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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2442 OF 2015

Jogeshwari Mastya Vaivasaik
Sahakari Sanstha Ltd., Latur
Through its Secretary,
Arjun s/o Maroti Khairmode,
Age-38 years, Occ – Business,
R/o Sambhaji Nagar, Latur
Taluka and District – Latur

PETITIONER

VERSUS

1. The Principal Secretary,
Animal Husbandry, Dairy, Fishery
Department, State of Maharashtra
Mantralaya, Mumbai
2. Minister of State, Fisheries,
Maharashtra State, Mantralaya,
Mumbai-32
3. District Deputy Registrar,
Co-operative Societies (Fisheries)
Mumbai, Having its Office at
Taraporwala Matsyalaya,
Charni Road, Mumbai
4. Regional Deputy Commissioner,
Fisheries, Aurangabad / Latur
Near Collector Office, Aurangabad
Taluka and District – Aurangabad
5. Assistant Registrar,
Co-operative Societies (Dairy)
Latur, Taluka and District – Latur
6. Assistant Commissioner,
Fisheries (Technical)
Latur, Taluka and District – Latur

RESPONDENTS

7. Venkat Narsingh Kawale,
Age -44 years, Occ – Labour
R/o Basweshwar Galli,
Somwar Peth, Latur
Taluka and District – Latur
Chief Promoter of Jal Devta
Magasvargiya Mastya Vayavsay
Sahakari Sanstha Maryadit, Latur
8. Mahesh Pathak,
Age – Major, Occ – Service,
Presently Working as Principal Secretary
of Animal Husbandry, Fisheries and
Dairy Department,
State of Maharashtra,
Having its Office at 5th Floor,
Mantralaya, Mumbai-32
9. Mr. Dnyanraj Chaugule,
Age – Major, Occ – Social Work,
Presently working as MLA of
Omerga constituency,
R/o Juni Peth, Behind Shivneri Theatre,
Omerga, Taluka – Omerga
District – Osmanabad

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Mr. Atul Karad h/f Mr. G. N. Kulkarni, Advocate for petitioner
Mr. B. A. Shinde, AGP for respondent - State
Mr. S. C. Swami, Adv. for respondent No.7
Mr. N. R. Thorat, Advocate for respondent No.9
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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 12th AUGUST, 2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard learned advocates for the appearing parties finally with consent.

2. Heard learned advocates for the appearing parties quite extensively.

3. In this writ petition filed by petitioner – “*Jogeshwari Matsya Vyavsai Sahakari Sanstha Ltd., Latur*”, under Articles 226 and 227 of the Constitution of India, challenge is to the decision of respondent No. 1 – Principal Secretary, Animal Husbandry, Dairy, Fisheries Department, State of Maharashtra in Revision bearing No.9 of 2010 dated 20th May, 2015 with prayer to issue writ of certiorari against action of respondent No. 5 – Assistant Registrar, Co-operative Societies, Dairy, Latur for registration of proposed society of respondent No.7 – “*Jal Devata Magasvargiya Matsya Vyavsayi Sahakari Sanstha Maryadit, Latur*”.

4. Respondent No.7 proposed to form a co-operative society in the name and style as “*Jal Devata Magasvargiya Matsya Vyavsayi Sahakari Sanstha Maryadit, Latur*” for economic welfare of its members, who are project affected persons, pursuant to policy of the Central Government, in respect of water tank at Katpur. Accordingly, a proposal, to open bank account and application to register the society had been filed with Assistant Registrar, Co-operative Societies (Dairy) - respondent No.5 on 4th

July, 2008 and while doing so, care had been taken to see that no other society had been registered over Katpur tank.

5. According to requirement, respondent No.7 had sought no objection certificate from the commissioner of fisheries while application had been moved for formation of the society. On 17th June, 2009, Regional Deputy Commissioner (Fisheries) - respondent No.4 had issued a communication to respondent No.7 expressing inability to issue no objection certificate to the proposed society over Katpur tank, stating since Katpur tank is situated in the area of operation of *Jogeshwari Matsya Vyavesai Sahakari Sanstha Limited* - the petitioner and that it had objected to issue of such no objection certificate.

6. Respondent No.7 had assailed said order in appeal before District Deputy Registrar of Co-operative Societies (Fisheries) - Respondent No.3, *inter-alia*, praying for setting aside order dated 17th June, 2009 referred to above and direction to register respondent No.7 society and to cancel bye-law No.7 of the petitioner society. Under order dated 19th January, 2010, respondent No.3 had considered that he may not have power and authority to decide on the orders passed by the Regional Deputy Commissioner (Fisheries), Aurangabad and also for that

respondent No.7 was not a registered society, keeping it open to respondent No.7 to take up proceedings before appropriate authority.

