

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1136 OF 2020

Dhopeswar Co-op. Society (Fishaery)
Through its Chairman, Dhananjay Popat Kadam,
Age: 42, Occ: Agriculture
R/at Kadam Wadi, Post Tadwale,
Tal. Shiral District Sangali,
Pin 415408.

SNEHA
NITIN
CHAVAN

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NITIN CHAVAN
Date: 2026.08.28
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...Petitioner

Versus

1. Smt. Ankita Arvind Patil
Chief Promotor N. Akshay Fishery Business. Co.
Op. Society. Shiral, Tal. Shiral, Dist. Sangli.
2. Shri Mahadev Kadam, Shiral Peta Fishery
Business, Co Op Society, Shiral, Tal. Shiral, Dist.
Sangali.
3. Shri. Jagdish Dinkar Patil
Dam affected Fishery, Co Op. Society, Padali,
Tal. Shiral. Dist. Sangli.
4. The Assistant Registrar Fisheries and Milk
Dept. Sangli.
5. The Assistant Commissioner Fisheries Dept.
Sangali.
6. Divisional Deputy Commissioner Fisheries Dpt.
Pune.
7. Divisional Deputy Registrar, Mumbai.
8. The Commissioner Fisheries, Maharashtra
State, Mumbai.
9. State of Maharashtra.

...Respondents

WITH
WRIT PETITION (ST) NO. 35393 OF 2024

1. Dhopeswar Matsya Vavasayik Sahakari Sanstha, Maryadit. Upawale (Kadamwadi) Through Promoter- Dhananjay Popat Kadam Age-47 years. Occupation- Agriculture & Fishing, R/o- Kadamwadi, Taluka- Shirala, District- Sangli.

...Petitioner

Versus

1. Ld. Commissioner of Fisheries @
Ld. Addl. Registrar Co-operative (Fishery)
Society Mumbai.
Having office at - Mittal Tower, 8th floor, In front
of Mantralaya, Mumbai.

2. Ld. Dy. Registrar Co-operative (Fishery)
Society, Mumbai.
Having office at - Mittal Tower, 8th floor, In front
of Mantralaya, Mumbai.

3. Ld. Asst. Registrar (Milk) Society, Sangli-
Miraj.
Having office at- Near Aambetkar Garden,
Government Milk Dairy, Miraj.

4. Ld. Divisional Dy. Commissioner of Fisheries,
Pune Having office at- Matsyabij Utpadak
Kendra, Survey No. 15, Hadapsar, Pune Solapur
Road, Hadapsar, Pune-411028.

5. Ld. Asst. Commissioner of Fisheries, Sangli.
Having office at- First Floor, Government
Building, Vijaynagar, Sangli.

6. Proposed Akshay Macchimar Vavasayik
Sahakari Sanstha Maryadit Shirala.
Taluka- Shirala, District- Sangli Through
Promoter- Ankita Arvind Patil Age- Adult,
Occupation- Household, R/o- Khed, Taluka-
Shirala, District- Sangli.

...Respondents

Mr. Umesh Pawar a/w. Vijay Kharat & Shivprasad Gaikwad for Petitioners in both petitions.

Mr. Sushant S. Prabhune (through V.C.), for Respondent No.1 in WP/1136/2020 and for Respondent No.6 in WP(St)35393/2024.

Mr. Vishwanath Talkute a/w. Mahesh Bhosale and Shivaji Kokare for Respondent No.2 in WP/1136/2020.

Mr. Ashutosh Kulkarni i/b Mr. Vaibhav Gaikwad for Respondent No.3 in WP/1136/2020.

Mr. Sanjay D. Rayrikar, for Respondent Nos.1 to 5-State in WP (St)/35393/2024 and for Respondent Nos. 4 to 9- State in WP/1136/2020.

