

MC 2741/2007
BEFORE
HON'BLE MR. JUSTICE RANJAN GOGOI

This Misc. application has been filed seeking vacation/ modification/ alteration of the interim order dated 29.6.2007 by which the settlement of the ferry in question made with the petitioner by the order dated 7.6.2007 passed by the Director, IWT has been stayed by the Court. The applicants are the respondent Nos. 11 and 12 in the writ petition out of which this Misc. case has arisen.

A perusal of the averments made in the writ petition would seem to suggest that a notice inviting tender for settlement of the ferry was issued by the concerned Anchalik Panchayat on 2.6.2007 and while the aforesaid tender process was underway, the impugned order of settlement was issued in favour of the applicants by the order dated 7.6.2007. The averments made in the writ petition further disclose that it is the contention of the petitioner that the ferry in question falls within the jurisdiction of the Anchalik Panchayat and, therefore, the Director, IWT is not the competent authority to settle the same.

While the aforesaid question raised in the writ petition will certainly be gone into at the time of hearing of the writ petition, what stares at the face of the Court is that while the writ petitioner is a mere aspirant for settlement of the fishery in terms of the NIT dated 2.6.2007, the respondent Nos. 11 and 12 have been settled with the ferry in question by the Director, IWT. In such circumstances, the applicants/respondent Nos. 11 and 12 will have a better right and, therefore, must be allowed to run the ferry, which operation naturally will be subject to such final orders as may be passed in the writ petition.

For the aforesaid reasons, I deem it appropriate to vacate the interim order dated 29.6.2007.

The misc. case is accordingly allowed.