

GAHC010036272023



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

Case No. : WP(C)/976/2023

M/S DEHING PART-I FISHERY CO OPERATIVE SOCIETY LTD
DIBRUGARH, DIST-DIBRUGARH, ASSAM, REPRESENTED BY ITS
SECRETARY, SRI PRAFULLA HAZARIKA, S/O LATE HITESWAR HAZARIKA,
AGED ABOUT 46 YEARS, R/O VILL-DEHINGTHAN, P.O.-ITAKHULI, P.S.-
BORBORUA, DIBRUGARH, DIST-DIBRUGARH, ASSAM, PIN-786007

VERSUS

THE STATE OF ASSAM AND 9 ORS.
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM, FISHERY DEPARTMENT, DISPUR.

2:THE JOINT SECRETARY TO THE GOVERNMENT OF ASSAM
FISHERY DEPARTMENT
ASSAM

3:THE MISING AUTONOMOUS COUNCIL
REPRESENTED BY THE PRINCIPAL SECRETARY
MISING AUTONOMOUS COUNCIL
GOGAMUKH
DHEMAJI
ASSAM

4:THE PRINCIPAL SECRETARY
MISING AUTONOMOUS COUNCIL
GOGAMUKH
DHEMAJI
ASSAM

5:THE DEPUTY COMMISSIONER
DIBRUGARH
ASSAM

6:THE SUPERINTENDENT OF POLICE

DIBRUGARH
ASSAM

7:THE DISTRICT FISHERY DEVELOPMENT OFFICER
DIBRUGARH
ASSAM

8:THE CIRCLE OFFICER
DIBRUGARH WEST REVENUE CIRCLE
DIBRUGARH

9:THE CIRCLE OFFICER
DEMOW REVENUE CIRCLE
ASSAM

10:THE OFFICER-IN-CHARGE NETAI POLICE STATION
ASSA

Advocate for the Petitioner : MR. D. BORAH,

Advocate for the Respondent : GA, ASSAM, MR S BORTHAKUR,MR. K GOGOI,SC, M A C

Linked Case : WP(C)/3434/2022

M/S DEHING PART-I FISHERY CO-OPERATIVE SOCIETY LTD.
M/S- DEHING PART-I FISHERY COOPERTIVE SOCIETY LIMITED
DIBRUGARH
DIST- DIBRUGARH
ASSAM
REP. BY ITS
SECRETARY
PRAFULLA HAZARIKA
S/O-LATE HITESWAR HAZARIKA
AGE- 45YRS
R/O-VILLAGE DEHINGTHAN
P.O- ITAKHULI
P.S- BORBORUA DIBRUGARH
DIST- DIBRUGARH
ASSAM
PIN-786007

VERSUS

THE STATE OF ASSAM AND 3 ORS.

THROUGH THE PRINCIPAL SECRETARY TO THE GOVT OF ASSAM
DEPTT OF FISHERY
DISPUR
GUWAHATI- 781006

2:THE JOINT SECRETARY
TO THE GOVT. OF ASSAM
FISHERY DEPARTMENT

3:THE DEPUTY COMMISSIONER
DIBRUGARH
ASSAM

4:THE CIRCLE OFFICER
DIBRUGARH
WEST REVENUE CIRCLE
DIBRUGARH
ASSAM

Advocate for : MR. S BANIK
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 3 ORS.

Linked Case : WP(C)/3496/2021

DEHING PART 1 FISHERY COOPERATIVE SOCIETY LTD
DIBRUGARH
DIST. DIBRUGARH
ASSAM
REP. BY ITS CHAIRMAN
SRI PRAFULLA HAZARIKA
S/O. LT. HITESWAR HAZARIKA
VILL. DEHINGTHAN
P.O. ITAKHULI
P.S. BORBORUA
DIBRUGARH
DIST. DIBRUGARH
ASSAM
PIN-786007.

VERSUS

THE STATE OF ASSAM AND 8 ORS
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
FISHERY DEPTT.

DIPUR
GUWAHATI-781006.

2:THE JOINT SECRETARY
TO THE GOVT. OF ASSAM
FISHERY DEPTT.

3:THE DY. COMMISSIONER

DIBRUGARH
ASSAM.

4:THE ADDL. DY. COMMISSIONER (R)

DIBRUGARH
ASSAM.

5:THE SUPDT. OF POLICE

DIBRUGARH.

6:THE CIRCLE OFFICER

DIBRUGARH WEST REVENUE CIRCLE
DIBRUGARH.