CORAM : M.M. SATHAYE, J.
RESERVED ON : 25th MARCH 2026
PRONOUNCED ON : 27th AUGUST 2026
(THROUGH VIDEO CONFERENCING)

JUDGMENT :

1. Invoking Articles 226 and 227 of the Constitution of India, the Petitioner-Society is challenging common Judgment and order dated 19.10.2018 passed by learned Commissioner of Fisheries and Additional Registrar of Co-Operative Societies (Fisheries), State of Maharashtra, Mumbai. By the said impugned order, Revision Application Nos. 39 of 2016 and 40 of 2016 filed by the Petitioner-Society through its President, are rejected, thereby confirming orders dated 13.02.2015 and 18.02.2015 by Deputy Registrar Co-operative Societies (Fisheries) in Appeal Nos. 1 of 2015 and 26 of 2015. In effect, the Petitioner-society's registration is cancelled and action under Section 21A of Maharashtra Co-operative Societies Act, 1960 (for short 'the said Act') is initiated.

2. For convenience, Respondents as well as State Authorities are

referred to as per their position in the cause title of WP/1136/2020.

BRIEF BACKGROUND

3. The Petitioner is a society of members engaged in fishing activities. The Petitioner-Society submitted its proposal on 21.12.2013 for carrying out fishing activities in Morna Dam. The Registrar took certain objections in the proposal submitted by the Petitioner-society and communicated deficiencies. On 26.12.2013, other proposals including that of Respondent No.1 and Respondent No. 3 were filed. On 03.01.2014, the Petitioner's proposal was forwarded. Government declared new policy in respect of allotment for fisheries by issuing Government Resolution (GR) dated 26.06.2014. On 16.07.2014, new policy under GR dated 26.06.2014 was stayed. In such circumstances, the Assistant Commissioner for Fisheries conducted visit/inspection on 05.09.2014 in respect to Petitioner's proposal. On 19.09.2014, no objection certificate (NOC) was issued by the Assistant Commissioner of Fisheries, Sangli in favour of the Petitioner making reference to a letter dated 02.09.2014 issued by State Minister for Fisheries and also making reference to telephonic instruction received in that behalf. The said NOC was issued subject to certain conditions including that the Petitioner-Society shall not claim access to Morna Dam for 5 years during its allotment in favour of Respondent No. 2 from 2013-14 to 2017-18. On 23.09.2014, the Petitioner-Society came to be registered.

4. Respondent No. 1 & 2 filed Appeal No. 26 of 2014 and Appeal No. 1 of 2015 under Section 152 of the said Act respectively, challenging the registration of Petitioner-Society. On 13.02.2015 and 18.02.2015 the said appeals came to be allowed by Deputy Registrar, Co-Op. Societies (Fisheries) thereby canceling Petitioner's registration

and initiating action under Section 21A of the said Act.

5. The Petitioner-Society filed Revision Application Nos. 39 of 2016 and 40 of 2016 against the aforesaid orders passed under section 154 of the said Act. By orders dated 19.09.2017 and 25.09.2017, the then Commissioner for Fisheries and Additional Register Co-operative Societies (Fisheries) allowed both Revisions, setting aside the orders passed by Deputy Registrar and restoring Petitioner-Society's registration.

6. Respondent Nos. 1 and 2 then filed Writ Petition Nos. 5109 of 2018 and 4610 of 2018 against the above orders passed by the Commissioner. On 04.07.2018, this Court (Coram: R. D. Dhanuka J.) heard both the petitions together and allowed them, thereby setting aside the orders dated 19.09.2017 and 25.09.2017 and restoring Revision Application Nos. 39 of 2016 and 40 of 2016 to the file of Commissioner of Fisheries, who was directed to hear all parties and after complying principles of natural justice, decide the same on merits, without being influenced by earlier observations made by the then Commissioner and also without any interference from the concerned Minister of Fisheries or any other authority. It was specifically directed that if the learned Commissioner for Fisheries who passed earlier orders was still in the place, he shall not be assigned the hearing and it shall be heard by other competent officer. The Commissioner for Fisheries was directed not to take into consideration any oral or written instructions by Minister for Fisheries while passing fresh order. The registration of Petitioner's society was stayed till hearing of the revision applications.

7. On 19.10.2018, the Commissioner for Fisheries has passed common impugned judgment and order allowing the revisions and

confirming the orders passed by Deputy Registrar, thereby canceling registration of Petitioner's society and initiating action under Section 21A of the said Act.

8. In these circumstances, the Petitioner filed above writ petitions challenging the common judgment and order dated 19.10.2018. The Petitioner was permitted to amend the petition for adding grounds. The parties have filed affidavits-in-reply as well as rejoinders.

9. Since the petitions remained pending for a long time at admission stage, they are taken up for final disposal by consent of learned Counsel for the parties.

SUBMISSIONS

10. Mr. Pawar, learned Counsel for the Petitioner-Society submitted as under.

10.1. That Morna dam is a '*dharan talao*' and therefore, as per condition No.6 in letter-cum-circular dated 01.09.1989, there can be more than one fishery societies registered.

10.2. That after communication of deficiencies in the proposal, the Petitioner had removed all of them on 30.12.2013 on the Assistant Commissioner had forwarded the proposal on 03.01.2014 for NOC. As such, the findings about non-removal of objections/deficiencies is erroneous and unsustainable.

10.3. That new conditions mentioned in letter-cum-Circular dated 01.09.1989 cannot be imposed on the Petitioner and non compliance with condition Nos. 4, 10 and 13 of letter dated 20.09.2014 cannot be the reason for canceling registration. That registration

certificate itself is a conclusive proof of Petitioner-Society complying with all conditions. That since in letter dated 26.12.2013 communicating deficiencies, no objection 'about head office of the proposed society' was raised, the same cannot be considered to the detriment of Petitioners' right.

10.4. That the Assistant Commissioner of Fisheries has made spot inspection before registration was granted and all members of the Petitioner-Society are active fishermen. That there was no requirement of active fishermen (*kriyasheel macchimar*) as per letter-cum-circular dated 01.09.1989.

10.5. That members of Petitioner-Society are not belonging to same families and necessary certificates about residence are already issued by the concerned Talathi.

10.6. That in the list of members submitted by Petitioner-Society, 25 members are doing agriculture and fishing both and therefore, they meet the necessary criteria.

10.7. That Respondent No. 2 has no *locus standi* to challenge the Petitioner's registration.

10.8. That some members of proposed Respondent-societies are common with Respondent No. 2 society and therefore, the objecting Respondent Nos.1 & 3 are dummy fronts of Respondent No. 2 and they have not come before the Court with clean hands.

10.9. That the Inspection Report dated 05.09.2014 is not properly considered. That affidavit submitted before the Commissioner about the Petitioner-Society having a head office, has not been considered.

10.10. That even the Respondent proposed societies have tried to influence the process politically, which is seen from a letter dated 13.12.2013 issued by Speaker of the Legislative Assembly.

10.11. That as per GR dated 05.12.2013 (clause 1.4), preference is given to the project-affected-persons like most of the Petitioners' members.

11. Mr. Prabhune, learned Counsel appearing for Respondent No. 1 proposed society submitted as under.

11.1. That this Court while passing order dated 04.07.2018 has taken note of the interference by the Minister in the process and has directed the matter to be considered on merits. That this Court has already observed that the Authorities had favoured the Petitioner Society based on written and oral instructions of concerned Minister.

11.2. That the chronological order in which proposals were received has been properly considered by the Commissioner while passing impugned order.

11.3. That it can be seen from the list of Petitioners' members that they belong to same family and Talathi of one village cannot issue certificate about other village residents. That since the occupation of Petitioner-society's members are shown as 'agriculture along with fishing', they are not active fishermen (*kriyasheel*)

11.4. He relied on section 6 of the said Act to contend that the conditions of registration are not met factually.

11.5. He relied on Judgment of this Court **dated 24.11.2025 in Writ Petition No. 11339 of 2025 (Shree Jagrutti Co-operative Housing**

Society Ltd. And Anr. v/s Shree Jagruti CHS Society, proposed & Ors.) in support of his submissions.

12. Learned counsel Mr. Talkute appearing for Respondent No. 2-society submitted as under.

12.1. That the earlier policies under which societies were registered for the purpose of fishery have undergone change and as on today, new policy has come into force under GR dated 03.07.2019. That therefore, the entire challenge in the petition has become infructuous. He submitted that the Petitioner-society can apply afresh under fresh norms.

12.2. That the petition is not even admitted and there are concurrent findings against the Petitioner without any interim relief and as such there is no point in considering the matter all over on merits.

12.3. That the petition is being argued as if it is an appeal and writ jurisdiction of this Court is not meant for re-appreciating the evidence. That except the argument about jurisdiction/locus, nothing really falls for consideration of this Court.

