, resident of Village- Bahatra, P.S.-Parbata, Dist- Bhagalpur.
7. Abhishek Sahni, S/o Sri Dinesh Sahni, resident of Village- Bahatra, P.S.- Parbata, Dist- Bhagalpur.
8. Patwari Singh, S/o Lat Raghu Singh, resident of village- Kalu Chak, Bishwapuriya, P.S.-Kharik, Dist-Bhagalpur (Group leader of Ugrasen Jalkar).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shree Kant Pandey, Advocate
For the Respondent/s	:	Mr. Raj Kishore Roy, GP 18
		Ms. Surekha Kumari, AC to GP 18

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 14-02-2020

Heard learned counsel for the petitioner and learned

GP 18 for the State.

2. The petitioner has moved the Court for the following reliefs:

“For issuance of a writ in the nature of certiorari for quashing the order dated- 16.10.2019 passed in Matsya Appeal No. 4/2019-20 by Divisional Commissioner, Bhagalpur Division, Bhagalpur (Respondent



no.2) by which appeal filed by the petitioner was dismissed on the ground of “there is no provision to file appeal” which is violation the section 14(i) of “The Bihar Fish Jalkar Management (Amendment) Act, 2010 (in short Act 2010) and also for quashing the part of the memo no. 596 dated- 29.08.2019 i.e. regarding ugrasen Jalkar only issued under the signature of the District fisheries officer-cum Chief Executive Officer, Bhagalpur (Respondent no.5) by which “Ugrasen Jalkar” (at serial no.1) situated in Kharik Block, settled in favour of samittee who settled in favour of respondent no.8 by Jalkar Settlement Patta bearing no.1 dated- 9.9.2019, who is not group leader because, his name not figure in Samittee list as well as proposed list, also issuance of a writ in the nature of mandamus directing and commanding the respondent authorities, to not acted the memo no. 596 dated- 10.08.2019 (regarding only Ugrasen Jalkar) till disposal of the case.”

3. After some arguments, learned counsel for the petitioner submitted that she had moved against the action of settling of the *jalkar* in question, with the private respondent in appeal before the Divisional Commissioner, Bhagalpur, as provided under Section 14(i) of the Bihar Fish Jalkar Management Act, 2006, (hereinafter referred to as the ‘Act’) in Fishery Appeal Case No.04/2019-20, but the same was dismissed on the ground that there is no provision to file an appeal before the Commissioner. Learned counsel submitted that the same is totally erroneous as initially in the Act, the appeal was to be preferred before the Director, Fisheries, but by



amendment in the Act brought about by the Bihar Fish Jalkar Management (Amendment) Act, 2010, in Section 14(i) of the Act, the words “Director, Fisheries” has been substituted by the words “Divisional Commissioner”.

4. Thus, it was submitted that the Divisional Commissioner, Bhagalpur (respondent no. 2) may be directed to consider the appeal filed by the petitioner on merits.

5. Learned counsel for the State could controvert the submissions of learned counsel for the petitioner.

6. After considering the facts and circumstances of the case and submissions of learned counsel for the parties, in the considered opinion of the Court, the petitioner is required to be given a hearing by the authorities. In view of him having already approached the Commissioner in appeal and the same being maintainable in view of the provisions of the Act brought about with effect from 28.04.2010, the respondent no. 2 was required to consider the matter on merits. Thus, dismissal of the appeal on the ground that the same did not lie before the Commissioner is erroneous.

7. Accordingly, the order passed by the respondent no. 2 dated 16.10.2019 in Fisheries Appeal Case No.04 of 2019-20 stands set aside. The matter is remanded to him to consider



and dispose off the same by passing a reasoned order on merits expeditiously and latest within two months from the date of production of a copy of this order before him.

8. The writ petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

J. Alam/-

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