



GAHC010115412022

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

WP(C)/2783/2022

MAHENDRA DAS
S/O- LT. GHANASHYAM DAS
R/O- VILL. GILLIPARA
P.O. SORBHOG
DIST. BARPETA
PIN- 781317
ASSAM.

VERSUS

THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM AND 4
ORS.
FISHERY DEPTT.
DISPUR
GHY.- 781006.

2:THE ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
V.I.P. ROAD
CHACHAL
GUWAHATI- 36
REP. BY ITS MANAGING DIRECTOR.

3:THE MANAGING DIRECTOR
THE ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
V.I.P. ROAD
CHACHAL
GUWAHATI- 36

4:THE ACCOUNTS OFFICER
THE ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
V.I.P. ROAD
CHACHAL
GUWAHATI- 36

5:THE PROJECT SUPERVISOR
HEAD QUARTER- SARTHEBARI REGIONAL OFFICE



DIST.- BARPETA.

Advocate for : MR. R K D CHOUDHURY

Advocate for : GA

ASSAM appearing for THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM AND 4 ORS.

Linked Case : WP(C)/2869/2022

RAMESH KR DAS AND ANR

S/O- LT. SARBESWAR DAS

R/O- MORIGAON

P.O.- AZARBARI

VILL.- RAJAGAON

DIST.- MORIGAON

ASSAM

PIN- 782105.

2: BHUBANESWAR DAS

S/O-

R/O- VILL. SOLMARI

P.O.- BHURBANDHA

DIST.- MORIGAON

ASSAM

PIN- 782104.

VERSUS

THE ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED AND 3 ORS

BEING REP. BY ITS MANAGING DIRECTOR

BIMALA PRASAD CHALIHA ROAD

CHACHAL

VIP ROAD

GUWAHATI- 781036

KAMRUP(METRO) DISTRICT

ASSAM.

2:THE CHAIRMAN

THE ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED

BIMALA PRASAD CHALIHA ROAD

CHACHAL

VIP ROAD

GUWAHATI- 781036

KAMRUP(METRO) DISTRICT

ASSAM.

3:THE MANAGING DIRECTOR

THE ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED



BIMALA PRASAD CHALIHA ROAD
CHACHAL
VIP ROAD
GUWAHATI- 781036
KAMRUP(METRO) DISTRICT
ASSAM.
4:THE PROJECT MANAGER
LOWER ASSAM REGION
ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
ABHAYAPURI
DIST.- BONGAIGAON
PIN- 783383
ASSAM.

Advocate for : MS. U BARUAH
Advocate for : SC
AFDC appearing for THE ASSAM FISHERIES DEVELOPMENT CORPORATION
LIMITED AND 3 ORS

Linked Case : WP(C)/3042/2022

BIMAL KRISHNA DAS
S/O- LT. BHUPESH CHANDRA DAS
VILL. GOVINDAPUR PART-III
P.O. GOVINDAPUR WEST
DIST.- CACHAR
ASSAM
PIN- 788804.

VERSUS

THE ASSAM FISHERIES DEVELOPMENT CORPORATION LTD. AND 3 ORS.
REP. BY THE CHAIRMAN
V.I.P. ROAD
CHACHAL
GUWAHATI
DIST.- KAMRUP
ASSAM- 781036.

2:THE MANAGING DIRECTOR
THE ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
V.I.P. ROAD
CHACHAL
GUWAHATI
DIST.- KAMRUP



ASSAM- 781036.
3:THE ASSTT. EXECUTIVE ENGINEER (I/C)
BARAK VALLEY REGION
AFDC LTD.
CACHAR
SILCHAR-9.
4:THE ASSTT. PROJECT MANAGER
BARAK VALLEY REGION
AFDC LTD.
CACHAR
SILCHAR-9.

Advocate for : MR. B J GHOSH
Advocate for : SC
AFDC appearing for THE ASSAM FISHERIES DEVELOPMENT CORPORATION
LTD. AND 3 ORS.

Linked Case : WP(C)/4347/2022

SIVA BHUYAN AND ANR.
S/O LATE TULASHI RAM BHUYAN
R/O EAST MILAN NAGAR
C.R. BUILDING
P.O.
P.S. AND DIST-DIBRUGARH
ASSAM-786001

2: DIHING NODI PANCHIMANCHAL NACHALIK MIN SAMABAY SAMITEE
LTD
SITUATED AT VILL-DEHING THAN GAON
P.O.-ITAKHOLI
DIST-DIBRUGARH
ASSAM
VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
FISHERIES DEPARTMENT
DISPUR
GUWAHATI-781006

2:THE ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
CHACHAL
VIP ROAD
GUWAHATI-781036



REPRESENTED BY THE CHAIRMAN
3:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMNET CORPORATION LTD.
CHACHAL
VIP ROAD
GUWAHATI-781036
4:THE GENERAL MANAGER
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
CHACHAL
VIP ROAD
GUWAHATI-781036
5:THE PROJECT MANAGER
AFDC LTD.
UPPER ASSAM REGION
DIBRUGARH
DIST-DIBRUGARH
ASSAM-786001

Advocate for : MR. B D KONWAR SR. ADV.
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 4 ORS.

Linked Case : WP(C)/3348/2022

AKASHI GANGA RURAL DEVELOPMENT NON-GOVT. ORGANIZATION
REPRESENTED BY ITS PRESIDENT- SRI GANESH DAS
AGED ABOUT 57 YEARS
SON OF LATE TULSI DAS
RESIDENT OF VILLAGE BHELOWGURI
P.O- BHELOWGURI
P.S. SAMAGURI
IN THE DISTRICT OF NAGAON
ASSAM. (STAKE HOLDER MANAGEMENT).

VERSUS

THE ASSAM FISHERIES DEVELOPMENT CORPORATION LTD. AND 2 ORS.
GOVERNMENT OF ASSAM UNDERTAKING
REPRESENTED BY ITS MANAGING DIRECTOR HAVING ITS REGISTERED
OFFICE AT VIP ROAD
CHACHAL
GUWAHATI- 781032.

2:THE CHAIRMAN
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.



GOVERNMENT OF ASSAM UNDERTAKING
HAVING ITS REGISTERED OFFICE AT VIP ROAD
CHACHAL
GUWAHATI- 781032.
3:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
GOVERNMENT OF ASSAM UNDERTAKING
HAVING ITS REGISTERED OFFICE AT VIP ROAD
CHACHAL
GUWAHATI- 781032.

Advocate for : MR. P MAHANTA
Advocate for : SC
AFDC appearing for THE ASSAM FISHERIES DEVELOPMENT CORPORATION
LTD. AND 2 ORS.

Linked Case : WP(C)/2894/2022

M/S BISHKHOWA MACH DHARA AND UNNAYAN SS LTD AND ANR
REPRESENTED BY ITS PRESIDENT SRI SURESH BISWAS
AGED ABOUT 45 YEARS
SON OF LATE SUREN BISWAS
RESIDENT OF BISHKHOWA
P.O. BISKHOWA
P.S. GOLAKGANJ
DIST. DHUBRI
ASSAM
PIN- 783334.

2: SURESH BISWAS
S/O- LATE SUREN BISWAS
R/O- VILL.- BISHKHOWA PT.- IV
P.O. BISKHOWA
P.S. GOLAKGANJ
DIST. DHUBRI
ASSAM
PIN- 783334.
VERSUS

THE ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED AND 4
ORS
BEING REPRESENTED BY ITS MANAGING DIRECTOR
BIMALA PRASAD CHALIHA ROAD
CHACHAL
VIP ROAD
GUWAHATI-781036



KAMRUP(M) DISTRICT
ASSAM

2:THE CHAIRMAN
ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
BIMALA PRASAD CHALIHA ROAD
CHACHAL
VIP ROAD
GUWAHATI-781036
KAMRUP(METRO) DISTRICT
ASSAM

3:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
BIMALA PRASAD CHALIHA ROAD
CHACHAL
VIP ROAD
GUWAHATI-781036
KAMRUP (METRO) DISTRICT
ASSAM

4:THE PROJECT MANAGER
LOWER ASSAM REGION
ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
ABHAYAPURI
DIST.- BONGAIGAON
PIN- 783383
ASSAM

5:THE JUNIOR ENGINEER (SENIOR GRADE)

LOWER ASSAM REGION
ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
ABHAYAPURI
DIST. BONGAIGAON
ASSAM
PIN- 783383.

Advocate for : MS. U BARUAH

Advocate for : SC

AFDC appearing for THE ASSAM FISHERIES DEVELOPMENT CORPORATION
LIMITED AND 4 ORS

Linked Case : WP(C)/4206/2022

SUNIL HAZARIKA
S/O LATE BHUPEN HAZARIKA
R/O VILL-TETELICHARA
P.O.-TETELICHARA



KAMPUR
NAGAON DISTRICT
ASSAM
PIN-782426

VERSUS

THE ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED AND 3
ORS
BEING REPRESENTED BY ITS MANAGING DIRECTOR
BIMALA PRASAD CHALIHA ROAD
CHACHAL
VIP ROAD
GUWAHATI-781036
KAMRUP(M) DISTRICT
ASSAM

2:THE CHAIRMAN
ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
BIMALA PRASAD CHALIHA ROAD
CHACHAL
VIP ROAD
GUWAHATI-781036
KAMRUP(M) DISTRICT
ASSAM

3:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
BIMALA PRASAD CHALIHA ROAD
CHACHAL
VIP ROAD
GUWAHATI-781036
KAMRUP(M) DISTRICT
ASSAM

4:THE PROJECT MANAGER
UPPER ASSAM AND MIDDLE ASSAM ZONE
ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
DIST-NAGAON
ASSAM

Advocate for : MR. M K CHOUDHURY

Advocate for : SC

AFDC appearing for THE ASSAM FISHERIES DEVELOPMENT CORPORATION
LIMITED AND 3 ORS



Linked Case : WP(C)/2817/2022

M/S 129 HARIA DABLONG MIN S.S. LTD. AND ANR.
REP. BY ITS SECY. KUSHAL DAS
AGE- 43 YRS
S/O- LATE BOLO RAM DAS
R/O- VILLAGE AMKATA
P.O- KHULAGAON
P.S- JAGIROAD
DIST- MORIGAON
ASSAM
PIN-782411

2: KUSHAL DAS
S/O- LATE BOLO RAM DAS
R/O- VILLAGE AMKATA
P.O- KHULAGAON
P.S- JAGIROAD
DIST- MORIGAON
ASSAM
PIN-782411
VERSUS

THE ASSAM FISHERIES DEVELOPMENT CORPORATION LTD. AND 3 ORS.
REP. BY THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
BIMALA PRASAD CHALIHA ROAD
VIP ROAD
CHACHAL
GUWAHATI-781036
DIST-KAMRUP(M)
ASSAM

2:THE CHAIRMAN
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
BIMALA PRASAD CHALIHA ROAD
VIP ROAD
CHACHAL
GUWAHATI-781036
DIST-KAMRUP(M)
ASSAM

3:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
BIMALA PRASAD CHALIHA ROAD
VIP ROAD
CHACHAL
GUWAHATI-781036



KAMRUP(M)
ASSAM
4:THE PROJECT MANAGER
MIDDLE ASSAM REGION
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
KARMARI NANDINI BEEL
DIST- MORIGAON
ASSAM

Advocate for : MRS. U BARUAH
Advocate for : SC
AFDC appearing for THE ASSAM FISHERIES DEVELOPMENT CORPORATION
LTD. AND 3 ORS.