7:THE CIRCLE OFFICER

DEMOW REVENUE CIRCLE
ASSAM.

8:THE OFFICER IN CHARGE

NATAI POLICE STATION
DEMOW-NETAIPUKHURI ROAD
BAPUTIGARH
ASSAM.

9:THE MISING AUTONOMOUS COUNCIL
REPRESENTED BY THE PRINCIPAL SECRETARY
MISING AUTONOMOUS COUNCIL
GOGAMUKH
DIST.- DHEMAJI
ASSAM.

Advocate for : MR. S BANIK
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 8 ORS

Linked Case : WP(C)/783/2021

M/S DEHING PART-I FISHERY CO OPERATIVE SOCIETY LTD
DIBRUGARH
ASSAM
REPRESENTED BY ITS CHAIRMAN SRI PRAFULLA HAZARIKA
SON OF LATE HITESWAR HAZARIKA
AGED ABOUT 45 YEARS
RESIDENT OF VILLAGE DEHINGTHAN
PO ITAKHULI
PS BORBURUA
DIBRUGATH
ASSAM 786007

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT OF ASSAM.
FISHERY DEPARTMENT
DISPUR GUWAHATI 781006

2:THE JOINT SECRETARY
TO THE GOVT. OF ASSAM
FISHERY DEPARTMENT

3:THE DEPUTY COMMISSIONER

DIBRUGARH ASSAM

4:THE SUPERINTENDENT OF POLICE
DIBRUGARH

5:THE CIRCLE OFFICER

DIBRUGARH WEST REVENUE CIRCLE
DIBRUGARH

6:THE CIRCLE OFFICER

DEMOW REVENUE CIRCLE
ASSAM

7:OFFICER IN CHARGE
NETAI POLICE STATION

DEMOW NETAIPUKHURI ROAD
BAPUTIGARH
ASSAM

Advocate for : MR. S BANIK
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 6 ORS

Linked Case : WP(C)/6596/2021

M/S DEHING PART -I FISHERY CO OPERATIVE SOCIETY LIMITED
DIBRUGARH
DIST DIBRUGARH
ASSAM
REPRESENTED BY ITS SECY SRI PRAFULLA HAZARIKA
S/O LATE HITESWAR HAZARIKA
AGED ABOUT 45 YEARS
R/O VILL. DEHINGTHAN
P.O. ITAKHULI
P.S. BORBORUA
DIBRUGARH
DIST. DIBRUGARH
ASSAM
PIN 786007

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE PRINCIPAL SECY. TO THE GOVT. OF ASSAM
FISHERY DEPTT.
DISPUR
GUWAHATI 781006

2:THE JOINT SECY. TO THE GOVT. OF ASSAM

FISHERY DEPTT.

3:THE MISING AUTONOMOUS COUNCIL

REPRESENTED BY THE PRINCIPAL SECY. MISING AUTONOMOUS COUNCIL
GOGAMUKH
DHEMAJI
ASSAM.

4:THE PRINCIPAL SECY.

MISING AUTONOMOUS COUNCIL
GOGAMUKH
DHEMAJI
ASSAM

5:THE DEPUTY COMMISSIONER

DIBRUGARH
ASSAM.

6:THE SUPERINTENDENT OF POLICE

DIBRUGARH

7:THE CIRCLE OFFICER

DIBRUGARH WEST REVENUE CIRCLE
DIBRUGARH.

8:THE CIRCLE OFFICER

DEMOW REVENUE CIRCLE
ASSAM.

Advocate for : MR. S BANIK
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 7 ORS

Linked Case : WP(C)/4652/2022

M/S DEHING PART-I FISHERY COOPERATIVE SOCIETY LIMITED
DIBRUGARH
DIST. DIBRUGARH
ASSAM
REPRESENTED BY ITS SECRETARY
SRI PRAFULLA HAZARIKA
SON OF LATE HITESWAR HAZARIKA
R/O- VILL.- DEHINGTHAN
P.O. ITAKHULI
P.S. BORBORUA
DIBRUGARH
DIST. DIBRUGARH
ASSAM
PIN- 786007.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM
FISHERY DEPARTMENT
DISPUR
GUWAHATI-781006.

2:THE JOINT SECRETARY TO THE GOVT. OF ASSAM
FISHERY DEPARTMENT.

