



GAHC010155482017

Page No.# 1/48



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

Case No. : WP(C)/8109/2017

M/S. SAIKHOWA SADIYA MEEN SAMABAY SAMITY LTD.
A REGD. FISHERY CO-OPERATIVE SOCIETY HAVING ITS REGD. OFFICE AT
HATIGHULI, DHOLLA, DIST. TINSUKIA, ASSAM, REP. BY ITS SECRETARY
SRI MAINA BISWAS, VILL. HATIGHULI, P.O. SAIKHOWAGHAT, P.S.
DHOLLA, DIST. TINSUKIA, ASSAM-786154.

VERSUS

THE STATE OF ASSAM and 2 ORS.
REP. BY THE ADDL. CHIEF SECRETARY TO THE GOVT. OF ASSAM,
FISHERY DEPTT., DISPUR, GHY.-06.

2:THE DY. COMMISSIONER

DIBRUGARH.

3:THE ADDL. DY. COMMISSIONER R

DIBRUGARH.

4:DIBRUPARIA PART II AND III PISCICULTURE COOP. SOCIETY LTD.
REPRESENTED BY ITS SECY. SRI CHANDRA KUMAR DAS
S/O LATE UPENDRA DAS
AGED ABOUT 49 YEARS
R/O VILL. TENGABARI (MORIGAON)
P.O. MULUKGON
CHABUA
DIST. DIBRUGARH
ASSAM

Advocate for the Petitioner : MR. P K R CHOUDHURY



Advocate for the Respondent : GA, ASSAM

Linked Case : WP(C)/3248/2021

DIBRUPARIA PART II AND III PISCICULTURE COOP. SOCIETY LTD.
REPRESENTED BY ITS SECRETARY
SRI CHANDRA KUMAR DAS
SON OF LATE UPENDRA DAS
AGED ABOUT 49 YEARS
RESIDENT OF VILLAGE TENGABARI
PO MULOKGON
786189
CHABUA
DIST DIBRUGARH
ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
FISHERIES DEPARTMENT
DISPUR
GUWAHATI 781006

2:THE JOINT SECRETARY
TO THE GOVT. OF ASSAM
FISHERIES DEPARTMENT
DISPUR
GUWAHATI 781006
3:THE DEPUTY COMMISSIONER

DIBRUGARH
ASSAM

786003
4:M/S SAIKHOWA SADIYA MIN SAMABAI SAMITI LIMITED

A REGISTERED FISHERY CO OPERATIVE SOCIETY HAVING ITS
REGISTERED OFFICE AT HATIGHULI
DHOLA IN THE DISTRICT OF TINSUKIA
ASSAM
REPRESENTED BY ITS SECRETARY
SRI MAINA BISWAS
RESIDENT OF VILLAGE HATIGHULI



PO SAIKHOWAGHAT
786154
TINSUKIA
ASSAM

Advocate for : MR. D DAS SR. ADV
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 3 ORS.

Linked Case : WP(C)/4403/2020

DIBRUPARIA PART II AND III PISCICULTURE COOP. SOCIETY LTD.
REPRESENTED BY ITS SECRETARY SRI CHANDRA KUMAR DAS
SON OF LATE UPENDRA DAS
AGED ABOUT 49 YEARS
RESIDENT OF VILLAGE TENGABARI
PO MULUKGAON
786189
CHABUA
DIST DIBRUGARH
ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
FISHERIES DEPARTMENT
DISPUR GUWAHATI 781006

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
DISPUR GUWAHATI 781006
ASSAM

3:THE DEPUTY COMMISSIONER
DIBRUGARH
DIST DIBRUGARH
ASSAM 786003

4:M/S SAIKHOWA SADIYA MIN SAMABAI SAMITI LIMITED
A REGISTERED FISHERY CO OPERATIVE SOCIETY HAVING ITS
REGISTERED OFFICE AT HATIGHULI
DHOLA IN THE DISTRICT OF TINSUKIA
ASSAM
REPRESENTED BY ITS SECRETARY SRI MAINA BISWAS



S/O LATE MALADHAR BISWAS
RESIDENT OF VILLAGE HATIGHULI PO SAIKHOWAGHAT
786154
TINSUKIA ASSAM

Advocate for : MR. D DAS SR. ADV
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 3 ORS.

Linked Case : WP(C)/3176/2021

M/S SAIKHOWA SADIYA MIN SAMABAI SAMITI LIMITED
A REGISTERED FISHERY CO OPERATIVE SOCIETY HAVING ITS
REGISTERED OFFICE AT HATIGHULI
DHOLA
TINSUKIA
ASSAM
REPRESENTED BY ITS SECRETARY MAINA BISWAS
AGED ABOUT 61 YEARS
SON OF LATE MALADHAR BISWAS
RESIDENT OF VILLAGE HATIGHULI
PO SAIKHOWAGHAT
PS DHOLLA
DIST TINSUKIA
ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY
FISHERY DEPARTMENT
DISPUR
GUWAHATI 781006

2:THE JOINT SECRETARY
FISHERY DEPARTMENT
DISPUR GUWAHATI 781006
3:THE DEPUTY COMMISSIONER
DIBRUGARH
DIBRUGARH
ASSAM
786003
4:THE ADDITIONAL DEPUTY COMMISSIONER (R)
DIBRUGARH
ASSAM



786003
5:THE SUPERINTENDENT OF POLICE
DIBRUGARH
6:THE SUPERINTENDENT OF POLICE
SADIYA
7:THE SUPERINTENDENT OF POLICE
TINSUKIA

Advocate for : MR. P K ROYCHOUDHURY
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 6 ORS

Linked Case : WP(C)/6309/2017

MAINA BISWAS
SECRETARY
SAIKHOWA SADIYA MEEN SAMABAY SAMITI LIMITED
A REGD FISHERY CO-OPERATIVE SOCIETY HAVING ITS REGD OFFICE AT
HATIGHULI
DHOLLA
DIST- TINSUKIA
ASSAM
VILL- HATIGHULI
P.O- SAIKHOWAGHAT
P.S- DHOLLA
DIST- TINSUKIA
ASSAM- 786154

VERSUS

THE STATE OF ASSAM and 3 ORS.
REP. BY THE ADDITIONAL CHIEF SECRETARY
GOVT OF ASSAM
FISHERY DEPARTMENT
DISPUR
GUWAHATI- 06

2:THE DEPUTY COMMISSIONER
DIBRUGARH
3:THE CIRCLE OFFICER
CHABUA REVENUE CIRCLE
CHABUA
4:THE OFFICER IN CHARGE
CHABUA POLICE STATION
CHABUA



Advocate for : MRG JALAN
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM and 3 ORS.

Linked Case : WP(C)/2758/2020

M/S. SAIKHOWA SADIYA MIN SAMABAI SAMITI LTD.
A REGD FISHERY CO OPERATIVE SOCIETY HAVING ITS REGD OFFICE AT
HATIGHULI
DHOLA
DIST- TINSUKIA
ASSAM
REP. BY ITS SECRETARY SRI MAINA BISWAS
S/O- LATE MALADHAR BISWAS
R/O- VILL- HATIGHULI
P.O- SAIKHOWAGHAT
P.S- DHOLLA
DIST- TINSUKIA
ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE COMMISSIONER AND SECRETARY FISHERY DEPTT
DISPUR
GUWAHATI- 781006

2:THE DEPUTY COMMISSIONER
DIBRUGARH
DIST- DIBRUGARH
ASSAM
DIBRUGARH- 786003
3:DIBRUPARIA PART II AND III PISCICULTURE COOP. SOCIETY LTD.
REP. BY ITS SECRETARY
SRI CHANDRA KUMAR DAS
S/O LATE UPENDRA DAS
AGED ABOUT 49 YRS
R/O VILL.- TENGABARI (MORIGAON)
P.O MULUKGON
CHABUA
DIST. - DIBRUGARH
ASSAM.

Advocate for : MR. P K R CHOUDHURY



Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 2 ORS

Linked Case : WP(C)/998/2023

M/S SAIKHOWA SADIYA MIN SAMABAI SAMITI LIMITED
A REGISTERED FISHERY CO-OPERATIVE SOCIETY HAVING ITS
REGISTERED OFFICE AT HATIGHULI
DHOLA
IN THE DISTRICT OF TINSUKIA
ASSAM
REP. BY ITS CHAIRMAN
RAICHAN BISWAS
AGED ABOUT 45 YEARS.

VERSUS

THE STATE OF ASSAM AND 13 ORS.
REP. BY THE COMMISSIONER AND SECRETARY
FISHERIES DEPTT.
GOVERNMENT OF ASSAM
DISPUR
GUWAHATI- 781006.

2:THE DEPUTY COMMISSIONER
DIBRUGARH
ASSAM.

