

GAHC010141812023



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

**Case No. : WP(C)/3845/2023**

DIBRU PART -I MEEN SAMABAI SAMITI LTD AND ANR  
A REGD. FISHERY CO-OPERTIVE SOCIETY SITUATED AT GUIJAN, P.S.  
TINSUKIA, DISTRICT- TINSUKIA, AND IS REP. BY ITS SECRETARY SRI ANIL  
DAS, S/O- LATE KHETRA MOHAN DAS, OF GUIJAN, P.O. RANGAGORAH,  
P.S. TINSUKIA, DIST.- TINSUKIA, ASSAM

2: SRI ANIL DAS  
S/O- LATE KHETRA MOHAN DAS  
SECRETARY OF DIBRU PART-I MEEN SAMABAI SAMITI LTD  
RESIDENT OF GUIJAN  
P.O. RANGAGORAH  
P.S. TINSUKIA  
DIST.- TINSUKIA  
ASSA

VERSUS

THE STATE OF ASSAM AND 4 ORS  
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM, FISHERIES  
DEPTT., DISPUR, GHY-6

2:THE COMMISSIONER AND SECRETARY  
TO THE GOVT. OF ASSAM  
FISHERIES DEPTT.  
DISPUR  
GHY-6

3:THE SECRETARY  
TO THE GOVT. OF ASSAM  
FISHERIES DEPTT.  
DISPUR  
GHY-6

4:THE JOINT SECRETARY

TO THE GOVT. OF ASSAM  
FISHERIES DEPTT.  
DISPUR  
GHY-6  
KAMRUP (M)  
ASSAM

5:M/S DIBRU SAIKHOWA MEEN SAMABAY SAMITY LTD.  
REP. BY ITS SECRETARY  
SITUATED AT GUIJAN  
TINSUKIA  
DISTRICT- TINSUKIA  
ASSA

**Advocate for the Petitioner** : MR. J I BORBHUIYA

**Advocate for the Respondent** : GA, ASSAM

**BEFORE**  
**HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

**ORDER**

**Date : 30.06.2023**

Heard Mr. J.I. Barbhuiya, learned counsel for the petitioner. Also heard Mr. K. Gogoi, learned Additional Senior Govt. Advocate appearing for the respondent nos.1 to 4, and Mr. M.K. Choudhury, learned senior counsel, assisted by Mr. S. Khound, learned counsel appearing for the respondent no.5/caveator.

2. Mr. M. Dutta, learned counsel, who is representing the previous settlement holder of the fishery is also present. He has submitted that he has filed an interlocutory application for being impleaded in this matter. Nonetheless, pending registration of the said interlocutory application, he has been granted audience by the Court.

3. In view of the nature of dispute raised in this present writ petition, the Court proposes to dispose of the matter at the motion stage without

issuance of notice.

4. This Court by judgment and order dated 02.03.2023, passed in WP(C) 8109/2017 and other connected cases had expressed its opinion that the fisheries, which were the subject matter of the said writ petition should be put to auction by holding that the period of settlement in respect of Dibru Brahmaputra Part- III, IV and V fishery for a period of seven years would be deemed to have come to an end on 06.02.2023 and the State respondents were directed to take steps for sale of the said fishery after redefining the schedule fishery within a month from the date of the order and complete the process as early as possible by proposing to complete the entire exercise within a period of 3 (three) months and during this interregnum period, the State respondents were given the liberty to run the fishery by adopting an acceptable mode on daily basis.

5. The petitioner society claims to have submitted a representation dated 05.04.2023 before the Minister of Fisheries and offered to run the fishery on daily basis at the rate of earlier settlement or enhanced rate of 5% till final settlement is made by issuing fresh sale notice. Accordingly, it is submitted that the earlier settlement bid value for 7 (seven) years was Rs.1,08,71,264/- and with 5% enhanced rate thereon, the enhanced rate would be Rs.5,43,563.20 and therefore, the total bid value at 5% enhanced rate would be Rs.1,14,14,827.20. The learned counsel for the petitioner has submitted that if the said amount is divided by 7 (seven) years period, i.e. 2555 days, the per day value of the rate quoted by the petitioner would come to Rs.4,467.60. The calculation sheet produced by the learned counsel for the petitioner is retained as a part of record.

6. The learned senior counsel for the respondent no.5 has submitted

that the rate of Rs. 391/- per day for the said fishery was fixed by the Fisheries Department vide impugned order dated 05.04.2023 and therefore, if the petitioner is offering a sum of Rs.4,467.60 per day, the respondent no.5 be also given an opportunity to match the said bid for per day basis settlement of the said fishery. It is also submitted that the area of the fishery has been drastically curtailed.

7. Be that as it may, as the petitioner, having taken into consideration the contents of the impugned order dated 05.04.2023, is deemed to have taken note of reduction of the fishery area, and has taken a stand to offer per day value of the fishery at Rs.4,467.60 per day, the Court is inclined to close this writ petition at the motion stage without issuance of notice on the respondents by allowing the petitioner to submit a fresh representation before the Joint Secretary to the Govt. of Assam, Fisheries Department with his offer to run the said fishery on daily basis. It would be open to the respondent no.5 or any other prospective bidder to make a counter offer.

8. It is provided that on 01.07.2023, the petitioner, the respondent no.5 as well as any other prospective bidder including the clients of Mr. M. Dutta, Advocate to appear before the Joint Secretary to the Govt. of Assam, Fisheries Department. The said authority shall have the right to put up a notice in the notice board in the office of the District Fishery Development Officer, Dibrugarh and District Fishery Development Officer, Tinsukia, and to inform all concerned to submit their bid in respect of the Dibu Brahmaputra Part-III, IV and V Fishery Mahal on daily basis settlement till the tender process as directed by this Court by common judgment and order dated 02.03.2023 passed in WP(C) 8109/2017 is brought to its logical conclusion.

9. Before parting with the records, the Court takes serious note of the

fact that by the said judgment and order dated 02.03.2023 passed in WP(C) 8109/2017, direction was issued to the effect that the entire exercise to putting the schedule fishery to sale shall be completed within 3 (three) months from the date of said order.

10. As the judgment was passed on 02.03.2023, the 3 (three) months' time has already expired on 01.06.2023. Therefore, the State respondents in the Fisheries Department appears to have not complied with the order of the Court in letter and in spirit. Therefore, the Court is inclined to issue a fresh direction to the Principal Secretary to the Govt. of Assam, Fisheries Department (respondent no.1), the Commissioner & Secretary to the Govt. of Assam, Fisheries Department (respondent no.2), and Secretary to the Govt. of Assam, Fisheries Department (respondent no.3) to ensure that the said order dated 02.03.2023 passed in WP(C) 8109/2017 and connected cases is complied with in letter and spirit.

11. The petitioner shall produce a certified copy of this order before the respondent no.4 along with a fresh representation for submitting its bid.

12. On receipt of bid/representation from the petitioner and other bidders, if any, the respondent no.4 shall take a fresh decision in respect of such bids within an outer period of 7 (seven) days from the date of receipt of certified copy of this order.

13. It is ordered that the effect of the impugned order under Memo eCF No.10587/499 dated 05.04.2023, issued by the Joint Secretary to the Govt. of Assam, Fishery Department shall come to an end on 7<sup>th</sup> day from 01.07.2023, i.e. on 07.07.2023 or even prior thereto as and when the representation of the petitioner is disposed of.

14. The writ petition stands disposed of in the terms of the directions contained hereinbefore.

**JUDGE**

**Comparing Assistant**