

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17502 of 2022

1. Kahalgaon Prakhand Matsyajivi Sahyog Samiti Ltd., at Kahalgaon, District-Bhagalpur through its Secretary-Cum-Treasurer, Girinder Mahaldar.
2. Girinder Mahaldar Son of Late Jhapati Mahaldar, Resident of Village and P.O. Ekchari, P.S. Rasalpur, District-Bhagalpur, the Secretary-Cum-Treasurer, Kahalgaon Prakhand Matsyajivi Sahyog Samiti Limited, Kahalgaon, Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, department of Animal Husbandry and Fisheries Govt. of Bihar, Patna.
2. The Commissioner, Bhagalpur Division, Bhagalpur.
3. The Director, Fisheries, Bihar, Patna.
4. The District Magistrate, Bhagalpur.
5. The Deputy Director, Fisheries, Bhagalpur Range, Bhagalpur.
6. The District Fisheries Officer-Cum-Chief Executive Officer, Bhagalpur.
7. The District Cooperative Officer, Bhagalpur.
8. Dashrath Sahni Son of Late Lala Sahni Resident of Kagzi Tola, P.O. and P.S.-Kahalgaon, District-Bhagalpur.
9. Ajay Sahni Son of Late Sudama Sahni Resident of Kagzi Tola, P.O. and P.S.-Kahalgaon, District-Bhagalpur.
10. Karuna Devi Wife of Late Pujo Sahni Resident of Kagzi Tola, P.O. and P.S.-Kahalgaon, District-Bhagalpur.
11. Reena devi Wife of Shrawan Mandal Resident of at and P.O. Channo, P.S. Rasalpur, District-Bhagalpur.
12. Anita Devi Wife of Kapildev Mandal Resident of Village-Harchandpur, P.O. Baraini, P.S. Kahalgaon, District-Bhagalpur.
13. Hina Kumari Wife of Sanjay Mahaldar, Resident of Village-Ogri, P.O. Maheshamunda, P.S. Kahalgaon, District-Bhagalpur.
14. Manju Devi Wife of Lalbihari Mandal Resident of Aamapur, P.O. Channno, P.S. Rasalpur, District-Bhagalpur.
15. Mungi devi @ Munga Devi Wife of Mahesh Mahaldar, Resident of Village-Chowdhary Tole, P.O. and P.S.-Kahalgaon, District-Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajendra Narayan, Sr. Advocate Mr. Rakesh Kumar Jha
For the State	:	Mr. Sajid Salim Khan (SC- 25) Mr. Wasim Ahmad Khan, AC to SC-25
For Res. Nos. 11 & 14	:	Mr. Deepak Kumar, Advocate
For Res Nos. 8-10,12,13&15	:	Mr. Mukesh Kumar, Advocate Mr. Krishna Chandra Ojha, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY



ORAL ORDER

7 07-05-2024 Heard Mr. Rajendra Narayan, learned Senior Counsel duly assisted by Mr. Rakesh Kumar Jha, learned counsel for the petitioners as also Mr. Deepak Kumar, learned counsel for the respondent nos. 11 and 14, Mr. Mukesh Kumar, learned counsel for the respondent nos. 8-10,12,13&15 and Mr. Wasim Ahmad Khan, learned AC to SC-25

2. The present petition has been preferred for:

(i) issuance of an appropriate order/ direction/writ preferably in the nature of certiorari order quashing 30.11.2022 contained in dated 30.11.2022 dated memo No. 1593 passed by the Commissioner, Bhagalpur Fisheries Appeal case Division in No. 09/2022-23 whereby and where under the settlement of 80 Jalkars made in favour of the petitioner namely society kahalgaon Prakhand Matasyajivi Sahyog Samiti. Ltd. (hereinafter referred as to the society) for the period 2022-23 to 2026-27 the order of the District Fisheries-cum-Chief Executive Officer, Bhagalpur contained Memo No. 435 dated 15.06.2022 has been cancelled with further stipulation directing the District Magistrate, Bhagalpur to issue order for denovo fresh settlement with the society for the same period in accordance with the



relevant law.

3. The petitioners and respondent nos. 8-15 are members of the Board of the Kahalgaon Prakhanda Matasyajivi Sahyog Samiti Ltd. (for short, 'the Society'). The petitioner no. 2 is its elected Secretary which the respondent no. 8 holds the post of the Chairman of the Board.