Linked Case : WP(C)/2987/2022

KARIMGANJ KALYAN PARISHAD
(A NON-GOVERNMENTAL ORGANIZATION)
VILL. SAGARPAR
P.O. CHATAL
P.S. KARIMGANJ
DIST.- KARIMGANJ
ASSAM
PIN- 788720
BEING REPRESENTED BY ITS SECRETARY
SHRI SUDHIR ROY
AGED ABOUT 60 YEARS
S/O- LATE NARENDRA ROY
R/O- VILL. KHAGAIL
P.O. CHATAL
P.S. AND DIST.- KARIMGANJ
ASSAM
PIN- 788720.

VERSUS

ASSAM FISHERIES DEVELOPMENT CORPORATION LTD. AND 5 ORS.
REP. BY ITS MANAGING DIRECTOR
CHACHAL
VIP ROAD
GUWAHATI
KAMRUP (M)
ASSAM
PIN- 781036.



2:THE CHAIRMAN
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.

CHACHAL
VIP ROAD
GUWAHATI
KAMRUP (M)
ASSAM
PIN- 781036.

3:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.

CHACHAL
VIP ROAD
GUWAHATI
KAMRUP (M)
ASSAM
PIN- 781036.

4:THE ASSISTANT EXECUTIVE ENGINEER
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.

BARAK VALLEY REGION
RONGPUR
SILCHAR
DIST.- CACHAR
ASSAM
PIN- 788009.

5:THE PROJECT MANAGER
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.

BARAK VALLEY REGION
RONGPUR
SILCHAR
DIST.- CACHAR
ASSAM
PIN- 788009.

6:THE ASSISTANT PROJECT MANAGER
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.

BARAK VALLEY REGION
RONGPUR
SILCHAR
DIST.- CACHAR
ASSAM
PIN- 788009.

Advocate for : MR. P D NAIR

Advocate for : SC

AFDC appearing for ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
AND 5 ORS.



Linked Case : WP(C)/2786/2022

AJOY BISWAS
S/O SUBHAS CHANDRA BISWAS
R/O GAURIPUR
P.O.-GAURIPUR
P.S.-GUARIPUR
DIST-DHUBRI
ASSAM
PIN-783331

VERSUS

THE ASSAM FISHERIES DEVELOPMENT CORPORATION LTD. AND 3 ORS.
BEING REPRESENTED BY ITS MANAGING DIRECTOR
BIMALA PRASAD CHALIHA ROAD
CHACHAL
VIP ROAD
GUWAHATI-781036
KAMRUP(M) DISTRICT
ASSAM

2:THE CHAIRMAN
ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
BIMALA PRASAD CHALIHA ROAD
CHACHAL
VIP ROAD
GUWAHATI-781036
KAMRUP(M) DISTRICT
ASSAM

3:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
BIMALA PRASAD CHALIHA ROAD
CHACHAL
VIP ROAD
GUWAHATI-781036
KAMRUP(M) DISTRICT
ASSAM

4:THE PROJECT MANAGER
LOWER ASSAM REGION
ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
ABHAYAPURI
DIST-BONGAIGAON
ASSAM
PIN-783383



Advocate for : MRS. U BARUAH

Advocate for : SC

AFDC appearing for THE ASSAM FISHERIES DEVELOPMENT CORPORATION
LTD. AND 3 ORS.

Linked Case : WP(C)/2955/2022

MAHENDRA DAS
S/O- LATE GHANASHYAM DAS
R/O- VILLAGE GILLIPARA
P.O- SORBHOG
P.S- SORBHOG
DIST- BARPETA
PIN-781317
ASSAM

VERSUS

THE COMMISSIONER AND SECRETARY AND 9 ORS.
TO THE GOVT. OF ASSAM
FISHERY DEPARTMENT
DISPUR
GHY-781006

2:THE ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
REP. BY ITS. MANAGING DIRECTOR
VIP ROAD
CHACHAL
GUWAHATI-781036
KAMRUP(M)
ASSAM

3:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
VIP ROAD
CHACHAL
GUWAHATI-781036
KAMRUP(M)
ASSAM

4:THE ACCOUNTS OFFICER
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
VIP ROAD
CHACHAL

GUWAHATI-781036



KAMRUP(M)
ASSAM
5:THE PROJECT SUPERVISOR
HEAD QUARTER
SARTHEBARI REGIONAL OFFICE
DIST- BARPETA
6:PAKORIA FISHERY
IN THE DISTRICT OF MORIGAON
REP. BY ITS STAKE HOLDER TO BE SERVED THROUGH THE MANAGING
DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
VIP ROAD
CHACHAL
GUWAHATI-781036
KAMRUP(M)
ASSAM
7:SARAN FISHERY
IN THE DISTRICT OF MORIGAON
REP. BY ITS STAKE HOLDER TO BE SERVED THROUGH THE MANAGING
DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
VIP ROAD
CHACHAL
GUWAHATI-781036
KAMRUP(M)
ASSAM
8:GHORAJAN I AND II FISHERY
IN THE DISTRICT OF KAMRUP
REP. BY ITS STAKE HOLDER TO BE SERVED THROUGH THE MANAGING
DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
VIP ROAD
CHACHAL
GUWAHATI-781036
KAMRUP(M)
ASSAM
9:GORJAN BULATJAN FISHERY
IN THE DISTRICT OF KAMRUP
REP. BY ITS STAKE HOLDER TO BE SERVED THROUGH THE MANAGING
DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
VIP ROAD
CHACHAL
GUWAHATI-781036
KAMRUP(M)
ASSAM
10:RUPAIBALI FISHERY
IN THE DISTRICT OF CACHAR



REP. BY ITS STAKE HOLDER TO BE SERVED THROUGH THE MANAGING
DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
VIP ROAD
CHACHAL
GUWAHATI-781036
KAMRUP(M)
ASSAM

Advocate for : MR. R K D CHOUDHURY
Advocate for : SC
FISHERY appearing for THE COMMISSIONER AND SECRETARY AND 9 ORS.

Linked Case : WP(C)/2192/2022

MAHMUD HUSSAIN
S/O HARUN RASHID R/O VILL. SINGIRBOND PART II
P.O. HAJARIGRAM DIST. CACHAR
ASSAM
PIN-788101

VERSUS

THE ASSAM FISHERIES DEVELOPMENT CORPORATION LTD. AND 5 ORS.
A GOVT. OF ASSAM ENTERPRISE
REP. BY ITS CHAIRMAN
VIP ROAD
CHACHAL GUWAHATI-36
KAMRUP (M) ASSAM

2:MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD. VIP ROAD
CHACHAL GUWAHATI-36
KAMRUP (M) ASSAM

3:THE PROJECT MANAGER
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD. VIP ROAD
CHACHAL GUWAHATI-36
KAMRUP (M) ASSAM

4:THE DEPUTY COMMISSIONER
DIST. CACHAR
ASSAM
PIN-788001

5:THE SUPERINTENDENT OF POLICE
DIST. CACHAR
ASSAM



PIN-788001
6:THE CIRCLE OFFICER
SONAI REVENUE CIRCLE DIST. CACHAR
ASSAM
PIN-788119

Advocate for : MR. M BHAGABATI
Advocate for : SC
AFDC appearing for THE ASSAM FISHERIES DEVELOPMENT CORPORATION
LTD. AND 5 ORS.

Linked Case : WP(C)/2972/2022

NISAR AHMED
S/O- LT SAJAFAR ALI
R/O- VILL. NALUA
P.O. JALAL NAGAR
TE
DIST.- KARIMGANJ
ASSAM
PIN- 788712.

VERSUS

THE ASSAM FISHERIES DEVELOPMENT CORPN. LTD. AND 2 ORS.
REP. BY MD
AFDC LTD
VIP ROAD
CHACHAL
GUWAHATI-36.

2:THE CHAIRMAN
AFDC LTD
VIP ROAD
CHACHAL
GUWAHATI-36.
3:THE ASSTT. PROJECT MANAGER
AFDC LTD
BARAK VALLEY REGION
SILCHAR-9.

Advocate for : MR B SINHA
Advocate for : SC
AFDC appearing for THE ASSAM FISHERIES DEVELOPMENT CORPN. LTD.
AND 2 ORS.



Linked Case : WP(C)/2288/2022

M/S BATGAON NAYAPARA MEEN SAMABAI SAMITEE LIMITED
A REGISTERED CO-OPERATIVE SOCIETY REPRESENTED BY ITS
SECRETARY JAYDEV DAS
AGED ABOUT 65 YEARS
SON OF LATE NABEDEEP DAS
RESIDENT OF VILLAGE- BATGAON NAYAPARA
P.O.- BATGAON
P.S. BARPETA
PIN- 781305
DISTRICT BARPETA
ASSAM.

VERSUS

ASSAM FISHERY DEVELOPMENT CORPORATION LIMITED AND ANR
REPRESENTED BY THE MANAGING DIRECTOR
VIP ROAD
CHACHAL
GUWAHATI- 781006
KAMRUP(M)
ASSAM.

2:THE MANAGING DIRECTOR
VIP ROAD
GUWAHATI- 781036
KAMRUP(M)
ASSAM.

Advocate for : MR. S KATAKI
Advocate for : SC
AFDC appearing for ASSAM FISHERY DEVELOPMENT CORPORATION
LIMITED AND ANR

Linked Case : WP(C)/3046/2022

RAJIB HAZARIKA
S/O SRI TULENDRA HAZARIKA
R/O VILL-GUIMARI
P.O.-PUB GUIMARI
P.S.-KAMPUR



DIST-NAGAON
ASSAM
PIN-782425

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
FISHERY DEPARTMENT
DISPUR
GUWAHATI-06
DIST- KAMRUP
ASSAM

2:THE ASSAM FISHERY DEVELOPMENT CORPORATION LTD.
REPRESENTED BY ITS CHAIRMAN MANAGING DIRECTOR
CHACHAL
VIP ROAD
GUWAHATI-781036
DIST-KAMRUP
ASSAM

3:THE ASSAM FISHERY DEVELOPMENT CORPORATION LTD.
REPRESENTED BY ITS MANAGING DIRECTOR
CHACHAL
VIP ROAD
GUWAHATI-781036
DIST-KAMRUP
ASSAM

Advocate for : MS N SAIKIA
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 2 ORS.

Linked Case : WP(C)/4202/2022

M/S BILASHIPARA MAHAKUMA FISHERY COOPERATIVE SOCIETY LTD AND
ANR
VILL- AKLAPARA
P.O- HATIPOTA

P.S- CHAPAR
BILASPARA SUB DIVISION

PIN-783348



DIST- DHUBRI
ASSAM

2: PRASANNA BARMAN
CHAIRMAN
BILASHIPARA MAHKUMA FISHERY COOPERATIVE SOCIETY LIMITED
VILL- CHANDARDINGA
P.O- HATIPOTA

P.S- CHAPAR

PIN-783348
DIST- DHUBRI
ASSAM
VERSUS

THE ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED AND 4
ORS
REPRESENTED BY ITS MANAGING DIRECTOR
BIMALA PRASAD CHALIHA ROAD
VIP ROAD
CHACHAL
GUWAHATI-781036
KAMRUP (M)
ASSAM

2:THE CHAIRMAN
ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED

BIMALA PRASAD CHALIHA ROAD
VIP ROAD
CHACHAL
GUWAHATI-781036
KAMRUP (M)
ASSAM

3:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED

BIMALA PRASAD CHALIHA ROAD
VIP ROAD
CHACHAL
GUWAHATI-781036
KAMRUP (M)
ASSAM

4:THE SENIOR PROJECT MANAGER

LOWER ASSAM ZONAL OFFICE



ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED

ABHAYAPURI
DIST- BONGAIGAON
ASSAM
PIN-783383
5:THE ASSISTANT PROJECT MANAGER (APM I/C
DHUBRI)
LOWER ASSAM ZONAL OFFICE

ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED

ABHAYAPURI
DIST- BONGAIGAON
ASSAM
PIN-783383
6:ANKAR CHANDRA DAS
S/O AKUL CHANDRA DAS
R/O FAKIRANIR JHAR PT-I
P.O. BORKANDA
P.S. BILASIPARA
DISTRICT DHUBRI
ASSAM
PIN CODE 783348.

Advocate for : MR D J MEDHI
Advocate for : SC
AFDC appearing for THE ASSAM FISHERIES DEVELOPMENT CORPORATION
LIMITED AND 4 ORS

Linked Case : WP(C)/4273/2022

DHARANI DAS AND ANR
S/O- LATE CHANARAM DAS

R/O- VILLAGE KANIDOL
P.O- KHANDAJAN

DIST- DARRANG

P.S- SIPAJHAR
ASSAM

2: GAJEN DAS
S/O- LATE DEVIRAM DAS



R/O- VILLAGE KANIDOL
P.O- KHANDAJAN

DIST- DARRANG

P.S- SIPAJHAR
ASSAM
VERSUS

THE ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED AND 3
ORS (H)
BEING REPRESENTED BY ITS MANAGING DIRECTOR
BIMALA PRASAD CHALIHA ROAD
CHACHAL
VIP ROAD
GUWAHATI-781036
KAMRUP(M) DISTRICT
ASSAM

2:THE CHAIRMAN

ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
BIMALA PRASAD CHALIHA ROAD
CHACHAL
VIP ROAD
GUWAHATI-781036
KAMRUP(M) DISTRICT
ASSAM

3:THE MANAGING DIRECTOR

ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
BIMALA PRASAD CHALIHA ROAD
CHACHAL
VIP ROAD
GUWAHATI-781036
KAMRUP(M) DISTRICT
ASSAM

4:THE PROJECT MANAGER

UPPER ASSAM AND MIDDLE ASSAM ZONE
ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
DIST-NAGAON
ASSAM

Advocate for : MR. M K CHOUDHURY

Advocate for : SC

AFDC appearing for THE ASSAM FISHERIES DEVELOPMENT CORPORATION
LIMITED AND 3 ORS (H)



Linked Case : WP(C)/2913/2022

M/S VIVEKANANDA ATMA SAHAYAK GOT AND ANR
MORIGAON
REPRESENTED BY ITS PRESIDENT SRI LANI CHANDRA DAS
AGED ABOUT 53 YEARS
S/O LATE SUKUMAR DAS
R/O VILL-KUSUMPUR
P.O.-BURABURI
P.S.-MAYONG
DIST-MORIGAON
ASSAM
PIN-782411

2: NIGAMANANDA SARKAR
S/O SRI NARAYAN SARKAR
R/O VILL- LECHARI BORI
P.O.-BURGAON
P.S.-MAYONG
DIST- MORIGAON
ASSAM
PIN-782411
VERSUS

THE ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED AND 3
ORS
BEING REPRESENTED BY ITS MANAGING DIRECTOR
BIMALA PRASAD CHALIHA ROAD
CHACHAL
VIP ROAD
GUWAHATI-781036
KAMRUP(M) DISTRICT
ASSAM

2:THE CHAIRMAN
ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
BIMALA PRASAD CHALIHA ROAD
CHACHAL
VIP ROAD
GUWAHATI-781036
KAMRUP(M) DISTRICT
ASSAM
3:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
BIMALA PRASAD CHALIHA ROAD



CHACHAL
VIP ROAD
GUWAHATI-781036
KAMRUP(M) DISTRICT
ASSAM
4:THE PROJECT MANAGER
LOWER ASSAM REGION
ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
ABHAYAPURI
DIST- BONGAIGAON
PIN-783383
ASSAM

Advocate for : MRS. U BARUAH
Advocate for : SC
AFDC appearing for THE ASSAM FISHERIES DEVELOPMENT CORPORATION
LIMITED AND 3 ORS

Linked Case : WP(C)/3188/2022

DHUMKAR FISHERMEN COOPERATIVE SOCIETY LTD AND ANR
REP. BY ITS CHAIRMAN SRI SANJAY DAS
S/O. LT. SUMANTA DAS
VILL. DHUMKAR
P.O. KALAIN
DIST. CACHAR
ASSAM
PIN-788815.

2: JAKIR AHMED

S/O. TAMJID ALI
VILL. DHUMKAR
P.O. KALAIN
DIST. CACHAR
ASSAM
PIN-788815.
VERSUS

THE ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED AND 2
ORS
(A GOVT. OF ASSAM ENTERPRISE) REP. BY ITS CHAIRMAN
VIP ROAD
CHACHAL
GUWAHATI-36
KAMRUP (M)



ASSAM.

2:THE MANAGING DIRECTOR

ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
VIP ROAD
CHACHAL
GUWAHATI-781036
KAMRUP (M)
ASSAM.

3:THE ASSTT. PROJECT MANAGER

ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
BARAK VALLEY REGION
SILCHAR-788809
ASSAM.

Advocate for : MR. M BHAGABATI

Advocate for : SC

AFDC appearing for THE ASSAM FISHERIES DEVELOPMENT CORPORATION
LIMITED AND 2 ORS

Linked Case : WP(C)/4346/2022

KANAI BISWAS
S/O NIRMAL BISWAS
R/O MAJARATI VILLAGE
P.O. AND P.S.-SAMAGURI
DIST-NAGAON
ASSAM-782140

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY OF THE
GOVERNMENT OF ASSAM
FISHERIES DEPARTMENT
DISPUR
GUWAHATI-781006

2:THE ASSAM FISHERIES DEVELOPMENT CORPORATION LTD
CHACHAL
VIP ROAD
GUWAHATI-781036 REPRESENTED BY ITS CHAIRMAN
3:THE MANGING DIRECTOR



ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
CHACHAL
VIP ROAD
GUWAHATI-781036

Advocate for : MR. B D KONWAR SR. ADV.
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 2 ORS.

Linked Case : WP(C)/2161/2022

M/S PALLARPAM FISHERY SAMABAI SAMITEE LIMITED
A REGISTERED COOPERATIVE SOCIETY REP. BY ITS SECY. SITA NATH DAS

AGE ABOUT-47YRS

R/O- VILLAGE NIZ BAGHBAR

P.O- BAGHBAR
PIN-781308

DIST- BARPETA
ASSAM

VERSUS

ASSAM FISHERY DEVELOPMENT CORPORATION LIMITED AND 3 ORS (E)
REP. BY THE MANAGING DIRECTOR

AFDCL
CHACHAL
VIP ROAD
CHACHAL
GUWAHATI- 36
KAMRUP (M)
ASSAM

2:THE MANAGING DIRECTOR

AFDCL
CHACHAL
VIP ROAD
CHACHAL
GUWAHATI- 36
KAMRUP (M)
ASSAM

3:THE PROJECT MANAGER



AFDC
BARPETA
4:JAGADISH DAS
AGE ABOUT 42 YEARS
S/O- LATE NABADIP AS
R/O- VILLAGE NIJBAGHBAR
P.O- BAGHBAR
DIST- BARPETA
ASSAM
PIN-781308

Advocate for : MR. S KATAKI
Advocate for : SC
AFDC appearing for ASSAM FISHERY DEVELOPMENT CORPORATION
LIMITED AND 3 ORS (E)

Linked Case : WP(C)/3043/2022

SIVA BHUYAN AND ANR.
S/O LATE TULASHI RAM BHUYAN
R/O EAST MILAN NAGAR
C.R. BUILDING
P.O.
P.S. AND DIST-DIBRUGARH
ASSAM-786001

2: DIHING NODI PANCHIMANCHAL NACHALIK MIN SAMABAY SAMITTEE
LTD
SITUATED AT VILL-DEHING THAN GAON
P.O.-ITAKHOLI
DIST- DIBRUGARH
ASSAM
VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
FISHERIES DEPARTMENT
DISPUR
GUWAHATI-781006

2:THE ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
CHACHAL
VIP ROAD
GUWAHATI-781036
REPRESENTED BY THE CHAIRMAN



3:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
CHACHAL
VIP ROAD
GUWAHATI-781036

4:THE GENERAL MANAGER
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
CHACHAL
VIP ROAD
GUWAHATI-781036

5:THE PROJECT MANAGER
AFDC LTD.
UPPER ASSAM REGION
DIBRUGARH
DIST-DIBRUGARH
ASSAM-786001

Advocate for : MR. B D KONWAR SR. ADV.
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 4 ORS.