3:THE MISING AUTONOMOUS COUNCIL
REPRESENTED BY THE PRINCIPAL SECRETARY
MISING AUTONOMOUS COUNCIL
GOGAMUKH
DHEMAJI
ASSAM

4:THE PRINCIPAL SECRETARY
MISING AUTONOMOUS COUNCIL
GOGAMUKH
DHEMAJI
ASSAM

5:THE DEPUTY COMMISSIONER
DIBRUGARH
ASSAM

6:THE CIRCLE OFFICER
DIBRUGARH WEST REVENUE CIRCLE
DIBRUGARH.

Advocate for : MR. S BANIK
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 5 ORS

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

19.08.2024

1. Heard Mr. S. Banik, learned counsel for the petitioner and Mr. P. Sarma,

learned counsel for the Fishery Department. Mr. S. Borthakur, learned counsel appears for the Missing Autonomous Council, while Ms. U. Das, learned counsel appears for the other government respondents.

2. All the writ petitions are being disposed of by this common order, as the issue in all the writ petitions are more or less similar and as it pertains to the alleged trouble being faced by the petitioner Society after being settled with the Dehing Part-I Fishery for 7 years.

3. The petitioner is aggrieved by the demand notice made upon the petitioner for payment of *kist* money, on the ground that the petitioner Society has not been able to operate the entire Dehing Part-I Fishery area since the time the possession of the same was given to the petitioner on 10.12.2020. He accordingly prays that a direction should be issued to the respondents to make a verification report, with regard to the total area of fishery minus the fishery area falling under the Missing Autonomous Council (hereinafter referred to as the 'MAC') area and to recalculate the *kist* money payable by the petitioner to the Fishery Department.

4. The petitioner's counsel submits that in pursuant to a tender notice, settlement order was issued by the Fishery Department on 18.11.2020, settling the Dehing Part-I Fishery with the petitioner for a period of 7 years for Rs.1,58,33,993/-, which comes to Rs.22,61,999/- per annum, w.e.f. 05.12.2020. The petitioner's further case is that after taking possession of the fishery, there was continuous disturbance caused by some persons in the part of the said Fishery area which came within the MAC area, which resulted in the members of the petitioner Society not being able to fish within parts of the Dehing Part-I

Fishery, i.e., the part of the fishery which came within the MAC area.

5. The petitioner's counsel submits that though the petitioner had made representations to the State respondents, with regard to the problem being faced by the petitioner Society, the respondents have only made a cursory investigation into the complaint made by the petitioner and have not solved their problem. Instead the State respondents have issued a demand notice to the petitioner, for payment of kist money for operating the entire fishery area, knowing fully well that the entire fishery is not being operated by the petitioner Society. He accordingly submits that the demand notice dated 10.01.2022 issued by the State respondents, requiring the petitioner to pay the kist money amounting to Rs. 39,23,998/- being unreasonable, should be set aside. Further, the respondent authorities should be directed to recalculate the kist money payable by the petitioner Society to the respondents, after measuring the total area of the fishery in question and subtracting the area of the said fishery within the MAC area, as the petitioner Society members have not been able to fish in the fishery within the MAC area.

6. The petitioner's counsel submits that the issue basically pertains to the obstruction made to the members of the petitioner Society from fishing in the Dehing Part-I Fishery, which is within the MAC area.

7. Mr. P. Sarma, learned counsel for the Fishery Department, submits that the representations of the petitioner and the stand taken by the State respondents in the writ petitions clearly goes to show that the grievance of the petitioner is not related to any obstruction faced by the petitioner during their fishing activities in the Dehing Part-I Fishery. It only relates to the obstructions allegedly made by some persons, with regard to collection of sale proceeds of

the fishery. Accordingly, there is no requirement of measuring the area of the fishery, especially when it has been held by this Court in the order dated 19.07.2022 passed in WP(C) 4652/2022 that the MAC apparently lacked the jurisdiction to make settlement of a fishery.

He further submits that when the entire problem of the petitioner Society is only with regard to it's inability to collect full fishery revenue from the persons who have fished in the said fishery area, there is no requirement of measuring the area of the fishery, as it is not the case of the petitioner that they have not been allowed to do fishing. It is only a case of some persons, allegedly not allowing the petitioner Society to collect revenue after having fished in the fishery. This issue also pertains to a question of fact, which needs to be proved.

8. I have heard the learned counsels for the parties.

9. The petitioner's case is that due to obstructions being faced by the petitioner Society in collection of fishery revenue, the said issue was brought to the notice of the authorities, vide two representations dated 11.12.2020 submitted to the Circle Officer, Demow Revenue Circle and the Officer-in-Charge of Nitai Police Station. Thereafter, the petitioner submitted two representations dated 15.12.2020 and 15.01.2021 to the Deputy Commissioner, Dhubri.

