

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 7469 of 2017

The Registrar (Judicial), Orissa High Court, Cuttack ***Petitioner***

Mr. Mohit Agarwal, Amicus Curiae

-versus-

Union of India and Others ***Opposite Parties***

Mr. P.K. Parhi, Assistant Solicitor General
along with Mr. D.R. Bhokta, Central Govt. Counsel
Mr. D.K. Mohanty, Addl. Govt. Advocate
Mr. S.N. Das, Addl. Standing Counsel
(For Central & State Govt.)

Mr. Manoj Kumar Mohanty, Advocate
Mr. Sukanta Kumar Dalai, Advocate
Mr. S.K. Nayak, Advocate
Mr. R.P. Kar, Advocate
Mr. B.P. Pradhan, Advocate
Mr. Santanu Kumar Sarangi, Advocate
Mr. Akhaya Biswal, Advocate
Mr. Bharat Jalli, Advocate
For Intervenors

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAİK

Order No.

ORDER
04.04.2022

64. 1. The affidavits filed today by the Collectors, Puri, Khorda and Ganjam are taken on record.
2. Mr. Dalai, learned counsel for the Opposite Party (Intervenors) has played before this Court the video clips showing the existence

of the illegal prawn gherries in village Siandi in Krushnaprasad Tahasil in the district of Puri. The video has been watched by Mr. Samarth Verma, who assures the Court that within 24 hours these illegal prawn gherries will be removed. Mr. Verma will keep ready the video clips in proof of compliance with the above assurance on the next date.

3. List this matter on 6th April, 2022 at 10.30 AM.

I.A. Nos.18800 of 2021 and I.A. No.18797 of 2021

4. I.A. No. 18800 of 2021 is an intervention application by Maa Mangala Primary Fishermen Cooperative Society Ltd. praying *inter alia* that they should be permitted to intervene in the matter by filing affidavits. I.A. No.18797 of 2021 is filed by the same Society for a direction to the Puri District Administration not to evict the Petitioner's Society from the Chilika Sairat.

5. The Applicant Society claims that after the orders passed by the Supreme Court of India on 3rd April, 2017 in W.P.(C) No.230 of 2001 (*N.K. Balakrishna v. Union of India*), they have shifted to 'capture' fishery instead of 'culture' and that their traditional means of fishing inside Chilika in no way affects or disturbs the Chilika wetland. They are concerned that the livelihoods of thousands of families depend on this form of fishing may be at stake.

6. A grievance is made by Mr. R.P. Kar, learned counsel for the Applicants (Interveners) that earlier in 1994 pursuant to the

judgment passed by this Court, the plight of the Petitioner Society was recognized and a policy was formulated by the Government protecting the livelihoods of the traditional non-fishermen. He submits that after the orders of the Supreme Court, the emphasis has been entirely on removal of illegal prawn gherries and culture farms with no attention being paid to the protection of the livelihood of non-fishermen communities. He accordingly, urges that this Court should issue directions to the Government to formulate a fresh policy. The third grievance made is that there is no demarcation of the areas in Chilika lake where the Petitioners' Society may be permitted to carry on the capture fishing practices.

7. A reply has been filed to I.A. No.18800 of 2021 on behalf of the State by the Collector, Puri. While it is admitted that the members of the Applicant Society are carrying on fishing activities from Chilika Sairat, it is stated that a policy decision has been taken by the Revenue and Excise Department to the Government of Odisha by letter dated 18th June, 1999 that no lease shall be granted or renewed within the lake area for fishing activity for the time being either in favour of any Primary Fishermen Cooperative Society (PFCS) or in favour of Group Societies of non-fishermen including the Applicant Society. Consequently, no lease has been sanctioned by the competent authority in favour of any PFCS including the present Applicants. It is pointed out that the fishing activities carried on by the members of the Applicant Society are without the authority of law and without any prior permission from the competent authority. In other words, there is no valid Chilika Sairat which has been recognized by the competent authority.

Further, it is stated that villagers of Chichini Krushnaprasad Tahasil have constructed unauthorized '0' net gherries and are doing shrimp/prawn culture out of Chilika area which also affects the breeding ground of natural fisheries and hampers the free movements of the Dolphin/Fish Juveniles and the habitat of shore birds. Accordingly, the vacation of the status quo order passed by this Court in these applications is prayed for.