Linked Case : WP(C)/2755/2022

KANAI BISWAS
S/O- NIRMAL BISWAS
R/O- MAJARATI VILLAGE
P.O. AND P.S. SAMAGURI
DIST.- NAGAON
ASSAM- 782140.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
FISHERIES DEPTT.
DISPUR
GHY.- 781006.

2:THE ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
CHACHAL
VIP ROAD GUWAHATI- 781036
REP. BY ITS CHAIRMAN.
3:THE MANAGING DIRECTOR
THE ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
CHACHAL



VIP ROAD
GUWAHATI- 781036.
4:SMT. JURI DAS
D/O- LT. RABIN DAS
R/O- SAMAGURI BEELPAR (SAMAGURI GRANT)
P.O. AND P.S. SAMAGURI
DIST.- NAGAON
ASSAM- 781140.

Advocate for : MR. B D KONWAR SR. ADV.
Advocate for : SC
AFDC appearing for THE STATE OF ASSAM AND 3 ORS

Linked Case : WP(C)/2862/2022

BIMAL KRISHNA DAS
S/O LT. BHUPESH CHANDRA DAS
VILL-GOVINDAPUR PART-III
P.O.-GOVINDAPUR WEST
DIST-CACHAR
ASSAM
PIN-788804

VERSUS

THE ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED AND 4
ORS
REPRESENTED BY THE CHAIRMAN
V.I.P ROAD
CHACHAL
GUWAHATI
DIST-KAMRUP
ASSAM-781036

2:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LIMITED
V.I.P ROAD
CHACHAL
GUWAHATI
DIST-KAMRUP
ASSAM-781036
3:THE ASSTT. EXECUTIVE ENGINEER (I/C)
BARAK VALLEY REGION
AFDC LTD.
CACHAR



SILCHAR-9
4:THE ASSTT. PROJECT MANAGER
BARAK VALLEY REGION
AFDC LTD
CACHAR
SILCHAR-9
5:PRABITRA DAS
S/O SRI SURESH DAS
VILL-NIZ-FULBARI
P.O.-SHIALTEK
P.S.-KATIGORAH
DIST-CACHAR
ASSAM

Advocate for : MR. B J GHOSH
Advocate for : SC
AFDC appearing for THE ASSAM FISHERIES DEVELOPMENT CORPORATION
LIMITED AND 4 ORS

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

Date of Hearing : 28.07.2022.
Date of Judgment : 20.09.2022.

Judgement & Order

The extra-ordinary jurisdiction of this Court under Article 226 of the Constitution of India is sought to be invoked in this bunch of writ petitions which arise out of a similar action taken by the Assam Fishery Development Corporation Ltd. (for short AFDC). The action, which is impugned, pertains to cancellation of settlement orders of various *Beels*/ Fisheries in the State of Assam with the petitioners. In gist, the grounds of challenge in the petitions are jurisdictional error, violation of the principles of natural justice and not taking into consideration the issue of investment made by the petitioners pursuant to such settlement. On the other hand, the justification of the

AFDC, in brief, is that the settlements, which have been cancelled, were done in a manner not recognised by law, more specifically, the Assam Fisheries Rules (for short hereinafter referred to as the Rules) and therefore, there was no settlement in the eyes of law which was required to be rectified. The authorities have also taken a plea that by the action adopted for cancellation of the settlements, a new process would be initiated strictly in accordance with law and by following the guidelines of transparency and fairness in matters of distribution of State largesse.

2. Before going to the issues involved which would require an adjudication, the facts of the respective cases can be summed up and put in the following manner.

3. WP(C)/2192/2022 has been instituted in respect of *Banskandi Beel* in the district of Cachar which was notified against Sl. No. 40 in the Tender Notice dated 14.03.2022. It is the case of the petitioner that earlier, an NIT was issued by the Managing Director, AFDC dated 18.02.2020 calling for tenders for the aforesaid Fishery for a period of 7 years, in which the petitioner had participated. Subsequently, vide an order dated 17.06.2020 the aforesaid Fishery was directed to be managed by the Project Manager by engaging the petitioner as stake holder for a period of 4 years which could be extended to 7 years. Accordingly, the petitioner, as a stake holder, and another fisherman, Manjur Ahmed entered into an agreement with the AFDC and the petitioner claims to have deposited an amount of Rs. 3,70,000/- as part payment and the Deed of Agreement was executed on 20.06.2020 when the possession was handed over. The petitioner claims that the Fishery, in question, was managed properly wherein, further investments were made by the petitioner. The petitioner further submits that the Fishery, in question, was not properly demarcated which caused inconvenience to him. However, suddenly, the impugned action was taken and vide a fresh NIT dated 14.03.2022 whereby, 54 nos. of *Beels* were enlisted for settlement.



4. WP(C)/2755/2022 has been instituted in respect of *Samaguri Beel* in the district of Nagaon. It is the case of the petitioner that earlier, vide an order dated 26.10.2021 issued by the Managing Director, AFDC, the petitioner was engaged with the aforesaid Fishery as a Stake Holder under PPP Mode for a period of 4 years which could be extended to 7 years after satisfactory completion of 4 years with certain targeted value. Accordingly, the petitioner claims to have deposited the stipulated amount of Rs.9,00,000/- and entered into an agreement with the AFDC on 15.11.2021. The petitioner contends that he, as a stake holder, invested huge amount on various counts and undertaken various developmental activities of the Fishery, in question. However, suddenly, the impugned order dated 08.04.2022 was issued cancelling all the settlement orders of as many as 44 *Beels*, which were made earlier without calling tender, including that with the petitioner dated 26.10.2021 relating to *Samaguri Beel*.

5. WP(C)/2783/2022 has been instituted in respect of *Sarbhog Beel* in the district of Barpeta. It is the case of the petitioner that in terms of the Board of Directors' decision of the AFDC, vide an order dated 12.03.2020 issued by the Managing Director, AFDC, the petitioner was settled with the aforesaid Fishery as a Stake Holder under PPP Mode for a period of 4 years which could be extended to 7 years after satisfactory completion of 4 years with certain targeted value. By the aforesaid order dated 12.03.2020, the Project Supervisor was directed to manage the Fishery, in question, with the petitioner under PPP mode for 4 years which could be extended to 7 years after satisfactory completion of 4 years with certain targeted value. Accordingly, the petitioner, as Stake Holder invested huge amount on various counts and undertaken various developmental activities of the Fishery, in question. However, suddenly, the impugned order dated 08.04.2022 was issued cancelling the settlement order. It is further contended that by the aforesaid order dated 08.04.2022 while cancelling all the settlement orders of 44 *Beels*, 5 nos. of similarly situated *Beel* in the

district of Cachar have not been interfered with.

6. WP(C)/2786/2022 has been instituted in respect of *Motir Kuti Beel* in the district of Dhubri. It is the case of the petitioner that earlier, vide an order dated 12.08.2020 issued by the Managing Director, AFDC, the petitioner was settled with the aforesaid Fishery as a Stake Holder under Direct Management Mode for a period of 4 years which could be extended to 7 years after satisfactory completion of 4 years with certain targeted value. Accordingly, the petitioner entered into an agreement (page 25 of the writ petition) with the AFDC and as a Stake Holder, invested huge amount on various counts and undertaken various developmental activities of the Fishery, in question. However, by the same impugned order dated 08.04.2022 all the settlement orders which were made earlier without calling tender, including that of the petitioner dated 12.08.2020 were cancelled.

7. WP(C)/2817/2022 has been instituted in respect of *Karmari Nandini Beel* in the district of Morigaon which is enlisted against the Sl. No. 23 of the impugned order dated 08.04.2022. It is the case of the petitioners that earlier, vide an order dated 23.03.2020 issued by the Managing Director, AFDC, the petitioners were settled with the aforesaid Fishery as a Stake Holder under the Share Basis Fishing Management system for a period of 4 years which could be extended to 7 years after satisfactory completion of 4 years with certain targeted value. Accordingly, the petitioners invested huge amount on various counts and undertaken various developmental activities of the Fishery, in question. Therefore, the impugned order dated 08.04.2022 was issued.

8. WP(C)/2862/2022 has been instituted in respect of *Sibnarayanpur Anua Beel* in the district of Cachar which was notified against Sl. No. 44 in the impugned order dated 08.04.2022 (Annexure 5 to the writ petition). It is the case of the petitioner that earlier, vide an order dated 24.02.2021 issued by the Managing Director, AFDC, the

petitioner was settled with the aforesaid Fishery. By the aforesaid order dated 24.02.2021, the respondent no. 2 authorised the petitioner to operate the Fishery, in question, initially under the PPP Mode for a period of 4 years which could be extended to 7 years after satisfactory completion of 4 years with certain targeted value. Accordingly, the petitioner, as Stake Holder entered into an agreement on 20.04.2021 with the AFDC and the petitioner claims to have invested substantial amounts on various counts. Therefore, the impugned order dated 08.04.2022 was issued.