10. The 4 representations made by the petitioner on 11.12.2020, 15.12.2020 and 05.01.2021 is to the effect that the petitioner Society and it's agents have been obstructed from collecting revenue by some persons belonging to the MAC area. It is not the case of the petitioner in any of the four representations that the members of the petitioner Society were obstructed from fishing in the

Dehing Part-I Fishery. The prayer of the petitioner in all the representations is that necessary action should be taken against the 10 mentioned persons in their representations, so that the petitioner Society can collect revenue. The 4 representations are all similar and the representation dated 15.12.2020 issued to the Deputy Commissioner, Dibrugarh is reproduced hereinbelow as follows:-

*“DEHING PART I FISHERY CO-OPERATIVE SOCIETY LTD. Established 1979
KHOWANG GHAT, DIBRUGARH*

REGISTRATION NO.-D-116 DATED 23.04.1976

Ref. No. -

Date 15/12/2020

To,

Honorable Deputy Commissioner, Dibrugarh

Subject: Application as collection of fishy revenue is not been allowed from Bharatgoala Ghat to Dehingmukh till River Brahmaputra within Dehing Part / Fishery.

Sir,

Respectfully it stated that the government of Assam had settled Dehing Part I Fishery with a co-operative Society from 5/12/2020 for 7(seven) years as a regular settlement and accordingly in our fish selling centres (i) Dehingmukh, (ii) Lal Beel, (ill) Bhekuri Saponi, (iv) Sessamukh and (v) Itakhull Thangaon Centre when we had gone for revenue collection some persons from Mising Autonomous Council had obstructed our fishery mohories and had abused us.

As such your Honor may it please to take necessary actions against the below mentioned persons and facilitate our mohories in collection of revenue. This is the humble prayer of our co-operative Society before your Honor.

Names of persons who had obstructed collection of fishery revenue

(1) Shri Prasanta Pegu

*Son of Shri Drone Pegu
Bhekuri Saporì*

*(II) Shri Dhananjay Taid
Son of late Tema Taid
Sessamukh
Ph. No. 7576025939*

*(III) Shri Phuleshwar Tao
Son of late Binod Tao*

*(iv) Ekhalabya Taid
Son of Deben Taid
Lai Beel
Ph. No.: 6001733889*

*(v) Shri Romen Doley
Son of late Jogesh Doley
Dehingmukh*

*(vi) Shri Munnang Doley
Son of late Dhajyadhar Doley
Dehingmukh*

*(vii) Shri Keshab Pegu
Son of late Bharat Pegu
Lachan Gaon
(viii) Kupson Sungkran
Son of late Tulosi Sungkran
Dehingmukh*

*(ix) Shri Bipul Taid
Son of Budin Taid
Lai Beel*

*(x) Shri Mande Taid
Son of Shri Dharma Taid
Lai Beel*

*Yours faithfully,
Prafulla Hazarika
Secretary, Dehing Part I Fishery
Co-operative Society Ltd.
Khowang Ghat
11/12/2020."*

11. As the representations of the petitioner were not being considered by the authorities, the petitioner filed WP(C) 783/2021, with a prayer to issue a direction to the Deputy Commissioner, Dibrugarh and the Superintendent of Police, Dibrugarh, to stop the illegal fishing occurring within Dehing Part-I Fishery and to ensure that the members of the petitioner Society were not disturbed/stopped from collecting fishery revenue. A further prayer was also made for a direction to be issued to the Deputy Commissioner, Dibrugarh, not to demand payment of revenue from the petitioner, until the petitioner Society was allowed to operate the entire Dehing Part-I Fishery peacefully and was allowed to collect the entire fishery revenue.

12. Subsequent to the above events, the Deputy Commissioner, Dibrugarh wrote a letter dated 28.08.2020 to the Joint Secretary to the Government of Assam, Fishery Department, stating that vide order dated 24.08.2020 issued by the Principal Secretary, Missing Autonomous Council, settlement of the Dehing River Part-I Fishery from Bekhuri Chapor Parghat to Teteluguri Gaoni had been given in favour of one Sri Siba Bhuyan, Secretary of the M/S Dehing Nadi Pachimanchal Anchalik M.S.S. Ltd., amongst others. As the order of the Principal Secretary, MAC overlapped the fisheries belonging to the 60% category fishery settled by the Fishery Department, Government of Assam, which included the Dehing Part-I Fishery, the Principal Secretary, MAC was requested to withdraw the order dated 24.08.2020.

