

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.11197 OF 2014

RENUKAMATA MATSYAVYAVSAYIK SAHAKARI SANSTHA LTD.,
JALNA

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Deshmukh Mahesh S.

Mr. SS Tope,GP for Respondents 1 to 7;

Mr. Bajaj Anil S.Adv. For R/8

**CORAM : R.M.BORDE &
P.R.BORA,JJ.**

DATE : 5th March,2015.

PER COURT :

1) In this petition, the petitioner has prayed for quashment of order dated 5.9.2014 issued by Respondent No.2 and consequential orders dated 10.09.2013; 15.09.2013 issued by Respondent No.3 and letter dated 23.09.2014 issued by Respondent No.5.

2) A proposal moved by Respondent No.8 for registration of the society is supported by the Minister by issuing recommendation letter dated 23.4.2014. According to the petitioner, in view

of the policy adopted by the State Government, it is not open for the Respondents/authorities to consider the proposal of a proposed society for grant of registration. The counsel further states that as a result of interference by the Minister, the proposal of Respondent No.6-society has been moved and is being considered by the authority. Our attention is invited to the observations made by the Division Bench, while disposing of Writ Petition No. 643/2014. The relevant observations are recorded in paragraphs 4 and 5 of the Judgment of the Division Bench, which read thus,

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"4. Keeping in mind these objections, we asked Shri Hon, learned Special Counsel appearing for the State to take instructions from the District Deputy Registrar, Assistant Registrar, the Divisional Joint Registrar and equally the Commissioner. After taking instructions, Shri Hon, learned counsel has clarified that the Department of Fisheries will not interfere in any manner with the

authority and power of the authorities under the MCS Act so far as registration of the Cooperative Societies is concerned. All that the Commissioner or Deputy Commissioner will do is to record on the proposal their no objection but the proposal in no way would be decided or finalized by them. Further, Shri Hon, learned counsel has taken instructions from the Divisional Joint and Deputy Registrars and they have informed that the discretion, power and jurisdiction of the Assistant Registrar, Cooperative Societies will not be interfered with or disturbed in any manner by the superior officers. They would not issue any instructions or directions to the Assistant Registrar or Deputy Registrar and the authority, power and discretion to register a Cooperative society would be completely left to the Assistant Registrar. In the event, the applicant is affected, aggrieved and dissatisfied with the order of the Assistant Registrar, then he can prefer an appeal under Section 152 of

the MCS Act to the appellate authority and thereafter, a revision to the revisional authority under Section 154 of the MCS Act.

5. In view of these clarifications given by Shri Hon, the apprehension of the petitioners do not survive. We have no doubt that in the event any proposal for registration is received, the Assistant Registrar will cause a notice to be issued to the existing society/societies and consider its/their objections as well. He will grant a personal hearing to all and pass a reasoned order. Any society or body or person aggrieved by the order passed by the Assistant Registrar can file an appeal to the appellate authority in terms of Section 152 of the MCS Act. A remedy of revision application under Section 154 of the MCS Act is also open to the parties. "

3) Learned Government Pleader appearing for the State and its authorities, informs that the petition is presented at a premature stage, and

no decision as yet been recorded by the State or its authorities in respect of granting registration to Respondent No.8-society. It is contended that the directions issued by the Division Bench of this Court, referred to above, will be strictly adhered while considering the proposal tendered by Respondent No.8-society. It is also informed that the petitioner has been extended opportunity of hearing and the relevant proposal is under consideration. Learned Counsel for petitioner disputes the contentions and contends that at the stage of issuing No objection, no opportunity of hearing has been afforded. In the context, we permit the petitioner to tender an objection, if any, to the proposal submitted by the Respondent No.8-society, to Assistant Commissioner for Fisheries, Jalna. The concerned authority as well as the higher authority, while considering the proposal submitted by Respondent No.8-society, shall have due regard to the objection tendered by the petitioner. The petitioner shall tender the

objection/s within a period of fifteen days from today. The same shall be taken into consideration, while taking a decision in the matter.

4) In view of the above, the writ petition stands disposed of. It is, however, clarified that we have not gone into merits of the contentions raised by the petitioner in the instant petition; and it would be open for the petitioner, if occasion arises, to raise all objections, those have been raised in the instant petition before the appropriate authority.

(P.R.BORA)
JUDGE

(R.M.BORDE)
JUDGE

bdv/