

GAHC010096652021



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/3177/2021

PREMDHAN DAS
S/O LATE DHIRENDRA DAS, R/O SHIVPUR, P.O. JUGIJAN, DIST. HOJAI,
ASSAM 782429

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE PRINCIPAL SECY. TO THE GOVT. OF ASSAM,
FISHERIES DEPTT., DISPUR 781006

2:THE MANAGING DIRECTOR

ASSAM FISHERIES DEVELOPMENT CORPORATION LTD. VIP ROAD
CHACHAL
GUWAHATI
DIST. KAMRUP (M)
ASSAM.

3:THE DEPUTY COMMISSIONER

HOJAI
DIST. HOJAI
ASSAM.

4:THE OFFICER ON SPECIAL DUTY

ASSAM FISHERIES DEVELOPMENT CORPORATION LTD. HOJAI
DIST. HOJAI
ASSAM.

5:THE CIRCLE OFFICER

HOJAI REVENUE CIRCLE
DIST. HOJAI
ASSAM.

6:THE PROJECT MANAGER

I/C HOJAI
DIST. MIDDLE ASSAM REGION
ZONE -II
ASSAM.

7:RABINDRA BISWAS
S/O LATE PRASANNA BISWAS
R/O VILL. TARADUBI
P.O.AND P.S. JUGIJAN
DIST. HOJAI
ASSAM
78242

Advocate for the Petitioner : MR B D DAS

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

30.06.2021

Heard Mr. B.D. Das, learned senior counsel for the petitioner assisted by Mr. D. Kalita, Advocate. Also heard Mr. A. Sarma, learned Standing Counsel, Assam Fisheries Development Corporation Limited for respondent nos. 2 and 4 and Ms. M. Dutta, learned counsel appears for respondent nos. 1,3 and 5.

2. By this writ petition filed under Article 226 of the Constitution of India, the grievance expressed by the petitioner is that he was settled with Warizendang Kenduguri Meen Mahal by Settlement Order dated 19.06.2014. The said settlement was for 7 (seven) years. It is projected that during the continuance of the lease, there was rampant encroachment to the area of the Meen Mahal by several constructions made by the

government department. Large portion of area was also found to be lowlying land, not suitable for fishing. Accordingly, it is submitted by the learned senior counsel for the petitioner that during the currency of the lease the petitioner has suffered huge losses. In order to show the existence of the adverse conditions in the fishery, the learned senior counsel has referred to the order dated 03.05.2021 by virtue of which it has been admitted therein that there was a damage in the beel because of siltation and erosion of the beel upto 60% owing to construction of unauthorized embankment through the beel by the government department. To show the extent of losses suffered, it has been submitted that the said fishery was settled to the petitioner at a total revenue of Rs. 49,00,007.00, equivalent to yearly revenue of Rs. 7,00,001.00. However, the said fishery has been now been bifurcated into two fisheries and is sought to be settled under PPP Mode at an annual lease rent of one fishery at Rs.1,57,000.00 per year upto 4 (four) years and enhancement of 20% from fifth year onwards for a 7 (seven) year period and the other fishery is sought to be settled at a yearly target value of Rs.39,375.00 with further enhancement of 25% after 4 (four) years. Accordingly, the learned senior counsel for the petitioner has submitted that the petitioner has a strong case on merit for seeking remission as well as compensation for the losses suffered during the lease period and in order to recover the loss. It is submitted that this is a fit case to direct the respondent authorities to settle the said fishery with the petitioner on the said terms as is sought to be settled vide order dated 03.05.2021.

3. It is submitted that the entire action of bifurcating the fishery is illegal and arbitrary. It is further submitted that the petitioner had submitted a representation before the Chief Minister as well as the Minister for Department of Fisheries on 08.06.2021 but no result has been communicated to the petitioner. It is submitted that the Assam Fisheries Development Corporation Limited has extended certain fisheries due to Covid-19 situation and, therefore, the present settlement of the fishery with the petitioner be also ordered to be extended.

4. The learned Standing Counsel for the respondent no. 2 has submitted that the settlement of the said fishery with the petitioner has granted by order dated 19.06.2015 was for the period of 31.03.2021 and, therefore, on the lease having been expired three months' back, no cases made out for extension of the said fishery any further. The copy of the said Settlement Order dated 14.06.2015 has been produced before the Court through e-mail along

with the copy of the agreement. It is further submitted that as on date, as per the notice dated 14.06.2021 by the respondent no. 2, the petitioner is a defaulter to the extent of Rs.22.93.961.00. Copy of the said communication has also been sent to the Court through e-mail. Said documents be retained on record.

5. The learned Government Advocate submits that the fishery in question is the sole prerogative of the respondent no. 2 and the State has nothing to say in this regard.

6. On considering the documents annexed to the writ petition as well as the stand taken by the learned Standing Counsel for respondent no. 2, the Court is of the considered opinion that the petitioner be given a liberty to submit a fresh representation before the respondent no. 2 seeking remission as well as compensation and for seeking extension of the period of lease, if so advised. It will be open to the petitioner to submit any document along with his representation, as he may so desired. It is provided that on receipt of the said representation along with a downloaded copy of this order, the respondent no. 2 shall dispose of the said representation within a time-bound period of 4 (four) weeks from the date of receipt of the same. The respondent no. 2 is at liberty to verify the order from the website of the Court.

7. The Court is not inclined to stay the settlement of any of the two parts of Warizendang Kenduguri Meen Mahal, which is now bifurcated into two fisheries, namely, Kenduguri (Part-I) and Warizendang Kenduguri Meen Mahal rejoining (Part-II).

8. Before parting with the records it is also provided that in the event the petitioner is inclined to seek compensation, it would be open to the petitioner to take recourse to appropriate law for seeking compensation.

9. Accordingly, by granting limited relief to the petitioner to submit representation for seeking remission, compensation and extension, other prayer made in the writ petition stands declined.

Writ petition stands disposed of.

JUDGE

Comparing Assistant