

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION No. 2095/2014.

Asaramata Mahila Matsya Vyavsaya Sahakari Sanstha, Januna

VERSUS

State of Maharashtra and 2 others.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

CORAM : B.P. DHARMADHIKARI
& A.P. BHANGALE, JJ.

DATED : JANUARY 22, 2015.

Heard Smt. S.W. Deshpande, learned
Counsel for the petitioner, Shri N. Rode, learned A.G.P.
for respondent nos.1 and 2 and Shri M.R. Johrapurkar,
learned Counsel for respondent no.3.

Question before this Court is – Whether
Mokhad Tank falls in area of jurisdiction of respondent
no.3 Society or petitioner Society ?

Respondent no.3 Society is registered on

26.05.1991 and Mokhad Tank was allotted to it earlier for a period of five years from 2008 to 2013. After impugned auction, it is again allotted to it for further five years.

Petitioner has been registered on 02.07.2008. It is claimed by the petitioner that it is registered for that Tank and therefore, the Tank must be allotted to it.

The learned Counsel appearing on behalf of the petitioner has invited our attention to the document dated 30.05.2007, to show that area of operation of respondent no.3 Society has been increased and Mokhad Tank has been added for the first time on that date. It is further pointed out that the very same authority which has allowed this extension, has thereafter granted registration to the petitioner Society.

Effort is, therefore, to demonstrate that subsequent registration of the petitioner has a effect of deleting that Tank from the area of operation of respondent no.3. Attention is also invited to circular

dated 19.10.2000 to show that the Officers of Cooperative Department have been unauthorisedly registering the cooperative societies and also adding to their area. It is further stated that on 02.07.2008, after fully considering these facts, registration has been given to the petitioner.

Shri Johrapurkar, learned counsel appearing for respondent no.3 submits that on 22.08.2014, all earlier policy decision which regulated allotment of such Tanks have been stayed, and the State Government has stipulated that all further allotment shall be in adherence to its earlier order dated 15.10.2001. He further submits that auction of Mokhad Tank was held on 30.07.2013, in which petitioner also participated. Petitioner did not challenge the advertisement by which auction was scheduled and did not approach this Court immediately after auction was conducted. Petitioner has not at all bid for Mokhad Tank. After the Tank was allotted to respondent no.3 on 04.03.2014, present petition has been filed on 19.04.2014. It is

contended that thus, there is no merit in the petition.

Learned A.G.P. appearing for respondent State, has relied upon the reply-affidavit filed by respondent no.2 on record. It is pointed out that the action to auction has been taken in accordance with the provisions of law. Support is being taken from government resolution dated 15.10.2001 only.

The reply further shows specific assertion that Mokhad Tank comes in the area of operation of petitioner as also respondent no.3, and said Tank is not reserved for petitioner. It is further stated that the distance between the headquarters of both the societies and Tank is approximately 10 kms., and then reference is made to auction proceedings.

Neither the respondent no.3 nor the petitioner has produced its bye-laws on record.

If a fishing society is registered subsequently, what is the effect of that registration on area of operation of the existing society is the moot question. The Tank was earlier allotted to respondent no.3. Petitioner has not demonstrated that the tank

was allotted to respondent no.3 in 2008 without auction. There is nothing on record to hold that allotment of said tank to respondent no.3 during the year 2008-2013 was illegal.

All these questions needs to be gone into after full facts are placed before the competent authority.

Taking over all view of the matter, we find the material on record insufficient to intervene under Article 226 of the Constitution of India. However, we grant petitioner society leave to make appropriate representation to respondent no.2 within a period of four weeks from today. If such representation is made, and all material facts are pointed out, respondent no.2 shall after hearing the petitioner and respondent no.3, pass suitable orders in the matter within next eight weeks.

Writ Petition is, thus disposed of. No costs.

JUDGE

JUDGE

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