

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17895 of 2017

1. Cooperative Fisheries Federation (COFFED)/Bihar Rajya Matsyajivi Sahkari Sangh Ltd. its H.O. 1st Floor, Meen Bhawan, New Punaichak, West Boring Canal Road, P.S.-Patliputra, District-Patna 800 023 through its Managing Director Rishikesh Kashyap @ Rishikesh Kashyap Nishad Son of Sri Jibachh Prasad Sahani Resident of Mohalla- Shivaji Nagar, Post Lalbagh, P.S. Town, District- Darbhanga- 846004.
2. Rishikesh Kashyap @ Rishikesh Kashyap Nishad Son of Sri Jibachh Prasad Sahani Resident of Mohalla- Shivaji Nagar, Post Lalbagh, P.S. Town, District- Darbhanga- 846004.

... .. Petitioners

Versus

1. The Union Of India
2. The Secretary Vigilance Commission, Sahkarita Bhawan, Block-H, G.P.O. Complex, INA, New Delhi- 110001
3. The Central Registrar, Joint Secretary Credit Cooperative Room No. 224, Department of Agriculture & Co-operative, Ministry of Agriculture, Krishi Bhawan, New Delhi-110001
4. The General Manager, East Central Railway, Hajipur, Vaishali.
5. The SDGM/Chief Vigilance officer, East Central Railway, Hajipur, Vaishali.
6. The Deputy Chief Vigilance Officer East Central Railway, Hajipur, Vaishali.
7. The Divisional Railway Manager Engineering East Central Railway, Samastipur.
8. The Divisional Railway Manager Engineering East Central Railway, Sonapur.
9. The Divisional Railway Manager Engineering East Central Railway, Danapur.
10. The Divisional Railway Manager Engineering East Central Railway, Dhanbad, Jharkhand.
11. The Divisional Railway Manager Engineering East Central Railway, Mugalsarai, U.P.
12. The Senior Divisional Railway Manager Co-ord East Central Railway, Samastipur.
13. The Senior Assistant Divisional Railway Manager Engineering East Central Railway, Thana- Bihpur, District Bhagalpur.
14. The State of Bihar through its Principal Secretary Cooperative Department, Govt. of Bihar.
15. The Registrar, Cooperative Societies, Bihar, Patna.
16. The Principal Secretary, Animal Husbandry and Fisheries Resources, Department, Govt. of Bihar, Pat



17. Sri Pramod Kumar Sahni S/o Sri Kusheswar Sahni At- Lahara Nehra, P.S. Manigachi, District- Darbhanga.

... .. Respondents

Appearance :

For the Petitioners :	Mr. Arvind Kumar Singh, Advocate
For the Respondent UoI :	Mr. S.D. Sanjay, Addl. Sol. Gen.
For the Respondent State :	Mr. Dinesh Maharaj, AC to AAG-11
For the Respondent No.17 :	Mr. Manish Kumar No. 13, Advocate
	Mr. Rohit Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
ORAL JUDGMENT

Date : 15-10-2019

The petitioner No.1 claims to be a Federation of the Co-operative Societies of Fishermen, duly registered under the Bihar Co-operative Societies Act, 1935.

2. Bye-laws of the Federation has been brought on record by way of Annexure-12 to the reply to the counter affidavit filed on behalf of respondent Railway. On perusal of Clause 5(*ka*) of the said bye-laws, it is evident that duly registered co-operative societies of fishermen and ferries, located within the area of operation of the Federation, can become members of the Federation. Sub-clause (*ga*) of Clause 5 prescribes that for Fishermen Co-operative Society, qualifying under sub-Clause (*ka*), can acquire membership on payment of affiliation fee of Rs.25.00 and has purchased at least one share of Rs.100.00. On fulfilling these conditions, a Fishermen Co-operative Society can be



inducted as a member of the Federation, after due approval of affiliation with the Federation. An application is required to be made by a Co-operative Society for becoming member of the petitioner-Federation in a prescribed proforma as per Clause 6(*ga*). The Board of Directors of the Federation may accept or reject the application made by a Fishermen Co-operative Society for becoming a member of the Federation, the Bye-Laws stipulates.

3. The Federation has filed this writ application seeking quashing of the entire proceeding of settlement of *Jalkar* Tarsarai excluding (KM-13/7) to Jaynagar including Sakari excluding (20/04) to Nirmali Lohat Siding including both tracks and subsequent settlement of the *Jalkar* with private respondent No. 17 on 23.11.2017. The petitioners have also sought for certain directions as can be seen from paragraph 1 of the writ application. The actual relief, which the petitioners are seeking in the nature of directions, lacks clarity. The petitioners, however, appear to be seeking a direction to settle the aforesaid *Jalkar* in their favour. They want interference at the level of Registrar, Co-operative Societies, State of Bihar, and other State Officials and the Central Registrar, Joint Secretary (Credit Co-operative), Department of Agriculture & Co-operative, Ministry of Agriculture, to look into the irregularities, which, according to the petitioners, has been



committed by the respondent Railway in settling the *Jalkars* in favour of respondent No.17.