8. This Court has considered the submissions of Mr. R.P. Kar, learned counsel for the Applicants as well as Mr. D.K. Mohanty, learned Additional Government Advocate.

9. It appears that although the Applicant Society is a registered Society it has no formal permission from the competent authority to carry on any fishing activities. It is also plain that after 18th June, 1999 no such permission has been granted to any PFCS including the Applicants. Consequently, the question of permitting the Applicants to continue with its fishing activities does not arise. Considering the plea of the Applicant Society that earlier there was a policy by the State concerning the traditional non-fishermen, a direction is issued to the Chilika Development Authority (CDA) to examine the entire issue and submit its recommendations to the State Government within a period of three months for the State Government to consider whether any such policy needs to be reformulated consistent with the judgments of the Supreme Court and the prevailing legal regime. It will be open to the Applicant Society to make its submissions/representations to the CDA which will give them a hearing on a mutually convenient date. The

demarcation of areas in the lake where such activity if any can be carried on does not therefore also arise at this stage. No further directions can be possibly given at this stage on this issue.

10. For the reasons stated therein, the application for intervention is allowed. The I.A. 18800 of 2021 is disposed of.

11. The status quo order passed by this Court on 22nd December, 2021 is hereby vacated. Accordingly, I.A. No.18797 of 2021 is dismissed.

I.A. Nos.3574, 3573, 3577, 3842, 3843, 3576, 4257, 4259 and 4423 of 2022; I.A. Nos 9733, 12735 and 13050 of 2021

I.A. Nos.3565, 3568, 3570, 3810, 4074, 4076 of 2022; I.A. No. 12654 of 2021

I.A. No.8648 of 2021

12. The abovementioned applications pertain to Kendrapara district. In all these applications a prayer has been for interim protection apprehending demolition of the shrimp farm being operated purportedly by the Applicants on their own land.

13. This Court had required the Collector, Kendrapara to prepare a detail mapping of the area with the help of satellite imagery. Pursuant to the order of this Court, the satellite images have been obtained by the Collector, Kendrapara, who appears in virtual mode and assures the Court that within four weeks from today, the mapping of Rajkanika and Rajnagar Tahasils in Kendrapara will be completed with the help of cadastral maps so that the precise location of the farming activities can be ascertained. Such of those

prawn/shrimp gherries/farms in respect of which permissions have not been granted will be given 10 days' advance notice stating that if they do not themselves remove the illegal farms/gherries, the authorities will remove them.

14. It is pointed out by Mr. Manoj Kumar Mohanty, learned counsel for the some of the Applicants that they are yet to hear from the District Level Committee (DLC), Kendrapara on the fate of their applications for permission to carry on shrimp farming. He states that some of the applications have been forwarded to the Coastal Aquaculture Authority (CAA), Chennai with positive recommendations. All such applications will be disposed of by the CAA and the DLC as the case may be within a period of four weeks from today within intimation given to the applicants.

15. The status quo order passed already by the Court will continue till such time the above exercise is completed. It will be open to the persons aggrieved by the notices they might receive to file individual applications in this matter.

16. The applications are disposed of in the above terms. A copy of this order shall be communicated forthwith by the learned Assistant Solicitor General to the CAA, Chennai, for compliance.

17. As far as remaining applications are concerned, they are disposed of by directing that whenever the authority decides to demolish the illegal farms/gherries after completing the mapping exercise, ten days advance notice be given to the individual

farm/gherry owners. Wherever applications are recommended by the DLC to the CAA, Chennai, the CAA, Chennai will act on such recommendations and communicate its decision not later than four weeks from today. Till such time, the status quo order passed by this Court will continue.

I.A. No.7321 of 2021

18. As far as I.A. No.7321 of 2021 is concerned, it is confirmed by the Opposite Parties/local administration on affidavit that the activities are being carried on the Applicant's own land and beyond the costal regulation zone. In that view of the matter, the application is disposed of by directing that the Applicant need not be disturbed and is not required to obtain any permission or registration for carrying on the activities.

I.A. Nos.13647 of 2021 and I.A. No.18110 of 2021
I.A. Nos.18360 of 2021 and I.A. No.18361 of 2021

19. Copies of these applications be served on Mr. Debakanta Mohanty, learned Additional Government in order to enable him to take instructions and file reply, if any.

20. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge