

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2030 of 2026

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Dabalu Mahaldar @ W Mahaldar Son of Late Ganga Mahaldar, Resident of Village- Harchandpur, Post- Baraini, P.S.- Kahalgaon, District- Bhagalpur, Bihar- 813222.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Animal Husbandry and Fishery Resource Department, Government of Bihar.
3. The District Magistrate, Bhagalpur.
4. The District Fisheries Officer, Bhagalpur.
5. The District Public Grievance Officer, Bhagalpur.
6. The Circle Officer, Khalgaon, District- Bhagalpur.
7. The Block Fisheries Cooperative Society, Kahalgaon, through its Managing Director.
8. SHO, Khalgaon, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ranjeet Choubey, Advocate.
For the Respondent/s : Addl. Advocate General (13)

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 10-02-2026 Heard learned counsel appearing on behalf of the petitioner and learned counsel for the State.

2. The petitioner in paragraph no. 1 of the present writ petition has sought, *inter alia*, following relief(s), which is reproduced hereinafter:-

“[i] For issuance of an appropriate writ in the nature of Mandamus, and/or any other suitable writ order or direction, commanding the Respondent Authorities to take immediate and appropriate legal action against the illegal trespassers who have unlawfully encroached upon the Government pond (Pokhar) bearing Khata No. 222, Khesra Nos. 497 and 498, having a total area of 0.98 acre, situated in Mouza Harsonpur, P.S. Kahalgaon, which is



lawfully in possession of the Petitioner under a valid lease (Patta) and is being maintained and used by the Petitioner for fishery purposes.

[ii] For issuance of an appropriate writ/s, order/s, or direction/s in the nature of Mandamus, commanding the Respondent Nos. 4 and 6 to act strictly in accordance with the order dated 29.07.2024 passed by the District Public Grievance Officer, Bhagalpur, in Grievance No. 422110106062403819.

[iii] For issuance of an appropriate writ/s, order/s, or direction/s in the nature of Mandamus, holding and declaring that the Petitioner's lease (Patta) dated 24.06.2023, issued by the Kahalgaon Block Matsyajeevi Sahyog Samiti Ltd., is valid and subsisting, and further directing the Respondent Authorities to ensure the petitioner's peaceful possession and unhindered fishery operations over the said Government pond.

[iv] For issuance of an appropriate writ/s, order/s direction/s in the nature of Mandamus to command the Respondent Authorities to adhere with the direction passed by this Hon'ble Court in Civil Writ Jurisdiction Case No. 9692 of 2015.

[v] For issuance of an appropriate writ/s, order/s, or direction/s in the nature of Mandamus, commanding the Respondent Authorities to consider and dispose of the Petitioner's representations dated 10.05.2024, 12.06.2024, 25.10.2024, 19.12.2024, and 15.04.2025, and to take appropriate action upon the subject matter thereof in accordance with law.

[vi] For issuance of an appropriate writ/s, order/s, or direction/s in the nature of Mandamus, commanding the respondent authorities to assess and grant adequate compensation to the petitioner for the loss and damages suffered on account of the illegal encroachment, filling up of the pond, and destruction of fisheries infrastructure and raw materials, which occurred due to the negligence, inaction, and lapses of the concerned officials.

[vii] For issuance of an appropriate writ, order/orders, direction/directions in favour of the Petitioner as your Lordships may deem fit and proper in the facts and circumstances of the case."

3. Admitted case of the petitioner is that the petitioner is a lawful lessee of the government pond under Patta No. 62 dated 24.06.2023 and is entitled to enjoy peaceful possession, use and occupation of the leased property for fisheries and allied activities. Petitioner is aggrieved of alleged interference by unauthorized persons or inaction on the part of the State



machinery. The petitioner in support of his claim has relied upon a judgment of this Court dated 21.07.2023 passed by a Division Bench in C.W.J.C. No. 9692 of 2015. Concluding Paragraph No.6 would be relevant in this regard, which is, *inter alia*, reproduced as under:

“6. Having perused the material on record, the affidavits filed and the progress in removal of the encroachment as is evident from the affidavits filed by the District Magistrates, in the opinion of this Court, considerable steps have been taken and efforts made in removal of the encroachment. This Court hopes and expects that steps taken by the authorities will be taken to its logical conclusion and thus the instant application is being disposed of with the following directions:-

(i) The Circle Officers will prepare a chart every three months in the format prescribed by this Court in this case giving the total number of water bodies and the total number of water bodies from which encroachments are required to be removed and shall submit the same to their respective District Magistrates on 1st of January, 1st of April, 1st of July and 1st of October respectively.

(ii) The District Magistrate shall personally look into and monitor the matter and take all possible steps in accordance with law for removal of the encroachments from the water bodies.

(iii) The Senior Superintendent of Police/Superintendent of Police of the respective districts shall provide adequate police force as and when requisitioned by the authorities/Circle Officers for the above purpose.

(iv) It shall be the duty of the Circle Officers to keep a watch that none of the water bodies are once again encroached upon.”

4. Above direction was passed in the above writ petition in the nature of Public Interest Litigation seeking protection, maintenance and improvement of the public water bodies like the *Pokhara, Talab, Jalkar, Aahar, Pain* etc.

5. The nature of relief as sought for in the present writ petition is entirely different. Petitioner is a patta holder and



execution of the fisheries lease was issued to him vide Patta No. 62 dated 24.06.2023. The petitioner has brought on record the *Ekrarnama Patta* by way of Annexure-2. The petitioner having admitted that physical possession of the Jalkar was not handed over to him by the District Administration, he again participated in the auction and has given information to this Court that for the Financial year 2024-25 also, the said Jalkar has been settled in his favour which is in the name of Kahalgaon Prakhand Matasyajivi Sahyog Samiti Limited.

6. I find that the nature of the present writ petition in view of the relief as sought for is not covered by the order dated 21.07.2023 passed in C.W.J.C. No. 9692 of 2015.

7. The petitioner, if so desires, may avail appropriate remedy before the District Magistrate before whom he has already represented on 27.05.2024 which requires efficacious disposal.

8. The writ petition, accordingly, stands disposed of.

(Purnendu Singh, J)

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