

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4771 of 2018

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Bhagwan Prasad Singh S/o Late Uchit Lal Singh, R/o Village- Auliyabad,
P.S.- Bihpur, District- Bhagalpur, Ex-Secretary of Bihar Prakhand Matsyajivi
Sahyog Samiti Ltd. Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Divisional Commissioner, Bhagalpur Division, Bhagalpur.
3. The Director, Fisheries, Bihar, Patna.
4. The District Fisheries Officer-cum-Chief Executive Officer, Bhagalpur.
5. Pappu Singh, S/o Late Ganesh Singh, R/o Village- Auliyabad, P.S.- Bihpur,
District- Bhagalpur, so Called Secretary of Bihpur Prakhand Matasyajivi
Sahyog Samiti Ltd. Bihpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Deepak Kumar, Adv.
For the Respondent/s : Mr. Md. Khurshid Alam- Aag12

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 30-04-2024 Heard Mr. Deepak Kumar, learned counsel for the

petitioner and Mrs. Nutan Sahay, learned AC to AAG-12.

2. The present writ application has been preferred for

following relief(s):-

*“1. That this application is for
quashing the order dated
04.01.2018/11.01.2018 contained in Annexure-
1 passed by Respondent no. 2 in Misc.
(Fisheries) Appeal No. 12/17 by which the
respondent no. 2 has cancelled the Parwana
issued vide memo no. 691, dated 14.09.2017
for the period 2017-18 issued in favour of
respondent no. 5 and further observed that the
action regarding the settlement of jalkars taken
by the Ex-Managing Committee after expiry of
its term is illegal and further directed the
respondent no. 4 to take suitable action for*



settlement of jalkars and in pursuance of that respondent no. 4 has issued vide letter no. 82, dated 01.02.2018 contained in Annexure 2 by which he has started process for fresh settlement of the jalkars such action of respondent no. 2 and subsequent action of respondent no. 4 are wholly illegal, against the provision of law and the same vide Annexure 1 and 2 are fit be quashed.”

3. Learned counsel for the petitioner submits that there is a Fishermen Co-Operative Society known as Bihpur Prakhanda Matasyajivi Sahyog Samiti Ltd. Bihpur (Bhagalpur) within which 21 Jalkars are situated which was settled in favour of the Society for the period from 01.07.2013 to 30.06.2019.

4. Learned counsel further submits that a registered agreement was executed, *Parwana* issued, agreement made with the District Fisheries Officer-cum-Chief Executive Officer, Bhagalpur on 21.07.2017 and in continuation of that, out of Rs. 2,84,728/- (from the year 2017-18), Rs. 1,42,364/- was deposited with the office of the District Fisheries Officer-cum-Chief Executive Officer, Bhagalpur and a *Parwana* issued vide memo no. 691 dated 14.09.2017 by the said office, (Annexure-4) to the writ petition.

5. It is his submission that subsequently, Respondent No. 5, Pappu Singh approached the Commissioner, Bhagalpur by filing Misc (Fisheries) Appeal No. 12/2017-18 (Pappu Singh



v. District Fisheries Officer, Bhagalpur and Ors.) and the office of the Commissioner, Bhagalpur stayed the said *Parwana vide* an order dated 16.11.2017 (Annexure-6) to the writ petition. Subsequently, *vide* order dated 04.01.2018/11.01.2018, the *Parwana* was cancelled (Annexure-1) to the writ petition. He submits that now the period has already lapsed, the amount deposited (Rs. 1,42,364/-) has to be returned.

6. A counter affidavit has been filed on behalf of respondent No.2/the Divisional Commissioner, Bhagalpur Division, Bhagalpur justifying the orders in question. Another counter affidavit filed on behalf of respondent No.4/District Fisheries Officer-cum-Chief Executive Officer, Bhagalpur is also on record whereby respondent No.4 has also chosen to support the decision of the Commissioner.

7. As the period for which the *Parwana* was issued is already over, the said part has become academic. However, the fact remains that the petitioner deposited Rs. 1,42,364/- on 14.09.2017 and within two months, the same was stayed by the office of the Commissioner on 16.11.2017 and which later came to be cancelled in January 2018.

8. In that background, the petitioner is definitely entitled to the amount along with 6% interest, if the payment has



not been paid. The averment made by the petitioner regarding the payment made in paragraph-8 of the writ petition has not been properly answered by the Respondents in their counter affidavits.

9. In that background, the petitioner shall approach the respondent No.3/Director, Fisheries, Bihar, Patna along with the application and the relevant documents to show that the payments made but he failed to avail the fruits. The exercise is to be completed in four weeks whereafter, the Director, Fisheries, Bihar, Patna shall summon the respondent/District Fisheries Officer-cum-Chief Executive Officer, Bhagalpur along with files and after hearing both the sides shall pass necessary orders within four months.

10. If he comes to the conclusion that the payment has still not been made and the petitioner went out after January 2018 order of the Commissioner, the amount along with 6% interest has to be paid in the next four weeks.

11. The writ petition stands disposed of with the aforesaid observation.

(Rajiv Roy, J)

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