9. WP(C)/2869/2022 has been instituted in respect of *Dandua Beel* in the district of Morigaon. It is the case of the petitioners that earlier, vide an order dated 19.08.2020 issued by the Managing Director, AFDC, the petitioner was settled with the aforesaid Fishery under the Direct Management system for a period of 4 years which could be extended to 7 years after satisfactory completion of 4 years with certain targeted value. Accordingly, the petitioner entered into an agreement with the AFDC on 12.10.2020 and as stake holders, invested huge amount on various counts and undertaken various developmental activities of the Fishery, in question. Therefore, the impugned order dated 08.04.2022 was issued.

10. WP(C)/2894/2022 has been instituted in respect of *Kalidanga* Group Fishery in the district of Dhubri. It is the case of the petitioners that earlier, vide an order dated 23.03.2020 issued by the Managing Director, AFDC, the petitioners were settled with the aforesaid Fishery. By the aforesaid order dated 23.03.2020, the Project Manager was directed to manage the Fishery, in question, with the petitioners under PPP mode for 4 years which could be extended to 7 years after satisfactory completion of 4 years with certain targeted value. Accordingly, the petitioners entered into an agreement with the AFDC on 22.05.2020 and as Stake Holders, invested huge amount on various counts and undertaken various developmental activities of the Fishery, in question. Therefore, without prior notice, the impugned order dated 08.04.2022 was issued.



11. WP(C)/2913/2022 has been instituted in respect of *Bormanoha Beel* in the district of Morigaon. It is the case of the petitioners that earlier, vide an order dated 19.11.2020 issued by the Managing Director, AFDC, the petitioners were settled with the aforesaid Fishery under the PPP Mode for a period of 4 years which could be extended to 7 years after satisfactory completion of 4 years with certain targeted value. Accordingly, the petitioners, as Stake Holders have made substantial investments and undertaken various developmental activities of the Fishery, in question. Therefore, the impugned order dated 08.04.2022 was issued.

12. WP(C)/2955/2022 has been instituted in respect of *Sarbhog Beel* in the district of Barpeta which was notified in the impugned Tender Notice dated 29.04.2022 (Annexure 5 to the writ petition). It is the case of the petitioner that earlier, vide an order dated 12.03.2020 issued by the Managing Director, AFDC, the petitioner was settled with the aforesaid Fishery under the PPP Mode for a period of 4 years which could be extended to 7 years after satisfactory completion of 4 years with certain targeted value. Accordingly, the petitioner as a Stake Holder, invested huge amount on various counts and undertaken various developmental activities of the Fishery, in question. Therefore, the impugned order dated 08.04.2022 was issued and a fresh NIT dated 29.04.2022 was issued by the respondent no. 3 for fresh settlement of 37 fisheries out of 44 fisheries that were cancelled by the order dated 08.04.2022.

13. WP(C)/2972/2022 has been instituted in respect of *Rani Meghna Beel* in the district of Karimganj. It is the case of the petitioner that earlier, vide an order dated 25.02.2021 issued by the Managing Director, AFDC, the petitioner along with Shri Abdul Jalil was settled with the aforesaid Fishery as Stake Holders under the PPP Mode for a period of 4 years which could be extended to 7 years after satisfactory completion of 4 years with certain targeted value. Accordingly, the petitioner entered



into agreement with the AFDC on 28.04.2021. Thereafter, the petitioner as Stake Holder, invested huge amount on various counts and undertaken various developmental activities of the Fishery, in question. Therefore, the impugned orders dated 08.04.2022 and 13.04.2022 were issued.

14. WP(C)/2987/2022 has been instituted in respect of *Sagar Beel* in the district of Karimganj which was notified in the impugned Tender Notice dated 29.04.2022 (Annexure 15 to the writ petition). It is the case of the petitioner that earlier, vide an order dated 14.08.2020 issued by the Managing Director, AFDC, the petitioner was settled with the aforesaid Fishery for a period of 4 years which could be extended to 7 years after satisfactory completion of 4 years with certain targeted value. Accordingly, the petitioner entered into an agreement with the AFDC on 11.09.2020 and, as a Stake Holder, invested huge amount on various counts and undertaken various developmental activities of the Fishery, in question. Therefore, the impugned order dated 13.04.2022 was issued cancelling all the settlements and a fresh NIT dated 29.04.2022 was issued by the respondent no. 3.

15. WP(C)/3042/2022 has been instituted in respect of *Sibnarayanpur Anua Beel* in the district of Cachar which was notified in the impugned Tender Notice dated 29.04.2022. It is the case of the petitioner that earlier, vide an order dated 24.02.2021 issued by the Managing Director, AFDC, the petitioner was settled with the aforesaid Fishery under the PPP Mode for a period of 4 years which could be extended to 7 years after satisfactory completion of 4 years with certain targeted value. Accordingly, the petitioner entered into an agreement with the AFDC on 24.04.2021 and invested huge amount on various counts and undertaken various developmental activities of the Fishery, in question. Therefore, the impugned order dated 08.04.2022 was issued and a fresh NIT dated 29.04.2022 was issued by the respondent no. 3.



16. WP(C)/3043/2022 has been instituted in respect of *Kalakhua Borbeel* in the district of Dibrugarh which was notified against Sl. No. 1 in the impugned Tender Notice dated 19.04.2022 (Annexure 8 to the writ petition). It is the case of the petitioners that earlier, vide an order dated 18.02.2021 issued by the Managing Director, AFDC, the petitioners were settled with the aforesaid Fishery. By the aforesaid order dated 18.02.2021, the Assistant Project Manager was directed to manage the said Fishery by engaging the petitioners as Stake Holders for a period of 4 years which could be extended to 7 years after satisfactory completion of 4 years with certain targeted value. Accordingly, the petitioners entered into an agreement on 31.03.2021 with the AFDC and the petitioners claim to have deposited substantial amounts on various dates. The petitioners claim that the Fishery, in question, was managed properly. Therefore, the impugned order dated 08.04.2022 was issued cancelling all the settlements and a fresh NIT dated 19.04.2022 was issued.

17. WP(C)/3046/2022 has been instituted in respect of *Dimow Beel* in the district of Nagaon which was notified in the impugned Tender Notice dated 02.05.2022 (Annexure 15 to the writ petition). It is the case of the petitioner that earlier, vide an order dated 13.08.2019 issued by the Managing Director, AFDC, the petitioner was settled with the aforesaid Fishery. Accordingly, the petitioner, as a Stake Holder entered into an agreement with the AFDC and the petitioner claims to have deposited substantial amount and the Deed of Agreement was executed on 13.08.2019. The petitioner claim that the Fishery, in question, was managed properly wherein, further investments were made by the petitioner. Therefore, the impugned order dated 08.04.2022 was issued cancelling all the settlements and a fresh NIT dated 02.05.2022 was issued.

18. WP(C)/3188/2022 has been instituted in respect of *Dhali Beel* in the district of Cachar. It is the case of the petitioners that earlier, vide an order dated 23.03.2020



issued by the Managing Director, AFDC, the petitioners were settled with the aforesaid Fishery for a period of 4 years which could be extended to 7 years after satisfactory completion of 4 years with certain targeted value. Accordingly, the petitioners entered into agreement with the AFDC on 06.05.2020 and 20.05.2020. Thereafter, the petitioners, as Stake Holders, invested huge amount on various counts and undertaken various developmental activities of the Fishery, in question. Therefore, the impugned order dated 13.04.2022 was issued cancelling all the settlements.

19. WP(C)/3348/2022 has been instituted in respect of *Barghuli Beel* in the district of Nagaon which was notified in the impugned Tender Notice dated 02.05.2022 (Annexure P to the writ petition). It is the case of the petitioner that earlier, vide an order dated 20.07.2017 issued by the Managing Director, AFDC, the petitioner was settled with the aforesaid Fishery for a period of 4 years which could be extended to 7 years after satisfactory completion of 4 years with certain targeted value. Accordingly, the petitioner, as Stake Holder entered into an agreement with the AFDC. The petitioner claim that the Fishery, in question, was managed properly wherein, further investments were made by the petitioner. Therefore, the impugned order dated 08.04.2022 was issued and a fresh NIT dated 02.05.2022 was issued.

20. WP(C)/4202/2022 has been instituted in respect of *Dakra Beel* in the district of Dhubri. It is the case of the petitioners that earlier, vide an order dated 05.12.2020 issued by the Managing Director, AFDC, the petitioners were settled with the aforesaid Fishery under PPP Mode for a period of 4 years which could be extended to 7 years after satisfactory completion of 4 years with certain targeted value. Accordingly, the petitioners entered into an agreement with the AFDC on 22.04.2020 and, as Stake Holders, invested huge amount on various counts and undertaken various developmental activities of the Fishery, in question. Therefore, the impugned order dated 13.06.2022 was issued.



21. WP(C)/4206/2022 has been instituted in respect of *Mer Beel* in the district of Nagaon. It is the case of the petitioner that earlier, vide an order dated 24.05.2021 issued by the Managing Director, AFDC, the petitioner was settled with the aforesaid Fishery under PPP Mode for a period of 4 years which could be extended to 7 years after satisfactory completion of 4 years with certain targeted value. Accordingly, the petitioner, as Stake Holder has made substantial investments and undertaken various developmental activities of the Fishery, in question. Therefore, the impugned order dated 13.06.2022 was issued.

22. WP(C)/4273/2022 has been instituted in respect of *Batha Beel* in the district of Darrang. It is the case of the petitioners that earlier, vide an order dated 09.10.2020 issued by the Managing Director, AFDC, the petitioners were settled with the aforesaid Fishery. The Project Manager was directed to manage the Fishery, in question, with the petitioners under Model Project norm for a period of 4 years which could be extended to 7 years after satisfactory completion of 4 years with certain targeted value. Accordingly, the petitioners, as Stake Holders have entered into an agreement with the AFDC vide agreement dated 01.07.2021 and thereafter made substantial investments on various counts and undertaken various developmental activities of the Fishery, in question. Therefore, the impugned order dated 14.06.2022 was issued.