3:THE DEPUTY COMMISSIONER
SIVASAGAR
ASSAM.

4:THE DEPUTY COMMISSIONER
LAKHIMPUR
ASSAM.

5:THE DEPUTY COMMISSIONER
DHEMAJI
ASSAM.

6:THE SUPERINTENDENT OF POLICE
DIBRUGARH
ASSAM.

7:THE SUPERINTENDENT OF POLICE
SIVASAGAR
ASSAM.

8:THE SUPERINTENDENT OF POLICE
LAKHIMPUR
ASSAM.



9:THE SUPERINTENDENT OF POLICE
DHEMAJI
ASSAM.

10:THE SUPERINTENDENT OF POLICE
SADIYA
ASSAM.

11:THE CHIEF WILDLIFE WARDEN
ASSAM

ARAYNA BHAWAN
PANJABARI
GUWAHATI- 781037.

12:THE DIVISIONAL FOREST OFFICER
TINSUKIA WILDLIFE DIVISION
TINSUKIA
ASSAM.

13:THE MISSING AUTONOMOUS COUNCIL
REP. BY ITS PRINCIPAL SECRETARY
GOGAMUKH DHMAJI
ASSAM.

14:THE DIBRUPORIA PART II AND PART III PISCICULTURE SOCIETY LTD
REP. BY ITS SECRETARY
CHANDAN KUMAR DAS S/O LATE UPENDRA DAS R/O VILL.- TENGABARI
P.O.- MAKUM
PIN- 786189
DIST.- DIBRUGARH
ASSAM.

Advocate for : MR. M DUTTA
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 13 ORS.

Linked Case : WP(C)/3169/2021

MAINA BISWAS
S/O LATE MALADHAR BISWAS
R/O VILL. HATIGHULI
P.O. SAIKHOWAGHAT
P.S. DHOLLA
DIST. TINSUKIA (ASSAM)
PRESENTLY THE SECY. OF M/S SAIKHOWA SADIYA MIN SAMABAI SAMITI
LTD. A REGISTERED FISHERY CO OPERATIVE SOCIETY HAVING ITS
REGISTERED OFFICE AT HATIGHULI
DHOLA IN THE DIST. OF TINSUKIA
ASSAM
REPRESENTED BY ITS SECY. SRI MAINA BISWAS
S/O LATE MALADHAR BISWAS



R/O VILL. HATIGHULI
P.O. SAIKHOWAGHAT
P.S. DHOLLA
DIST. TINSUKIA
ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECY. FISHERY DEPTT.
DISPUR
GUWAHATI 781006

2:THE JOINT SECY.

FISHERY DEPTT.
DISPUR
GUWAHATI 781006
3:THE DEPUTY COMMISSIONER

DIBRUGARH
DIST. DIBRUGARH
ASSAM
DIBRUGARH 786003
4:THE ADDL. DEPUTY COMMISSIONER (R)
DIBRUGARH
DIST. DIBRUGARH
ASSAM
DIBRUGARH 786003
5:THE SUPERINTENDENT OF POLICE
DIBRUGARH.
6:THE DIVISIONAL FOREST OFFICER

TINSUKIA WILDLIFE DIVISION
TINSUKIA
ASSAM.

Advocate for : MR. P K ROYCHOUDHURY
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 5 ORS

Linked Case : WP(C)/1354/2017

SAIKHOWA SADIYA MEEN SAMABAY SAMITI LTD.
A REGISTERED FISHERY CO-OPERATIVE SOCIETY



HAVING ITS REGISTERED OFFICE AT HATIGHULI
DHOLLA DIST. TINSUKIA
ASSAM
REP. BY ITS SECRETARY SHRI MAINA BISWAS
R/O VILL- HATIGHULI
P.O. SAIKHOWA
GHAT
P.S.DHOLLA
DIST. TINSUKIA
ASSAM.

VERSUS

THE STATE OF ASSAM and 5 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FISHERIES DEPARTMENT
DISPUR
GUWAHATI - 781006.

2:THE PRINCIPAL SECRETARY

FISHERIES DEPARTMENT
GOVT. OF ASSAM
DISPUR
GUWAHATI - 781006.

3:THE DEPUTY COMMISSIONER

DIBRUGARH DISTRICT
ASSAM

4:THE DEPUTY COMMISSIONER

INCHARGE
DIBRUGARH DISTRICT
ASSAM

5:THE CIRCLE OFFICER

CHABUA REVENUE CIRCLE
CHABUA
DIST. DIBRUGARH
ASSAM

6:THE CIRCLE OFFICER

DIBRUGARH WEST REVENUE CIRCLE
DIST. DIBRUGARH
ASSAM

Advocate for : MRG JALAN



Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM and 5 ORS.

Linked Case : WP(C)/7809/2017

M/S SAIKHOWA MEEN SAMABAY SAMITI LIMITED
A REGD. FISHERY CO-OPERATIVE SOCIETY HAVING ITS REGD. OFFICE AT
HATIGHULI
DHOLLA
P.O. SAIKHOWAGHAT
P.S. DHOLLA
DIST. TINSUKIA
ASSAM-786154
REP. BY ITS SECRETARY SRI MAINA BISWAS.

VERSUS

THE STATE OF ASSAM and 4 ORS
REP. BY THE ADDL. CHIEF SECRETARY TO THE GOVT. OF ASSAM
DISPUR
GHY.-06.

2:THE DY. SECRETARY

GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPTT.
DISPUR
GHY.-06.
3:THE DY. COMMISSIONER

DIBRUGARH.
4:THE COMMITTEE

CONSTITUTED TO EXAMINE and REDEFINE THE BOUNDARY OF RIVER
FISHERY MOHALS
EXCLUDING THE CORE
BUFFER AND ECO-SENSITIVE ZONE AREA OF DIBRU SAIKHOWA
NATIONAL PART/DIBRU SAIKHOWA BIOSHERE RESERVE
REP. BY ITS CHAIRMAN
THE DY. COMMISSIONER
DIBRUGARH.
5:THE CHAIRMAN

THE COMMITTEE CONSTITUTED TO EXAMINE AND REDEFINE THE
BOUNDARY OF RIVER FISHERY MOHALS



EXCLUDING THE CORE
BUFFER AND ECO-SENSITIVE ZONE AREA OF DIBRU SAIKHOWA
NATIONAL PART/DIBRU SAIKHOWA BIOSPHERE RESERVE
OFFICE OF THE DY. COMMISSIONER
DIBRUGARH.

Advocate for : MR.N G KUNDU
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM and 4 ORS

Linked Case : WP(C)/7006/2021

RANGAGORAH FISHERMEN COOPERATIVE SOCIETY LIMITED
A REGD. FISHERY CO-OPERATIVE SOCIETY HAVING ITS REGD. OFFICE AT
GUIJAN
P.O. RANGAGORAH
DIST. TINSUKIA
ASSAM
REP. BY ITS SECRETARY
SRI PRASSANNA DAS
S/O. LT. PARSURAM DAS
VILL. GUIJAN
P.O. RANGAGORAH
P.S. TINSUKIA
DIST. TINSUKIA
ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMM. AND SECY.
FISHERY DEPTT.
DISPUR
GUWAHATI-781006.

2:THE DEPUTY COMMISSIONER

TINSUKIA.

3:THE DISTRICT FISHERY DEVELOPMENT OFFICER

TINSUKIA.

4:M/S SAIKHOWA SADIYA MIN SAMABAI SAMITI LTD.
A REGD. FISHERY CO-OPERATIVE SOCIETY HAVING ITS REGD. OFFICE AT
HATIGHULI
DHOLA



DIST. TINSUKIA
ASSAM
REP. BY ITS SECRETARY
SRI MAINA BISWAS
S/O. LT. MALADHAR BISWAS
VILL. HATIGHULI
P.O. SAIKHOWAGHAT
P.S. DHOLLA
DIST. TINSUKIA
ASSAM.

Advocate for : MR. S BANIK
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 3 ORS

Linked Case : WP(C)/7207/2021

DIBRUPARIA PART II AND III PISCICULTURE COOP. SOCIETY LTD
REP. BY ITS SECRETARY
SRI CHANDRA KUMAR DAS
S/O. LT. UPENDRA DAS
VILL. TENGABARI
P.O. MULUKGON
PIN-786189
CHABUA
DIST. DIBRUGARH
ASSAM.

VERSUS

THE STATE OF ASSAM AND 7 ORS
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
FISHERIES DEPTT.
DISPUR
GUWAHATI-781006.

2:THE COMMISSIONER AND SECY.

FISHERIES DEPTT.
GOVT. OF ASSAM
DISPUR
GUWAHATI-781006
ASSAM.

3:THE JOINT SECRETARY
TO THE FISHERIES DEPTT.