4. The bone of contention is the settlement of Jalkars for the period 2022-23 to 2026-2027 by the order of the District Fisheries-cum-Chief Executive Officer, Bhagalpur as contained in memo no. 435 dated 15.06.2022 (Annexure-4 to the writ petition).

5. Earlier, a meeting was held under the Chairmanship of the respondent no. 8 on 07.06.2022 and the Secretary was asked to draw the modalities for settlement.

6. It is the case of the petitioners that subsequently, they held another meeting on 10.06.2022 and though the Chairman abstained, those present by majority decided the settlement which got approval from the District Fisheries Officer, vide memo no. 435 dated 15.06.2022 as stated above.

7. Aggrieved, the respondent no. 8 and other members preferred Fisheries Appeal Case No. 09/2022-23 and vide an order dated 30.11.2022, the Divisional Commissioner, Bhagalpur passed a reasoned order finding fault with the



decision taken on 10.06.2022 as also the approval by the District Fisheries Officer, Bhagalpur. In that background, the Commissioner cancelled the said settlement with the direction to the District Magistrate, Bhagalpur to settle the land afresh for the rest of the period. Further, direction was given to frame charges against the said District Fisheries Officer, Bhagalpur (Annexure-10 to the writ petition).

8. Aggrieved, the writ petition.

9. At the outset, learned Senior Counsel for the petitioners submit that it was on the direction of the Chairman on 07.06.2022 that the list was prepared. However, as he abstained and the deadline for approval by the District Fisheries Officer was 15.06.2022, the decision taken and in that background, the Divisional Commissioner erred in canceling the said.

10. Learned counsels appearing on behalf of the respondent nos. 8, 11 & 14 on the other hand submit that the direction given by the Chairman on 07.06.2022 was circumvented inasmuch as, though eleven members participated on 07.06.2022, the Secretary on its own hold a separate meeting on 10.06.2022 with only six out of thirteen members and got the Jalkars settled keeping the Chairman and other members in dark



and it has been wrongly incorporated that he abstained. They thus justified the order of the Divisional Commissioner, Bhagalpur.

11. At this stage, both the learned Senior Counsel as also learned Counsels appearing for the respondents jointly submitted that since two years have already lapsed, they are still part of the same Board, they would like to respect the order of the Divisional Commissioner relating to the resettlement of the Jalkars. However, learned Senior Counsel for the petitioners submit that since investment has been made and the period will come to an end on 30.06.2024; any fresh settlement may be effective from 01.07.2024. The respondents do not have objection to it.

12. In that background, when all the parties are agreed to the fact that resettlement of the Jalkars can be done, they are required to hold a meeting with both the Chairman as well as the Secretary of 'the Society' in attendance alongwith majority of the thirteen members.

13. The Secretary of 'the Society' shall be issuing Speed Post notices to all the members of the Board. As jointly submitted by them, they are ready to have the meeting on 07.06.2024 itself taking into account that earlier the meeting



was held on 07.06.2022. Learned Senior Counsel for the petitioners submit that the Speed Post notices shall be immediately sent by the Secretary to the Chairman/all the members of the Board fixing 07.06.2024 as the date of the meeting to be held in the office of the District Fisheries Officer, Bhagalpur at 12:00 p.m.

14. The place, date and time has been being fixed in the presence of the learned counsel for the Chairman as also the two members and they also undertook to inform all the members personally about the meeting to be held on 07.06.2024 at 12:00 P.M. The Speed Post notice receipts sent to the members shall be affixed on the proceeding register. The names and address should be exactly as incorporated in the office of Society.

15. The resolution/decision so taken by them alongwith the report of the District Fisheries Officer, Bhagalpur shall be submitted to the District Magistrate, Bhagalpur and even if the decision is taken prior to 15.06.2024, the District Fisheries Officer, Bhagalpur is barred from suo motu approving the resolution as it has to be done in accordance with the direction made by the Divisional Commissioner, Bhagalpur. Thus, his only duty will be to forward the resolution alongwith his report to the District Magistrate, Bhagalpur who shall take



final decision in the matter.

16. It is advisable that the entire process is completed by the District Magistrate, Bhagalpur by 30.06.2024 so that the wheels start rolling from 01.07.2024.

17. The interim order in favour of the petitioners to continue only till the decision is taken by the Collector, Bhaglapur and will merge with the final decision taken by him.

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

(Rajiv Roy, J)

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