23. WP(C)/4346/2022 has been instituted in respect of *Samaguri Beel* in the district of Nagaon which was notified in the impugned Tender Notice dated 17.06.2022 (Annexure 11 to the writ petition). It is the case of the petitioner that earlier, vide an order dated 26.10.2021 issued by the Managing Director, AFDC, the petitioner was settled with the aforesaid Fishery under PPP Mode for a period of 4 years which could be extended to 7 years after satisfactory completion of 4 years with certain targeted value. Accordingly, the petitioner, as Stake Holder entered into an agreement with the



AFDC and the petitioner claims to have deposited the stipulated amount of Rs. 9,00,000/- as security deposit and the Deed of Agreement was executed on 15.11.2021. The petitioner claims that the Fishery, in question, was managed properly wherein, further investments were made by the petitioner. Therefore, the impugned order dated 08.04.2022 was issued and a fresh NIT dated 19.04.2022 was issued.

24. WP(C)/4347/2022 has been instituted in respect of *Kalakhowa Borbeel* in the district of Dibrugarh which was notified against Sl. 1 in the impugned Tender Notice dated 19.04.2022 (Annexure 8 to the writ petition). It is the case of the petitioners that earlier, vide an order dated 18.02.2021 issued by the Managing Director, AFDC, the petitioners were settled with the aforesaid Fishery. By the aforesaid order dated 18.02.2021, the Assistant Project Manager was directed to manage the said Fishery by engaging the petitioners as Stake Holders for a period of 4 years which could be extended to 7 years after satisfactory completion of 4 years with certain targeted value. Accordingly, the petitioners entered into an agreement with the AFDC and the petitioners claim to have deposited substantial amounts on various counts and the Deed of Agreement was executed on 31.03.2021. The petitioners claim that the Fishery, in question, was managed properly wherein, further investments were made by the petitioners. Therefore, the impugned order dated 08.04.2022 was issued and a fresh NIT dated 19.04.2022 was issued.

25. WP(C)/2161/2022 has been instituted in respect of *Chilochi* Fishery in the district of Barpeta against the cancellation order dated 14.03.2022 cancelling the settlement of the No. 23/24/57 Chilochi Fishery in favour of the petitioner in terms of the letter dated 15.12.2021 on the ground of default of depositing the kist money. It is the case of the petitioner that vide order dated 28.04.2021 the Project Manager was directed to manage the Fishery, in question, under PPP mode and on 06.05.2021 the petitioner was handed over the possession of the said Fishery whereafter the



petitioner had deposited Rs. 1 lakh as security deposit and Rs. 2 lakhs as kist money. The petitioner claims that the Fishery, in question, was managed properly. However, vide letter dated 14.02.2022, the petitioner was informed to deposit arrear amount. By the said letter dated 14.02.2022, the petitioner was informed that vide letter dated 15.12.2021 all the settlements made without calling tender have been cancelled and the petitioner was asked to deposit kist money with interest. Accordingly, the petitioner deposited an amount of Rs. 1,84,000/- as arrear for the financial year 2021-2022 and Rs. 3,66,666/- as kist money for the financial year 2021-2022. Therefore, the impugned order dated 14.04.2022 was issued.

26. WP(C)/2288/2022 has been instituted in respect of *Fingua Parua Beel* in the district of Barpeta which was notified in the impugned order dated 15.12.2021 (Annexure F to the writ petition). It is the case of the petitioner that earlier, vide an order dated 28.03.2020 issued by the Managing Director, AFDC, the petitioner was settled with the aforesaid Fishery for a period of 4 years. Accordingly, the petitioner entered into an agreement with the AFDC and the petitioner claims to have deposited kist money and the Deed of Agreement was executed on 28.03.2020. The petitioner claims that the Fishery, in question, was managed properly wherein, further investments were made by the petitioner. Therefore, the impugned order dated 15.12.2021 was issued.

27. I have heard Shri MK Choudhury, learned Senior Counsel for the petitioners in WP(C)/4202/2022, 4206/2022, 4273/2022; Ms. U Baruah, Senior Counsel for the petitioners in WP(C)/2786/2022, 2817/2022, 2869/2022, 2894/2022, 2913/2022; Shri BD Konwar, learned Senior Counsel for the petitioners in WP(C)/2755/2022, 3043/2022, 4346/2022, 4347/2022; Shri RKD Choudhury, learned counsel for the petitioners in WP(C)/2783/2022 & 2955/2022; Shri BJ Ghosh, learned counsel for the petitioners in WP(C)/2862/2022 & 3042/2022; Shri S Kataki, learned counsel for the



petitioners in WP(C)/2288/2022 & 2161/2022; Shri M Bhagabati, learned counsel for the petitioners in WP(C)/2192/2022 & 3188/2022; Ms. P Goswami, learned counsel for the petitioner in WP(C)/3046/2022; Shri P Mahanta, learned counsel for the petitioner in WP(C)/3348/2022; Shri S Khound, learned counsel for the petitioner in WP(C)/2972/2022, 4202/2022 and Shri G Alam, learned counsel for the petitioner in WP(C)/2987/2022.

28. On the other hand, the AFDC is represented by Shri P Sarma, learned Standing Counsel as well as Shri D Deka, learned counsel. Shri AK Hussain, learned counsel is present for the respondent no. 6 in WP(C)/4202/2022.

29. Shri MK Choudhury, learned Senior Counsel has appeared for the petitioners in WP(C)/4202/2022, 4206/2022 & 4273/2022. The learned Senior Counsel submits that the initial settlement of the Fishery, in question, was done by a tender process and therefore, there is no illegality in the same. He submits that the earlier decision to settle the Fishery was not a decision of any foreign body but of the AFDC itself, which has the jurisdiction. The reason for cancellation is apparently a decision of the Full Bench of this Court reported in the case of ***M/s. Haria Dablong Min Mahal Samabai Samity Ltd. Vs. Assam Fisheries Development Corporation Ltd.***, reported in **AIR 2001 Gau. 139**. The said decision being an existing one, it cannot be argued that the earlier decision to settle the Fishery was done by overlooking or ignoring the said decision. The learned Senior Counsel further submits that there is a concluded contract between the parties and that being so, the impugned decision of cancelling the earlier settlement process and initiating a fresh settlement process is not sustainable in law. By referring to the Indian Contract Act, 1872, the learned Senior Counsel submits that once there is a concluded contract, the parties to the same are under a legal obligation which cannot be shrugged off. In support of his submissions, Shri Choudhury, learned Senior Counsel has placed reliance upon the cases of ***State***

of Orissa Vs. Sudhansu Sekhar Misra & Ors., reported in **AIR 1968 SC 647**; **Ramesh Chandra Mishra & Ors. Vs. Vijay Shankar & Ors.**, reported in **(1983) 2 SCC 33** and **State of Gujarat & Anr. Vs. Raman Lal Keshav Lal Soni & Ors.**, reported in **(1983) 2 SCC 33**.

30. In the case of **Sudhansu Sekhar Misra** (*supra*), the Hon'ble Supreme Court has laid down the guidelines regarding *ratio decidendi* and *obiter dicta*. In paragraph 12, it has been specifically laid down that a decision is only an authority for what it actually decides. The aforesaid case has been cited to bring home the fact that the principles laid down by the Full Bench in the case **M/s. Haria Dablong Min Mahal Samabai Samity Ltd.** (*supra*), cannot be taken to be a binding precedent.

31. In the case of **Raman Lal Keshav Lal Soni** (*supra*), the Hon'ble Supreme Court in paragraph 52 has laid down as follows:

“52. The legislation is pure and simple, self-deceptive, if we may use such an expression with reference to a legislature-made law. The legislature is undoubtedly competent to legislate with retrospective effect to take away or impair any vested right acquired under existing laws but since the laws are made under a written Constitution, and have to conform to the dos and don'ts of the Constitution neither prospective nor retrospective laws can be made so as to contravene Fundamental Rights. The law must satisfy the requirements of the Constitution today taking into account the accrued or acquired rights of the parties today. The law cannot say twenty years ago the parties had no rights therefore, the requirements of the Constitution will be satisfied if the law is dated back by twenty years. We are concerned with today's rights and not yesterday's. A Legislature cannot legislate today with reference to a situation that obtained twenty

years, ago and ignore the march of events and the constitutional rights accrued in the course of the twenty years. That would be most arbitrary, unreasonable and a negation of history.”

32. Shri BD Konwar, learned Senior Counsel has appeared for the petitioners in WP(C)/2755/2022, 3043/2022, 4346/2022 & 4347/2022. The attention of this Court has been drawn to the averments made in paragraph 4 of the writ petition wherein, it has been stated that a huge investment of Rs. 28 lakhs (approx) has been made for the Fishery, in question, and the fishing activities were done for 1 month whereafter, the same was cancelled. It is further submitted that an order dated 29.04.2022 was passed by this Court which was violated and a new tender notice was issued which is the subject matter of challenge in WP(C)/4346/2022. The learned Senior Counsel submits that even in the PPP mode, the bid of the petitioner was found to be the highest. So far as WP(C)/3043/2022 is concerned, the same pertains to *Kalakhowa Borbeel* in the district of Dibrugarh.

33. Ms. U Baruah, learned Senior Counsel has appeared for the petitioners in WP(C)/2786/2022, 2817/2022, 2869/2022, 2894/2022 & 2913/2022. She submits that the initial settlement was with an individual under the PPP mode. It is submitted that as per condition 10 (ka) of the tender conditions, the settlement holder has to develop the Fishery, in question, and take all steps for increasing the production of fish, including release of fingerlings. In terms of the said clause, it is submitted that a huge investment about Rs. 28 lakhs has been made.

34. Shri S Katakey, learned counsel has appeared for the petitioner in WP(C)/2161/2022 and WP(C)/2288/2022. The learned counsel submits that the decision to cancel the settlement vide order dated 15.10.2021 was in gross violation of the principles of natural justice, as no notice was issued. He further submits that the

allegation of being a defaulter stood obliterated as on 21.02.2022, he had deposited the balance amount. However, by the subsequent impugned order dated 14.03.2022, the settlement was cancelled. The second writ petition WP(C)/2288/2022 is almost on similar grounds in which the concerned Fishery is *Fingua Parua Beel* in the district of Barpeta. The learned counsel for the petitioner has cited the case law of ***ES Reddi Vs. Chief Secretary, Govt. of AP***, reported in **AIR 1987 SC 1550** on the requirement of adhering to the principles of natural justice.

