

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 876 of 2020**

1. Dayalu Ram Markam S/o Late Udeyram, Aged About 38 Years, Upsarpanch Gram Panchayat Junwani, R/o Village Rampur, Post Junwani, Tehsil Narharpur, District Uttar Bastar, Kanker, Chhattisgarh
2. Dalluram Komra S/o Bhawan Ram Komra, Aged About 49 Years, R/o Village Rampur, Post Junwani, Tehsil Narharpur, District Uttar Bastar, Kanker, Chhattisgarh
3. Preetram Salam S/o Late Ghasiram, Aged About 70 Years, R/o Village Rampur, Post Junwani, Tehsil Narharpur, District Uttar Bastar, Kanker Chhattisgarh
4. Kamlesh Komra S/o Late Miluram Komra, Aged About 37 Years, R/o Village Rampur, Post Junwani, Tehsil Narharpur, District Uttar Bastar, Kanker, Chhattisgarh

---- Petitioners**Versus**

1. State Of Chhattisgarh Through Secretary, Fishries Department, Mantralaya, Mahanadi Bhawan, Capital Complex, New Raipur, District Raipur, Chhattisgarh
2. Director, Fisheries Culture Department, Indrawatibhawan, New Raipur, District Raipur, Chhattisgarh
3. Collector, District Uttar Bastar Kanker, Chhattisgarh
4. S.D.O., District Uttar Bastar Kanker, Chhattisgarh
5. Gram Panchayat, Junwani, Under Janpad Panchayat Narharpur, Through Secretary, Janpad Panchayat Narharpur, District Uttar Bastar Kanker, Chhattisgarh
6. Bhagat Singh, Matsya Sahakari Samiti, Rampur-Junwani, Through Its

Chairman Hemant Matiara, S/o Jhumuk Lal, Aged About 32 Years, R/o
Gram Panchayat, Junwani, District Uttar Bastar, Kanker

---- Respondents

For Petitioners	:	Mr. Anup Majumdar, Advocate
For State	:	Ms. Abhyunati Singh, P.L.
For Respondent no.6	:	Mr. Anshul Tiwari,

Hon'ble Shri Justice P. Sam Koshy

Order On Board

09.03.2020

1. The present writ petition has been filed seeking the following relief:

“The auction notice dated 03.02.2020 may kindly be set aside/quashed and the respondent authorities may be directed to not let the ponds at Pandri and Awas Para, village Junwani for fish breeding purposes without consent of Gram Panchayat.

2. It would be relevant at this juncture to mention that earlier there was a writ petition filed by respondent no.6 i.e. WPC No. 3101 of 2019. The said writ petition was disposed of on 09.09.2019 with the following observations:

“3. Admittedly, lease in favour of the petitioner has expired on 2018 and on mere application of the petitioner it cannot be granted to a single person. If there are other prospective applicants then, naturally it must go to the person who contributes maximum amount to the exchequer. Therefore, the prayer for grant to the petitioner alone cannot be acceded to. Therefore, in the instant case, the Collector shall consider the fact and situation prevailing at the area and may grant the pond by auction to the highest bidder who contributes

maximum to the exchequer.”

3. In the said writ petition i.e. WPC No. 3101/19, the present petitioners were not a party. The petitioners thereafter seeking permission from the Division Bench filed Writ Appeal No. 202/2020 and the said Writ Appeal was decided on 18.02.2020. While deciding Writ Appeal, the Division Bench of this Court in paragraphs 11 & 12 made the following observations:

“11. In such a situation, without going into the merits of case, this Court is of the view that if appellants are aggrieved by issuance of notification for auction of pond in question, they may approach appropriate authority by filing appropriate proceeding. If the appellants chose to file such proceeding, part of the observation made by the learned Single Judge in para-3 of the order dated 09.09.2019 i.e. “Therefore, in the instant case, the Collector shall consider the fact and situation prevailing at the area and may grant the pond by auction to the highest bidder who contributes maximum to the exchequer”, will not come in their way.

12. Considering the grounds raised by appellant in the memo of appeal, the respondent authorities are directed not to finalize auction proceeding for a period of two weeks from today”

4. Pursuant to the disposal of the Writ Appeal, the petitioners have now filed the present writ petition.
5. Given the highlighted portion of the order passed by the Division Bench, this Court is of the opinion that the Division Bench was clearly of the view that for redressal of the grievance of petitioners they should approach the concerned appropriate authority by filing appropriate proceeding. It was further observed by the Division Bench that subject to the petitioners approaching the said appropriate authority, the order

of the Single Bench passed in WPC No. 3101/19 to the extent of grant of pond to the highest bidder in the auction, shall remain stayed.

6. However, without approaching the appropriate authority as directed by the Division Bench, the petitioners seems to have filed this writ petition on the same ground on which they had filed Writ Appeal. This in the opinion of this Court would not be maintainable.
7. The recourse available for the petitioners would be as directed by the Division Bench to approach the appropriate authorities. Reserving the right of the petitioners to avail such remedy as directed by the Division Bench, the present writ petition stands rejected as not maintainable.

Sd/-
P. Sam Koshy
Judge