

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Reserved on : 07.09.2021

Order Passed on : 27/09/2021

W.P.(227) No. 638 of 2018

President, Durg Fisheries Industry Co-operative Society Limited, Tehsil and District Durg Chhattisgarh. Registration No. 1559.

---- Petitioner

Versus

1. President, Fisheries Industry Co-Operative Society Limited, Village Chandrakhuri, Tehsil and District Durg Chhattisgarh.
2. President Shivrath Fisheries Industry Co- Operative Society Limited, Village Mohlai, Tehsil and District Durg Chhattisgarh.
3. President, Meet Fisheries Industry Co-Operative Society Limited, Village Jevra, Tehsil and District Durg Chhattisgarh.
4. President Saja Raut Devalaya, Fisheries Industry Co-Operative Society Limited, Village Sirsa Khurd, Tehsil and District Durg Chhattisgarh.
5. President, Durg, Fisheries (Macchuva) Industry Co-Operative Society Limited, Village Dhaur, Tehsil and District Durg Chhattisgarh.
6. President Jay Laxmi Fisheries Industry Co-Operative Society Limited, Village Dhanora, Tehsil and District Durg Chhattisgarh.
7. President Shiva Fisheries (Machhuva) Industry Co-Operative Society Limited, Village Karanja Bhilai, Tehsil and District Durg Chhattisgarh.
8. President, Jai Bhawani, Fisheries (Machhuva) Industry Co-Operative Society Limited, Village Anjora Tehsil and District Durg Chhattisgarh.
9. President, Chhattisgarh Fisheries Industry Co-Operative Society Limited, Village Kodiya District Durg Chhattisgarh.
10. President Jai Shri Ram Fisheries Industry, Co-Operative Society Limited, Village Bhendsar, Tehsil and District Durg Chhattisgarh.
11. Assistant Registrar Co-operative Society Durg Chhattisgarh.

12. President Fisheries Industry Co-operative Society Limited, Village Anda, Tehsil and District Durg Chhattisgarh.
13. President, Fisheries Industry Co-operative Society Limited, Village Dadesara Tehsil and District Durg Chhattisgarh.

---- Respondents

For Petitioner	: Mr. Uttam Pandey, Advocate with Mr. Jitendra Gupta, Advocate
For Respondent No.1 to 10 & 12	: Mr. Siddharth Rathod, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

C A V Order

1. This petition has been brought against the impugned order dated 20.04.2018, passed by the C.G. State Co-operative Tribunal, Bilaspur, Camp Court Raipur, in Revision Case No.02/2017, by which the order of the Assistant Registrar, Cooperative Societies, Durg dated 10.11.2015 was set-aside and the revision was allowed.
2. It is submitted by the learned counsel for the petitioner that the petitioner is a Cooperative society since 1960 engaged in business of fisheries industries since long. The respondent No.11, passed the order dated 10.11.2015, registering and creating new cooperative societies for fishing industries, for the same area in which the petitioner was operating. This order was challenged before the Registrar Cooperative Societies, C.G.. The Registrar, Cooperative Societies passed order dated 07.06.2016 and set-aside the order dated 10.11.2015, passed by the Assistant Registrar, Cooperative Societies, Durg. This order was challenged in the revision before the C.G. State Cooperative Tribunal, Bilaspur, in which, the appeal was allowed and the order of the Assistant Registrar, Cooperative Societies, Durg dated 10.11.2015 has been restored.

