

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present: - Hon'ble Mr. Justice Subhendu Samanta.

IN THE MATTER OF
WP 866 (W) 2019
with
IA No.:CAN/1/2019 (OldNo.:CAN/11351/2019)
with
CAN/2/2025
Amal Kumar Jana.
Vs.
State of West Bengal & Ors.

For the Petitioner : Mr. Kamalesh Bhattacharya,Adv.,
Mr. Swapan Kumar Pal, Adv.
Mr. Aninda Bhattacharya, Adv.

For the State : Mr. Chandi Charan De, AGP.,
Ms. Srilekha Bhattacharya, Adv.,

Reserved on : 19.06.2025

Judgment on : 12.09.2025

Subhendu Samanta, J.

1. Petitioner is group leader of Pindrui Fisheries Production Group. The said group was granted lease of Government Fisheries of Mouza-Gobardhanpur plot No. 2139 area 1.23 acres. The lease was for 07 years with effect from 01.01.2011 to 31st December, 2017.

2. Petitioner in terms of office Memo dated 20th July, 2010 of Assistant Director of fisheries given possession of above mentioned fisheries on lease basis. It is the contention of the petitioner that during pendency of the said lease period, vide a communication dated 05th September, 2014, Assistant Director Fisheries, Paschim Medinipur, and extended lease period of the said tank in favour of the petitioners group for further 05 years with effect from 01.01.2018 to 31.12.2022 with fixed yearly rent. Subsequently, through an order dated 09th March 2015, Assistant Director, Fisheries Paschim Medinipur, has communicated the petitioner that by virtue of change of law, sealed tender shall be invited by the committee consisting of the authorised officers as per Rule 272(III) for settlement of fisheries; due to the change of policy, the lease period in favour of the petitioner groups will valid only up- to 31.12.2017. Again, the said Assistant Director, Fisheries, Paschim Medinipur vide impugned

memo dated 27th June, 2018 has cancelled the said lease right of the petitioner.

3. Hence this writ.
4. Learned counsel for the petitioner submits that the respondent authority has extended the lease period till 2022, but by subsequent memo, it has been cancelled the lease period and allowed the petitioner group to perform the lease right till the year 2017. Again by a subsequent impugned memo, the concerned authority has cancelled the earlier order. He submits that the act and action of the respondent authority is itself arbitrary and illegal. Learned Counsel further submits that presently the Govt. Fisheries is unattended and some outsiders are in possession of the said Govt. Fisheries without any proper authorisation of the concerned Department. He further submits that the matter was properly disclosed by the petitioner by a separate application. He submits that the respondent authorities are well aware about the fact but they have not taken any steps. It is the positive contention of the petitioner that the

petition may be allowed to continue the lease up the year 2022.

5. Respondent authority used affidavit in opposition.

It is the sole contention of the respondent authority that according to the provision of 372 of West Bengal Land and Land Reforms Manual 1991, along with its amendment, neither the Assistant Director of the Fisheries nor the Director of Fisheries of the concerned District have any right to lease out and/ or settle the Govt. Fisheries. There is a specific procedure to lease and settled the Fisheries but in the present case that was not adopted, that is why, the said lease was cancelled. Learned Counsel for the respondent authority further argued that the instant writ petition is not maintainable as it is become infructuas by efflux of time.

6. Having heard the Learned Counsel for the parties, it appears that the petitioner seeks mandamus upon respondent authority so that memo dated June, 2018, be quashed. Petitioner intends to continue the lease in terms of memo dated

05.09.2014 wherein the lease was granted from 01.01.2018 to 30.12.2022. It appears that today we are running in the year 2025. Thus the lease period as pleaded by the petitioner to enforce has already been over. Now this court cannot pass any order regarding revival of the lease period.

7. Rule 272 of West Bengal Land and Land Reforms Manual 1991 has set out specific guidelines for setting up committees for administration of Fisheries. The Rule 272 is set out hereunder for better appreciation.