4. Petitioner No. 2 has claimed to be the Managing Director of the Federation. Reliance is being placed on a Circular/Order dated 17.09.1979 of the Chief Personnel Officer, Eastern Railway, Calcutta, issued in response to a question raised in the Parliament in the matter of award of contract of water logged area/*Jalkars* around railway track or under the authority of Indian Railway. The said order was issued, according to the petitioners, in the light of an administrative instruction contained in the Railway Board's letter dated 08.09.1978 to the effect that preference should be given to the Co-operative Societies, registered under the law for award of such contracts.

5. The present dispute arises out of an advertisement published in a daily on 29.08.2017 inviting tenders for settlement of 16 *Jalkars* including the *Jalkar* as noted above, which was at Sl. No. 7 of the said advertisement. Petitioners claim that they had participated in the bid and requested the respondent Divisional Manager, Samastipur, to settle the *Jalkar* with the Federation, it being the only Fishermen Co-operative Society having area of operation throughout the State of Bihar. It is the case of the petitioners that the *Jalkar* has been settled with respondent No. 17



by the Railway completely overlooking their own policy to prefer Co-operative Societies while settling *Jalkars* etc.

6. The matter has been heard at length. The parties have been duly represented through their learned counsel. Affidavits, counter affidavits and rejoinders have been filed. It is to be noted that in the very beginning of the hearing of the case, the petitioners were asked to inform the Court as to which registered Co-operative Societies were members of the petitioner-Federation. Since no definite answer was coming forth on behalf of the petitioners, the petitioners were directed to produce entire original records of the Federation in relation to its establishment, members and documents showing the manner in which other Co-operative Societies have become members of the Federation, by an order dated 14.05.2019. The records were produced and were handed over to the Special Officer, Department of Co-operative Societies, Bihar, for him to examine and submit a report to this Court in respect of the genuineness of the claim of the petitioners as Federation of the Co-operative Societies. From the said report, which is part of a supplementary counter affidavit filed on behalf of respondent No.15 (at running page 298 of the brief), it transpires that the Officer on Special Duty had examined 42 files of the Federation, as has been indicated in paragraph 14 of the said



report, relating to membership of the Co-operative Societies. The facts incorporated in the said report clearly suggest that there is not even a single Co-operative Society which is a member of the Federation. The petitioners too have miserably failed to satisfy this Court about the bonafide of the Federation, which was registered in 2006. From 2006 to 2018, the petitioner-Federation has not incorporated even a single Society as member of the Federation in accordance with law. The Files/Registers/Documents, produced by learned counsel appearing on behalf of the petitioners, do not suggest that any registered Co-operative Society had become member of the Federation in accordance with the bye-laws of the Federation, relevant provisions of which have been noted hereinabove.

7. It has been argued on behalf of the petitioners that after reorganization of the State of Bihar, the Federation has acquired the status of Multi State Co-operative Society under Section 103 of the Multi State Co-operative Societies Act, 2002, whereafter its assets and liabilities stood transferred to Multi State Co-operative Society under Clause 2(1)(b) of Section 103 of the Act of 2002. It is the claim of the petitioners that petitioner No.2 has become Managing Director of the Federation in a meeting held on 21.10.2017 of the Board of Directors.



8. It is evident from their own bye-laws of the petitioners that only registered Co-operative Societies could become members of the Federation. A Federation, under the Act, is combination of other Co-operative Societies, which unite together for betterment and growth of the co-operative movement. A Federation of Co-operative Societies without any Co-operative Society as its member is meaningless. The main object of a Co-operative Federation is to coordinate and facilitate the activities of other registered societies and to foster the growth of the co-operative movement. Whereas a primary Co-operative Society is a Society of which no member is a registered Society, a Co-operative Federation is essentially a body having registered society as its members.

9. I am not at all satisfied with the bonafide of the petitioners to maintain their claim as a Co-operative Society to seek settlement of *Jalkars*. I am, therefore, not inclined to entertain this writ application, which is accordingly dismissed.

10. Let copies of this order be sent to Respondent No. 3 (Central Registrar, Joint Secretary Credit Cooperative Room No. 224, Department of Agriculture & Co-operative, Ministry of Agriculture, Krishi Bhawan, New Delhi-110001) and respondent No.4 (The General Manager, East Central Railway, Hajipur,



Vaishali) for taking appropriate action in accordance with law in
the background of the facts, which have been noted above.

(Chakradhari Sharan Singh, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	08.07.2019
Uploading Date	17.10.2019
Transmission Date	N/A