3. It is submitted by the learned counsel for the petitioner, that the petitioner had made a representation before the Assistant Registrar, Cooperative Societies, Durg praying for cancellation of the new societies on the ground that the petitioner's society is already existing, but the same has been rejected. It is submitted that Section 12 (1) of the C.G. Cooperative Societies Act, 1960 (hereinafter referred to as "the Act, 1960") has not been followed. No opportunity of hearing was given to the petitioner, before passing order for amending bye-laws of the society and directing the registration of new societies. Therefore, it is a case of clear violation of principle of natural justice and also the violation of Section 12 (1) of the Act, 1960. It is submitted that the learned Registrar, Cooperative Society has rightly held in the order dated 07.06.2016 that the petitioner's society was not granted any opportunity of hearing before the Assistant -Registrar passed the order dated 10.11.2015. The order passed by the learned Tribunal is erroneous and unsustainable. Reliance has been placed on the judgment of Madhya Pradesh High Court in case of **Brihattakar Prathmik Krishi Sahkari Samiti Vs. Asst. Registrar**, reported in **1983 M.P.W.N. 83**.
4. Learned counsel for the respondent opposes the petition and the submissions made in this respect. It is submitted that Section 12 (1) of the Act, 1960 is not applicable in the present case. The petitioner was granted opportunity of hearing by the Assistant Registrar before passing the order dated 10.11.2015 (Annexure P-3). The Assistant Registrar has rightly passed the order dated 10.11.2015 and the same order has rightly been upheld by the learned Tribunal, which does not call for any interference. Reliance has been placed on the judgment of Supreme Court in case of **R.P. Bhatt Vs. Union of India**

& Ors., reported in **AIR 1986 SC 1040**, on the judgment of this Court in **Bajaj Allianz Life Insurance Company Limited Vs. Dr. Manisha Goyal**, in **W.P.(227) No.448 of 2012 decided on 05.12.2017** and also on the judgment of this Court in case of **C.G. State Marketing Federation Ltd. Vs. T.J. Pandey**, in **W.P.(227) No. 849 of 2013 decided on 11.08.2020**. It is further submitted that the impugned order is sustainable.

5. I have heard the learned counsel for the parties and perused the documents placed on record.
6. The only ground raised in this petition is this that the petitioner was not granted any opportunity of hearing before passing order dated 10.11.2015, passed by the Assistant Registrar Cooperative Societies, Durg. Operating part of the order dated 10.11.2015 mentions that invoking the powers under Section 12 (2) of the Act, 1960, bye-laws of the petitioner's society are amended, from which the name of the villages as mentioned were separated. The power to direct amendment of bye-laws are available to the concerned authority under Section 12 of the Act, 1960, which is as follows :-

“12. Power to direct amendment of bye-laws.- (1)

Notwithstanding anything contained in this Act, or the rules or byelaws, on the request of more than fifty per cent of the members of the society or if the Registrar considers that an amendment of the byelaws of society is necessary or desirable in the interest of such society, he may, by an order in writing to be served on the society in the prescribed manner, require the society to make the amendment within sixty days.

(2) If the society fails to make the amendment within the time specified by the Registrar, the Registrar may

after giving the society an opportunity of being heard and after soliciting the opinion of such Apex Federal society, as may be notified by the State Government, register such amendment and issue a certified copy there of to such society.”

7. According to Section 12 (1) of the Act, 1960, the rules or bye-laws can be amended on the request of more than 50% of members of the society, which is not the only condition, the other condition is this that if the Registrar considers that any amendment of the bye-laws of the society is necessary or desirable in the interest of such society then he may pass order accordingly. The order dated 10.11.2015 mention, that the order under Section 12 (1) of the Act, 1960 was passed and the same was communicated to the petitioner on 30.07.2014. It is also mentioned that the petitioner made a representation on 22.09.2014, which was rejected. In such a condition the Registrar has the power under Section 12 (2) of the Act, 1960 to pass order for amending the bye-laws of the society in case society itself has failed to make such amendment, on the order received by it under Section 12 (1) of the Act, 1960.
8. Hence, in this case case, it was the Registrar, who has considered the necessity, that the bye-laws of the petitioner’s society are required to be amended in the interest of justice and also in the interest of other societies, regarding which the petitioner had notice by which it was communicated to it, to amend the bye-laws and there after the rejection of his representation the order has been passed in exercise of power under Section 12 (2) of the Act, 1960.
9. Therefore, I am of this view that the learned tribunal has not committed any error in passing the impugned order. The order

passed by the Assistant Registrar dated 10.11.2015 was correct and lawful, which has been rightly upheld by the learned Tribunal. Hence, the impugned order does not need any interference by this Court in exercise of supervisory jurisdiction.

10. In view of the forgoing discussion, this petition has no merit, which is dismissed and disposed off accordingly.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram