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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1 of 2018

Jai Maa Banjari Matsya Sahakari Samiti Maryadit Rawabhata A Fishing Co-Operative Society Duly Constituted Under The Provisions Of The Chhattisgarh Co - Operative Societies Act, 1960, Through Its President, Shri Mahadev Dhiwar, Son Of Late Shri Dasru Dhiwar, Aged About 57 Years, Village Rawabhata, Post Birgaon, Block Dharsiwa, Tehsil And District Raipur, Chhattisgarh. **---- Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Agriculture (Fisheries), Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.

2. Joint Director, Fisheries, Telibanda, Raipur, District Raipur, Chhattisgarh.

3. Fisheries Inspector, Birgaon, Block Dharsiwa, Tehsil And District Raipur, Chhattisgarh.

4. Birgaon Municipal Corporation, Through Its Commissioner, Birgaon, Post Birgaon, District Raipur, Chhattisgarh.

5. Commissioner, Birgaon Municipal Corporation, Birgaon, Post Birgaon, District Raipur, Chhattisgarh.

6. Rawabhata Nishdraj Machuara Kalyan Samiti, A Society Constituted Udner The Provisions Of The Chhattisgarh Societies Registrikaran Adhiniyum, 1973, Through Its President, Shri Jitendra Nishad, Rawabhata, Post Birgaon, Block Dharsiwa, Tehsil And District Raipur, Chhattisgarh.

7. Mayor - In - Council, Through Its President, Birgaon Municipal Corporation, Birgaon, Post Birgaon, District Raipur, Chhattisgarh. **---- Respondents**

For Petitioners	:	Mr. Amrito Das, Advocate.
For Respondents	:	Mr. H. B. Agrawal with Mrs. Prabha Sharma, Advocate.
For Respondents/State	:	Mr. Sangarsh Pandey, Dy. Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

04/01/18

1. Learned counsel appearing on behalf of the petitioner would submit that though the committee constituted by the Municipal Corporation has recommended grant of lease of 10 fishing ponds in favour of the petitioner's

co-operative society but the respondent No. 4 has executed the Mayor-in-Council resolution dated 13.09.2017 in favour of respondent No. 6 who has been registered on 12.05.2017 after the date of advertisement dated 02.05.2017 and, therefore, the arbitrary action of respondent No. 4 is unsustainable and bad in law.

2. Learned counsel for the petitioner would further submit that though the State Government has jurisdiction to suspend the award of fishing lease if it is in the interest of public, but looking to the urgency this writ petition has been filed.

3. Per contra, Mr. H. B. Agrawal appearing on behalf of respondents No. 4 and 5 would oppose the submissions made by learned counsel for the petitioner and submit that the decision of granting fishing lease has been taken strictly in accordance with law.

4. I have heard learned counsel for the parties at length.

5. Be that as it may, the petitioner is at liberty to file an application before the State Government under Section 421 of the Municipal Corporation Act, 1956 within seven days from today questioning the resolution dated 13.09.2017 and, in that event, the State Government after hearing the petitioner, Municipal Corporation and respondent No. 6 shall take decision on the said application expeditiously preferably within a period of 30 days from the date of application and till then no further steps shall be taken for the execution of the lease on the subject land / pond.

6. With the aforesaid observation, the writ petition stands finally disposed of. No order as to cost(s).

Certified copy, as per rules.

Sd/-

(Sanjay K. Agrawal)
Judge

Priyanka