

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) NO.20656 OF 2022

Prafulla Kumar Biswal & anr.

....

Petitioners

Mr.B.Mohapatra, Adv.

-versus-

State of Odisha & ors.

....

Opposite Party(s)

Mr.S.Mishra, ASC

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
26.8.2022**

Order No.

02.

1. Heard learned counsel for the Parties.
2. This is the second round of litigation at the instance of the Petitioners. In the first round of litigation, this Court finding requirement of raising of grievance by the Petitioners therein before the Collector, Kendrapara in disposal of W.P.(C) No.25659/2021 directed as follows :-

“1. This matter is taken up through hybrid mode.

2. The Petitioner in this writ petition assails the notice dated 7th August, 2021 issued by the Tahasildar, Mahakalpada- Opposite Party No.6 for demolition of his Prawn Cultivation pond has filed this writ petition.

3. It is submitted by Mr.Lenka, learned counsel for the Petitioner that in view of the provisions under Section 11(d) of the Coastal Aquaculture Authority Act, 2005 (for short, “the Act”), the Petitioner is entitled to a notice by the

District Coastal Aquaculture Authority before undertaking eviction/demolition of the Prawn Cultivation Pond.

4. In the case at hand, the Opposite Party No.3 has not issued any notice under Section 11(d) of the Act. But, the Tahasildar, Mahakalpada-Opposite Party No.6, without authority of law has issued the notice and is contemplating to demolish the Prawn Cultivation Pond of the Petitioner forcibly. Hence, the Petitioner finding no other alternative has filed this writ petition.

5. Mrs.Pattanaik, learned Additional Government Advocate for the State submits that she has no instruction in the matter. However, if the Petitioner has any grievance against the notice issued by the Tahasildar, Mahakalpada-Opposite Party No.6, he may approach the Tahasildar for redressal of his grievances. Hence, she prays for dismissal of the writ petition.

6. Taking into consideration the rival contentions of the Parties, this Court is of the considered opinion that if the Petitioner has any grievance, he should bring the same to the notice of the Collector, Kendrapara who is the Chairman of the District Level Coastal Aquaculture Committee.

7. Accordingly, it is directed that in the event the Petitioner files a grievance petition/representation before the Collector, Kendrapara, who is the Chairman of the District Level Coastal Aquaculture Committee, Kendrapara within a period of two weeks hence along with certified copy of this order, he shall do well to consider the same in accordance with law, giving opportunity of hearing to the Petitioner and pass a reasoned order thereon, as expeditiously as possible preferably, within a period of eight weeks therefrom and communicate the same to the Petitioner forthwith.

8. Till a decision is taken on the representation, if filed within the stipulated period as aforesaid, no coercive action shall be taken against the Petitioner for demolition of his Prawn Cultivation pond pursuant to notice dated 7th August, 2021 issued by the Tahasildar, Mahakalpada-Opposite Party No.6.”

It is disclosed from the Writ Petition that pursuant to the aforesaid direction, the Petitioners therein submitted their grievance before the Collector, Kendrapara and such grievance following the further direction of this Court appears to have been considered by the Collector, Kendrapara and by his judgment dated 24.11.2021 has directed as follows :-

“.....Considered the materials on record, perused the written notes of argument filed by the learned counsel for the Petitioner and factual report submitted by the concerned Tahasildar, the case is remanded to Tahasildar, Mahakalapada to dispose of the case in accordance with law as per observation of Munsif, Kendrapara in judgment and decree in Title Suit No.3/1982.”

3. It is alleged through the Writ Petition that even after remand of the matter to the Tahasildar, Mahakalapada since 24.11.2021, the Tahasildar is sitting over the matter and not giving finality to the issue involved.

4. Considering the innocuous prayer involved herein and since the Tahasildar, Mahakalapada is duty-bound to work out the direction of the Collector, Kendrapara, in disposal of the Writ Petition this Court directs the Tahasildar, Mahakalapada, O.P.3 to work out the direction of the Collector, Kendrapara, O.P.2 in disposal of Misc. Case No.72/21, vide Annexure-1 involving the

Petitioner at least within a period of two months from the date of communication of this order along with copy of the Writ Petition.

(Biswanath Rath)
Judge

M.K.Rout