GOVT. OF ASSAM
DISPUR
GUWAHATI-781006
ASSAM.
4:THE DEPUTY COMMISSIONER

DIBRUGARH
DIBRUGARH DISTRICT
ASSAM
DIBRUGARH-786003.
5:THE DEPUTY COMMISSIONER

TINSUKIA
TINSUKIA DISTRICT
ASSAM
TINSUKIA-786125.
6:THE DIVISIONAL FOREST OFFICER

TINSUKIA WILDLIFE DIVISION
BORGURI
TINSUKIA
ASSAM
PIN-786192.
7:THE DISTRICT FISHERY DEVELOPMENT OFFICER

TINSUKIA DISTRICT
PIN-786125.
8:M/S SAIKHOWA SADIYA MIN SAMABAI SAMITI LTD.

A REGD. FISHERY CO-OPERATIVE SOCIETY HAVING ITS REGD. OFFICE AT
HATIGHULI
DHOLA
DIST. TINAUKIA
ASSAM REP. BY ITS SECRETARY
SRI MAINA BISWAS
S/O. LT. MALADHAR BISWAS
VILL. HATIGHULI
P.O. SAIKHOWAGHAT
PIN-786154
DIST. TINSUKIA
ASSAM.

Advocate for : MR. D DAS SR. ADV
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 7 ORS



Linked Case : WP(C)/2811/2018

M/S. SAIKHOWA SADIYA MIN SAMABAI SAMITY LTD.
A REGISTERED FISHERY CO-OPERATIVE SOCIETY HAVING ITS
REGISTERED OFFICE AT HATIGHULI
DHOLLA
DIST- TINSUKIA
ASSAM
REP. BY ITS SECRETARY SHRI MAINA BISWAS
R/O- VILL- HATIGHULI
P.O. SAIKHOWAGHAT
P.S. DHOLLA
DIST- TINSUKIA
ASSAM-786154

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP. BY THE ADDL. CHIEF SECRETARY TO THE GOVT. OF ASSAM
FISHERY DEPTT.
DISPUR
GHY-6

2:THE JOINT SECRETARY TO THE GOVT. OF ASSAM
FISHERY DEPTT.
DISPUR
GHY-6

3:THE DY. COMMISSIONER
DIBRUGARH
ASSAM

4:THE ADDL. DY. COMMISSIONER (R)
DIBRUGARH
ASSAM

Advocate for : MR. P K ROYCHOUDHURY

Advocate for : GA

ASSAM appearing for THE STATE OF ASSAM AND 3 ORS.

Linked Case : WP(C)/1003/2023

M/S DIBRUPARIA PART II AND III PISCICULTURE COOP SOCIETY LTD
REP. BY ITS SECY.
SRI CHANDRA KUMAR DAS
S/O- LT. UPENDRA DAS
AGED ABOUT- 49 YEARS



R/O- VILL- TENGABARI
P.O. MULUKGON
PIN- 786189
CHABUA
DIST.- DIBRUGARH
ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
FISHERIES DEPTT.
DISPUR
GHY-06

2:THE JOINT SECRETARY TO THE FISHERY DEPTT.
GOVT. OF ASSAM
DISPUR
GHY-06
ASSAM

3:THE DY. COMMISSIONER
DIBRUGARH
DIBRUGARH DISTRICT
ASSAM
DIBRUGARH- 786003

4:M/S SAIKHOWA SADIYA MIN SAMABAI SAMITI LIMITED
A REGD. FISHERY CO-OPERATIVE SOCIETY HAVING ITS REGD. OFFICE AT
HATIGHULI
DHOLA IN THE DIST. OF TINSUKIA
ASSAM REP. BY ITS SECY.
SRI MAINA BISWAS
S/O- LT. MALADHAR BISWAS
R/O- VILL- HATIGHULI
P.O. SAIKHOWAGHAT
PIN- 786154
DIST.- TINSUKIA
ASSAM

Advocate for : MR. D DAS SR. ADV

Advocate for : GA

ASSAM appearing for THE STATE OF ASSAM AND 3 ORS

Linked Case : WP(C)/5306/2017

M/S. SAIKHOWA SADIYA MEEN SAMABAY SAMITI LTD.



A REGISTERED FISHERY CO-OPERATIVE SOCIETY HAVING ITS
REGISTERED OFFICE AT HATIGHULI
DHOLLA
IN THE DISTRICT OF TINSUKIA
ASSAM
REPRESENTED BY MAINA BISWAS
R/O. VILL. HATIGULI
P.O. SAIKHOWAGHAT
POLICE STATION- DHOLLA
DIST. TINSUKIA
ASSAM
786154.

VERSUS

THE STATE OF ASSAM and 7 ORS.
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
FISHERIES DEPTT.
DISPUR
GUWAHATI-06.

2:ADDL. SECRETARY
GOVT. OF ASSAM

FISHERY DEPTT.
DISPUR
GUWAHATI-06.

3:THE SUPERINTENDENT OF POLICE
DIBRUGARH.

4:THE DY. COMMISSIONER
DIBRUGARH.

5:THE CIRCLE OFFICER
CHABUA REVENUE CIRCLE

DIBRUGARH.

6:THE OFFICER-IN-CHARGE
CHABUA POLICE STATION

CHABUA.

7:MANASH JYOTI NATH

CIRCLE OFFICER
CHABUA REVENUE CIRCLE
CHABUA.

8:BRAHMAPUTRA PART-II AND PART-III FISHERY SOCIETY



Advocate for : MRG JALAN

Advocate for : MR.U CHOUDHURYR-8 appearing for THE STATE OF ASSAM and 7 ORS.

Linked Case : WP(C)/5514/2020

M/S SAIKHOWA SADIYA MEEN SAMABAI SAMITI LTD
A REGD. FISHERY CO-OPERATIVE SOCIETY HAVING ITS REGD. OFFICE AT
HATIGHULI DHOLA
IN THE DIST.- OF TINSUKIA
ASSAM
REP. BY ITS SECY.
SRI MAINA BISWAS
AGED ABOUT 61 YEARS
S/O- LT. MALADHAR BISWAS
R/O- VILL- HATIGHULI
P.O. SAIKHOWAGHAT
P.S. DHOLLA
DIST.- TINSUKIA (ASSAM)

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REP. BY THE COMMISSIONER AND SECRETARY FISHERY DEPTT. DISPUR
GUWAHATI-781006

2:THE JOINT SECRETARY
FISHERY DEPTT.
DISPUR
GHY-06
3:THE DY. COMMISSIONER
DIBRUGARH
DIST.- DIBRUGARH
ASSAM
DIBRUGARH- 786003

Advocate for : MR. P K ROYCHOUDHURY

Advocate for : GA

ASSAM appearing for THE STATE OF ASSAM AND 2 ORS.

Linked Case : WP(C)/868/2020



M/S. SAIKHOWA SADIYA MIN SAMABAI SAMITI LTD.
A REGD FISHERY CO OPERATIVE SOCIETY HAVING ITS REGD OFFICE AT
HATIGHULI DHOLA
DIST- TINSUKIA
ASSAM
REP BY ITS SECRETARY SRI MAINA BISWAS
S/O- LATE MALADHAR BISWAS
R/O- VILL- HATIGHULI
P.O- SAIKHOWAGHAT
P.S- DHOLLA
DIST- TINSUKIA
ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE COMMISSIONER AND SECRETARY
FISHERY DEPTT
DISPUR
GHY- 06

2:THE DEPUTY COMMISSIONER
DIBRUGARH
DIST- DIBRUGARH
ASSAM
PIN- 786003

3:M/S DIBRUPORIA PART-II AND III
PISCICULTURE CO OP SOCIETY LTD A REGD FISHERY CO OP SOCIETY
HAVING ITS REGD OFFICE AT MULUKGAON
CHABUA
DIST- TINSUKIA
ASSAM

Advocate for : MR. P K R CHOUDHURY
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 2 ORS

Linked Case : WP(C)/6634/2017

M/S. SAIKHOWA SADIYA MEEN SAMABAY SAMITI LTD.
A REGISTERED FISHERY CO-OPERATIVE SOCIETY HAVING ITS
REGISTERED OFFICE AT HATIGHULI
DHOLLA
IN THE DIST. OF TINSUKIA
ASSAM



VILL. HATIGHULI
P.O. SAIKHOWAGHAT
P.S. DHOLLA
DIST. TINSUKIA
ASSAM 786154
REPRESENTED BY ITS SECY. SRI MAINA BISWAS

VERSUS

THE STATE OF ASSAM and 4 ORS.
REPRESENTED BY THE ADDITIONAL CHIEF SECY. GOVT. OF ASSAM
FISHERY DEPTT.
DISPUR
GUWAHATI 06

2:THE COMMISSIONER and SECY.

GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPTT.
DISPUR
GUWAHATI-06
3:THE DEPUTY COMMISSIONER

DIBRUGARH
4:THE COMMITTEE CONSTITUTED

TO EXAMINE AND REDEFINE THE BOUNDARY OF THE RIVER FISHERY
MOHALS
EXCLUDING THE CORE
BUFFER AND ECO SENSITIVE ZONE AREA OF DIBRU SAIKHOWA
NATIONAL PARK/DIBRU SAIKHOWA BIOSPHERE RESERVE
REPRESENTED BY ITS CHAIRMAN THE DEPUTY COMMISSIONER
DIBRUGARH
5:THE CHAIRMAN
THE COMMITTEE CONSTITUTED TO EXAMINE AND REDEFINE THE
BOUNDARY OF THE RIVER FISHER MOHALS
EXCLUDING THE CORE
BUFFER AND ECO SENSITIVE ZONE AREA OF DIBRU SAIKHOWA
NATIONAL PARK/DIBRU SAIKHOWA BIOSPHERE RESERVE.

Advocate for : MRG JALAN

Advocate for : GA

ASSAM appearing for THE STATE OF ASSAM and 4 ORS.

Linked Case : WP(C)/5204/2021



DIBRUPARIA PART II AND III PISCICULTURE COOP. SOCIETY LTD.
REP. BY ITS SECRETARY
SRI CHANDRA KUMAR DAS
SON OF LATE UPENDRA DAS
AGED ABOUT 49 YEARS
R/O- VILL.- TENGABARI
P.O. MULUKGON
PIN- 786189
CHABUA
DIST.- DIBRUGARH
ASSAM

VERSUS

THE STATE OF ASSAM AND 8 ORS.
REP. BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM
FISHERIES DEPARTMENT
DISPUR
GUWAHATI-781006.

2:THE COMMISSIONER AND SECRETARY
FOREST DEPARTMENT
GOVERNMENT OF ASSAM
DISPUR
GUWAHATI-781006
ASSAM

3:THE JOINT SECRETARY TO THE FISHERY DEPARTMENT
GOVT. OF ASSAM
DISPUR
GUWAHATI-781006
ASSAM

4:THE CHIEF WILDLIFE WARDEN
OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FOREST AND HOFF
ARANYA BHAWAN
PANJABARI
GUWAHATI-781037
ASSAM

5:THE DEPUTY COMMISSIONER
DIBRUGARH
DIBRUGARH DISTRICT
ASSAM
PIN- 786003.

6:THE ADDITIONAL DEPUTY COMMISSIONER (REVENUE)
DIBRUGARH
DIBRUGARH DISTRICT
ASSAM



PIN- 786003.
7:THE DIVISIONAL FOREST OFFICER
TINSUKIA WILDLIFE DIVISION
BORGURI
TINSUKIA
ASSAM
PIN- 786192.

8:M/S. SAIKHOWA SADIYA MIN SAMABAI SAMITI LIMITED
A REGISTERED FISHERY CO-OPERATIVE SOCIETY HAVING ITS
REGISTERED OFFICE AT HATIGHULI
DHOLA
DIST.- TINSUKIA
ASSAM
REP. BY ITS SECRETARY
SRI MAINA BISWAS
S/O- LATE MALADHAR BISWAS
R/O- VILL.- HATIGHULI
P.O. SAIKHOWAGHAT
PIN- 786154
DIST. TINSUKIA
ASSAM

9:MAINA BISWAS
S/O- LATE MALADHAR BISWAS
BEING THE SECRETARY OF M/S. SAIKHOWA SADIYA MIN SAMABAI
SAMITI LIMITED
R/O- VILL.- HATIGHULI
P.O. SAIKHOWAGHAT
PIN- 786154
DIST. TINSUKIA
ASSAM

Advocate for : MR. D DAS SR. ADV
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 8 ORS.

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

JUDGMENT AND ORDER (ORAL)

Date : 02-03-2023

Heard Mr. M. Dutta, the learned counsel appearing on behalf of the petitioner in WP(C) No.8109/2017, WP(C) No.1354/2017, WP(C) No.5306/2017, WP(C) No.6309/2017, WP(C) No.6634/2017, WP(C) No.7809/2017, WP(C) No.2811/2018, WP(C) No.868/2020, WP(C) No.2758/2020, WP(C) No.5514/2020, WP(C) No.3169/2021, WP(C) No.3176/2021 and WP(C) No.998/2023. I have also heard Mr. D. Das, the learned Senior counsel assisted by Mr. D. J. Medhi, the learned counsel appearing on behalf of the petitioner in WP(C) No.4403/2020, WP(C) No.3248/2021, WP(C) No.5204/2021, WP(C) No.7207/2021 and WP(C) No.1003/2023. Mr. S. Banik, the learned counsel appearing on behalf of the writ petitioner in WP(C) No.7006/2021 and Mr. D. Nath, the learned Senior Government Advocate appearing on behalf of the Fishery Department, Government of Assam.

2. The plethora of writ petitions before this Court are in relation to the settlement of the petitioner-M/S Saikhowa Sadiya Min Samabay Samity Ltd. (for short hereinafter referred to as 'the petitioner') in respect of Brahmaputra Part III, IV and V Fishery Mahal. It is relevant to take note of that the said fishery falls within the category of 60% fishery which is settled by the Government as per the Assam Fishery Rules, 1953. The said fishery Mahal had well defined and demarcated boundaries in each part more appropriately described in the Schedule-A to WP(C) No.998/2023. Schedule-A of the said writ petition being relevant is reproduced hereinbelow.

SCHEDULE A

Brahmaputra Part III Fishery

North : Jonaimukh to Sonarighat with Chichi Mouza and Budisuti to Dhalkut.

South : From western side of Brahmaputra to Laikamukh of Rangagora Mouza and Mohanaghat of West side of Dibrugarh town.

East : From Laikamukh to Jonaimukh through Brahmaputra

West : From Sonarighat to Mohanaghat through Brahmaputra

Brahmaputra Part IV Fishery

North: Sonarighat to Chichimukh alongwith Budisuti to Sluicgate of Deurigaon and from Rakhachelek gaon to Partiamukh of Chichi Mouza.

South: From Mohanaghat to West Dihingmukh

East: From Mohanaghat to Sonarighat through Brahmaputra

West: From Dehingmukh to Chichimukh through Brahmaputra

Brahmaputra Part V Fishery

North:

South: (From Dehingmukh to Milankur)

East:

West:

3. A Notice Inviting Tender dated 08.06.2011/30.07.2011 was issued for settlement of the fishery as described in Schedule-A to the writ petition i.e. WP(C) No.998/2023 which hereinafter referred to as the "Schedule Fishery". It appears from the records that the petitioner herein along with various others had participated in the said Notice Inviting Tender. On 22.11.2013, the Secretary to the Government of Assam, Fishery Department after taking into account the various bids, passed an order on behalf of the Governor of Assam in terms with Rule 12 of the Assam Fishery Rules, 1953 as amended to settle the Schedule

fishery with Sri. Maina Biswas, Secretary of the petitioner at the offered bid value of Rs.1,08,71,264/- for 7 (seven) years with effect from the date of handing over the possession of the fishery subject to observance of all the formalities as per norms/rules/ procedures/ instruction etc. as laid down in Government Order No.FISH.2/2000/172 dated 21.05.2005. It appears further that various writ petitions were filed against the said order issued in favour of the petitioner herein. It was only vide an order dated 09.01.2017, various writ petitions were disposed of thereby upholding the order dated 22.11.2013 made in favour of the petitioner.

4. Thereupon, on 16.01.2017, the Deputy Commissioner, In-charge, Dibrugarh had issued an order in continuation to the order dated 22.11.2013 thereby mandating that the settlement period to be from 16.01.2017 to 15.01.2024 with the annual Fishery Revenue of Rs.15,53,038/-. In the said order, the boundaries of the Schedule fishery were mentioned which is paramateria to Schedule-A of WP(C) No.998/2023. Thereupon, on 17.01.2017, the possession of the schedule fishery was handed over to the petitioner vide a Possession Certificate dated 17.01.2017. It appears therefrom that the Schedule fishery was handed over by the Circle Officer along with another Official and it was received by the Secretary of the petitioner. Thereupon, all of a sudden on 20.01.2017, the Deputy Commissioner, Dibrugarh cancelled the order dated 16.01.2017 with immediate effect on that ground that it is the Government of Assam who is the competent authority to pass the settlement order. This cancellation order dated 20.01.2017 was challenged in WP(C) No.420/2017 whereby, this Court vide an order dated 15.02.2017 set aside the order dated 20.01.2017 passed by the Deputy Commissioner, Dibrugarh.

