

WP(C) 1965/2006

BEFORE

HON'BLE SMT JUSTICE A HAZARIKA

Challenge in this writ petition is to the legality and validity of the impugned settlement order dated 1.3.2006 issued by the Respondent No.3, the Managing Director, Assam Fisheries Development Corporation Ltd. (AFDC for short) settling the 'Singra Min Mahal', Barpeta district in favour of Respondent No.4.

The petitioner's case, in brief, is that, pursuant to Tender Notice dated 21.1.2006 floated by the Managing Director, AFDC inviting tenders for giving settlement in respect of Singra Group Fisheries of Barpeta district for the period from 2006-2007 to 2012-2013, the petitioner submitted a tender. Along with the petitioner, four other tenderers also participated in the aforesaid tender process by submitting their tenders. On opening the tenders received pursuant to the Tender Notice dated 21.1.2006, a comparative statement was prepared and as per the comparative statement the amount of Rs.21,11,121/- quoted by the petitioner was found to be the highest and his tender papers were found valid in all respect. However, surprisingly enough the Fishery was settled with the Respondent No.4, who was the second highest tenderer. The petitioner legitimately expected that when his tender was found to be of the highest bid and his tender paper also being found valid in all respect, settlement of fishery would be made in his favour. Therefore, when he came to know about the settlement order issued by the Respondent No.3 in favour of the Respondent No.4, he immediately on 8.3.2006 submitted an application before the Respondent No.3 for making available to him the copies of the documents, i.e. tender notice, comparative statements and the settlement order given to the petitioner. However, the same have not been made available to him inspite of repeated request. But the petitioner somehow managed to collect a copy of impugned settlement order dated 1.3.2006 and hence, this writ petition with a prayer for setting aside and quashing the impugned settlement order dated 1.3.2006 issued by the Respondent No.3 in favour of Respondent No.4.

An affidavit-in-opposition has been filed on behalf of Respondent Nos.2 and 3, wherein at para 5 it has been categorically stated that the petitioner was found to be the highest bidder and his tender papers were found to be valid in all respect. But the petitioner was found to be defaulter in respect of another fishery of the Corporation viz., Kukarjan Beel of Barpeta district for the year 2005-2006. Therefore, the Corporation did not consider the petitioner for settlement of the Singra Group Fisheries in question. As such, the Corporation had to settle the Fishery with the second highest bidder at the rate quoted by the petitioner in order to save the Corporation from losing its revenue.

At para 6 of the affidavit-in-opposition, it has been contended that as per clause 9 of the guidelines followed by the Corporation, no settlement can be made to any person or society who is a defaulter in respect of payment of revenue to another or other fishery of the Corporation or the Government.

An affidavit-in-reply has been filed by the petitioner against the counter filed by Respondent Nos.2 and 3 refuting the allegations made by the respondent Corporation regarding default in respect of payment of revenue. At para 5 therein the petitioner has stated on oath that the writ petitioner at no point of time made any default in respect of payment of revenue to the Corporation with regard to Kukarjan Beel of Barpeta district for the year 2005-2006.

Heard Mr. NC Das, learned Senior counsel assisted by Ms. T. Das, Advocate. Also heard Dr. B Ahmed, learned Standing Counsel appearing for AFDC Ltd., Mr. Siladitya, learned counsel appearing for Respondent No.4.

I have considered the submissions made by the learned counsel for the parties and also perused the materials on record. In view of the rival submissions and statements made on oath in the affidavit-in-opposition as well as in the rejoinder filed by the petitioner, in my considered opinion, it will be proper on my part to remit the matter to the Respondent No.3, the settling authority, for giving a hearing to the petitioner as well as the Respondent No.4 on the question of defaulter as alleged by the settling authority as the same has been refuted by the petitioner on oath.

This writ petition is therefore disposed of with a direction to the Mana

ging Director, AFDC Ltd., the Respondent No.3 to pass necessary order in connection with settlement of Singra Group of Fishery of Barpeta district after giving proper notice and perusal of the materials on record and after hearing the contesting parties, i.e. the writ petitioner as well as the private Respondent No.4. The Respondent No.3 shall pass a speaking order within a period of 4 (four) weeks from the date of receipt of a certified copy of this order.

With the aforesaid direction, the writ petition is disposed of.

However, there shall be no order as to cost.