12.4. Relying on Section 4 of the said Act, he submitted that if registration of a society is likely to be economically unsound or if the registration is contrary to the policy directives, then the registration cannot be justified.

12.5. Relying on Section 9 of the said Act, he submitted that for the purpose of registration, the Registrar has to be satisfied that the proposed society is complying with provisions of the Act and Rules and therefore, the order of registration is appealable under Section 152 of the said Act and appeal can be filed by other affected party like

Respondent No. 2. He submitted that the initiation of action under Section 21A of the said Act, is a consequential order and therefore, since the Respondent No. 2 is aggrieved by the very registration of Petitioner- Society, it has *locus standi* to file appeal.

12.6. That on 18.09.2014, Regional Deputy Commissioner, Pune Region, issued letter to the Assistant Commissioner at Sangli, pointing out the letter issued by State Minister asking to treat Petitioner's proposal 'as special case' and immediately on the next day i.e. 19.09.2014, the NOC was issued and immediately next day thereafter, on 20.09.2014 a letter was issued permitting opening of bank account. That this clearly shows political interference. That decision was taken without hearing the affected party like Respondent No. 2.

12.7. That finding such political interference, this Court had interfered earlier and now, impugned order has been passed on merits. Therefore, no interference is now required.

12.8. He relied upon the sur-rejoinder filed by Respondent No. 2 in support of his case and also relied upon the following judgments in support of his case.

- (i) Bhaurao Markad Matshya Vyavasayee Sahakari Sanstha, through its Chairman Vs. State of Maharashtra 2021 SCC OnLine Bom 4583.
- (ii) Kumbhargaoon Vividh Karyakari Sahakari Seva Society Ltd. Vs. Assistant Registrar, Co-operative Societies and Ors. 1993 (1) Mah. L.J. 178.
- (iii) Subhas Anna Kool v/s Daund Tal. Sahakari Dudh Utpadak Sangh Maryadit 2006 SCC OnLine Bom 509.
- (iv) Essen Deinki v/s Rajiv Kumar (2002) 8 SCC 400.

13. Learned counsel Mr. Kulkarni appearing for Respondent No. 3 proposed society, submitted that he is supporting the case of other Respondents. He submitted that the proposal of Respondent No. 3 was prior in point of time. He submitted that apart from the fact of political influence which resulted in registration of Petitioner-Society, it must be considered that nobody has fundamental right to do business with the government. He relied on the judgment of **State of Rajasthan and Others v/s Sharwan Kumar Kumawat and Ors. (2023) 20 SCC 747** in support of this submission.

14. Learned AGP relied upon the affidavit-in-reply filed by the Assistant Registrar (Fisheries and Dairy), Sangli-Miraj on behalf of Respondent Nos. 4, 7 and 8 and supported the impugned order.

REASONS AND CONCLUSION

15. I have considered the rival submissions and perused the record.

16. At the outset, it is necessary to note that in **Shree Jagrutti CHS (Supra)**, this Court has held that the exercise under Section 9 of the said Act is not a routine exercise and it requires scrutiny of documents, verification of financial capacity and examination as to whether new society would harm the existing co-operative structure. It is held that principles of natural justice requires that a party affected by decision must know why the decision has been taken. It is held that registration of a society affects the rights of those seeking registration and may also affect existing societies in the area. It is also held that in proceeding under Section 9, the registering authority must issue a clear and reasoned order showing facts considered, application of policy directives and the conclusion reached based on credible evidence. In

view of these observations, it is clear that the Respondent No. 2 (being a Society in whose favour already the contract was allotted in Morna Talao for a period of 5 years starting from 2013-14 to 2017-18 with a clear reference to its name in the NOC issued to Petitioner) was an affected party and its *locus standi* cannot be doubted. In that view of the matter, the appeal filed by Respondent No. 2 was rightly considered on merits.

17. From the chronology of events narrated above, it is clear that when the inspection was carried out and report was issued on 05.09.2014 in respect of Petitioner-Society, the new policy GR dated 26.06.2014 was stayed and therefore the earlier policy was applicable. In this respect, the learned Commissioner in Paragraph No. (2) of reasons has considered the relevant dates and effect of stay.