5. Subsequent thereto, on 24.02.2017, the Principal Secretary to the Government of Assam, Fishery Department had passed an order wherein it was observed that the petitioner had a valid settlement order with effect from the date of passing the original order of settlement on 22.11.2013 because any other approach and/or interpretation may lead to questions of enhancement of rate as well as questions of re-tender. Therefore, the petitioner was allowed to operate the Schedule fishery at the value of Rs.1,08,71,264/- for a period of 7 (seven) years w.e.f. 22.11.2013 to 21.11.2020. However, it was made clear that the Fishery Department will take proportionate revenue only w.e.f. 17.01.2017 i.e. the date from which the petitioner was handed over the possession. This order of 24.02.2017 has been put to challenge in WP(C) No.1354/2017 on the ground that as the petitioner in terms with the order dated 22.11.2013 was entitled to the settlement for a period of 7 years from the date with effect from the date of handing over a possession and admittedly, as the possession was handed over only on 07.01.2017, the period of settlement could not have been truncated to 21.11.2020.

6. It appears from the records that in WP(C) No.1354/2017, an Interlocutory Application was filed being I.A.(Civil) No.1860/2020 wherein this Court vide an order dated 17.11.2020 observed that it would not be justified to curtail the said period at that stage. It was further directed that the petitioner's possession shall not be disturbed on the ground of expiry of the period but it would be open for the department to call the petitioner for negotiation so that reasonable rate is arrived at by the parties with regard to the Fishery in question. It was further mentioned that the said observation not to disturb the possession of the Fishery on the ground of expiry of the period is not based on merit and it shall be the discretion of the Government to take appropriate action on the ground of

default. The said order dated 17.11.2020 was an interlocutory order.

7. In the meantime prior to what has been mentioned in the immediate paragraph supra, a decision was taken on 26.10.2017 in the Conference Hall of the Deputy Commissioner, Dibrugarh to examine and re-define the boundary of River Fishery Mahals, excluding the Core, Buffer and Eco-Sensitive Zone, area of Dibru Saikhowa National Park/Dibru Saikhowa Biosphere Reserve as per the order of the Chief Secretary, Assam communicated vide Memo dated 29.11.2016. In the Minutes of the Meeting dated 26.10.2017, a decision was taken to constitute a new Fishery i.e. Dibru-Brahmaputra Fishery Mahal and re-define the boundary of the Schedule Fishery. The Minutes of the Meeting dated 26.10.2017 was put to challenge by the petitioner in WP(C) No.6634/2017.

8. This Court vide an order dated 06.11.2017 directed that the settlement holder must not do any fishing within the protected area of Dibru Saikhowa National Park but they may continue their fishing within that truncated area of their fishery as per the decision adopted on 26.10.2017. The said order dated 06.11.2017 was put to challenge in Writ Appeal No.313/2017 wherein the Division Bench of this Court vide an order dated 10.11.2017 directed the authorities to allow the petitioner to operate the fishing activities in terms with the settlement dated 17.01.2017 till the final decision was taken on the proposal mooted in the Meeting held on 26.10.2017 for redefining the boundary of the Schedule Fishery. The said Writ Appeal i.e. WA No.313/2017 subsequently was disposed of vide an order dated 16.11.2018 thereby making the interim order dated 10.11.2017 absolute.

9. Subsequent thereto, vide an order issued by the Deputy Secretary to the Government of Assam, Revenue and Disaster Management Department dated

08.12.2017, it was notified that the Governor of Assam was pleased to redefine the boundary of the Dibru Part II and III River Fishery which was closed and a new fishery Mahal was created in the name and style of "Dibru Brahmaputra Fishery Mahal". This Notification dated 08.12.2017 was put to challenge in WP(C) No.7809/2017 by the petitioner. At this stage, this Court may take into consideration that in view of the Notification dated 08.02.2017, the writ petition i.e. WP(C) No.6634/2017 which was against the proposal had already become infructuous and the order dated 16.11.2018 passed in WA No.313/2017 lost its force.

10. This Court vide an order dated 31.01.2018 in WP(C) No.7809/2017 issued notice of motion and as an interim measure provided that the respondents i.e. Fishery Department shall not settle any area falling within the Schedule fishery in favour of any third party by creating a new fishery.

11. In the meanwhile, another development took place whereby vide an order dated 14.10.2017 certain restrictions were imposed under the provisions of Section 144 of the Code of Criminal Procedure, 1973 by the Additional District Magistrate whereby not only Assembly of more than 5% were prohibited but even commercial fishing activities were prohibited in Rongmala Gaon, Gereki Nepali, Gereki Mirigaon, Nafafu T.E. Baliyan and Rohmoria Gaon. Subsequent thereto, by an order dated 06.01.2018, the Deputy Commissioner, Dibrugarh had opined that the petitioner was nowhere affected on account of promulgation of the Prohibitory Order dated 14.10.2017 as there was no restriction issued in the said order regarding plying of empty boats. It was further opined that since the area specified fell within the Core and Buffer Zone area of Dibru Saikhowa National Park, the petitioner may approach the Chief

Wildlife Warden, Assam for necessary permission for plying within the specified area which is mandatory under the provisions of the Wildlife Protection Act, 1972 and Biosphere Reserve Protocol. The said order dated 06.01.2018 was thereupon again challenged by the petitioner in WP(C) No.2811/2018. It is relevant to mention that in the said writ petition, only notice has been issued on 25.05.2018. There was however no stay to the said order dated 06.01.2018.

12. Subsequent thereto, on 26.12.2019, the Deputy Secretary to the Government of Assam, Fisheries Department on the orders of the Governor allowed M/S Dibruparia Part II & III Pisciculture Cooperative Society Ltd. to run the Dibru Brahmaputra Fishery which was the erstwhile Dibru Part II and Part III Fishery on daily basis at Rs.440/- per day based on enhanced annual revenue of Rs.1,58,171/- in terms of earlier Government order dated 09.05.2017 as an interim arrangement till settlement. This order dated 26.12.2019 was put to challenge by the petitioner in WP(C) No.868/2020. It was the specific stand of the petitioner that the Dibru Brahmaputra Fishery is on the South part of Part III of the Brahmaputra Part III, IV and V fishery and is geographically correct fact which is visible to the eye and can also be ascertained from the boundaries of the Brahmaputra Part III, IV and V fishery as indicated in the Possession Certificate dated 17.01.2017 and the boundaries and the GPS coordinates of the Dibru Brahmaputra Fishery as indicated in the notification dated 08.12.2017. It appears from the records that on 01.10.2020, this Court had only issued notice and there was no stay to the order dated 26.12.2019.

13. It further appears that the petitioner herein filed another writ petition i.e. WP(C) No.2758/2020 whereby the petitioner sought for a direction upon the

respondent authorities to issue a new notification re-defining the boundaries of the Dibru Brahmaputra Fishery as per the survey conducted pursuant to the order dated 05.02.2020 passed by this Court in Review Petition No.143/2019. At this stage, it may be relevant herein to mention that the Division Bench of this Court vide an order dated 05.02.2020 in Review Petition No.143/2019 directed for making a survey through the proper officials in the Office of the Deputy Commissioner and submit the report before the Court as to the physical location of Brahmaputra Part III, IV and V Fishery and that of the Dibru Nadi Part II and III Fishery which was subsequently re-named as Dibru Brahmaputra Fishery Mahal and further as to whether the physical location over which the fisheries concerned are located are same or they are different. It was further directed that the survey report shall also indicate the geographical location of Brahmaputra Part III, IV and V Fishery as it stood in the year 2013 when the settlement was made in favour of the petitioner (the review petitioner therein). It appears from the records that in WP(C) No.2758/2020, this Court had issued notice and it was further observed that the interim prayer shall be considered on the returnable date. It however appears from the records that there was no interim order passed in the said writ petition.

14. Subsequent thereto, the Dibruparia Part II and III Pisciculture Cooperative Society Ltd. filed a writ petition i.e. WP(C) No.4403/2020. The grievance of the said society in the said writ petition was the inaction on the part of the respondents in not issuing a notification redefining the boundary of Brahmapura Part III, IV and V Fishery as it would be evident from the affidavit dated 08.05.2020 of the Deputy Commissioner, Dibrugarh in Review Petition No.143/2019 and therefore sought for a Mandamus upon the respondents for issuance of a new notification. It appears on record that in the said writ petition,

notice was only issued.

