

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPC No. 2251 of 2016**

- Kranti Machhua Sahakari Samiti, A Registered Co-operative Society Bearing Registration No 3125 Dated 31/3/1983, having Its Office At Bairagpara, Pandariya Tahsil Pandariya, District Kabirdham Chhattisgarh, Through Its President Puran Nishad, Aged About 60 Years S/o Late Phool Singh, R/o Ward No 11, Baragpara, Pandariya Tahsil Pandariya, Tahsil Pandariya, Distirct Kabirdham Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Agriculture, (Fisheries) Mantralaya, Mahanadi Bhawan, Naya Raipur Chhattisarh,
2. Director, Directorate Of Fisheries, Government Of Chhattisgarh Mantralaya, Mahanadi Bhawan, Naya Raipur Chhattisgarh,
3. Collector, District Kabirdham Chhattisgarh
4. Assistant Director (Fisheries) District Kabirdham Chhattisgarh
5. President Nagar Panchayat, Pandariya, Distirct Kabirdham Chhattisgarh
6. Chief Municipal Officer, Nagar Panchayat, Pandariya, District Kabirdham Chhattisgarh
7. Siyaram Swasayahata Samooh, Bairagpara, Pandariya, District Kabirdham Chhattisgarh

---- Respondent

For Petitioner
For Respective
Respondents

Mr. Sushil Dubey, Advocate

Mr. Sudeep Verma, Dy. GA and Mr.
Satish Gupta, Advocate

Order On Board By**Hon'ble Mr. Justice Prashant Kumar Mishra****22/1/2019**

1. Heard.
2. The petitioner has called in question the impugned order passed by the Collector, Kabirdham dismissing his appeal preferred against the order passed by the Nagar Panchayat, Pandariya allotting lease of fishing rights of Bandha Talab to respondent No.7-Self Help Group.
3. The petitioner would claim preference in the matter of grant of lease of fishing rights in view of the State Government's Circular dated 30.1.2013. In the said Circular, sequence of preference is mentioned as Fishing Cooperative Society, Fishermen's Group, Fishermen, Displaced Person and lastly Self Help Group. For the subject allotment, the petitioner has been declared disqualified as despite participation and selection for grant of lease during the years 2002-07, the petitioner did not execute the agreement and was thus declared defaulter in the year 2007.
4. Learned counsel for the petitioner would submit that during the said period, the petitioner was never called upon to execute the agreement.
5. On the last date of hearing, this Court has summoned the concerned record of the Nagar Panchayat, which has been

produced today. The record contains application moved by the petitioner-Society for grant of lease of Ganeshbandh Talab, Laxmibandh Talabh, Nawarpara Talabh and Bandha Talab. The record also contains an order passed by the Nagar Panchayat on 9.1.2017 bearing resolution No.8 to the effect that since the petitioner has failed to execute the agreement nor deposited the installments, he is declared defaulter and all the ponds are leased out to Self Help Group.

6. Although the petitioner is entitled for preference in terms of the State Government's Circular, but since he has been declared defaulter, the Self Help Group-respondent No.7 has been allotted the lease. Further, no other person or Society above the Self Help Group, who is placed higher in preference, has come forward to challenge the lease allotted to respondent No.7, therefore, since the petitioner is declared disqualified, he cannot complain of violation of preference.
7. If the petitioner feels that he was not issued any notice during the years 2002-2007 for execution of the agreement, he should have taken steps within reasonable time.
8. It is not a case where the petitioner was not at all aware as if he had never applied for grant of lease. The record contains the application filed by the petitioner-Society for grant of lease of fishing rights, which were in fact allowed to him. If according to the petitioner, his application was never processed and he was never informed, nothing prevented him to institute legal action immediately thereafter. The petitioner cannot be permitted to

raise a ground of non-service of notice for execution of the agreement during the years 2002-2007, after 11 years.

9. The writ petition has no substance and it is accordingly dismissed.

Sd/-

(Prashant Kumar Mishra)

Judge

Shyna