[272. Mode of settlement of Fisheries. (1)

A Committee consisting of the Collector of the District, the District Land and Land Reforms Officer, the Deputy Registrar of Cooperative Society or Assistant Registrar of Cooperative Societies of the concerned zone or Region, the Assistant Director of Fisheries of the concerned district and the Sub-Divisional Officer of the concerned Sub-division with the Collector as Chairperson and the District Land and Land Reforms Officer as convener, shall deal with settlement of fisheries. The Assistant Director of Fisheries, on behalf of the Committee, shall examine and assess the economic lease rent with supporting calculation sheet (which will be treated as the reserve price for putting in the tender) of each Government fishery within the district, as per norms as may be fixed by the Fisheries Department of the State Government from time to time in this regard.

(2) This Committee shall consist of a representative of the department or body if it is owned or managed by any other than department or body other Land and Land Reforms Department. However, tanks/water bodies owned by or handed over to Panchayats shall not come within the purview of this Committee and, lease of such tanks/water bodies shall continue to be guided by rule 266C and the manner prescribed by the Panchayat and Rural Development Department.

(3) The District Land and Land Reforms Officer and the Competent Authority of all Government Departments and Undertakings of Fisheries Departments of the District, shall, before the commencement of the year for the purpose of settlement, provide to the Assistant Director of Fisheries of the concerned district, a list of all kinds of fisheries, in his district, along with the date of expiry of the existing terms of lease in each case, so that, he can assess economic lease rent for each water body, identify the functional Fishermen's Cooperative Societies or Fish Production Groups or SHG in the area/district and publish the same for information to all concerned.

(4) Selection of beneficiary shall be made by the Committee as constituted under sub-rule (1). Sealed tenders shall be invited by the said Committee for settlement of the Government Fishery from the functional Fishermen's Cooperative Societies and Fish Production Groups and Self-Help Groups as identified for the district. The highest tender shall be accepted if it is not less than the reserve price determined as per norms as may be fixed by the Fisheries Department.

(5) If the highest tender falls short of the reserve price or number of valid participant is less than three, fresh tender shall be invited, in which case the individuals/entrepreneurs/ Undertakings of Fisheries Department may also participate. Irrespective of number of participants, if the second tender also falls short of the reserve price, settlement shall be made by auction among the participating tenderers on the spot, and settlement

of the water body shall be made to concerned participant who offered the highest bid, subject to the condition that the bid is not less than 75 per centum of the reserve price.

(6) But if the highest offer in the spot bidding done under sub-rule (5) remains below 75% of the reserve price as determined in respect of a specific water body, the matter shall be referred to the respective department. The department after considering the facts and circumstances may allow the quoted/offered price after second tender, even if it is below 75% of the reserve price, in consultation with the Finance Department and after Cabinet approval.

(7) 25 per centum of the rent for the first year's settlement shall be deposited at the time of settlement and the balance shall be deposited within a period of three months from the date of settlement of a fishery. Rents for the successive years, to be enhanced by 5% every year, shall be deposited in full before the beginning of the respective year. Failure to comply with any of the provisions of this sub-rule shall make the lease liable to be cancelled. Lease rent for all vested water bodies, other than those transferred to Panchayats, shall always be deposited in the revenue head of account of the Land and Land Reforms Department through the respective offices of the Land and Land Reforms Department in the district.

(8) The beneficiary with which lease is concluded shall make every effort to utilize the water area optimally in the manner as to be advised or recommended by the Fisheries Department through the Assistant Director of Fisheries of the respective district. For this purpose, the Assistant Director of Fisheries of the district shall provide to the lessee some guidelines for best management practices towards achieving targeted production at the time of lease settlement. Failure to achieve minimum per hectare production as per norms to be fixed by the Fisheries Department of the State Government for two consecutive years, as will be

verified/examined by the Assistant Director of Fisheries of the district, shall make the lease liable to be cancelled. The beneficiary with which lease is settled shall submit the production return to the Assistant Director of Fisheries of the district and the authority(s) so authorized by the Government Departments and Undertakings of the Fisheries Department owning the respective water bodies in the district, at least 30 days prior to the beginning of the next year.

(9) If during the lease period, it is reported or observed or found by the Assistant Director of Fisheries or by the District Land and Land Reforms Officer or the authority(s) so authorized by other Government Departments owning the Government water body(s) of the concerned district that the culture right of the water body has been transferred to any individual or other, directly or indirectly and the Primary Fishermen's Cooperative Society or Fish Production Group or Self-Help Group members have become passive and on inquiry by the Assistant Director of Fisheries of the district the same is found to be true, the lease shall be liable to be cancelled.

(10) In a case where water of the Government Fishery is also used for other activities by other Government Departments, viz. Agriculture or River Lift Irrigation etc. minimum threshold depth of average 5 ft. water in the summer months for the better survival of the fish has to be kept. A Monitoring Committee, consisting of the Collector of District as the Chairman, the District Land and Land Reforms Officer or the authority(s) so authorized by the concerned Government Department or Undertakings of Fisheries Department. owning the Government Fishery and the concerned authority of the Water Lifting Authority viz. Agriculture or River Lift Irrigation of the respective district, as the case may be, and the Assistant Director of Fisheries shall monitor to this effect. In case of violation, if any, this Committee shall take appropriate action.

Explanation. For the purpose of this rule,-

(a) The Primary Fishermen's Cooperative Societies, Fish Production Groups or Self-Help Groups shall mean having only active fisher-men/women members, who are registered under the competent authority of the Government and take part in the fishery activities of the Society/Group regularly for their livelihood and duly certified to that effect by the respective Fisheries Extension Officer of the local Block and countersigned by the concerned Block Development Officer and in the case of Municipal/Notified/Corporation area, the concerned Fisheries Extension Officer of the adjoining Block (or as decided by the Assistant Director of Fisheries of the district under which it falls subject to issue of notification to this effect) or Assistant Director of Fisheries and countersigned by the Executive Officer/Commissioner of the Municipality/ Notified area/Municipal Corporation, as the case may be;

(b) the Self-Help Groups shall mean such Self-Help Groups which have passed Grade-I evaluation test conducted by the Panchayat and Rural Development Department, Government of West Bengal and the Bank, having only active fishermen/women members, who take part in the fishery activities of the society/group regularly for their livelihood, that too duly certified to the effect by the respective Fisheries Extension Officer and countersigned by the Block Development Officer of the concerned Block and in case of Municipal/Notified/Corporation area, it would be Fisheries Extension Officer of the adjoining Block (or as decided by the Assistant Director of Fisheries of the district under which it falls subject to issue of notification to this effect) or Assistant Director of Fisheries and countersigned by the Executive Officer/Commissioner of the Municipality/Notified area/Municipal Corporation, as the case may be;

(c) the Fishermen's Cooperative Society shall mean Primary Fishermen's Cooperative Societies or Central Fishermen's Cooperative Societies or State

Level apex body of Fishermen's Cooperative Societies (BEN-FISH);

(d) the Functional Fishermen's Cooperative Society/FPG/SHG shall mean, having satisfactory management of the society/group following statutory provisions and rules of the registering authority for the last three years in terms of fruitful utilization of the water body for optimal fish production and providing livelihood to the members. in the opinion of the Assistant Director of Fisheries of the concerned district, apart from fulfilling other statutory criteria as per the Act/Rules;

(e) individuals or entrepreneurs shall mean any person or any organization having proper credentials in this regard, duly accepted by the Committee constituted under sub-rule (1) of rule 272;

Government undertakings shall mean subsidiary organization under the administrative control of the Fisheries Department, Government of West Bengal, viz. State Fisheries Development Corporation Ltd. (SFDC); West Bengal Fisheries Corporation Ltd. (WBFC) etc.]

8. Having considered the relevant Rule 272 of the manual, it appears that Assistant Director of Fisheries or Director of Fisheries have no authorities for settlement of Govt. Fisheries. Thus, I find no justification to interfere with impugned order passed by the Assistant Director, Fisheries. However it appears that the disputed Govt. pond is left vacant. The respondent authority has not disclosed before this court that specific procedure

for inviting tender regarding settlement of Fisheries has been conducted in respect of the said tank. It has been also noted that several outsiders are enjoying Government Property without appropriate authorisation by such way Government Exchequer are being wasted away.

9. Under the above observation I direct concerned respondent authority to take proper steps for settlement of Govt. tank according to the provision of law, so that, the Government Exchequer may not be wasted. The concerned Department is directed to conclude the entire exercise within 04 months from the date of communication of this order.

10. Under the above observation instant writ petitioner is disposed of, connected applications, if pending are also disposed of.

11. Parties to act upon the server copy and urgent certified copy of the judgment be received from the concerned Dept. on usual terms and conditions.

(Subhendu Samanta, J.)