35. Shri P Mahanta, learned counsel has appeared for the petitioner in WP(C)/3348/2022 which pertains to *Barghuli Beel* in the district Nagaon. His grievance is similar to the other cases and is aggrieved by the order dated 08.04.2022 of cancellation and 02.05.2022 of calling of fresh NIT.

36. Shri S Khound, learned counsel for the petitioner in WP(C)/2869 and 2894/2022. The learned counsel has put to challenge the NIT dated 02.05.2022 on the ground of violation of Rule 254 of the Rules which requires publication into two newspapers. The said petitioner had earlier instituted WP(C)/2972/2022 challenging the cancellation of his settlement.

37. *Per contra*, Shri P Sarma, learned Standing Counsel AFDC along with Shri D Deka, learned counsel has submitted that all the writ petitions are misconceived and the action taken by the AFDC is only to rectify the earlier acts which were not in accordance with law and to initiate the process of settlement of the Fisheries, in question, strictly in accordance with the law.

38. The learned Standing Counsel has first referred to Section 254 of the Assam Financial Rules which mandates settlement to be done only through a tender process. By referring to Section 10 of the Contract Act, it is submitted that the earlier

agreement was void, inasmuch as, the same was done in violation of the law holding the field. It is categorically submitted that though a serious contention has been made on behalf of the petitioners regarding violation of principles of natural justice, such submission would not be available, inasmuch as, no right can accrue to the petitioners through an illegal process and therefore, there can be no applicability of adherence to the principles of natural justice. He further submits that though PPP mode, *per se*, may not be illegal and may be an accepted mode for the authorities, the same has to be done strictly by following the procedure laid down in the Rules.

39. The learned Standing Counsel submits that the principal basis for taking the impugned action is the decision rendered by the Full Bench of this Court in the case of ***M/s. Haria Dablong Min Mahal Samabai Samity Ltd. (supra)*** and the impugned action is in gross violation of the principles laid down in the said case and therefore, no illegality can be attributed to the action of the AFDC. It is finally submitted that in all the cases, tenders, in accordance with law, are ready to be floated and delay is causing loss of revenue.

40. Shri Sarma, learned Standing Counsel has further argued that in the case of the present nature, the principles of natural justice will not have any role, inasmuch as, since the initial process was absolutely illegal, no right whatsoever, had accrued upon the petitioners and therefore, they are not entitled to any opportunity for taking a measure to rectify the action. In this connection, the learned Standing Counsel has placed reliance upon a decision in the case of ***Dharampal Satyapal Ltd. Vs. Deputy Commissioner of Central Excise, Gauhati & Ors.***, reported in **(2015) 8 SCC 519**. In paragraphs 45 and 46, the Hon'ble Supreme Court has laid down as follow:

“45. Keeping in view the aforesaid principles in mind, even when we find that there is an infraction of principles of natural justice, we have to

address a further question as to whether any purpose would be served in remitting the case to the authority to make fresh demand of amount recoverable, only after issuing notice to show cause to the appellant. In the facts of the present case, we find that such an exercise would be totally futile having regard to the law laid down by this Court in R.C. Tobacco (supra).

46. To recapitulate the events, the appellant was accorded certain benefits under Notification dated July 08, 1999. This Notification stands nullified by Section 154 of the Act of 2003, which has been given retrospective effect. The legal consequence of the aforesaid statutory provision is that the amount with which the appellant was benefitted under the aforesaid Notification becomes refundable. Even after the notice is issued, the appellant cannot take any plea to retain the said amount on any ground whatsoever as it is bound by the dicta in R.C. Tobacco (supra). Likewise, even the officer who passed the order has no choice but to follow the dicta in R.C. Tobacco (supra). It is important to note that as far as quantification of the amount is concerned, it is not disputed at all. In such a situation, issuance of notice would be an empty formality and we are of the firm opinion that the case stands covered by 'useless formality theory':"

41. On the context of the scope of judicial review, Shri Sarma, learned Standing Counsel has placed reliance upon a recent judgment of the Hon'ble Supreme Court in the case of ***Uflex Ltd. Vs. State of Tamil Nadu***, reported in **(2022) 1 SCC 165**.

"2. The judicial review of such contractual matters has its own limitations. It is in this context of judicial review of administrative actions that this

Court has opined that it is intended to prevent arbitrariness, irrationality, unreasonableness, bias and mala fides. The purpose is to check whether the choice of decision is made lawfully and not to check whether the choice of decision is sound. In evaluating tenders and awarding contracts, the parties are to be governed by principles of commercial prudence. To that extent, principles of equity and natural justice have to stay at a distance.”

42. Shri AK Hussain, learned counsel for the respondent no. 6 in WP(C)/4202/2022 has defended the action of the AFDC and has submitted that the initial order of settlement was not done by following the due process of law and accordingly, the same was cancelled vide order dated 15.12.2021. The said order was the subject matter of challenge in WP(C)/858/2022 with regard to *Dakar Beel* in the district of Dhubri. However, this Court vide order 14.02.2022 did not interfere with the same and had only granted liberty to the petitioners to file a representation and the petitioners be given a reasonable opportunity. Thereafter, the impugned order has been passed on 13.06.2022 which is the subject matter of challenge of the present writ petition. By referring to the affidavit-in-opposition dated 20.07.2022, Shri Hussain, learned counsel has submitted that such challenge has to be restricted only to the decision making process which, in the instant case, does not suffer from any infirmity. By referring to Annexure-B of the said affidavit-in-opposition, the learned counsel, Shri Hussain has submitted that an order was passed by the AFDC 26.04.2022 whereby, it was stated that in respect of four *Beels*, including the *Dakra Beel*, the Project Manager of the respective districts directed not to interfere with the possession. The said order, however, was put to challenge by the present respondent no. 6 as petitioner in WP(C)/4034/2022. However, during the hearing, the learned Standing Counsel, AFDC has produced a copy of the order dated 13.06.2022 by which the settlement of the *Dakra Beel* in favour of the Bilasipara Mohakuma Fishery Co-operative Society Ltd. has



been cancelled. In view of the same, the aforesaid writ petition was closed vide an order dated 17.06.2022.

43. Shri Alam, learned counsel has appeared for the petitioner in WP(C)/2987/2022 in respect of the *Sagar Beel* in the district of Karimganj and the same is enlisted as Sl. No. 43 in the cancellation order. Reference has been made to paragraph 10 of the writ petition to show the investment made.

44. Shri AJ Ghosh, learned counsel appears for two writ petitions, namely WP(C)/2862/2022 and WP(C)/3042/2022 in connection with *Sibnarayanpur Anua Beel* and the petitioners are belonged to the Scheduled Caste category of the Maimal community of Cachar district. The learned counsel submits that pursuant to the first tender process, huge investment has been made to the tune of Rs. 9,63,000/- and in this regard, attention of this Court has been drawn to paragraph 8 of the writ petition. The learned counsel submits that Public Private Partnership (PPP) is not an alien concept and therefore, the same cannot be a reason for cancelling the settlement of the petitioner. The subsequent writ petition, WP(C)/3042/2022 is in connection with the first writ petition wherein, a specific challenge has been made to the fresh tender process.

45. Shri MK Choudhury, learned Senior Counsel for the petitioners in his rejoinder has submitted that the contention of violation of Rule 254 of the Assam Financial Rules is misconstrued. He contends that the said Rule is a part of Chapter XII of the Rules which is meant for the Public Works Department and does not have any application in the AFDC. So far as the decision of the Hon'ble Full Bench in the case of ***M/s. Haria Dablong Min Mahal Samabai Samity Ltd.*** (*supra*) is concerned, the learned Senior Counsel has submitted that in the said decision, the Hon'ble Full Bench has only mentioned about framing of necessary guidelines and therefore, cannot be



treated as a binding precedent and in this regard, he relies upon the case of the Hon'ble Supreme Court ***Sudhansu Sekhar Misra*** (*supra*). It is submitted that a Constitution Bench has laid down that a decision is an authority for what it actually decides. With regard to the Contract Act, Shri Choudhury, learned Senior Counsel for the petitioners has submitted that the contract entered into between the parties and the AFDC are neither void nor voidable and simply because of the absence of any Board resolution, the same does not become illegal.

46. The rival submissions made by the learned counsel for the parties have been duly considered and the materials placed before this Court have been carefully examined.

47. The issue which arises for determination in this series of cases is as to whether the action of the AFDC in cancelling the settlement orders in favour of the petitioners relating to various Fisheries is sustainable in law. However, to answer the said issue, it has to be first examined as to whether the initial settlement was done in accordance with law. The answer to the preliminary issue regarding the validity of the settlements made with the petitioners would also lead this Court to take into consideration the various grounds urged by the petitioners, including the ground of violation of the principles of natural justice before such cancellation. In other words, this Court is also required to examine if the same yardstick with regard to the application of principles of natural justice can be applied in case the initial order of settlement is held to be in accordance with law and if such settlement is held to be done illegally.

48. The Rules governing the field is laid down in the Assam Fishery Rules wherein, the public fisheries are divided in the ratio of 60:40. Under the proviso to Rule 12, power of direct settlement is given to the Government to certain classes of people as enumerated in the same in case of 60% Fishery.

49. It is, however, needless to add that the general principles of distribution of State largesse, namely, maintenance of transparency and fairness have to be strictly adhered to and such settlement has to be preceded by a procedure recognised by law.

50. The Assam Fishery Development Corporation Ltd. is especially incorporated to look into the aspect of Fishery business in the State. The role and functions of the AFDC were the subject matters of dispute which were finally decided by a Full Bench of this Court in the case of ***M/s. Haria Dablong Min Mahal Samabai Samity Ltd.*** (*supra*). In paragraph 31 of the said judgment, the following has been laid down:

“31. In view of our foregoing discussion and decisions, we answer the question raised as follows:

1) Assam Fisheries Development Corporation has the sole authority and jurisdiction to lease out/settle the fisheries which have been transferred or vested with them under Rule 8(c) (11) of the Assam Fishery Rules;

2) The AFDC shall have no power to make any direct settlement as per the proviso to Rule 12 of the Assam Fishery Rules. The Director of the AFDC shall have the authority to make settlement and for that purpose definite guidelines may be laid down so that there is transparency in the matter of settlement. The need for transparency need not be reemphasized in view of the catena of decisions of the Apex Court on the point.

