

GAHC010062512026



2026:GAU-AS:4721

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

Case No. : WP(C)/1780/2026

SRI GOPAL SARKAR
SON OF LATE KHUSHI MOHAN SARKAR, RESIDENT OF CHALANTAPARA
PART-I, CHALANTAPARA, DISTRICT - BONGAIGAON, ASSAM

VERSUS

THE ASSAM FISHERIES DEVELOPMENT CORPORATION LTD AND 3 ORS.
HAVING ITS OFFICE AT CHACHAL, VIP ROAD, GUWAHATI, DISTRICT-
KAMRUPM, ASSAM, PIN-781036, REPRESENTED BY ITS MANAGING
DIRECTOR.

2:THE MANAGING DIRECTOR
THE ASSAM FISHERIES DEVELOPMENT CORPORATION LTD
SITUATED AT CHACHAL
VIP ROAD
GUWAHATI
DISTRICT-KAMRUP(M)
ASSAM
PIN-781036

3:THE DISTRICT COMMISSIONER

BONGAIGAON
DISTRICT-BONGAIGAON
ASSAM.

4:THE CIRCLE OFFICER

BOITAMARI REVENUE CIRCLE
DISTRICT-BONGAIGAON
ASSA

Advocate for the Petitioner : MR. D CHOUDHURY, MS. A KHARBANI, MR T CHAKRABORTY

Advocate for the Respondent : GA, ASSAM, SC, AFDC

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

JUDGMENT & ORDER

31.03.2026

Heard Mr. M.K. Choudhury, learned Senior Counsel assisted by Mr. T. Chakraborty, learned counsel for the petitioner; Mr. P. Sarmah, learned Standing Counsel, Assam Fisheries Development Corporation Limited [AFDCL] for the respondent nos. 1 & 2; and Mr. G. Bakalial, learned Junior Government Advocate, Assam for the resonant nos. 3 & 4.

2. The petitioner herein has approached this Court for the second time with regard to the same grievance, after approaching the Court previously by way of a writ petition, W.P.[C] no. 869/2026, which was disposed of by an Order dated 18.02.2026 with certain directions.

3. Further, in view of the nature of grievance canvassed on behalf of the petitioner in this writ petition, the writ petition is taken up for final consideration at the motion stage itself, as agreed to by the learned counsel for the parties.

4. For the purpose of consideration of the issues raised in the present writ petition, a brief narration of the facts appears necessary by way of a recapitulation from the Order dated 18.02.2026. The subject-matter is a fishery named 'Doloni Fishery' located in Bongaigaon District, Assam ['the Fishery', for short]. The Fishery is being settled from time to time by the respondent AFDCL by way of tender processes. Vide a Notice Inviting Tender [NIT] no. 01/2018 dated 25.05.2018, tenders were invited from eligible bidders for settlement of the Fishery. The petitioner stated that as per the NIT, the Fishery was to be settled for a period of

seven years. In the tender process, the petitioner emerged as the highest valid bidder. Contrary to the period of settlement mentioned in the NIT dated 25.05.2018, the Fishery was settled with the petitioner initially for a period of six years on the condition that the settlement of the seventh year would be considered at a later stage. In the year 2019, the possession of the Fishery was handed over to the petitioner. Subsequently, the period of settlement of the Fishery was extended for the seventh year by an Order dated 26.06.2025 till 31.03.2026, after the petitioner approached this Court by way of a writ petition, W.P.[C] no. 1728/2025 seeking a direction to the respondent AFDCL authorities to extend the period of settlement beyond six years.

5. It is found to be a consistent stand of the petitioner as against, the projections made by the respondent AFDCL authorities, that the Fishery comprises of an area of 867 Hectares [land] and 300 Hectares [water] and the petitioner was handed over a lesser area for fishing in 2019 as a huge portion of the Fishery covering about 25% was under encroachment. It was only in January, 2026, the said 25% area of the Fishery was made free from encroachment. Projecting that the petitioner has suffered huge loss in running the Fishery during the Covid-19 pandemic period and due to lesser area available for fishing, the petitioner submitted a Representation on 09.02.2026 before the respondent no. 2 seeking extension of the settlement beyond a period of seven years. At the time of filing of the Representation on 09.02.2026 seeking extension of the settlement period which was going to expire on 31.03.2026, a Notice Inviting Tender [NIT] for settlement of the Fishery had already been published on 03.02.2026. The petitioner having an apprehension that his Representation for extension would not be given consideration in view of the publication of the NIT dated 03.02.2026, approached the Court by the writ petition, W.P.[C] no. 869/2026.

6. When the writ petition, W.P.[C] no. 869/2026 was taken up for consideration on 18.02.2026, this Court after hearing the parties and taking into consideration the facts projected, disposed of the writ petition with a direction to the respondent no. 2 to take the Representation of the petitioner, submitted on 09.02.2026, on board and to dispose of the Representation, after giving an opportunity of personal hearing to the petitioner, by passing an Speaking Order as expeditiously as possible. It was further observed that the tender

process initiated by the NIT dated 03.02.2026 for settlement of the Fishery shall not be finalized till passing of the Speaking Order and the process of settlement of the Fishery initiated by the NIT dated 03.02.2026 shall abide by the decision taken in the Speaking Order.

7. In purported compliance of the direction to pass the Speaking Order in terms of the direction made in the order dated 18.02.2026, the respondent no. 2 has passed an order on 10.03.2026.