7. Aggrieved by aforesaid order, respondent No.7 had been before Revisional Authority, State of Maharashtra in revision bearing No.9 of 2010. It appears that the revision came to be allowed under order dated 6th March, 2013, which had been challenged in writ petition bearing No.2295 of 2013, and the same had been allowed and the matter had been remitted to the revisional authority. It appears that, again the revision was allowed, and the decision had been before this court under writ petition No.7290 of 2013 and this court again under its order dated 11th October, 2013, observed that the order may not be said to be a reasoned one and had remitted the matter for reconsideration to revisional authority. Thereafter, once again the revision came to be allowed under order dated 9th June, 2014 and as such, present petitioner had been before this court under writ petition No.5642 of 2014. Grievance in said writ petition appears to have been condensed by the court in its order dated 8th December, 2014 in paragraph No.5, which is reproduced herein below for ready reference:

“ 5. Grievance is that the issue of delay has not been considered since, according to the petitioner, the revision / appeal stands affected by delay. It is further contended that two orders passed by the concerned authorities dated 21-07-2008 and 15-06-2009 have been challenged in one revision petition No.9 of 2010. The third aspect is that the impugned order dated 19-01-2010 has been passed by the DDR and, therefore, the revision / appeal before the first respondent was not tenable in light of Section 154 (2) of the Maharashtra Co-operative Societies Act, 1960 (MCS Act) ”

8. Keeping in view aforesaid paragraph No.5, the court had given directions as contained in paragraph No.15 of said order. For ready reference, paragraph No.15 is reproduced hereinbelow:

“15. In the light of the above, by partly allowing this Writ Petition the revision / appeal No. 9 of 2010 preferred by the respondent No. 6-Venkat S/o Narsing Kawale, chief promoter of Jal Devta Magasvargiya Mastya Vayavsay Shakari Sanstha Maryadit, Latur is remitted back to the “State” under section 154 (2) of the MCS Act for a fresh decision and on the following conditions :

a] The litigating parties shall appear before the State on 08.01.2015 at 3.00 pm.

b] The Department of Fisheries, State of Maharashtra through its Principal Secretary shall intimate to the litigating parties as regards which would be the authority authorised under the Rules to decide the said revision petition No. 9 of 2010.

c] Needless to state, the State authority deciding the revision petition shall ensure that the objection raised by the petitioner herein shall be considered and shall be decided after hearing the litigating parties and after considering the reply of respondent No. 6 herein who is the revision petitioner in revision No. 9 of 2010.

d] The issue as regards jurisdiction, delay, as well as all other contentions, as may be raised by the litigating parties, shall be considered and the State shall decide the same strictly in accordance with the provisions of law.”

9. Pursuant to aforesaid order, the petitioner appears to have put in appearance before the State, under a *pursis* dated 8th January, 2015 referring also to that the petitioner has filed a request before the Principal Secretary, Fisheries Department, Maharashtra State stating that the written submissions dated 15th May, 2013 be considered in the present matter. The State had been purportedly requested to inform as to which authority would entertain revision referring to that the matter has been remitted by the High Court, since order of the State Minister did not give any reasons. The petitioner referred to section 154 (2) of the Maharashtra Co-operative Societies Act (hereinafter “MCS Act”) and purported to submit that a revision would go before the Registrar, Co-operative Societies (Fisheries), Mumbai and as

such, the State, before which the matter is filed, may not be able to take up the revision.

10. It appears that the Hon'ble Minister, Animal Husbandry, Dairy and Fisheries had assigned the matter to the Secretary, Animal Husbandry, Dairy and Fisheries Department and accordingly, the parties have prosecuted the matter before the Secretary. The Revisional Authority has allowed the revision under its order dated 20th February, 2015 and as such, the petitioner is once again before this court.

11. Learned advocate Mr. Atul Karad, contends that the basic aspect which would matter, whether respondent No.7 can be given access to decision on merits of the dispute, has not been properly addressed to, rather in his estimate the revisional authority has not taken into account the objections of the petitioner and purport of the orders passed by this court from time to time, setting aside the orders passed by the revisional authority thrice.

12. Learned advocate submits that with a cursory approach the entire matter has been dealt with and impugned order has been passed.

