

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7073 OF 2013

Zingabhoi Matsya Vyawasayik Sahakari
Sanstha Maryadit Ltd., Sawargaon,
Tal. Majalgaon Dist. Beed
Through its Secretary
Prakash Balasaheb Kachare,
Age: 31 years, occu: Fisherman
R/o Savargaon, Tq.Majalgaon,
Dist. Beed

Petitioner

Versus

- 1 The State of Maharashtra,
Through the Department of Animal Husbandry,
Dairy Development & Fisheries
Maharashtra State, Mantralaya,
Mumbai 400 032
- 2 The Commissioner of Fisheries,
Maharashtra State,
Taraporwala Aquarium,
Netaji Subhash Road,
Churniroad, Mumbai
- 3 Deputy registrar,
Cooperative Societies (Fisheries)
Taraporwala Aquarium
Netaji Subhash Road,
Churniroad, Mumbai

- 4 District Dairy Development Officer
@ Assistant Registrar,
Cooperative Societies (Dairy)
Beed
- 5 Maneksha Fisheries Co-operative Society Ltd.,
Bhat Wadgaon,
Tal. Majalgaon, Dist. Beed
Through It's Secrtary

Respondents

Mr. D.P. Palodkar advocate for the petitioner
Mr. S.B. Joshi, Assistant Government Pleader for Respondent Nos.1 to 4
Mr. R.T. Nagargoje advocate for respondent No.5

CORAM : **R. M. BORDE, J**

(Date: September 4th, 2017)

ORAL JUDGMENT

1 Heard.

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

3 The petitioner is objecting to the orders passed by the Deputy Registrar, Cooperative Societies - Fisheries, Bombay dated 15.12.2012 and confirmed in Revision Application tendered at the instance of the petitioner, by the Commissioner of Fisheries, Maharashtra State, Mumbai, in view of the order dated 4.7.2013.

4 The petitioner-fisheries society was initially registered in the year 1967 and continued its' operation till the orders of liquidation on 1.3.2006. On consideration of the applications tendered by the Members of the Society, an order directing revitalization was issued by the Cooperative Department on 29.12.2008. The order, directing revitalization of the society was challenged by certain Members of the society and on consideration of the objections, the Minister for State directed cancellation of the said orders on 18.3.2010. The petitioner challenged the decision rendered by the State Government by presenting Writ Petition bearing No.8757/2010, which came to be disposed of by learned single Judge of this Court on 1.4.2011 wherein liberty was granted to the petitioner to tender an application, seeking revitalization, within a period of six weeks from the date of decision. The petitioner tendered an application, seeking revitalization and the said Application was considered favourably and the order came to be issued by the Assistant Registrar, Cooperative Societies, Milk on 16.6.2011, directing revitalization of the cooperative society. The decision rendered by the Assistant Registrar was subject matter of challenge at the instance of rival society i.e. Respondent No.5 in an appeal bearing No.28/2011 presented before the Deputy

Registrar, Cooperative Societies, Milk, M.S. Mumbai. The said Appeal came to be allowed by the Appellate Authority on 15.12.2012 and the said order has been confirmed in the Revision Application tendered at the instance of the petitioner to the Commissioner – Fisheries, M.S. Mumbai. Both the authorities have held against the petitioner, for the reason that the petitioner did not approach the Cooperative Department within the time stipulated by the High Court. It is recorded in the order passed by the Deputy Registrar, as well as the Commissioner for Fisheries that, since the petitioner tendered an application late, the same ought not to have been entertained by the Assistant Registrar. It is also recorded in the order that, some of the Members of the Society are not residents of the concerned village and are hailing from an area outside the jurisdiction of the society.

5 It is not the matter of dispute that the Registration certificate was granted to the petitioner as well as the respondent No.5-society considering availability of the reservoir for conducting fishing activities at Majalgaon Medium Project covering more than 6000 hectares area. The State Government has adopted a Policy since 30.6.2017 to invite open tenders for permitting fishing activities in the irrigation tanks having covered

area of more than 2000 Hectors. In the instant matter, even if the petitioner society is permitted to operate, it cannot claim any monopoly in respect of conducting of fisheries activities and will have to compete with the other societies registered in the area. The respondents do not have any serious objection for permitting the petitioner society to function by directing revitalization of the society.

6 In view of the amended Policy declared by the State on 30.6.2017, I do not find any impediment in granting request of the petitioner of revitalization and the restoration of the order passed by the Assistant Registrar, Cooperative societies.

7 For the reasons recorded above, the writ petition deserves to be allowed and the same is accordingly allowed.

8 The adverse order passed by the Deputy Registrar - Cooperative Societies, Maharashtra State on 15.12.2012, as well as the Order passed in the Revision, by the Commissioner of Fisheries, Maharashtra State on 4.7.2013 are quashed and set aside and the order passed by the Assistant Registrar, Cooperative Societies - Dairy dated 16.6.2011 stands restored.

9 Rule is made absolute accordingly.

10 There shall be no order as to costs.

11 In view of disposal of the writ petition, pending Civil Application, if any, does not survive and stands disposed of.

(R. M. BORDE, J)

vbd