

(2020) 09 GAU CK 0002

In the Gauhati High Court

Case No : Writ Petition (C) No. 2870 Of 2020

Ayeen Uddin And 4 Ors

APPELLANT

Vs

State Of Assam And Ors

RESPONDENT

Date of Decision : 02-09-2020

Acts Referred:

Citation : (2020) 09 GAU CK 0002

Hon'ble Judges : Achintya Malla Bujor Barua, J

Bench : Single Bench

Advocate : R Majumdar

Final Decision : Disposed Off

Judgement

1. Heard Mr. JUNM Laskar, learned counsel for the petitioners. Also heard Mr. D. Nath, learned Additional Senior Govt. Advocate for the authorities under the Fisheries Department of the Govt. of Assam.

2. Considering the nature of the order to be passed, we are of the view that notices need not be issued to the respondents No.4 and 5 for the present, inasmuch as, the said respondents may be given an opportunity for expressing their views on the matter at the time of hearing of the representation submitted by the petitioner to be conducted by the respondent authorities.

3. When the matter was taken on 12.08.2020, Ms. B. Gogoi, learned counsel entered appearance for the Assam Fisheries Development Corporation (AFDC) and made a statement that considering the relief sought for in the writ petition, the AFDC represented by its Managing Director would be a necessary party and by the order dated 12.08.2020, we allowed AFDC through its Managing Director to be impleaded as respondent No.6. By the order dated 12.08.2020, we also required the AFDC to produce any relevant document/law which they may like to rely upon to indicate under what provision of law the concept Model Fish Farm Self Help Group was created. We have taken note of that the learned Standing Counsel for the AFDC is shown in the cause list, but none appears for the AFDC

when the matter is taken up today.

We have also taken note of that although prayer made in this petition is for a direction to the respondent authorities particularly the respondent No.3 the District Fishery Development Officer cum Chief Executive Officer for taking immediate necessary steps to hold annual general meeting for selection of a fresh committee of the Model Fish Farm Self Help Group inasmuch as, the term of the earlier managing committee came to an end on 15.12.2019, but when the matter is taken up today, Mr. JUNM Laskar, learned counsel for the writ petitioner makes a specific statement that the petitioner is not pursuing with the aforesaid prayer made in the writ petition.

4. Mr. JUNM Laskar, learned counsel makes a statement that the petitioner is only interested in the second prayer made in the writ petition i.e. representation dated 17.02.2020 submitted by the petitioner be given consideration by the respondent No.3 i.e. the District Fishery Development Officer and thereupon pass a reasoned order. Without going into the merits of any of the claims made by the writ petitioner in the writ petition, we are of the view that if a litigant feels that he has some kind of a legal right and such legal right has been violated in some manner or the other and in the circumstance, files a representation before the State authorities for giving a consideration to his grievance raised in such representation, atleast a legal right flows in favour of such litigant for consideration by the concerned authority.

5. Only for the aforesaid limited purpose, we have taken note of that the writ petitioners have filed a representation dated 17.02.2020 which is annexed as Annexure-9 to the writ petition making certain claims before the District Fishery Development Officer, Hailakandi that their legal right has been infringed in some manner.

6. In view of the above, the respondent No.3 is directed to give a consideration to the said representation of the petitioners dated 17.02.2020 and pass a reasoned order thereon. By directing the respondent No.3 to pass a reasoned order we are not indicating that the claims made in the writ petition are directed to be allowed by the respondent No.3. The respondent No.3 shall make an independent application of mind on the claims made in the representation and accordingly pass a reasoned order of his own.

7. In doing so, we also require the respondent No.3 to notify the respondents No.4 and 5 namely the managing committee, Model Fish Farm Self Help Group, headed by its President Sri Jyotish Mohan Das and Shri Chitta Rajan Das, Secretary Model Fish Farm Self Help Group, Bakrihawar so as to enable them to express their views on the claim made by the petitioners before any such reasoned order is passed. As a hearing is required to be given to the respondents No.4 and 5, a similar hearing be also given to one of the writ petitioners who is to be nominated by the others for the purpose.

8. Upon the hearing being conducted in the aforesaid manner, the reasoned

order is to be passed by the respondent No.3. The requirement be done within a period of 2 months from the date of receipt of the certified copy of the order. For the purpose of hearing to be given, the respondents No.4 and 5 and the representative of the writ petitioner be duly informed by the respondent No.3 about the date, time and place of hearing to be given.

9. In view of the order dated 12.08.2020, where we have recorded that the AFDC is also a necessary party and allowed their impleadment as the respondent No.6, we also require the respondent No.3 to notify the appropriate authority under the AFDC about the date, time and place of the hearing to be given.

10. Writ petition stands disposed of in the above terms.