13. He further goes on to submit that as a matter of fact, an appeal before respondent No.3 against order dated 17th June, 2009 would not be available under section 152 of the MCS Act, for it would not fall in any of the categories referred to against which appeal has been provided under said provision.

14. He further submits that, if the appeal is to be considered as an appeal against the approval of bye-law on 21st July, 2008, the same was obviously time barred for, bye-laws were approved on 21st July, 2008, and appeal against the same had been purportedly filed only on 18th August, 2009, whereas the limitation prescribed is only of two months.

15. He submits that, while the objection on account of delay is with regard to sanction / approval of the bye-laws by assistant registrar on 21st July, 2008 of the petitioner society, the delay appears to have been considered under the revisional order is about delay in filing revision, which is not proper.

16. He submits that so long as bye-law prevails, concurrent registration of more than one society over the same area of operation is not possible under the policy governing the subject matter. Respondent No.7 society could not be registered on Katpur tank which had been under the area of operation of the

petitioner society and as such, it had objected to the request of respondent No.7 before the commissioner of fisheries, who had rightly, in view of the objection been taken, communicated to respondent No.7 that no objection certificate could not be issued.

17. Another submission is that a single revision could not and would not be maintainable against two different actions / orders i.e. the one of the amendment to bye-laws and the other refusing to give no objection certificate. He submits that in spite of such specific objection, the same cannot be said to have been dealt with and much less properly.

18. He submits that the decision having been taken by office of District Deputy Registrar, revision / proceedings would be maintainable before the Registrar, Co-operative Societies / Commissioner of Fisheries having regard to that a revision against order of subordinate officer would lie to Registrar. This issue has also not been properly dealt with.

19. He submits, respondent No.9 had intervened during hearing of the revision, trying to influence respondent No.1 to decide revision in favour of respondent No.7.

20. Learned advocate for the petitioner purports to rely on a decision in the case of " *Wadala Shri Ram Industrial Premises Co-operative Society Limited V/s Kotecha and Company (M.S.) and other* " reported in *2001 (4) Bombay Cases Reporter, 365* contending that order registering amendment of bye-laws is amenable to challenge under section 91 of the Maharashtra Co-operative Societies Act and in no other way. It appears to have been considered that challenge to registration of bye-laws was sought to be posed by members of the society. It had been considered that appellate powers in respect of challenge to registration of amendment of bye-laws and to the constitutionality of the bye-laws would be limited to, *inter-alia*, that registrar did not comply with mandatory requirements before registering amendment to bye-law of the society and ought not to have registered the bye laws on account of the fact that mandatory requirements were not complied with. It was in the context of that case it appears to have been so considered that appellate authority may not elongate the scope of proceedings and pronounce upon applicability or otherwise of bye-laws.

21. On behalf of respondent No.7, Mr. Swami, learned advocate submits that respondent No.7 had been given to

understand that it has been wronged under the amendment to bye-law which had been unknown to them till communication of refusal to issue no objection certificate by Regional Deputy Commissioner of Fisheries.

22. He submits, the contention on behalf of the petitioner that delay ought to have been computed from 21st July, 2008 and not from 19th January, 2010 or from the date of knowledge of refusal to issue no objection certificate would be a matter to be considered on the background that respondent No.7 had become aware of approval dated 21st July, 2008 of the amendment to bye-law of the petitioner only upon communication of inability to issue no objection certificate to registration of proposed respondent No.7 society. Accordingly, the matter had been taken up before the appellate authority, purporting to be an appeal under section 152 of the Maharashtra Co-operative Societies Act.

23. He submits, it will have to be considered that granting of approval to the bye-law had been by the same authority upon an application by petitioner filed on 15th July, 2008, which is indeed after the application had been filed for registration of a co-operative society by respondent No.7 on 4th July, 2008. Movement, as such, for amendment of bye-law to include Katpur

Tank in the area of its operation had been obviously initiated only after receipt of application of respondent No.7 by said authority. The amendment, as such, is a product of collusion and undue influence.

24. He submits, respondent No.7's legitimate request has been kept dangling for over a period of eight years. He submits, to put it euphemistically, inability to issue no objection certificate to respondent No.7 expressed under communication dated 19th June, 2009 is a product of non application of mind to the amended bye-law. As a matter of fact, bye-law would exclude the area of operation of said society, when there is existing or upon formation of a society for similar purpose. In such a case, there does not appear to be any impediment and/or hitch in giving no objection, yet an expression of inability had been communicated simply upon objection been taken by petitioner.

