

SL 01  
05.11.2020.  
m.b/.d.p.

**IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE**

**W.P.A. 9250 of 2020**

**(Through Video Conference)**

**Abdul Halim  
-versus  
State of West Bengal & Ors.**

**Mr. Kamalesh Bhattacharyya,  
Mr. Aninda Bhattacharya.  
...For the Petitioner.**

**Mr. Abhrotosh Majumder,  
Mr. Debasish Ghosh.  
...For the State.**

The limited grievance of the petitioner is that one Liakat Ali, who had approached this Court in the writ jurisdiction previously by filing W.P. No. 91 (W) of 2019, had failed in his contention by the order of disposal of the said writ petition by a co-ordinate Bench of this Court, which turned down such prayer. It appears from the submission of both sides that ultimately the matter went up to a Division Bench, culminating in an order directing hearing to be given to the petitioner and a decision to be taken on the settlement of the disputed property.

Subsequently, vide order no. 7 dated May 30, 2019, the District Land & Land Reforms Officer,

Murshidabad had complied with such direction of this Court and had decided that long term settlement of the said property, which is a part-vested government fishery was not practically feasible in the circumstances and that a short term settlement of the fishery in favour of any Fishermen's Co-Operative Society or Fish Production Group was more feasible and practicable. It was further observed that the willing co-sharers might become members of that Fishermen's Co-Operative Society or Fish Production Group and thereby can enjoy their respective shares peacefully according to their membership of that society or group. It was further held that the petitioner therein, that is, Liakat Ali and others, as individuals, were not entitled to get settlement of the said part-vested government fishery and the Sagardighi Fishermen's Co-Operative Society Limited was entitled to get settlement of 119.47 acres in the three *mouzas* recorded therein. The Sagardighi Fishermen's Co-Operative Society Limited was further directed to accept the membership of other co-sharers, including the petitioners, before the said forum as its members, if they approached the management of the society for their membership, as per provisions of the Co-Operative Societies Registration Act.

Pursuant thereto, the Additional District Magistrate and District Land & Land Reforms Officer, Murshidabad, by a direction dated June 13, 2019 had

asked the Joint Secretary, Department of Land & Land Reforms and Refugee Relief & Rehabilitation, Government of West Bengal, to confirm the settlement of the said fishery for three years commencing from 1426 B.S. at the lease rent as specified therein. Thereafter, no steps having been taken in that regard, another writ petition was filed by the present petitioner as the Chairman of the Sagardighi Fishermen's Co-Operative Society Limited and a co-ordinate Bench of this Court disposed of the connected writ petition, bearing W.P. No. 5812 (W) of 2020 and CAN 3828 of 2020, by directing the respondent no. 9 therein (also respondent no. 9 in the present writ petition) to consider and decide the issue of settlement of fishery by considering the said communication (letter) dated June 13, 2019 within two months from the date of communication of the said order.

The grievance of the petitioner is that subsequently, by a notice dated November 3, 2020 (Annexure P-14 at page 48 of the present writ petition), it was communicated that a further hearing would be held by the Joint Secretary, Government of West Bengal, in terms of the order dated August 4, 2020 passed in W.P. No. 5812(W) of 2020.

Learned counsel appearing for the petitioner argues that no further hearing is necessary after the matter was adjudicated finally, pursuant to the

previous order of the Division Bench, by the District Land & Land Reforms Officer himself and recommended by the said authority for approval.

Learned senior counsel appearing for the State argues that the hearing was sought to be given for the benefit of the parties concerned and only pursuant to the order of the co-ordinate Bench dated August 4, 2020.

It appears from the said order of the co-ordinate Bench that the respondent no.9 had been directed to consider and decide the issue of settlement of fishery by considering the letter dated June 13, 2019, thereby leaving a scope for a further consideration of such issue by the respondent no.9.

However, the petitioner is justified in arguing that Liakat Ali and others, whose cause was defeated in the earlier round of litigation, cannot be given further hearing at this juncture.

Accordingly, W.P.A 9250 of 2020 is disposed of by setting aside the impugned notice dated November 3, 2020 (annexed at page 48 of the present writ petition) and by directing the respondent no. 9 to consider the approval of the settlement of fishery-in-question in terms of the order dated August 4, 2020 passed in W.P. No. 5812(W) of 2020 at the earliest, latest within five weeks from date, and.

It is made clear that no further hearing shall be given to any of the parties for such consideration as directed above.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

**( Sabyasachi Bhattacharyya, J.)**