

WPA 8271 of 2023

Surodeb Chaudhuri

Vs.

The State of West Bengal & Ors.

Mr. Saptangshu Basu, Sr. Adv.
Mr. Sumit Roy
Mr. A. K. Jha
Ms. M. Mondal ...for the petitioner.

Mr. L. M. Mahata ...for the State.

Affidavit of service filed by the petitioner is taken on record.

Heard learned counsels for the parties.

It is contended on behalf of the petitioner that the petitioner was granted lease in respect of a portion of the waterbody being Gangapath-Islampur Jalkar, Dag No.557 RS area, Manikchak-Narayanpur-Ujan (Rajmahal) to Gopalpur, East Boundary, Gopalpur to Khasmalnagar Kali than, Kaliachak-II to Khaskalnagar Kalithan to Kamaluddinpur from 1424 BS to 1430 BS.

The petitioner was unable to carry on pisciculture in the said area due to resistance by local people for which the petitioner filed a writ petition being WP No.3397 (W) of 2019. In an order passed on 3397(W) of 2019, a co-ordinate Bench of this Court observed that the petitioner is entitled to act in terms of the lease and enjoy the same in accordance with law. The police authorities are obliged to

protect the right, title and interest of the petitioner as a lessee of a lease granted by the Government. The police authorities were directed to render adequate police assistance to the petitioner in accordance with the writing of the Additional District Magistrate dated November 30, 2018 requesting the Superintendent of Police to render such assistance.

The petitioner complains that by a letter issued on 16th March, 2023, the Assistant Director of Fisheries, Malda informed the Block Development Officer, Kaliachak that the District Magistrate directed that the catching of fish in the river Ganges can be made by fishermen without making any payment to anybody.

The petitioner also complains that the said order has affected the interest of the petitioner granted in terms of the deed of lease executed in their favour.

It is submitted on behalf of the State respondents that the petitioner has been carrying on pisciculture in the leasehold portion of the river without payment of lease rent till date.

Learned counsel for the State respondents has not been able to apprise the Court as to what steps have been taken by the authority for such alleged breach on the part of the petitioner or whether any step has been taken at all.

Be that as it may, since the petitioner is enjoying the right of pisciculture in the portion of the river leased out to him by virtue of the document issued on 27th February,

2018 which is valid till 1430 BS, the letter impugned recording an order of the District Magistrate dated 16th March, 2023 ought to be set aside to the extent of the area covered by the lease executed in favour of the petitioner.

In view of the above, the order of the District Magistrate directing catching of fish by fishermen without making any payment to anybody communicated by the letter dated 16th March, 2023 is set aside to the extent of the area leased out to the petitioner vide document executed on 27th February, 2018.

Since this Court has directed the police authorities to render adequate police assistance to the petitioner in order to enable the petitioner to act in terms of the lease and enjoy the same in accordance with law, it is expected that the direction of this Court shall be complied with in its letter and spirit.

With the above observations and directions this writ petition being WPA 8271 of 2023 is disposed of.

However, there shall be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)