

(2020) 06 PAT CK 0020

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 5715 Of 2020

Gunay Mukhiya

APPELLANT

Vs

State Of Bihar And Others

RESPONDENT

Date of Decision : 01-06-2020

Acts Referred:

Bihar Fish Jalkar Management Act, 2006 — Section 7, 7(v)

Citation : (2020) 06 PAT CK 0020

Hon'ble Judges : Vikash Jain, J

Bench : Single Bench

Advocate : Binodanand Mishra, Sajid Salim Kharn

Final Decision : Disposed Of

Judgement

Vikash Jain, J

1. This matter has been taken up for hearing through video conference. Learned counsel for the petitioner undertakes that all defects shall be removed without delay immediately after the lockdown ends, and in any event within one month thereof. Learned counsel for the respondents states that he has no objection if the defects are removed as proposed and the matter be taken up on merits in view of the stated urgency.

2. The following reliefs as formulated by the petitioner have been claimed in the writ petition-

"(i) For issuance of an order, direction or writ including writ in the nature of Mandamus commanding the respondents to keep the settlement of Jalkar of Ghoghardiha Anchal in the district of Madhubani in abeyance during lockdown period.

(ii) For issuance of an order, direction or writ including writ in the nature of Mandamus commanding the respondents to make settlement of the Jalkars of the Ghoghardiha Anchal in the district of Madhubani with the Ghoghardiha

Matsyajivi Sahyog Samiti in accordance with the provisions of the Bihar Fish Jalkar Management Act, 2006.

(iii) For issuance of an order, direction or writ including writ in the nature of Mandamus restraining the respondents from making settlement through open bid contrary to the provisions of the Bihar Fish Jalkar Management Act, 2006.

(iv) For issuance of an order, direction or writ including writ in the nature of Mandamus commanding the respondent District Magistrate to give direction to the District Fisheries Officer to receive application from the Samiti by 31st August, in accordance with the provisions of the Sections 7 (v) of the Bihar Fish Jalkar Management Act, 2006.

(v) For issuance of an appropriate declaration holding that the State of Bihar acting through the Legislature of the State has enacted the Bihar Fish Jalkar Management Act, 2006 as an affirmative action to improve the social and economic condition of the fishermen who happen to be extremely backward, poor and marginalized section of the society. Action of the executive authority in violation of the provisions of the Act would defeat the very purpose of the enactment and cause prejudice to the members of the Samiti.

(vi) For any other relief(s) to which the petitioner may be found entitled in the facts and circumstances of the present case."

3. At the very outset, Mr. Sajid Salim Khan, learned Standing Counsel No. 25 appearing on behalf of the State makes a statement at the Bar on instruction that the District Fisheries Officer has taken up the matter with the Administrator, Ghogardiha Anchal Matsyajivi Sahyog Samiti Ltd. (Respondent No. 7) and correspondence between them is ongoing. The Administrator has informed that he has been given additional duties as Magistrate during the ongoing pandemic of Covid-19 and as such he has expressed his inability to take steps for filing the requisite application on behalf of the Co-operative Society for settlement of Jalkar. Learned Standing Counsel No. 25 further states that the last date for filing the applications has already expired on 30.04.2020. Section 7 of Bihar Fish Jalkar Management Act, 2006 provides for extension of the date of filing the application from time to time latest upto 31.08.2020, which has however admittedly not been extended.

4. Learned counsel for the petitioner, on the other hand, submits that the members of the Co-operative Society are keen for settlement of the Jalkar in their favour and would be severely prejudiced by reason of inaction of the Administrator and for no fault on their part. The Administrator has neither filed the requisite application for settlement of Jalkar within the stipulated date, namely 30.04.2020, nor appears to have applied for extension of time. In this view of the matter, there is every likelihood that the District Fisheries Officer may proceed to settle the Jalkar through open bid which will adversely affect the interest of the members of the Co-operative Society.

5. Having heard the parties and considering the inability said to have been expressed by the Administrator to take steps for filing the requisite application, this Court is of the view that the ends of justice will be met by granting liberty to the petitioner to approach the Collector, Madhubani (respondent no.5) with an appropriate representation. If any such application is filed within a period of two weeks from today, the same shall be considered and disposed of on its own merit in accordance with law and after grant of an opportunity of hearing to the petitioner, expeditiously and in any event preferably within a further period of three weeks thereafter. Until disposal of such representation, if filed within the stipulated time, the District Fisheries Officer-Cum-Chief Executive Officer, Madhubani (respondent no.6) shall refrain from settling the Jalkar through open bid.

6. It is made clear that in view of the ongoing lockdown and Covid-19 pandemic, any correspondence between the parties may be made through e-mail and that the concerned authority shall be at liberty to hear the petitioner through video conference.

7. The writ petition stands disposed of with the aforesaid observations and directions.