13. In view of the letter dated 28.08.2020 issued by the Deputy Commissioner, Dibrugarh, the petitioner filed WP(C) 6596/2021, praying that a writ in the nature of mandamus should be issued, directing the MAC not to declare and settle any water body within the boundaries of any 60% category fishery, 40% category fishery or a fishery under the jurisdiction of the Assam Fishery Department with any person or society. This Court, vide order dated 09.12.2021 passed in WP(C) 6596/2021, passed an interim order directing the MAC not to settle or hand over possession of any water body of 60% or 40% category of fishery to any person/Society. It may be reiterated here that the Dehing Part I Fishery is a 60% category fishery and the same had been settled with the petitioner by the Assam Fishery Department.

14. Thereafter, to discuss the problems faced by the petitioner Society with regard to the allegation that there were obstructions being faced by the petitioner Society in the Dehing Part-I Fishery area under the territorial jurisdiction of the MAC, a date for hearing was fixed by the Circle Officer, Dibrugarh West Revenue Circle on 25.02.2022, vide notice dated 15.02.2022, wherein the petitioner was required to be present. However, the hearing was not conducted by the respondent authorities on the said date, i.e., 25.02.2022. Being aggrieved, the petitioner filed WP(C) 3434/2022, with a prayer for a direction to be issued to the Circle Officer, Dibrugarh West Revenue Circle, to conduct a hearing as had been notified vide notice dated 15.02.2022.

15. Subsequent to the filing of WP(C) 3434/2022, notice dated 07.07.2022 was issued by the MAC, proposing to settle a number of fisheries, including the Dehing Part-I Fishery (from Dehing to Rangali Dolpa). The petitioner being aggrieved by the issuance of the notice dated 07.07.2022, inasmuch as, the

Dehing Part-I Fishery had already been settled with the petitioner by the Fishery Department, the petitioner filed WP(C) 4652/2022. This Court passed an interim order dated 19.07.2022 in WP(C) 4652/2022, which is to the effect that since the issue of jurisdiction was involved and as the MAC apparently lacked the jurisdiction to make settlement of fisheries, no settlement or any other activity should be made by the MAC, which would have an adverse effect on the fishing activities of the petitioner in the fishery settled with the petitioner.

16. Subsequent to the filing of WP(C) 4652/2022, a demand notice dated 28.06.2021 was issued by the Addl. Deputy Commissioner (R), Dibrugarh, directing the petitioner to deposit Rs.9,31,000/-, which was the arrear revenue dues payable by the petitioner. The petitioner challenged the demand notice vide WP(C) 976/2023, on the ground that though the boundaries of the fishery settled with the petitioner had been demarcated, part of the said fishery had been settled by the MAC with other persons, which led to obstructions to fishing being faced by the members of the petitioner Society. Instead of removing the obstructions faced by the petitioner Society, the demand notice demanding Rs.9,31,000/- was issued, which was nothing sort of a coercive measure being faced by the petitioner for payment of *kist* money, when the petitioner Society could not operate the entire fishery.

17. The petitioner thereafter filed WP(C) 976/2023 on the ground that the members of the petitioner Society were facing obstructions in fishing, in parts of the Dehing Part-I Fishery, as settlement was illegally given by the MAC to some other person. The further grievance of the petitioner was that instead of redressing the grievance expressed by the petitioner for removal of obstructions and to enable the members of the petitioner Society to conduct free fishing

without any obstruction, a demand notice dated 10.01.2023 had been issued by the State respondents, for an amount of Rs.39,23,999/-. The petitioner made the following two prayers in WP(C) 976/2023, i.e., **(i)** to set aside the demand notice dated 10.01.2023, wherein the petitioner has been directed to pay *kist* money of Rs.39,23,999/- and **(ii)** to recalculate the *kist* money to be paid by the petitioner, on the basis of the total area of the Dehing Part-I Fishery, minus the area of the fishery that falls under the MAC area.

18. Para 4 & 5 of the affidavit-in-opposition filed by the Deputy Commissioner, Dibrugarh in WP(C) 3434/2022, is to the effect that all the petitioner's representations had been forwarded to the Superintendent of Police, Sivasagar for information and necessary action, with a request to look into the matter of illegal selling and collection of fishery revenue by unauthorized persons. The Circle Officer of the concerned revenue circle was also directed to take necessary action against illegal selling and collection of fish every revenue.

