

WP(C) 5520/2013

BEFORE

THE HON'BLE MR. JUSTICE B.K. SHARMA

Heard Mr. A. Khanikar, learned counsel for the petitioner as well as Mr. J. Handique, learned State Counsel.

The matter pertains to the Guttung Bhattali Beel and the petitioners who represent the interest of the inhabitants of the 4 surrounding villages seek direction for exclusion of the Beel as registered revenue fishery, to enable the villagers to use the Beel for fishing, transportation of goods and provide drinking water for the domestic cattles, as was the practice since time immemorial.

In pursuant to the settlement of the Beel in the year 2006, the difficulties faced by the villagers have been highlighted in the report of the local Revenue Authorities and the SDO (Civil), Dhakuakhana in his letter dated 28.7.2011 (Annexure-C) have recommended exclusion of the Beel from the process of settlement, to allow the Beel to be put to public use by the surrounding villagers.

In the counter affidavit filed by the respondent No. 5, the facts stated in the writ petition have been admitted. On perusal of the said affidavit, it appears that there is a report to exclude the fishery from the purview of settlement for the reasons stated therein. The Deputy Commissioner, Lakhimpur vide his letter dated 15.9.2011 has asked the SDO (civil), Dhakuakhana for submission of proposal for exclusion of the beel in question from registered revenue fishery. The SDO (C), Dhakuakhana also submitted the proposal vide its letter dated 13.10.2011 to the Deputy Commissioner stating therein to considering exclusion of the bill from the category of registered revenue fishery and allow it for use of local benefit. The Government of Assam in the Fishery Department vide its letter dated 1.3.2013 had informed the Deputy Commissioner, Lakhimpur about the inability to consider the proposal for exclusion of the beel in question from registered revenue fishery. However, no reason is discernible as to why this proposal is not acceptable.

In view of the above, the writ petition is disposed of requiring the Government in the Fishery Department to pass a speaking order taking note of the grievance of the petitioner and also all the attending facts and circumstances. Let the speaking order be passed as expeditiously as possible, preferably within two months. Till then, interim order passed earlier in this proceeding shall continue.