15. It further appears that while the issue pertaining to redefining the boundaries were going on, an order dated 03.12.2020 was passed by the Joint Secretary to the Government of Assam, Fishery Department wherein the petitioner was directed to deposit an amount of Rs.50,83,812/- within 7 (seven) days from the date of service of the said order failing which the Deputy Commissioner, Dibrugarh was directed to take immediate steps to initiate Bakijai Proceedings against the petitioner and submit the report to the Government for further follow up action as deem fit. The said order dated 03.12.2020 has been put to challenge by the petitioner in WP(C) No.5514/2020. It appears from the records that this Court vide an order dated 15.12.2020 had issued notice of motion. It was further observed that the prayer for interim relief would be considered on the returnable date. However, as an ad-interim measure, the operation of the order dated 03.12.2020 was suspended till the returnable date subject to the condition that on or before dated 22.01.2021, the petitioner deposits a sum of Rs.25,00,000/- as an interim payment before the respondent No.3, i.e. the Deputy Commissioner, Dibrugarh. It was further clarified that it was only subject to the compliance with the condition, the possession of the petitioner in respect of the fishery shall not be disturbed till the returnable date.

16. It transpires from the records that a challenge was made to the order dated 15.12.2020 by the petitioner in Writ Appeal No.6/2021 whereby vide the order dated 08.01.2021, the petitioner was directed to pay Rs.5,00,000/- as an interim measure. Subsequent thereto, vide another order dated 19.02.2021, the Writ Appeal No.6/2021 was disposed of with a direction that the petitioner shall further deposit an amount of Rs.5,00,000/- on or before 15.03.2021 and the

learned Single Judge was requested to dispose of the writ petition as early as possible. It was also mentioned that the petitioner should continue to pay the "kist" money regularly. It is also relevant to take note of that the period of payment of the amount was further extended till 31.03.2021 vide another order dated 10.03.2021 passed in I.A.(Civil) No.636/2021. It is also relevant to take note of that in WP(C) No.5514/2020, another Interlocutory Application was filed i.e. I.A.(Civil) No.567/2021. This Court vide an order dated 24.03.2021, upon the undertaking given by the writ petitioner that the balance amount of Rs.3,00,000/- would be paid on or before 31.03.2021 directed that in the interest of justice, the petitioner society be allowed to carry out the fishing activity at least till 31.03.2021.

17. Subsequent thereto, the record further unravels that the Divisional Forest Officer, Tinsukia Wildlife Division, Tinsukia vide an order dated 02.06.2021 informed the Secretary of the petitioner that the Dibru Saikhowa National Park is a protected area declared under Wildlife Protection Act, 1972. It is an inviolate area wherein no commercial fishing can be allowed as well as no trespassing can be allowed and as such no navigable activities for commercial fishing would be permitted under Dibru Saikhowa National Park. This Order dated 02.06.2021 was put to challenge in WP(C) No.3169/2021 through its Secretary by the Petitioner. It appears from the records that till date, no notice has been issued in the said matter. However, there are orders whereby instructions were sought for.

18. Subsequent thereto, vide another order dated 02.09.2021, the Wildlife Warden in the Office of the Principal Chief Conservator of Forest Wildlife and Child Wildlife Warden, Assam had issued a communication to the Divisional

Forest Officer, Tinsukia, Wildlife Division stipulating the various conditions under which legitimate fishermen can be allowed access to fish in identified Mahals through the Dibru Saikhowa National Park. The learned counsel appearing on behalf of the petitioner therefore submits that in view of the communication dated 02.09.2021, the petitioner was allowed thereafter to navigate subject to fulfilling those conditions mentioned in the communication dated 02.09.2021 and as such, the grievances as set out in WP(C) No.3169/2021 was duly addressed to.

19. Pursuant to the order dated 02.09.2021, Dibruparia Part II and III Pisciculture Cooperative Society Ltd. filed another writ petition being WP(C) No.3428/2021 challenging the order dated 02.09.2021 apprehending unnecessary disturbance to be caused in the settled fishery namely Dibru Brahmaputra Fishery inasmuch as the Brahmaputra Part III, IV and V Fishery Mahal was contiguous to the fishery of Dibruporia Part II and II Pisciculture Cooperative Society Ltd. and the petitioner's fishing activities would affect the fishing activities of the society. The challenge to the order dated 02.09.2021 was made on the ground that the said order was issued by the Chief Wildlife Warden, Assam for oblique purpose for the benefit of the petitioner. It is relevant to take note of that vide an order dated 08.10.2021, notice was issued keeping the issue of maintainability of the writ petition pending.

20. The Dibruparia Part II and II Pisciculture Cooperative Society Ltd. as a writ petitioner had filed another writ petition thereafter which is WP(C) No.7207/2021. In the said writ petition, the said society challenged the order dated 08.12.2021 issued by the District Fishery Development Officer, Tinsukia whereby the petitioner was allowed to sale the caught fish in Dholla Bazar and

other Ghats of Tinsukia District. The challenge made to the said order was on the ground that the District Fishery Development Officer had no jurisdiction to pass such order. It appears from the record that this Court vide an order dated 22.12.2021 had only issued notice. This very order dated 08.12.2021 was also put to challenge by another writ petitioner i.e. Rangagorah Fishermen Cooperative Society Ltd. on similar grounds. The said writ petition was registered and numbered as WP(C) No.7006/2021. In the said writ petition also, this Court vide an order dated 21.12.2021 issued notice.

21. Before further proceeding with the facts involved, it is relevant to take note of another proceedings which though not directly connected but incidentally affects the outcome of the present proceedings. The writ Petitioner in WP(C) No.7006/2021 is a Society in the name and style of Rangagorah Fisherman Cooperative Society Ltd. was settlement holder in Dibru Part II and III River fishery. The said society had made a claim for remission. The Fishery Department, Government of Assam had rejected the said claim and directed the Deputy Commissioner, Dibrugarh to immediately start the process of issuing tender for settlement of the fishery which is now renamed as Dibru Brahmaputra fishery and further provided that if the society i.e. Rangagorah Fishermen Cooperative Society Ltd. still continues to raise any issue for remission, it would be separately considered and such claim be referred to the Judicial Department of the Government of Assam and thereafter if required to the Finance Department of the Government of Assam.

22. The said society Rangagorah Fishermen Society Ltd. challenged the aforesaid order of the Fishery Department to the Government of Assam by a writ petition which was registered as WP(C) No.1173/2017. This Court vide an

order dated 07.05.2019 dismissed the said writ petition. Being aggrieved, a Writ Appeal being WA No.164/2019 was filed. The Division Bench of this Court vide an order dated 17.07.2019 dismissed the Writ Appeal with a direction that Dibru Brahmaputra Fishery Mahal be settled by initiating a fresh tender as provided under the Rules and the claim of the Appellant therein- Rangagorah Fishermen Cooperative Society Ltd. for remission in respect to the earlier settlement shall not come in the way of the Respondent Fishery Department in initiating a fresh settlement of the Fishery- Dibru Brahmaputra Fishery Mahal.

23. The petitioner herein who is the existing settlement holder of the Schedule fishery filed a review being Review Petition No.143/2019 seeking review of the order dated 17.07.2019 in WA No.164/2019 on the ground that as Dibru Brahmaputra Fishery is on the South Part of Part III of the Schedule Fishery, the directions to initiate tender process for Dibru Brahmaputra fishery would affect their existing settlement.

24. It further appears from the records that vide an order dated 06.09.2022 in the Review Petition No.143/2019, the Division Bench of this Court had observed in the order dated 17.07.2019 in Writ Appeal No.164/2019, the Division Bench did not decide on the territorial jurisdiction of Dibru Brahmaputra Fishery Mahal as to whether the territorial jurisdiction has been rightly provided or it included the part of some other fishery. What has been provided is that the fishery in question i.e. Dibru Brahmaputra Fishery Mahal should be settled by a tender process and the Division Bench neither found any illegality in the said order to be interfered with under the review jurisdiction nor any acceptable ground was pointed out by the review petitioner as to why the said directions should be recalled. However, the Division Bench further observed that if the review

petitioner (the petitioner herein) is of the view that part of the fishery settled with the petitioner is also included, it is for the review petitioner to take up such issue with the appropriate authority without affecting the direction to the Deputy Commissioner, Dibrugarh to settle the Dibru Brahmaputra Fishery Mahal by way of a tender process and not to keep the process pending any further. It was further observed that in doing so, if any territorial area of Dibru Brahmaputra Fish Mahal is required to be excluded, the Deputy Commissioner and the Fishery Department shall immediately give a hearing to such party who may raise objection and settle the territorial jurisdiction within one month from the order. Further to that, the petitioner was given the liberty to file appropriate representation before the Deputy Commissioner, Dibrugarh and the Fisheries Department within a period of 3 days from the date of the said order and thereafter within a period of another 3 weeks from the date of the receipt of the representation, the Deputy Commissioner and the Fishery Department were directed to decide on the territorial jurisdiction of Dibru Brahmaputra Fishery Mahal. It was observed that if such decision results in the original territorial jurisdiction being retained, the tender process in respect to the entire territorial jurisdiction be initiated and if the decision arrived at would be that a portion of it is required to be excluded, the tender process in respect to the fishery in question be carried forward by excluding the portion i.e. required to be excluded. However, it was reiterated that the decision on the question of exclusion of any part of Dibru Brahmaputra Fishery shall be rendered within the stipulated period and there should be no further delay in settling the fishery in question by way of tender process.