18. Also from the order of this Court dated 04.07.2018 passed in earlier round of litigation, it is clear that while granting registration to Petitioner-society, there was political interference. In the NOC there was clear reference to direction from the concerned Minister, that Petitioner's case be considered 'as special case'. For this reason also, the registration granted to Petitioner-society was rightly re-considered on merits by the Deputy Registrar while allowing appeals filed by Respondent Nos. 1 and 2 and duly confirmed by the impugned order.

19. Perusal of the impugned order shows that the learned Commissioner has considered following aspects.

19.1. Stay granted to later GR was considered and according to earlier applicable GR, only one society was permitted considering water body volume (155 hectors).

19.2. The Commissioner has considered that when the Petitioner applied for registration, the proposal was incomplete and the deficiencies were communicated on 26.12.2013. It is further considered that the Petitioner submitted proposal after removing deficiencies on 30.12.2013. The Commissioner has considered the chronology of events in which Petitioner's proposal was submitted. It is also considered that by the time other proposals were received, as per applicable policy, then since Morna talao is less than 200 hector area, only one society was permitted to be registered.

19.3. The Commissioner has also considered that Petitioner did not comply with condition Nos. 4, 10 and 13 of letter dated 20.09.2014 (permitting opening of bank account) but still registration was granted.

19.4. The Commissioner has also considered that the Petitioner is not confirming with requirement of the 'active fishermen' required. It was found that 25 members of Petitioner society, of which details were submitted by filing affidavits, are found to be agriculturalist and therefore, the applicable policy is found to be not complied.

19.5. The Commissioner has also considered that the list of additional members submitted by the Petitioner-society has been found to be belonging to same family and the certificate given by Talathi office has been found to be given beyond jurisdiction.

19.6. The Commissioner has considered the directions by this Court granted in Writ Petition No. 643 of 2014 by Aurangabad Bench about opportunity to be granted to existing societies and it is found that Petitioner-Society was registered without hearing Respondent No. 2 who was the existing society.

19.7. The Commissioner has found that though Petitioner had submitted that deficiencies are removed on 30.12.2013, however, actually no document or explanation was given about removing deficiencies.

19.8. The Commissioner has held that the objection about few members of the Respondent Nos. 1 and 3 societies being member of existing Respondent No. 2 - Society can be considered independently and appropriate action can be taken, however, it is held that such situation would not *ipso facto* make the registration of Petitioner-Society legal.

19.9. The Commissioner has found that the documents filed on 05.09.2014 does not have necessary details such as inward outward number or dates; names of members are found to be added later on and such irregularities were found to be ignored while granting registration.

19.10. The Commissioner has further found that at the time of filing application for registration, the Petitioner-Society did not have any head office address and subsequent effort to file affidavit of alleged Licensor/landlord would not help the Petitioner.

19.11 By detailed appreciation of evidence on record, the Commissioner has found that the Deputy Registrar had properly canceled the registration of Petitioner-Society and the said decision has been confirmed.

20. Learned counsel for Petitioner has raised many factual contentions such as (i) Members of Petitioner-Society being conducting a particular occupation such as fishing or agriculture, (ii) Morna dam being *dharan talao* and therefore multiple societies may be permissible

(iii) Certificates issued by the Talathi of particular village being in particular distance. These are factual disputes and therefore cannot be considered in writ jurisdiction.

21. In any case, writ jurisdiction of this Court cannot be exercised for re-appreciation of evidence. This Court already found that reconsideration on merits was necessary and therefore matter was remanded. Two Authorities have concurrently held that the Petitioner-society was registered illegally and under political influence and by treating the Petitioner as 'a special case.'

22. It is not disputed that as on today, the applicable policy for grant of registration as well as permission for fishing activity has undergone change in July 2019. There is no interim relief in favour of the Petitioner. Therefore, consideration about Petitioner's registration in September 2014 (about 12 years ago) being legal (as asserted by Petitioner) and the challenge in the petition to the impugned order is really speaking infructuous.

23. In the aforesaid facts and circumstances and for the reasons indicated above, there is no reason to interfere in the impugned order.

24. **Writ Petitions are accordingly dismissed. No order as to costs.**

25. All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)