19. The Superintendent of Police, Dibrugarh, vide letter dated 10.09.2021, addressed to the Deputy Commissioner, Dibrugarh, stated that to take necessary steps with regard to the petitioner's representation dated 05.01.2021, the following points needed to be ascertained-

“1) whether both the parties namely, M/S Dehing Pt-I Fishery Co. Op. Society Ltd., Dibrugarh and Mishing Autonomous Council are to be allowed to collect revenue from the fishermen?”

2) which party has the legal authority to collect the revenue?”

20. The Joint Secretary to the Government of Assam, Fishery Department thereafter wrote a letter dated 30.11.2021 to the Deputy Commissioner, Dibrugarh requesting him to cause a proper inquiry through the concerned

Revenue Circle and Police Station regarding the allegation of illegal collection of revenue. If the allegation was found to be authentic, follow-up action was to be taken to stop illegal collection of fishery revenue and to enable the petitioner Society to collect the sale proceeds of fish, which was the legitimate income of the petitioner Society, so that they could deposit the *kist* money to the Government regularly.

21. As can be seen from the representations made by the petitioner Society, the report of the Superintendent of Police, Sivasagar and the letter written by the Joint Secretary to the Government of Assam, Fishery Department, the issue pertains to the allegation made by the petitioner Society that they have not been able to collect fishery revenue from the sale proceeds of selling fish. It is not the case of the petitioner that the members of the petitioner Society have been obstructed from fishing in the Dehing Part-I Fishery, just because some portion of the fishery lay within the area covered by the MAC. The representations submitted by the petitioner Society and the aforesaid letters made by the State respondents could at best give rise to an inference that some other persons, other than members of the petitioner Society have also been fishing in the Dehing Part-I Fishery, who have not been giving any part of the sale proceeds as revenue to the petitioner, who has been settled with the fishery.

22. The prayer of the petitioner for having the area of the fishery measured, so that the area falling under the MAC area should not be counted as part of the fishery settled with the petitioner for the purpose of re-calculating the *kist* money payable by the petitioner, could be an attempt to lead this Court up the wrong garden path, with an aim to reduce the revenue payable by the petitioner

to the State respondents. On the other hand, the allegation that the members of the petitioner Society are being obstructed from fishing in the fishery lying within the MAC area could be true. However, the only issue raised in the representations submitted by the petitioner Society is to the effect that they were unable to collect the revenue due to the 10 persons mentioned in the representations.

23. Though this Court, vide order dated 10.11.2021 passed in WP(C) 3496/2021, had asked the State respondents to apprise the Court about the total area of the Dehing Part-I Fishery, by giving the boundaries of the said fishery and the area that fell within the MAC area, the area of the fishery is not an issue. In view of the above reasons, this Court vacates the earlier order and is not inclined to pass any order to measure the total area of the Dehing Part-I Fishery, as the same is not relevant to the issue at hand, at this stage.

24. The issues raised in the writ petitions have become more vis-a-vis the issue raised in the petitioner's representations. The petitioner's earlier case was that it had not been able to collect fishery revenue due to the actions of the 10 persons mentioned in the representations. The added issue is that it cannot fish in the fishery within the MAC area. The averments made by the petitioner with regard to the above may or may not be true.

25. As the issues to be decided are all factual issues, this Writ Court is not able to give any decision with regard to the prayer of the petitioner, keeping in view that the factual issues need to be first verified. Further, the other aspect of the matter that also needs to be clarified is whether the issues raised by the petitioner, if found to be true, would entail/require the State respondents to act as per the prayer of the petitioner or as to whether the issue of not being able

to collect fishery revenue is a personal issue/problem of the petitioner, which cannot have a bearing on the kist money payable to the State respondents.

26. In view of the reasons stated above, this Court directs the State respondents to verify the allegation made by the petitioner, that the Society has not been able to collect the fishery revenue, due to the action of the 10 persons mentioned in the petitioner's representations. The State respondents shall also verify whether the members of the petitioner Society have been obstructed from fishing in the fishery which is in the MAC area. The State respondents shall conclude their investigation/inquiry at the earliest and preferably within a period of 3 (three) months from the date of receipt of a certified copy of this order. The report on the inquiry made should be communicated to the petitioner. If the outcome of the investigation/enquiry concludes with the finding that the petitioner has not been able to collect fishery revenue or that its members have not been allowed to fish in the fishery situated within the MAC area, the State respondents shall take a decision with regard to whether the petitioner's payable revenue/kist money should be reassessed.

27. All the writ petitions are accordingly disposed of.

JUDGE

Comparing Assistant