8. In this writ petition, assail is made to the Order dated 10.03.2026 on the ground that the Order is not in compliance of the direction made in the Order dated 18.02.2026 passed in W.P.[C] no. 869/2026. For ready reference, the Order dated 10.03.2026 is extracted hereinbelow :-

ORDER

Record relating to Doloni Beel is put up before me along with representation dated 09.02.2026 filed by Sri Gopal Sarkar requesting extension of Doloni Beel for another two years.

It is stated that in the light of order passed by Hon'ble Gauhati High Court Case No. W.P.[C] no. 1728/2025 dated 26.03.2025 in pursuant to this office letter no. AFDC/153/2018/4581-4860 date : 26.06.2025, the earlier settlement order issued vide letter no. AFDC/87/2018/5144-50 dated 16.02.2019 to Shri Gopal Sarkar, S/o Lt. Khushi Mohan Sarkar, Vill – Salantapapra Part-1, P.O. – Salantapara, P.S. – Jogighopa, Dist – Bongaigaon, Pin – 783388 was continued up to 31st March 2026 as the original NIT for settlement was for 7 years and the settlement order was issued for 6 years on 2019.

In pursuant of Hon'ble High Court order passed on 18.02.2026 in connection of the Court case no W.P.[C] no. 869/2026, Sri Gopal Sarkar has attended hearing on 05.03.2026 O/o of the undersigned. Since Gopal Sarkar 7 [seven] years lease period will conclude on 31.03.2026 in accordance with the NIT, considering the

entirety, in pursuant of the court case no. W.P.[C] no. 869/2026 order dated 18.02.2026, it is decided to reject the prayer of Sri Gopal Sarkar stated in his representation dated 09.02.2026 for extension of Doloni Beel for another two years and hereby rejected his prayer considering the potential adverse impact on revenue of the corporation & it to be not tenable in law.

Managing Director
Assam Fisheries Development Corporation Ltd.
Guwahati-36

9. The learned Senior counsel appearing for the petitioner has submitted that the Order dated 10.03.2026 cannot be termed as a Speaking Order. Mr. Sarma, learned Standing Counsel, AFDCL has, on the other hand, submitted that the period of settlement is to be strictly in terms of the underlying contract agreement of the tender process whereafter the settlement of the Fishery was made. He has further referred a decision of the Full Bench of this Court in M/s 129 Haria Dablong Min Mahal Samabai Samity Ltd and others vs. Assam Fisheries Development Corporation Ltd. and others, 2001 SCC OnLine Gau 17.

10. On perusal of the Order dated 10.03.2026, it is noticed that the grievance raised by the petitioner in the Representation dated 09.02.2026 is found answered in the negative by merely stating that there would be total adverse impact on revenue of the AFDCL and the same is not tenable in law. Having considered the contents of the Order dated 10.03.2026, this Court is of the view that it cannot be said that the Order is a Speaking Order in terms of the direction made in the Order dated 18.02.2026. A Speaking Order is one which expressly states the reasons for the decision. In other words, a Speaking Order speaks for itself by assigning the reasons behind the conclusion. If an order is passed without giving a reason by the concerned authority, then the order is non-speaking one which does not provide a clear reason for its decision. The authority, like the respondent no. 2, who has power, authority and jurisdiction to decide either in favour of extension of the period of settlement or otherwise, or similarly in favour of a request for remission or otherwise, must record the reasons. It is

implicit in the principles of natural justice and fair play that an authority which has been vested with power should record reasons as it is part of fair procedure, more particularly, when the decision is likely to affect the person concerned. The obligation to record reasons is a possible check against arbitrary action on the part of the authority invested with the power, authority and jurisdiction to take a decision in a matter which is likely to affect the right of the person, to amplify that there is due application of mind from his end.

11. In M/s 129 Haria Dablong Min Mahal Samabai Samity Ltd. [supra], a Full Bench of this Court has inter alia observed that as the AFDCL 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. The observation has been made by the Full Court being conscious of the fact that extension of fisheries also create hurdles and it is for the authorities in the AFDCL to find out to such relief can be given to a settlement holder in proper and suitable cases.

12. Taking a cue from the observations made by the Full Bench in M/s 129 Haria Dablong Min Mahal Samabai Samity Ltd. and having reached a finding that the Order dated 10.03.2026 is evidently a non-speaking order, which is not in deference to the direction made in the Order dated 18.02.2026, the same is set aside. With the setting aside of the Order dated 10.03.2026, the respondent no. 2 shall have to consider the Representation dated 09.02.2026 afresh to pass Speaking Order. The writ petition is, therefore, disposed of with the direction to the respondent no. 2 to pass a Speaking Order by taking the Representation dated 09.02.2026 and another representation, stated to have been submitted by the petitioner on 23.02.2026, on board. The Speaking Order is to be passed as expeditiously as possible and the Speaking Order to be passed shall be communicated immediately thereafter to the petitioner.

13. As the period of settlement of the Fishery is going to expire today and it is submitted at the Bar that the tender process initiated by the Tender Notice dated 03.02.2026 is yet to be finalized in the form of a settlement order, the competent authority in the AFDCL shall take a conscious decision as regards operation of the Fishery in the interregnum keeping the interest

of revenue in mind. The matter of finalization of the tender process initiated by the Tender Notice dated 03.02.2026 shall abide by the decision taken in the Speaking Order to be passed.

14. With the observations made and the directions above, the writ petition is allowed to the extent indicated above. There shall, however, be no order as to cost.

JUDGE

Comparing Assistant