25. Submission of the petitioner that challenges to bye-law and to refusal of granting no objection certificate could not be maintained in one revision is a matter which will have to be considered on the background that the genesis of refusal to no objection certificate had been in approval of bye-law on 21st July, 2008.

26. By said two actions, respondent No.7 is the affected party and the reason for grievance is the petitioner. All the parties, including the decision giving authorities have been parties all along in every litigation at all stages. A consolidated matter does not prejudice anyone nor the same has caused any prejudice to the petitioner.

27. He submits, in the circumstances, reasons for refusal to entertain the appeal do not appear to have any sound legal basis for, the provisions of law, especially section 152 of the Act would not preclude a person aggrieved by amendment to bye-law from preferring an appeal since it is affected. Reason given by appellate authority about appeal being not tenable because respondent No.7 is not a registered society, is far too technical and does not sub-serve cause of justice.

28. He goes on to submit, in any case, section 154 (4) of the Co-operative Societies Act would show that any order or any matter that can be considered by the appellate authority can be matter amenable for a revision before revisional authority.

29. He contends, all the objections, which have been taken are objections which are fringe litigation, evading dealing with merits

of the case. The petitioner does not discuss, rather is shy of exposing that bye-law as has been framed would seldom be able to preclude / forbid formation of a society over a part of area of its operation. Neither the petitioner wants to get into efficacy of bye-law nor does it appear that Regional Deputy Commissioner had applied its mind to the bye-law. The Regional Deputy Commissioner ought to have considered that the action of amending bye-law is tainted by *mala fides*, having come into existence after application of respondent No.7 for registration and before any decision being taken thereon. As a matter of fact, the whole object and exercise under amendment of bye-law has been aimed at frustrating application filed by respondent No.7.

30. While arguments and submissions as are referred to are advanced, it may have to be considered that respondent no. 1 in the impugned order has recorded cases on either side, with submissions, contentions and grounds, including those by petitioner.

31. It will also have to be considered that the appeal of respondent No.7 has been rejected by the appellate authority on the ground that a no objection certificate would not be amenable to an appeal under section 152 of the Maharashtra Co-operative

Societies Act and he would not have power and authority to deal with the same and further that respondent No.7 being not registered, an appeal against amendment to bye-law at its instance may not be available.

32. It would emerge, non-appelable order as considered by the appellate authority under section 152 of the Maharashtra Co-operative Societies Act, is the culmination of the action of the petitioner.

33. In the circumstances, it would be pertinent to refer to section 154 of the Co-operative Act reading thus -

“ 154. Revisionary powers of State Government and Registrar.-

(1) The State Government or the Registrar, suo motu or on an application, may call for and examine the record of any inquiry or proceedings of any matter, other than those referred to in sub -section (9) of section 149, where any decision or order has been passed by any sub ordinate officer, and no appeal lies against such decision or order for the purpose of satisfying themselves as to the legality or propriety of any such decision or order, and as to the regularity of such proceedings. If in any case, it appears to the State Government, or the Registrar, that any decision or order so called for should be modified, annulled or reversed, the State Government or the Registrar, as the case may be, may, after giving the person affected thereby an opportunity of being heard, pass such orders thereon as to it or him may seem just.

(2) Under this section, the revision shall lie to the State Government if the decision or order is passed by the Registrar, the Additional Registrar or a Joint Registrar, and to the Registrar if passed by any other officer.

(2A) No application for revision shall be entertained against the recovery certificate issued by the Registrar under section 101 unless the applicant deposits with the concerned society, fifty per cent. amount of the total amount of recoverable dues.

(3) No application for revision shall be entertained, if made after two months of the date of communication of the decision or order. The revisional authority may entertain any such application made after such period, if the applicant satisfies it that he had sufficient cause for not making the application within such period.

(4) The State Government may, by order, direct that the powers conferred on it by this section shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised also by an officer of the rank of Secretary to Government. "

34. In such a case, if no objection certificate is not amenable to an appeal under section 152 of the Maharashtra Co-operative Societies Act, the case would fall for consideration under revision pursuant to section 154 (1) of the Co-operative Societies Act, since such an order being not appealable order.

35. So far as contention with regard to competency of proceedings being entertained by respondent No. 1 and

delegation of powers is concerned, it appears that the impugned order makes reference to that powers of Registrar have been delegated to Deputy Registrar, Co-operative Societies by the State Government under order dated 30th March, 2000.