25. It appears from the records that the petitioner submitted the representation on 08.09.2022. Pursuant to the said representation so submitted,

the Commissioner and Secretary to the Government of Assam took a hearing on 27.09.2022. By an order dated 06.02.2023, the Commissioner and Secretary, Fishery Department observed that the entire Dibru Brahmaputra Part III of Brahmaputra Part III, IV and V fishery is within the notified boundary of Sadiya Saikhowa National Park and thus the petitioner was illegally operating the said part of the fishery. As regards the claim of the petitioner that major part of Brahmaputra Part III have been included in the neighboring Dibru Brahmaputra Fishery Mahal, it was found to be authentic during re-verification of the boundary of the fishery by Deputy Commissioner, Dibrugarh as per his submission before this Court in the Review proceedings. However, from records it appeared that though Dibru Brahmaputra Fishery Mahal came into existence in 2017, but was allowed to be operated on daily basis from December/2019 after clearance of legal hurdles. It was observed that the plea of the petitioner is only partially true and revenue is required to be adjusted for the part of Brahmaputra Part III (wrongly treated as part of the newly created Dibru Brahmaputra Fishery Mahal) which can be ascertained from joint survey in the light of the Government order dated 01.10.2022 for the period actually it was operated by the lessee of the newly created fishery. It was further observed in the said order dated 06.02.2023 that the petitioner had deposited Rs.20,79,724/- out of the total revenue of Rs.88,56,634/- w.e.f. 17.01.2017 to 21.09.2022 including adjustment of earnest money and the security deposit and thus an amount of Rs.64,98,306/- was outstanding. Out of the above, the proportionate revenue for overlapping area under Brahmaputra Part III Fishery included in the newly created Dibru Brahmaputra Fishery Mahal in terms of Government order dated 26.12.2019 has to be adjusted from the date of handing over possession of the newly created fishery. It was further observed

that the petitioner on one plea or another had not deposited the revenue. Under such circumstances, on the ground that the petitioner is a willful defaulter of the revenue and as per the decision taken in the hearing on 27.09.2022 and the report of the Deputy Commissioner, Dibrugarh dated 19.10.2022 as well as taking into consideration the order passed this Court, the Government was pleased to withdraw the lease of the fishery in favour of the petitioner with immediate effect. However, considering the legal aspect of the matter of tenure of the fishery due to pending writ petitions before this Court as stated, the Government was pleased to allow the petitioner to run the fishery on daily basis @10% above existing revenue as a stop gap arrangement till further order subject to the condition that the petitioner society shall deposit at least 75% of total dues of the fishery as on 31.12.2022 within 15 days from the date of issue of the order failing which Bakijai proceedings shall be initiated under the Bengal Public Demand Recovery Act, 1913 and possession of the fishery taken over immediately. Being aggrieved, the petitioner therefore had approached this Court by challenging the order dated 06.02.2023 in Writ Petition No.998/2023. This Court vide an order dated 23.02.2023 had issued notice making it returnable today and the interim order was also to be taken up for consideration today.

26. The Dibruparia Part II and III Pisciculture Cooperative Society Ltd. had also filed another writ petition i.e. WP(C) No.1003/2023 challenging the order dated 06.02.2023 on the ground that as the petitioner is a rank defaulter, the question of allowing the petitioner to operate Brahmaputra Part III, IV and V fishery on daily basis was unwarranted and was in violation to Rule 8(E) of the Fishery Rules, 1953 and accordingly liable to be interfered with. In the said writ petition also, this Court had issued notice making it returnable on 02.03.2023.

27. I have heard the learned counsels for the parties. From the admitted facts, it is apparent that vide an order dated 22.11.2013 that the petitioner was settled with the schedule fishery for a period of 7 years from the date of handing over of possession. At the time when the order was passed on 22.11.2013, there were no litigations challenging the said settlement in favour of the petitioner. It was only thereafter that there were various litigations which resulted in stay orders thereby restraining the respondent authorities in handing over the possession of the Schedule fishery to the petitioner in question. Subsequent to the withdrawal of the various writ petitions wherein the order dated 22.11.2013 was put to challenge, the Deputy Commissioner, Dibrugarh had issued an order thereby granting the settlement rights to the petitioner for a period of 7 years w.e.f 16.01.2017 to 15.01.2024 at an amount of Rs.15,53,038/- per year for 7 years. It also appears from the records that on 17.01.2017, the petitioner was handed over the possession of the Schedule fishery. It further appears from the records that immediately thereafter, the Deputy Commissioner, Dibrugarh had cancelled the order dated 16.01.2017 on the ground that it is the Government who is competent Authority to issue the order and not the Deputy Commissioner. This order however has been interfered with in WP(C) No.420/2017 vide an order dated 15.02.2017.

28. Thereupon, the Government has issued an order on 24.02.2017 thereby limiting the period of lease/settlement till 21.11.2020 on the ground that if the settlement period is enlarged, the question of enhancement of rate as well as the question of retender would arise. This aspect of the matter has been put to challenge in WP(C) No.1354/2017. Therefore, the pivotal question which arises as to whether the petitioner has a right to continue with the settlement beyond the period from 21.11.2020 or for that matter, as to whether the action of the

respondent authorities in limiting the period to 21.11.2020 is arbitrary for which this Court should exercise the power of judicial review. It is the opinion of this Court that taking into consideration that the writ petitions are being taken into consideration in the year 2023 i.e. after the period mentioned in the order dated 24.02.2017 have lapsed all the questions as regards the territorial jurisdiction of the Schedule fishery or as to whether on the facts the petitioner is entitled to remission of the Revenue would take a backseat and would be subject to the pivotal question which in the opinion of this Court has spinal significance. Therefore, let this Court take into consideration as to whether the order dated 24.02.2017 is liable to be interfered with.

29. The reasons assigned in the order dated 24.02.2017 is clear that if the period is further enlarged, the question of enhancement of rate would arise and this would also require retender. This Court cannot be unmindful of the fact that at the time when the order dated 22.11.2013 was passed by the Secretary to the Government of Assam in the Fishery Department, the fact that the possession would not be handed over to the petitioner for 4 (four) years could not be foreseen and in that circumstances it was mentioned that the settlement was for a period of 7 years from the date of handing over the possession. The delay in handing over the possession obviously had occasioned due to various litigations pending before this Court and it was only after almost a period of 4 years have elapsed, the petitioner could be handed over the possession.

30. It is also relevant to take note of that the power of Judicial Review can only be exercised when the actions of the respondent authorities are arbitrary, unreasonable, perverse and which does not confirm to the Wednesbury Principle meaning thereby that the actions of the respondents are such that no

reasonable man can conceive of taking such actions. In the instant case, it would be seen that the tender in question for the Schedule Fishery was floated in the year 2011 wherein it was mentioned that the period of settlement would be 7 years. In pursuance to the bidding process, it was found that the petitioner's bid was the highest i.e. Rs.1,08,71,264/- for a total period of 7 years and accordingly in the year 2013, the settlement was awarded for a period of 7 years from the date of handing possession. At this stage, it may be relevant to mention that at that point of time, there stood no embargo for handing over the possession of Schedule fishery when the order dated 22.11.2013 was issued. It was subsequently due to various litigations that the possession of the Schedule fishery could not be handed over as aforestated. This Court cannot be oblivious of the fact that the freezing of the revenue for the settlement was done only for a period of 7 years taking into consideration price factor at that relevant point of time. This was the contemplation of both the State and the Petitioner at that relevant point of time. The question of not being able to hand over the possession did not as well as could not have arisen at that point of time when the order dated 22.11.2013 was passed. If the contention of the petitioner is to be accepted that the 7 years of settlement would encompass 7 years from the date of actual possession in the peculiar facts of the case, would be giving a premium to the petitioner for the time spent on account of the litigation. This would not only result in deprivation of the Revenue to the State for the period under which the settlement could not be put in effect due to litigation but would also result in double deprivation if the period is enlarged beyond original stipulated period as subsequent to seven years, the revenue was not freezed in the contemplation of the State as well as the petitioner. Under such circumstances, this Court is of the opinion that the decision in the order dated

24.02.2017 that further enlargement would lead to enhancement of the revenue and without there being any retender, it would not be proper to do so, cannot be said to be an exercise of power arbitrarily, unreasonably, irrationally and perverse.

