

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 8100 of 2020

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1. Bihar Sharif Prakhanda Starie Matasyajeevi Sahayog Samiti Ltd. Through its Secretary namely Laxman Sahani, Son of Jay Kewat, Resident of Village- Ranabigaha, P.S.- Deepnagar, District- Nalanda.
 2. Laxman Sahani, Gender-Male, aged about 29, Son of Jay Kewat, Resident of Village- Ranabigaha, P.S.- Deepnagar, District- Nalanda.
 3. Rajo Kewat @ Rajo Kevar, Gender-Male, aged about 53, Son of Late Baleshwar Kevar @ Late Baleshwar Kewat, Chairman of the Managing committee of the Society, Resident of Village- Parkheti Jhing Nagar, Bihar Sharif, P.S.- Bihar, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Animal Fish Resources Department, Bihar, Patna.
2. The Secretary, Animal Fish Resources Department, Bihar, Patna.
3. The District Magistrate cum District Officer Nalanda.
4. The Director Fisheries Bihar, Patna.
5. The Reserve Jama Committee through its Member Secretary cum District Fisheries Officer, Nalanda.
6. The Deputy Director Fisheries Patna Range, Chairman of Reserve Jama Committee of District Nalanda.
7. The District Fisheries Officer cum Chief Executive Officer Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Ms. Mahasweta Chatterjee, Advocate
For the State	:	Mr. Md. Khurshid Alam, AAG 12 with Mr. Majid Mahboob Khan, AC to AAG 12

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 01-10-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.



2. Heard Ms. Mahasweta Chatterjee, learned counsel for the petitioners and Mr. Md. Khurshid Alam, learned AAG 12 along with Mr. Majid Mahboob Khan, learned AC to AAG 12 for the State.

3. The petitioners have moved the Court for the following reliefs:

“(i) that an appropriate writ may be issued, quashing the order by Letter no. 1296 dated 04.07.20 as contained in Annexure-19, whereby and whereunder the Respondent number-7 the District Fisheries Officer has cancelled the settlement of 89 fish Jalkars made with the society by Letter No. 782 dated 14.08.19 and amended order by letter no. 811 dated 21.08.19 with effect from 01.07.2019.

(ii) That an appropriate writ may be issued commanding upon the respondent number-7, the District Fisheries Officer not to proceed with further action as a result of cancellation order as contained in Annexure-19. During the pendency of this writ application.

(iii) That an appropriate writ may be issued commanding upon the Respondent number-7, the District Fisheries Officer not to disturb the possession of the members with whom 24 Jalkars have been settled by the society and have cultivated fish in their respective Jalkars during the pendency of this writ application.

(iv) That any other relief/reliefs may be granted for which the petitioners are found entitled to.”

4. Learned counsel for the petitioners submitted that the cancellation of the settlement in favour of the petitioner no. 1 (hereinafter referred to as the ‘Society’) of 89 fish *jalkars* under



the impugned order dated 04.07.2020, is without any show cause or notice.

5. Learned counsel for the State submitted that he has received telephonic instructions, according to which, the Society had defaulted in making payment of second instalment despite reminder and further time given to it. He further submitted that Section 14 of the Bihar Fish Jalkar Management Act, 2006 (hereinafter referred to as the 'Act'), provides for a statutory appeal against the order, which is impugned in the writ petition, passed by the District Fisheries Officer, Nalanda.

6. Learned counsel for the petitioners submitted that after cancellation, the date for auction of 89 *jalkars* had also been announced. However, she submitted that the same could not take place due to the illness of the District Fisheries Officer, Nalanda, but now a fresh date is going to be announced for the same. She submitted that if the Society moves before the Appellate Authority, the Court may protect it from any future complication which may result due to fresh auction of the *jalkars* by creation of third-party rights.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the writ petition stands disposed off with liberty to the Society to move



before the Appellate Authority under the Act within 10 days from today. Upon doing so, the Appellate Authority, after affording an opportunity of hearing to the Society, shall pass a detailed and reasoned order within three weeks from the date of filing of such appeal. Thereafter, within ten days of the passing of the order, the same shall be communicated to the Society. Depending on the order passed, the parties shall be at liberty to take further steps in the matter. However, it is clarified that if the order requires fresh settlement of the *jalkars* in question, process shall be initiated only after a week from the date of the order being served on the Society.

(Ahsanuddin Amanullah, J.)

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