

(2016) 07 PAT CK 0103

PATNA HIGH COURT

Case No: Letters Patent Appeal No.1942 of 2010 in Civil Writ Jurisdiction Case No. 16615 of 2009

State of Bihar

APPELLANT

Vs

Jhanjharpur Anchal Matsyajivi
Sahyog Samiti Ltd.

RESPONDENT

Date of Decision: July 1, 2016

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: (2016) 4 PLJR 553

Hon'ble Judges: Mr. Navaniti Prasad Singh and Smt. Nilu Agrawal, JJ.

Bench: Division Bench

Advocate: Mr. Madhuresh Ptashad, GP-12, for the Appellants; None, for the Respondents

Final Decision: Dismissed

Judgement

Mr. Navaniti Prasad Singh, J.(Oral) - Heard learned counsel for the State. No one appears on behalf of the contesting private respondent.

2. Present intra-court appeal is directed against the judgment and order of the learned Single Judge date 12.01.2010, passed in C.W.J.C. No. 16615 of 2009 (Jhanjharpur Anchal Matsyajivi Sahyog Samiti Ltd. & Anr. v. The State of Bihar and Ors.).

3. We have perused the records.

4. The only question that arose in this appeal is that whether the learned Single Judge was right in directing the State to make proportionate refund of the settlement amount for settlement of Jalkar, the settlement of which had been delayed because of administrative lapse. The facts are not in dispute. The writ petitioner society had opted for Jalkar settlement for the year 2008- 09 by the time the settlement order was issued and parwana issued for exploiting the Jalkar only

about 49 days were left. However, society was directed to deposit full amount for the entire year. They thus claim proportionate refund for not having been able to exploit the Jalkar for the entire year. The Director Fisheries, for reasons not known necessitated that as the settlement was for the entire year the payment has to be made irrespective of the period.

5. In the counter affidavit filed in the writ proceedings State has taken the same stand, rather it has gone one step forward. It has submitted in the counter affidavit that the petitioners having taken the settlement of the Jalkar and now cannot claim refund of the said amount. We are not impressed. The factum that the settlement was delayed not because of the writ petitioners but because of the administrative lapse is not in dispute. If that be so, then justice, equity and good conscience all demand the State to act fairly. Accordingly, the order of proportionate refund cannot by any stretch of imagination be said to be either wrong, unfair or arbitrary and unwarranted in any manner.

6. Therefore, we find no merit in this appeal. It is, accordingly, dismissed.