31. Let this Court further consider the order dated 24.02.2017 from another angle. It is relevant to take note of that a Constitution Bench of the Supreme Court in the case of ***M. Ramanatha Pillai Vs. State of Kerala and another reported in (1973) 2 SCC 650*** had also observed that generally a State is not subject to an estoppel to the same extent as in an individual or a private corporation. Otherwise, it might be rendered helpless to assert its powers in Government. Therefore, as a general rule the doctrine of estoppel will not be applied against the State in its governmental, public or sovereign capacity. An exception however arises in the application of estoppel to the State where it is necessary to prevent fraud or manifest injustice. Applying the said law to the present case, this Court is also of the opinion that the principles of estoppel cannot bind the State to the decision taken in the order dated 22.11.2013 or the order dated 16.01.2017 issued by the Deputy Commissioner, Dibrugarh sans any fraud or manifest, injustice being shown. It is apparent from a perusal of the records that the petitioner have failed to show any grounds of fraud in the decision dated 24.02.2017. No materials have also been shown as regards manifest injustice meted out to the petitioner in as much as the petitioner clearly knew at the stage of the order dated 22.11.2013 that its period of settlement was 7 years immediately therefrom when the possession was to be delivered.

32. Let this Court further take into account as to whether on the principles of promissory estoppel which is another facet of estoppel, can bind the

respondents to the decision dated 22.11.2013 as well as 16.01.2017. This Court is of the opinion that not only there is absence of pleadings that the petitioner had changed or altered its position pursuant to the order dated 22.11.2013 or 16.01.2017 till the order dated 24.02.2017 but the law is also well settled that the doctrine of promissory estoppel cannot be invoked for preventing the Government from discharging its functions under law. {See ***Jit Ram Shiv Kumar Vs. State of Haryana*, reported in (1981) 1 SCC 11**}.

33. For the above reasons therefore, this Court is of the opinion that the order dated 24.02.2017 cannot be interfered with and therefore the settlement period for the petitioner has to be construed for a period of 7 years from 22.11.2013 to 21.11.2020. The said observation however also requires another aspect of the matter that by dint of various proceedings filed before this Court and interim orders being passed, the petitioner was allowed to continue with the settlement beyond the said period. It would however be relevant to mention that vide the order dated 06.02.2023, the settlement period was terminated on the ground of default. Taking into consideration that the period of settlement was rightly fixed by the State vide the order dated 24.02.2017 but on account of default in paying the Revenue, the settlement was terminated, this Court in the peculiar facts of the instant case opines that the settlement period ended on 06.02.2023 by efflux of time and the Respondent State therefore is required to put to sale the Schedule fishery by way of tender forthwith.

34. Few other aspects also arises for consideration in the present facts. First is the question relating to redefining the boundaries of the Schedule fishery in view of the admitted stand of the Respondent State that some portion of the Dibru Brahmaputra Fishery overlaps the Part III of the Schedule Fishery. The

question of redefining the boundaries of the Fishery Mahal is within the exclusive domain of the State/Executive and the parameters of interference are very limited except on the grounds of arbitrariness, irrationality, perversity and malafide. In view of the fact that this Court upheld the order dated 24.02.2017 and further in the immediate paragraph hereinabove had held that the determination of the settlement would be deemed w.e.f. 06.02.2023, this Court finds no reason to interfere with the redefining of the boundaries at the instance of a society who has now no settlement in its favour. Secondly, there arises no case of arbitrariness, irrationality, perversity and malafide which would justify any interference.

The second aspect is the question of remission and to what amount the petitioner would be entitled for remission. The petitioner through its pleadings have alleged the reasons for which the petitioner would not pay the revenue. It is the case of the petitioner that on account of redefining the boundaries, the difficulties faced due to COVID pandemic, the difficulties faced on account of not being allowed to ply their boats due to the Forest Department intervention, the difficulties faced on account of the Mising Autonomous Council granting settlement in the area of operation, etc. are few of the many allegations made in the pleadings. The question whether the said allegations are correct and stands vindicated depends on the adjudication in the realm of the pure question of facts which this Court cannot do so in a proceedings under Article 226 of the Constitution. However, the allegation so made are in the realm of legitimate expectation of the petitioner which the Respondent State Authorities are bound to consider. Having said so, this Court is therefore of the opinion that the interest of justice would be met if a direction is given to the Respondent State to consider as to whether the petitioner is entitled to

remission. It is however made clear that the said consideration as regards remission should not in any manner forestall the tender process for sale of the Schedule fishery by way of tender process.

The third aspect pertains to the writ petitions filed by Dibruparia Part II and III Pisciculture Coop. Society Ltd. and Rangagorah Fishermen Cooperative Society Ltd. It is the specific stand of the learned counsels for the said Cooperative Societies that nothing survives in their writ petitions upon the decision taken by this Court thereby upholding the order dated 24.02.2017 and treating the settlement in favour of the petitioner have ended on 06.02.2023. Under such circumstances, the said writ petition stands closed as infructuous.

35. Another relevant aspect of the matter that arises in the submission of the learned counsel for the petitioner is that as the respondent State had been directed to consider the case of the petitioner for entitlement of remission, the Respondent State should not treat the petitioner as a defaulter till such decision is arrived at and the order dated 06.02.2023 in so far as holding the petitioner as defaulter is required to be interfered with. The learned counsel further submitted that one of the requirements for submitting a valid tender is the non-encumbrance certificate and the said certificate would not be issued to the petitioner if the petitioner is held a defaulter at the nick of time and as such some protection, this Court is required to give to the petitioner if the Respondent State gives its decision on the petitioner's representation at the eleventh hour. This Court upon consideration of the peculiar facts of the case is of the opinion that taking into consideration that the Respondents have been directed to reexamine/reconsider the case of the petitioner for remission of the Revenue, it would be in the interest of justice to interfere with the order dated

06.02.2023 to the extent only where the petitioner had been held as a defaulter and liable to pay Rs.64,98,306/-

It is made clear that this interference to the order dated 06.02.2023 shall not mean that decision to go for fresh settlement is interfered with and/or that the Respondent State is not entitled to Revenue for the period of settlement till 06.02.2023. It is reiterated that the Respondent State shall forthwith take steps for settling the Schedule Fishery or such part of the Schedule Fishery after redefining by way of tender process. The Respondent State shall consider the representation if so submitted within the time as specifically directed infra, and thereupon shall be entitled to such amounts so adjudged in accordance with law. As regards the question of treating the petitioner as a defaulter at the eleventh hour, this Court is of the opinion that if the decision taken in the representation is within 10 days from the last date of submission of the tender in respect to the Schedule fishery or such part of the Schedule fishery, then the petitioner cannot be treated as a defaulter for not making payment of the amount so adjudged.

36. In view of the above, all the writ petition stands disposed of with the following observations and directions.

- (i) The period of settlement of the petitioner in respect to the schedule fishery i.e. Dibru Brahmaputra Part III, IV and V Fishery would for a period of 7 years from 22.11.2013 to 21.11.2020 thereby affirming the order dated 24.02.2017. Taking into consideration that by virtue of the orders passed by this Court and the order dated 06.02.2023, the period of settlement for the reasons above discussed would deemed to have come to an end on 06.02.2023.

(ii) The Respondent State shall take steps forthwith for sale of the Schedule Fishery or so much of the Schedule Fishery after redefining within a period of one month from today and complete the said process as early as possible. The entire exercise be completed within three months from today.

(iii) During this interregnum, the Respondent State is given the liberty to run the fishery by adopting an acceptable mode on daily basis.

(iv) The order dated 06.02.2023 is only interfered with to the extent indicated hereinabove i.e. the specific observations and findings to the effect that the petitioner is a defaulter and liable to pay Rs.64,98,306/- as Revenue. The entitlement of the Respondent State have been specifically dealt with in paragraph No.35 herein above.

(v) The petitioner is given the liberty to submit a representation within 15 days from the date of this judgment to the Commissioner and Secretary to the Government of Assam, Department of Fisheries seeking remission of such amount(s) on the grounds and reasons for which the petitioner could not run the Schedule fishery during the period of settlement. The said Authority shall give the petitioner an opportunity of hearing so that the petitioner is able to project its case and thereupon pass a reasoned order in accordance with law. It is made clear that if the petitioner fails to file the representation within the period as stipulated hereinabove, the Order dated 06.02.2023 in so far as holding the petitioner a defaulter and liable to pay Rs.64,98,306/- subject to certain adjustments shall revive. It is also clarified that the petitioner shall not cause any hindrance and/or cause delay in the adjudication to be made.



(vi) It is further directed that if the Authority to whom the representation is submitted fails to pass any order prior to 10 days from the last date of submission of tender for the Schedule fishery or so much of the Schedule fishery after redefining, the petitioner in the peculiar facts of the case would not be treated as a defaulter.

(vii) It is further made clear that the question of the entitlement for remission by the petitioner shall not in any manner effect and/or forestall the Respondent Authorities to proceed with the directions made in paragraph 36(ii) hereinabove.

JUDGE

Comparing Assistant