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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.5198 OF 2006

Shivshakati Matchimar Sahakari
Sanstha Maryadit Manatha,
Tal.: Hadgaon, Dist. Nanded
(Through its Chairman,
Shri. Abdul Rafique Banemiya Kazi,
Age: 59 years, Occu: Business,
R/o. Manatha, Tq. Hadgaon,
Dist. Nanded)

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through Secretary,
Fisheries Development Department,
Mantralaya, Mumbai
2. District Fishery Development Officer,
Nanded, Tq. & Dist. Nanded
3. Assistant Registrar,
Co-operative Society Dairy,
Nanded, Tq. & Dist. Nanded
4. Executive Engineer,
Minor Irrigation, Nanded,
Tq. & Dist. Nanded
5. Zilla Parishad, Nanded,
Tq. & Dist. Nanded
(Through it's Chief Executive
Officer)
6. Adimaya Shakti Magaswargiya
Matchimar Sahakari Sanstha
Maryadit, Sawargon (Mal),
Tq. Hadgaon, Dist. Nanded
Through it's Chairman,
Sow. Janabai w/o Laxman Dhole,
Age: 39 years, Occu: Business (Matchimar),
R/o. Sawargaon (Mal), Tq. Hadgaon,
Dist. Nanded

..RESPONDENTS

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Mr Vivek Dhage, Advocate for petitioner;
Mr A. S. Shinde, A.G.P. for respondent Nos.1 to 4;
Mr S. B. Pulkundwar, Advocate for respondent No.5;
Mr R. T. Nagargoje, Advocate for respondent No.6

**CORAM : PRASANNA B. VARALE
AND**

S. M. GAVHANE, JJ.

DATE : 22nd June, 2018

ORAL ORDER:

Heard Mr Dhage, learned Counsel for petitioner, learned A.G.P. for respondent Nos.1 to 4, Mr Pulkundwar, learned Counsel for respondent No.5 and Mr Nagargoje, learned Counsel for respondent No.6.

2. The petitioner-Society challenges the communication dated 22nd June, 2006. Respondent No.2 - District Fisheries Development Officer, Nanded, by the said communication informed respondent No.4 – Executive Engineer, Minor Irrigation, Zilla Parishad, Nanded to allot the tank, namely, Sawargaon (Mal) for fishing to respondent No.6 – Society.

3. To submit before this Court that the petitioner -Society is a registered Society, our attention is invited to Exh.P-1. Mr Dhage, learned Counsel for the petitioner vehemently submitted that the order dated 22nd June, 2006, passed by the District Fisheries Development Officer is unsustainable on the ground that respondent No.6 – Society is not a validly registered society, as such no fishing rights ought to have been allotted to such an unregistered society.

4. Our attention is invited to the various documents placed on record. The petitioner initiated the proceedings before the Divisional Deputy Registrar, Co-operative Societies (Dairy), Aurangabad, challenging the registration of respondent No.6 – Adimaya Shakti Magaswargiya Matchimar Society. The Divisional Deputy Registrar of the Co-operative Societies (Dairy), in his order referred to certificate/documents. By referring to the certificate issued by the Divisional Deputy Director Fisheries, Aurangabad, it is stated that the certificate is issued to the society considering it as a special case. The Divisional Deputy Registrar, Co-operative Societies stated further in the order that the documents placed on record are insufficient so as to assess whether the area for fishing activity is available with respondent No.6-Society and the matter is remitted to the Assistant Registrar, Co-operative Societies (Dairy), Nanded for a decision afresh. It is nowhere stated by respondent No.6, whether this order was challenged by it before any superior authority.

5. Perusal of the documents placed on record further show that respondent No.6 - Society had raised the dispute before the learned Judge of the Co-operative Court, Nanded, by way of case No. CCN/496 of 1997 and an application was submitted for an order of injunction. Learned Judge of the Co-operative Court, Nanded could not find any favour with respondent No.6 – Society. The application was rejected by an order dated 16th December, 1997. The learned Judge of the Co-operative Court, Nanded

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reiterates in his order that there is dispute about registration of the society and the decision of the Assistant Registrar, Co-operative Societies (Dairy), Nanded is awaited.

6. Then there is some material in the form of proceedings before the Civil Court. It may not be necessary for us to go into the details, suffice it to say that the documents placed on record clearly show that the registration of respondent No.6 - Society itself is an issue in dispute. As the petition revolves around the disputed facts, we are not inclined to entertain the same. At the same time we take a note of the fact that though the Divisional Deputy Registrar, Co-operative Societies remitted the matter back to the Assistant Registrar, Co-operative Societies (Dairy), Nanded, in the year 1997 for a decision afresh, the Assistant Registrar, Co-operative Societies (Dairy), Nanded has failed to take decision till this date. We direct learned A.G.P. to inform respondent No.3 – Assistant Registrar, Co-operative Societies (Dairy), Nanded, to take a decision as early as possible, in view of the order of the Divisional Deputy Registrar and not later than eight weeks from the date of the order of this Court, if it is pending.

The writ petition is disposed of accordingly.

(S. M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

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