IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1543 of 2023

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Basukinath Yadav, Son of Late Hemnath Yadav, Village- Baghar, Post- T.M. Baghar, Police Station- Manihari, District- Katihar.

... ... Petitioner/s

Versus

1. The State of Bihar through the Collector, Katihar.
2. The Collector, Katihar.
3. The Additional Collector, Katihar.
4. The Sub Divisional Officer, Manihari, District- Katihar.
5. The Circle Officer, Manihari Anchal, District- Katihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Anjali, Adv.
For the Respondent/s	:	Mr. Raj Kishore Roy, (GP- 18)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT
Date : 24-07-2023

Heard learned counsel for the petitioner and learned counsel for the State.

2. The present writ petition has been filed by the petitioner seeking direction to the respondent to adjust settlement of *Sairat*, known as Group of 15 Ghats (15 Ghat *Samooh*), for the financial year 2000-2021, to the extent of non-permission of working out the said settlement of *Sairat* for the period of lockdown on account of Covid-19, against dispute for the financial year 2000-2021 for 203 days amounting to Rs. 13,51,472/- against proportionate remaining period of settlement for the period 2000-2021, i.e. Rs.12,15,000/- as demanded by

Respondent No.3 vide letter no.242 dated 02.02.2021 against financial year 2020-21. A further prayer has been made that the respondent should be restrained from taking any coercive steps to realize the demand of 12,15,000/- vide letter no.242 dated 02.02.2021 against financial year 2020-21.

3. It has been further prayed that respondent may be directed to refund the excess amount of Rs.1,36,472/- with interest at 12% per annum and it has also been prayed that respondent may be directed to refund proportionate cost of registration i.e. Rs.1,08,118/- against total cost of registration at Rs.1,94,400 with an interest of 12% per annum.

4. Counsel for the petitioner submits that for the purpose of *Sairat* settlements short term tender notice has been published for the said Group of 15 Ghats. Counsel submits that the petitioner has applied for settlement of Group of 15 Ghats. and being the higher bidder, the said *Sairat* was settled on 17.03.2020 for Rs.24,30,000/- for the financial year 2000-2021 w.e.f. 01.04.2000 to 31.03.2021. He further submits that no work order was issued as the lock down was announced on 23.03.2020, as such neither agreement was signed nor work order was issued for settlement period from 01.04.2020 to 31.03.2021.

5. Counsel for the petitioner submits that petitioner has deposited half of the settlement amount i.e. Rs.12,15,000/- and full cost of registration i.e. Rs.1,94,400/- so total Rs.14,09,400/- has been paid on 25.03.2020, which is Annexure-2 of the writ petition.

6. Counsel for the petitioner submits that even upon repeated requests, neither any agreement was executed nor any *Parwana* was issued for working the said *Sairat.* Counsel submits that the petitioner sought permission to run passenger boats by his letter dated 31.08.2020 and subsequently, the said permission was granted to him vide letter no.1021 dated 08.08.2021 permitted to work. Thereafter, vide letter no.874 dated 22.10.2000 was order was issued.

7. The contention of the petitioner is that he started working since 22.10.2020 and worked till 31.03.2021 i.e. for a period of total 163 days only and for that period, the amount of settlement is Rs.12,15,000/- which reflects from Memo No.242 dated 02.02.2021 and that amount has already been deposited with the respondent. In response, the petitioner represented before the authorities to exonerate him from the demand of further deposit of Rs.12,15,000/-. Subsequently, the petitioner was exonerated from paying further money.

8. Counsel for the petitioner submits that in this regard the Additional Chief Secretary, Department of Revenue and Land Reforms, Government of Bihar issued a direction vide Letter No.9 सै0–1– सुपौल–26/2020 dated 08.03.2021 to all the Divisional Commissioner and Collectors and memo of which has also been issued to all the Additional Collector/Deputy Collector Land Reforms/Circle Officers vide Memo No.8619 dated 8.03.2021 which also suggested the procedure to grant remission but no steps has been taken by the respondent till date, therefore, the petitioner filed this writ petition.

9. Counsel for the State submits that during pendency of the writ petition a counter affidavit has been filed and in the said counter affidavit, which is Annexure-B, in which decision has taken for grant of remission on all types of Ghats including the *Manihari* i.e. Group of 15 Ghats. According to the decision of Chairman-cum-Additional Collector, Katihar, the exempted amount which has been decided is Rs.6,07,500/-. The contention of petitioner is that the said amount has been decided without considering this aspect of the matter that petitioner was permitted to work w.e.f. 22.10.2020 for the period of 163 days only. Therefore, at the time deciding the period of exemption,

this aspect has not been considered.

10. Counsel for the petitioner submits that for the exemption shown in the Annexure-B for the said Ghat allowed to petitioner. He submits that he is not fully satisfied with the said exemption and this amount should be increased, as this aspect has completely been ignored by the Chairman-cum-Additional Collector that the petitioner worked for only 163 days against the allowed limit of 365 days. As such, he demands for proportionate exemption.

11. Counsel for the State submits that the petitioner's intention to file this writ petition is otherwise, he wants that no exemption should be given and the exemption amount should be adjusted in the allotment of next year's *Sairat* and in this way, he wants to secure settlement for the further years as well.

12. After going through the pleadings and upon hearing both the parties, this Court is of the view that the dispute relating to exemption for a particular period for which the settlement of *Sairat* was made is one aspect of the matter and continuation of *Sairat* for further year is another aspect. These two aspects must not be clubbed together. The Court here accepts the contention of the petitioner that at the time of

granting exemption of contention, this aspect is necessary to be considered that during lockdown period the petitioner worked for only 163 days. and he should be granted the opportunity to hear this aspect of the matter. Since the matter has been decided by the Chairman-cum-Additional Collector, therefore, the petitioner is directed to move before the Divisional Commissioner, Purnia who shall decide this matter afresh on the point of enhancement of the remission amount within 8 weeks from the date of this order.

13. So far as the settlement of the *Sairat* is there for the financial year, they are free to take their independent decision.

14. With the aforesaid direction, this writ petition is hereby disposed off.

(Dr. Anshuman, J.)

Ashishsingh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.08.2023
Transmission Date	NA