3) While laying down the guidelines or resolutions the spirit of the Fishery Rules may be given due weightage/consideration. Fishery Rules were enacted to provide stimulus to fish production and help the population which is engaged with the occupation of fishing. Under the Fishery Rules preference is given to

the co-operative societies formed by 100% fisherman belonging to Scheduled Caste community and Maimal Community of Cachar. Hence the AFDC is directed to lay down the definite guidelines in the matter so that there is no ambiguity.

4) As the AFDC has been found to have powers to make settlement in respect of the fisheries vested with them they have implied power to pass orders regarding extension of the settlement. We may however like to add here that extension of fisheries creates unnecessary problems and as such definite criteria or parameter may be laid down or some alternative may be found out to give relief to the lessee In proper and suitable cases,.

5) During the course of hearing copies of the resolutions adopted by the AFDC in its meeting dated 3-1-1994 were produced before us and the said resolution provided that the settlement is to be made for a period of ranging from 5 to 10 years and it should be by way of tender only and that too, to the highest bidder.”

51. The Hon'ble Full Bench has clearly laid down that so far as the Fisheries which have been vested on the AFDC are concerned, such Fisheries cannot be settled by way of direct settlement which power is only given to the Government for those Fisheries which are not vested with the AFDC. Therefore, the only manner of making settlement by the AFDC of the Fisheries vested with it, is to call for tenders by strictly following the principles of fairness and transparency which are the hallmarks in matters of distribution of State largesse.

52. In the instant case, what clearly transpires from the records is that the initial settlements done by the AFDC with the petitioners were, apparently not preceded by any procedure recognised by law. The concept of PPP, in settlement of Fisheries, is alien to the Rules governing the field and settlement can be given only by means of a

tender process strictly in accordance with the Rules.

53. The Hon'ble Supreme Court in a catena of decisions has laid down that transparency and fairness are the basic ingredients of a procedure for distribution of State largesse. In the landmark case of ***Ramana Dayaram Shetty Vs. International Airport Authority of India***, reported in **(1979) 3 SCC 489**, the Hon'ble Supreme Court has laid down the following:

“11. ... The discretion of the Government has been held to be not unlimited in that the Government cannot give or withhold largesse in its arbitrary discretion or at its sweet will. It is insisted, as pointed out by Prof. Reich in an especially stimulating article on "The New Property" in 73 Yale Law Journal 733, "that Government action be based on standards that are not arbitrary or unauthorised". The Government cannot be permitted to say that it will give jobs or enter into contracts or issue quotas or licences only in favour of those having grey hair or belonging to a particular political party or professing a particular religious faith. The Government is still the Government when it acts in the matter of granting largesse and it cannot act arbitrarily. It does not stand in the same position as a private individual.”

54. In the case of ***Ram and Shyam Company Vs. State of Haryana***, reported in **(1985) 3 SCC 267** the Hon'ble Supreme Court has laid down as follows:

“18. The position that emerges is this. Undoubtedly Rule 28 permits contract for winning mineral to be granted by the Government by auction or tender. It is true that auction was held. It is equally true that according to the State Government, the highest bid did not represent the market price of the concession. It is open to the State to dispose of the contract by tender. Even here the expression "tender" does not mean a private secret deal between the

Chief Minister and the offerer. Tender in the context in which the expression is used in Rule 28, means "tenders to be invited from intending contractors". If it was intended by the use of the expression "tender" in Rule 28 that contract can be disposed of by private negotiations with select individual, its validity will be open to serious question. The language ordinarily used in such rules is by public auction or private negotiations. The meaning of the expression "private negotiations" must take its colour and prescribe its content by the words which precede them. And at any rate disposal of the State property in public interest must be by such method as would grant an opportunity to the public at large to participate in it, the State reserving to itself the right to dispose it of as best subserve the public weal. Viewed from this angle, the disposal of the contract pursuant to the letter by the fourth respondent to the Chief Minister is objectionable for more than one reason. The writer has indulged into allegations, the truth of which was not verified or asserted. The highest bidder whose bid was rejected on the ground that the bid did not represent the market price, was not given an opportunity to raise his own bid when privately a higher offer was received. If the allegations made in the letter influenced the decision of the Chief Minister, fair-play in action demands that the appellant should have been given an opportunity to counter and correct the same. Application of the minimum principles of natural justice in such a situation must be read in the statute and held to be obligatory. When it is said that even in administrative action, the authority must act fairly, it ordinarily means in accordance with the principles of natural justice variously described as fair play in action. That having not been done, the grant in favour of the fourth respondent must be quashed."

55. The law on this field being crystal clear, as has been explained by the Full Bench in the case of **M/s. Haria Dablong Min Mahal Samabai Samity Ltd.** (*supra*), the AFDC, through its Managing Director, could not have invented a new concept of PPP and thereafter, attempt to settle the Fisheries, in question, to the exclusion of other

eligible bidders. In fact, such settlements would be wholly in gross violation of Article 14 of the Constitution of India.

56. Having held that the initial orders of settlement with the petitioners are bad in law, the question, which may arise, is that whether the cancellation of such settlement would require adherence to the principles of natural justice in the form of giving notice.

57. There is no manner of doubt that the principles of natural justice are ingrained in the administrative system where fair play is a concomitant. The said principles are also one of the essential ingredients of a robust judicial system. However, the Hon'ble Supreme Court itself has laid down certain exceptions where such adherence would be an useless formality. In the case of ***Aligarh Muslim University Vs. Mansoor Ali Khan***, reported in **(2000) 7 SCC 529** the Hon'ble Supreme Court has laid down as follows:

“24. The principle that in addition to breach of natural justice, prejudice must also be proved has been developed in several cases. In K.L. Tripathi v. State Bank of India Sabyasachi Mukharji, J. (as he then was) also laid down the principle that not mere violation of natural justice but de facto prejudice (other than non-issue of notice) had to be proved. It was observed, quoting Wade’s Administrative Law (5th Edn., pp. 472-75), as follows:

“[I]t is not possible to lay down rigid rules as to when the principles of natural justice are to apply, nor as to their scope and extent. ... There must also have been some real prejudice to the complainant; there is no such thing as a merely technical infringement of natural justice. The requirements of natural justice must depend on the facts and circumstances of the case, the nature of the inquiry, the rules under which the tribunal is acting, the subject-matter to be dealt with, and so

forth.”

Since then, this Court has consistently applied the principle of prejudice in several cases. The above ruling and various other rulings taking the same view have been exhaustively referred to in State Bank of Patiala v. S.K. Sharma. In that case, the principle of “prejudice” has been further elaborated. The same principle has been reiterated again in Rajendra Singh v. State of M.P.

25. The “useless formality” theory, it must be noted, is an exception. Apart from the class of cases of “admitted or indisputable facts leading only to one conclusion” referred to above, there has been considerable debate on the application of that theory in other cases. The divergent views expressed in regard to this theory have been elaborately considered by this Court in M.C. Mehta referred to above. This Court surveyed the views expressed in various judgments in England by Lord Reid, Lord Wilberforce, Lord Woolf, Lord Bingham, Megarry, J. and Straughton, L.J. etc. in various cases and also views expressed by leading writers like Profs. Garner, Craig, de Smith, Wade, D.H. Clark etc. Some of them have said that orders passed in violation must always be quashed for otherwise the court will be prejudging the issue. Some others have said that there is no such absolute rule and prejudice must be shown. Yet, some others have applied via media rules. We do not think it necessary in this case to go deeper into these issues. In the ultimate analysis, it may depend on the facts of a particular case.”

58. In the instant case, this Court in exercise of its power under Article 226 of the Constitution of India is undoubtedly a Court of Equity where, the conduct of the parties and the antecedents play a major role in the decision making process. As held above, the initial orders of settlement are absolutely without any sanction of law as, the Rules holding the field were given a total go-by. The then Managing Director of the AFDC had mooted an alien concept of PPP in the case of settlement of fisheries.



Even assuming that the object of such attempt was *bona fide*, that itself, would not confer legal sanctity to the process.

59. When the initial settlement is palpably illegal, no object would be achieved by giving any opportunity to the petitioners, as there is no scope to justify the same. As held by the Hon'ble Supreme Court in the case of **Aligarh Muslim University** (*supra*) as well as **Dharampal Satyapal Ltd.** (*supra*), the same would only be a useless formality and therefore, this Court holds that the cancellation of the settlement with the petitioners is not liable to be interfered.

60. The petitioners have pleaded that pursuant to the initial settlements, they had made huge investments for development of the Fisheries, in question, and for their fishing activities. The said claims being disputed and otherwise constitute questions of fact, a Writ Court cannot embark into such an arena involving disputed questions of fact and the same can be resolved only by a competent Civil Court. The parties are, accordingly at liberty to approach the competent Civil Court for such relief, if permitted by law.

61. This Court is also unable to agree with the submissions made on behalf of the petitioners that no law has been laid down by the Hon'ble Full Bench in the case of **M/s. Haria Dablong Min Mahal Samabai Samity Ltd.** (*supra*). The contents of the said judgment, more particularly, those in paragraph 31, which have been quoted above, clearly lays down the law and has rather, removed a confusion on the functions and powers of the AFDC regarding settlement of fisheries in the State. Accordingly, there is no application of the *caveat* regarding *ratio decidendi* laid down by the Hon'ble Supreme Court in the case of **Sudhansu Sekhar Misra** (*supra*).

62. It is a settled position of law that if a procedure is prescribed by law to do a



certain thing in a certain manner, there cannot be any deviation from such procedure. In this connection, one may gainfully refer to the decision of the Hon'ble Privy Council in the case of ***Nazir Ahmed Vs. King Emperor***, reported in **AIR 1936 PC 253 (II)** wherein, the following has been laid down:

“The rule which applies is a different and not less well recognized rule—namely, that where a power is given to do a certain thing in a certain way the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden.”

63. In view of the aforesaid facts and circumstances, this Court is of the unhesitant opinion that no case is able to be made out by the petitioners and accordingly, all the writ petitions are dismissed.

64. No order as to cost.

65. Records produced by Shri Sarma, learned Standing Counsel, AFDC are returned to him.

JUDGE

Comparing Assistant