36. Having regard to Section 154 (2) of the Maharashtra Cooperative Societies Act, revisional powers under the statute are with the State against order of Registrar and the objection being taken on the ground that the powers are delegated to some authority would not be able to contain powers statutorily available to the original authority of the State. The State cannot be said to have ceded its power to delegate authority.

37. It may have to be taken into account that there is no serious dispute about that respondent No.7 had become aware of the amendment to bye-laws of petitioner society dated 21st July, 2008 only after realization of the same, upon communication dated 17th June, 2009 from respondent No.4 about inability to give no objection certificate to formation of society by respondent No.7.

38. After becoming aware of the amendment to bye-law under communication of inability to issue no objection certificate by

respondent No.4, appeal came to be filed. It would not be out of place to refer to that even when the appellate authority, while it had decided the matter, resistance to maintainability of the appeal on the ground of delay had neither influenced nor impressed it.

39. One thing clearly emerges that the occasion for respondent No.7 to take up proceedings against communication of refusal to issue no objection certificate for formation of society had arisen only upon communication of inability to issue no objection certificate, which in turn had been expressed by the concerned authority-respondent No.4, with reference to objection to formation of respondent No.7 society which had been taken by petitioner with reference to amended bye-law embracing Katpur Tank. As such, realization of amendment to bye-law at the end of respondent No.7 had only been upon communication of inability by respondent No.4. This is how, there has been lapse of time in taking up the proceedings. Thereafter, it appears that respondent No.7 had *bonafide* prosecuted the matter before respondent No.3, which had decided the same on 19th January, 2010 and thereafter revision proceedings had been filed. At the end of it, it appears to have received a treatment accordingly, as deserved. As such, this facet should not detain decision of the

case. The delay in filing revision had been adequately explained by respondent No.7 and dealt with by respondent No.1 and that came to be condoned. Even otherwise, if relevant facets being considered, should receive such significance as would propagate the cause.

40. The impugned order, as has been narrated, gives sufficient indication of that respondent No.1 has traversed through occurrences of events giving sufficient indication of that it has been considered, no indolence can be imputed to respondent no. 7 for the period which has intervened after amendment to bye-law though it may not be overt but appears to be implicit all along.

41. In paragraph No.15, may not be explicitly, however, looking at the position that the ground of delay been from the date of 21st July, 2008, on records having been seen, the matter has been given proper treatment. This coupled with the facts and circumstances and the record as is appearing, the resistance to the proceedings initiated by respondent No.7 on the ground of delay does not appear to carry any substance. Aforesaid apart, after communication of inability to issue no objection certificate, in view of largely undisputed facts, it does not appear to be a

case which may cause impediment and preclude respondent No.7 from seeking a remedy against its grievance.

42. Both, the communication of inability to issue no objection certificate as well as the amendment to the bye-law of petitioner being entwined and interlinked, affected respondent No.7 and revision having been made available against orders passed by the sub-ordinate officers, before the State under section 154 of the Maharashtra Co-operative Societies Act and the same having been taken into account by respondent No.1, it is not the case that there is no decision on the objection to entertain one proceeding against the approval to bye-law and refusal to issue no objection certificate under the impugned order. In fact the impugned order refers to these aspects quite elaborately and the petitioner has not been able to show as to how discussion can be said to be without reference to the applicable provisions. Further that a non-appealable order has been made amenable to revision under section 154 of the Act. In the present case, it is culmination of amendment to bye-law of petitioner. They are so interlinked that it would not be improper to deal with them in one proceeding, lest giving rise to multiple litigations when genesis of one is in the other. Perusal of the impugned order would show that the order deals with the objections to the

maintainability of the revision. Objection that it does not give reasons for conclusion does not carry any substance.

43. According to the decision at the appellate stage by the appellate authority that respondent No.7 being not registered, an appeal would seldom be available to it. Since appeal is not available according to the decision against the amendment of bye-law of the petitioner at the instance of respondent No.7, then section 154 of the Maharashtra Co-operative Societies Act appears to make a revision available to such a party in the facts and circumstances of the present case. Respondent No.7 has been Chief Promoter of the proposed society to be registered and as such movement for registration of the proposed society, would seldom be questionable for the reasons which had weighed with the appellate authority.

44. As regard the contention that respondent no. 9 tried to influence respondent no. 9, Respondent No.1 had clearly expressed that he would decide the matter according to the directions given by this court. There is nothing to show that his (respondent no. 9) so called intervention, if any, has at all influenced the decision in impugned order.

