

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.502 of 2019

In
Civil Writ Jurisdiction Case No.5040 of 2019

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Harif Sahni Son of Late Paltu Sahni Resident of Village-Lal Bagia, Chauk
Naya Tola, PO-Mishraulia, P.S-Cheraiya, Distt-East Champaran, Motihari.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Animal Husbandry and Fisheries Department, Bihar, Patna.
2. The Director Fisheries, Department, Bihar, Patna.
3. The Deputy Director Fisheries, Muzaffarpur.
4. The District Fisheries Officer-cum-Chief Executive Officer, East Champaran, Motihari.
5. Cheraiya Prakhand Matsyajivi Sahyog Samiti Ltd. Cheraiya through its secretary Indradeo Sahni son of Hakim Sahni @ Hari Shankar Sahni, resident of village-Lal Bagia, P.S-Cheraiya, Distt-East Champaran, Motihari.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mrs. Mahasweta Chatterjee, Advocate
For the Respondent/s : Mr. Md.Khurshid Alam, AAG-12

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 05-03-2024

The petitioner, a resident of Motihari, challenged a letter issued by the Director of Fisheries, Bihar, which communicated the concurrence of the State Government for long term settlement of some of the 'Jalkars' in exercise of power under Section 5(iii) of the Bihar Fish Jalkar Management Act, 2006, (for brevity, the Act); to the District Fisheries Officer-cum-Chief Executive Officer, East Champaran, Motihari.



2. The decision was challenged on the ground that there is specific provision which authorizes the Director of Fisheries to settle only such 'Jalkars', which have been developed or are being developed or are under a decision to develop; with the prior approval of the Government. Such development should also be under a scheme of the Government/Financial Institution/Bank for a maximum period of ten settlement years, with Fisherman Co-operative Societies.

3. None of these conditions are fulfilled by the 'Jalkars' in respect of which the communication dated 26.06.2018, is addressed. Neither are the said 'Jalkars' developed or being developed by the State Government nor is there any scheme of development in place, were the contentions.

4. The learned Single Judge found that there was a letter written by the District Fisheries Officer, East Champaran, Motihari reporting on the 'Jalkars' proposed to be settled on long term basis. In the concluding paragraph of the said letter it was mentioned that the said 'Jalkars' need repairs and development, for settlement on long term basis. The decision to settle the said 'Jalkars' on long term basis has been taken in pursuance to the report of the Direct Fisheries Officer.

5. The provision was also looked into, to find that the ingredients are satisfied insofar as the report of the District



Fisheries Officers itself indicates that the ‘Jalkars’ are to be repaired and developed for the purpose of settlement on long term basis.

6. A letter relied on by the petitioner of the Uttar Bihar Gramin Bank was also referred to by the learned Single Judge. The petitioner’s contention was that the said letter is the only basis of inclusion of ‘Jalkars’ to be developed under the scheme of that particular bank. A reading of the letter, however, indicated that the Uttar Bihar Gramin Bank was prepared to advance loans for development of ‘Jalkars’, if a decision is taken by the State Government for long term settlement.

7. We are satisfied with that the ingredients of Section 5(iii) of the Act are fully satisfied as found by the learned Single Judge.

8. We find no reason to interfere with the impugned judgment and the appeal stands dismissed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

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