

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1821 OF 2016

Proposed Annabhau Sathe Machya Vavyasaik
Sahakari Sanstha Ltd. Bajiumrad
Tq. Jalna, District: Jalna
through Its Chief Promoter
Anil Ankush Thorat
age: 29 years, occu: Fisherman
R/o as above

Petitioner

Versus

- 1 The State of Maharashtra
Through Secretary,
Milk Animal & Fishery Department,
Maharashtra State, Mantralaya, Mumbai
- 2 The Assistant Registrar
-Cooperative Societies, Dairy,
Jalna, Tq. Jalna, District: Jalna
- 3 The Assistant Commissioner of Fishery
Jalna, Tq. Jalna District Jalna
- 4 Proposed Sw. Dala Naik Machyvayasaik
Sahakari Sanstha Ltd., Nirkheda,
Tq. Jalna District Jalna
through Its Chief Promoter
Vishanu Fhakira Rathod
age: 37 years, occu: Fisherman
R/o as above

Respondents

Mr.R.T. Nagargoje advocate for the petitioner

Mr.V.M. Kagne, AGP for Respondent No.1 to 3

Mr. M.R. Sonawane advocate for respondent No.4

CORAM : R.M. BORDE &
K.L.WADANE, JJ

(Date : 4th July, 2016.)

ORAL JUDGMENT

(Per: R.M. Borde, J)

1 Heard.

2 Rule. With the consent of the parties, petition is taken up for final disposal at admission stage.

3 The petitioner is objecting to the action of the Assistant Registrar, Cooperative Societies – Fisheries, Jalna in refusing to accept the proposal of the petitioner for registration of the fishery society.

4 It is not a matter of dispute that as per the Policy framed by the State Government, four societies can be registered taking into consideration the spread area of of Nirkheda minor irrigation project. It is informed that one society has already been registered; whereas the Assistant Registrar received two proposals for according registration for one society. The proposal tendered by the petitioner society has not been accepted for the reason that the application was received late i.e. after receipt of

one proposal. The Assistant registrar has placed reliance on the Circular dated 24.5.2011 issued by the Deputy Registrar, Cooperative Societies – Fisheries, Maharashtra State, Mumbai which permits receipt of equal number of proposals in proportion with number of societies required to be registered. The learned counsel appearing for the respondent fairly submits that the circular on which reliance is placed has already been directed to be quashed by the Division Bench of this Court while dealing with Writ Petition No.666 of 2012. The Policy prescribed by the State Government which is latter in point of time i.e. Circulars dated 26.6.2014 & 12.8.2015 does not contain such prohibition and under the Policy, it is obligatory for the Registering Authority to receive all the proposals and consider and evaluate on merits and take appropriate decision in respect of Registration of the society. In this view of the matter, considering the Policy of the department declared on 26.6.2014 and the circular dated 12.8.2015, it was incumbent upon the Assistant Registrar to accept the proposals received from the Fisheries Cooperative Societies and considered those proposals so received, in accordance with provisions of law within the frame work of the Policy framed by the State Government. The impugned action taken by the Assistant Registrar on 29.1.2016 returning back the

proposal dated 5.11.2015 of the petitioner stands quashed and the Assistant Registrar – Cooperative Societies Fisheries Jalna is directed to accept the proposal of the petitioner society and forward the same to the Assistant Commissioner – Fisheries, Jalna, tq. Jalna, Dist. Jalna for his consideration. The concerned authority i.e. respondent No.3 shall evaluate all the proposals received, for according registration and take appropriate decision in accordance with law, rules and Policy framed by the state Government. The petitioner shall re-tender the proposal to the Assistant Registrar Cooperative Societies - Fisheries within a period of 15 days from today.

5 Rule is made absolute accordingly. No costs.

(K.L.WADANE, J)

(R.M.BORDE, J)