45. It is contended that respondent No.1 has only referred to that according to the powers given by the Hon'ble Minister, he has heard the matter on 27th January, 2015.

46. It is purported to be alleged that respondent No.1 had not intimated the litigating parties about the authority that would hear the revision and has decided the matter and as such, there is non-compliance of the orders of this court resulting in procedural irregularity and resulting into miscarriage of justice.

47. Although it is being argued that despite request, there had been no intimation pursuant to observations of this court in order dated 8th December, 2014, nonetheless, it does not appear to be a case that the petitioner was unaware of the matter being proceeded with and being prosecuted before the authority-respondent no. 1. Petitioner had not raised any grievance in respect of the same during the proceedings, nor it is the case that while the petitioner had participated in the proceedings, it had ever raised any objection to the hearing by the deciding authority. Conduct of the petitioner gives indication of that it had sufficient idea of matter being proceeded with before respondent No.1. The petitioner as such, is now estopped from veering around while decision went against it.

48. As far as the contention with regard to Article 166 (3) of the Constitution of India that the order of delegation should be in the name of Governor of the State being business of the state, is concerned, it appears that it would have to be considered that respondent No.5 – the Assistant Registrar, Co-operative Societies has submitted his affidavit in reply contending that the order has been passed by a proper authority according to the rules of business of the Government, pursuant to order of this court dated 8th December, 2014.

49. What is worthwhile to consider is that the amendment of bye-law as had been approved on 21st July, 2008 shall not create any hindrance/obstacle/impediment giving no objection to registration of respondent No.7, for, it is obvious from the bye-law, which reads under :

" उपविधी कं.५ मधील अटीना आधिन राहून लातूर, व लातूर पासून ँ किमी परिसर या गावात राहणा-या कोणत्याही इसमास संस्थेचे सभासद होता येईल. संस्थेचे कार्यक्षेत्र हे आकरवाई तलाव, कातपूर तलाव व वासनगाव तलाव या तलावांपूरते मर्यादित राहिल. मात्र या संस्थेच्या कार्यक्षेत्रात एखादी याच प्रकारची संस्था असल्यास अगर स्थापन झाल्यास तिचे कार्यक्षेत्र या संस्थेच्या कार्यक्षेत्रातून वगळले जाईल. "

50. Even the contention that against effect of approval to bye-law a remedy may lie to co-operative court and not in the proceedings as have been filed by respondent No.7 would be of

little significance, for the reason that on considering the bye-law as amended there does not appear to be any impediment for registration of respondent No.7 society. In the circumstances, it will have to be considered that it would not be case where a revision would not be available against refusal to grant no objection certificate for registration.

51. As far as the ground that the impugned decision does not disclose reasons is concerned, perusal of the impugned order would show that all the contentions, as are now being advanced, have been adequately, to quite large extent explicitly and even impliedly as well have been met with.

52. As such, it is discernible that there appears to be sufficient compliance with the order dated 8th December, 2014 of this court in writ petition 5642 of 2014 whereunder the matter had been remitted to the State for a fresh decision. The grounds which are taken up challenging impugned order, in the facts and circumstances of the case, appear to be friable ones.

53. It appears that without calling upon respondent No.7 or rather keeping back the application of respondent No.7, bye-law came to be approved. Katpur Tank obviously had not been under the area of operation of petitioner till 21st July, 2008, it was only

when a society was proposed to be formed specifically for Katpur Tank by respondent No.7 and its members, action of lodging application on 15th July, 2008 for amendment of bye-laws of petitioner and its approval has taken place with alarming alacrity. In the process, it appears to have caused grave prejudice to respondent No.7.

54. Even otherwise, as stated hereinabove, the bye-law as is appearing, would seldom be able to contain issuance of no objection certificate. The legitimate claim appears to have been kept away for quite a while, almost interminable for the members who are gaining in age. In view of the same, the writ petition does not carry any substance and the same stands dismissed.

55. Scenario represents a very poignant state of affairs, and legitimate claim of respondent No.7 appears to have been hampered in the same and petitioner to quite some extent has been benefited by the consumption of time.

56. All the aspects appear to have been properly taken care of by the appellate authority. The petition, as such, is rendered devoid of any substance.

57. Facts and circumstances do not warrant interference in writ jurisdiction in the realm of discretionary powers of this court.

58. As such, the writ petition is dismissed. Rule stands discharged.

[SUNIL P. DESHMUKH, J.]