

WA 220/2008

BEFORE

HON'BLE THE CHIEF JUSTICE MR J CHELAMESWAR

HON'BLE MR JUSTICE A POTSANGBAM

Aggrieved by judgment dated 22-7-08 in WP(C) No.1421/08 the 5th respondent there in preferred the present appeal.

Heard Mr N Dutta, learned senior counsel for the appellant, Mr AK Goswami, learned senior counsel for the respondent/writ petitioner and Mrs B Goyal, learned State Counsel.

The issue involved in the writ petition is the grant of an extension of settlement for a period of three years commencing from 1-4-2008 to 31-3-2011 on certain terms and conditions the details of which may not be necessary for the present purpose. The appellant was initially given a settlement (a fishery) under the Assam fisheries Rules, 1953 for a period of seven years commencing from 1-4-2001 to 31-3-2008. As the tenure of the settlement was coming to an end the appellant submitted a representation to the respondent authorities of the State on 21-1-2001 seeking an extension of the settlement for some reasonable period on the ground that the appellant incurred loss while working on the settlement made in their favour, referred to above.

The State accepted the representation after some enquiry into the matter and granted the impugned extension in favour of the appellant.

Challenging the said grant of extension the writ petition was filed by the 5th respondent herein.

It may be mentioned here that both the appellant as well as the 5th respondent are the societies registered under Cooperative Societies Act comprising of members who are fishermen by way of their occupation and also belong to a community which traditionally carry on the activity of fishing.

The learned Judge by the judgment under appeal allowed the writ petition on the ground that there was no material on record to establish as to what exactly is the loss sustained by the appellant and the State did not record any definite conclusion in this regard except blankly accepting the statement made by the appellant society that it sustained a loss while working on the settlement made in their favour. It may be mentioned here that the appellant did not even in the representation state as to the quantum of loss though there are various assertions which in their view are relevant for seeking the extension.

In the circumstances we do not see any reason to interfere with the conclusion of the learned Judge by the judgment under appeal that the grant of extension in favour of the appellant is not justified in law. Having regard to the nature of the dispute and also the fact that the appellant consists of members whose primary activity is fishing and they belong to the economically weaker strata of the society, we deem it appropriate to modify the order to the limited extent by directing the State to conduct a further enquiry into the question as to what exactly is the loss sustained by the appellant society after giving appropriate opportunity both to the appellant as well as the respondent/writ petitioner. Depending upon the conclusion arrived at in such an enquiry the State may make such further appropriate decision regarding the grant or refusal of extension sought for by the appellant. However, such an enquiry shall be conducted and appropriate consequential decision be taken within a period of four weeks from today. If for any reason the State is not able to act as indicated above, the appellant shall forthwith cease to operate the fishery from the date of expiry of the period indicated above.

The appeal stands disposed of.

Furnish a copy of this order to Mrs B Goyal, learned State Counsel by tomorrow.