

(2020) 01 PAT CK 0043

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 402 Of 2020

Ashok Kumar And Anr

APPELLANT

Vs

State Of Bihar Through The Principal Secretary And Ors

RESPONDENT

Date of Decision : 16-01-2020

Acts Referred:

Bihar Fish Jalkar Management Act, 2006 — Section 3(ii), 4, 4(iii)

Citation : (2020) 01 PAT CK 0043

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Ram Nibash Prasad, Mukesh Kumar, Rakesh Kumar Shrivastava

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the petitioners and learned AC to GP 15 for the State.

2. The petitioners have moved the Court for the following reliefs:

"I. That an appropriate writ may be issued quashing the Report sent by the District Fisheries Officer, the Respondent NO-4 by Letter No. 416 dated -01.07.2019 as contained in Annexure -7 communicating the Respondent No-2 the Director Fisheries Bihar, Patna, the reserve jama fixed for different jalkars situated within different block of Khagaria District to the extent of Khagaria Block by which the reserve jama has been enhanced by the District Fisheries Officer 85.89% than the reserve jama fixed for the last year.

II. That an appropriate writ may be issued commanding upon the Respondent No-3 the Reserve jama Fixation Committee to re-fix the reserve jama of the jalkars of Khagaria Block in the District of Khagaria in accordance with the provision of proviso of sub-section (iii) of Section -4 of the Bihar Fish Jalkar Management Act, 2006 as amended in the year 2007, 2010 and 2019.

III. That an appropriate writ may be issued commanding upon the Respondent

No-3 the Reserve Jama Fixation Committee to fixed the revenue on the basis of the annual production capacity of jalkars as contemplated under section -4 of the Bihar Fish Jalkar Management Act, 2006 as amended in the year 2007, 2010, and 2019.

IV. That an appropriate writ may be issued commanding upon the Respondent No-4 the District Fisheries Officer, Khagaria to make necessary classification of the jalkars situated within Khagaria Block on the basis of water shed area and production capacity of jalkars and to classify all the jalkars as contemplated under section -3 (ii) of the Bihar Fish Jalkar Management Act, 2006 as amended in the year 2007, 2010, and 2019.

V. Any other relief/reliefs for which the petitioners are entitled too."

3. The basic issue raised in the writ application is that the reserve jama having been enhanced by 85.89% is unreasonable and further the procedure required to be followed before fixing reserve jama has not been adhered to by the authorities.

4. Learned counsel for the State submitted that the matter has to be gone into only on the factual aspect without there being any law involved for the present, as the calculation and fixing of reserve jama is substantively based on ground realities, which the authorities have to look into.

5. Faced with the situation, learned counsel for the petitioners submitted that the application be disposed off with liberty to the petitioners to pursue the matter departmentally before the Director, Fisheries, Bihar, Patna.

6. Having regard to the aforesaid, the writ petition stands disposed off with liberty aforesaid.

7. It goes without saying that if the petitioners pursue the matter before the Director, Fisheries, he shall be obliged to look into the matter and consider all points raised by the petitioners, both on facts and law and pass a reasoned order, within two months from the date of production of a copy of this order before him, in accordance with law. Further, the petitioners shall be at liberty to file further representation while serving copy of this order before him to supplement the previous objection raised by them.

8. Whatever payment the petitioners shall be making in terms of the impugned order shall not prejudice their cause and would ultimately be subject to the order passed by the Director, Fisheries.