

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 3636 OF 2020.

Jai Bhavani Matsya Vyavasay
Sahakari Sanstha Ltd. Januna. Petitioner.

-VERSUS-

1.State of Maharashtra and others. Respondents.

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Shri S.J. Kadu, Advocate for the Petitioner.

Shri D.P. Thakare, Additional Government Pleader for the
Respondent Nos. 1 to 4.

Shri P.A. Kadu, Advocate for the Respondent No.5.

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WITH

WRIT PETITION NO. 154 OF 2021.

Asra Mata Mahila Fishing
Co-operative Society Ltd. Januna. Petitioner.

-VERSUS-

1.State of Maharashtra and others. Respondents.

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Shri P.A. Kadu, Advocate for the Petitioner.

Shri D.P. Thakare, Additional Government Pleader for the
Respondent Nos. 1 to 4.

Shri S.J. Kadu, Advocate for the Respondent No.5.

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CORAM : NITIN JAMDAR AND
ANIL S. KILOR, JJ.

DATE : 3 MARCH 2021.

P.C.

Heard learned Counsel for the Parties.

2. Writ Petition No. 3636/2020 is filed by Jai Bhavani Matsya Vyavasaya Sahakari Sanstha Ltd., challenging the order passed by the Assistant Commissioner of Fisheries on 17 December 2020. Writ Petition No. 154/2021 filed by Asra Mata Mahila Fishing Cooperative Society Ltd., also challenges the very same order dated 17 December 2020.

3. The order dated 17 December 2020, impugned in both the petitions passed by the Respondent No.4 is addressed to both the Petitioners. The order states that fishing right in respect of a water body at Mokhed, Taluq Nandgaon Khandeshwar, District Amravati was granted to Asra Mata Mahila Fishing Cooperative Society Ltd. on 5 October 2020, and thereafter when a meeting of the District Level Committee took place, it was found that this water body was also included in the bye-laws of Jai Bhavani Matsya Vyavasaya Sahakari Sanstha Ltd. Thus the water body appeared in the bye-laws of both the Cooperative Societies. Considering that the problems at the local level and a dispute was likely to arise on the site, a direction was given to stop fishing activities of both the Societies on the water body.

4. Presently as informed, no fishing activities are being carried out on this water body. We are also informed that the water level is fast depleting which would make fishing activities difficult till next monsoon season.

5. Both the Societies are staking their claim in respect of fishing right over the water body. It is the case of Petitioner – Jai Bhavani Matsya Vyavasay Sahakari Sanstha Ltd., that because of the threats issued by the Asra Mata Mahila Fishing Cooperative Society Ltd., the impugned order came to be passed. While it is the contention of the Petitioner – Asra Mata Mahila Fishing Cooperative Society Ltd., that the Bye-laws of Jai Bhavani Matsya Vyavasay Sahakari Sanstha Ltd. are fraudulent and it should have been ignored, as it is Asra Mata Mahila Fishing Cooperative Society Ltd, who is entitled to the fishing right.

6. As stated earlier, neither of the Societies are benefiting from the position.

7. The impugned order dated 17 December 2020 also does not adjudicate or finds a solution to the dispute. The Respondent No.4 has simply stopped the fishing activities till further solution is found, however, this position can not continue. The Respondent No.4 will have to take a decision as to which Fishing Society is entitled to carry out the fishing activity in the concerned water body or whether both are entitled to do the same. This decision will have to be taken at

the first instance by the Respondent No.4. The decision will have to be taken as per the Rules, Regulations and Resolutions governing the issue. Once such a decision is taken on merits, it will be open to the parties to then agitate their rights.

8. In view of this position and the emergent situation that is prevalent in the matter, we direct the Respondent No.4 to take a decision in the light what is stated above, within a period of two weeks from today.

9. Both the Writ Petitions are disposed of accordingly.

(ANIL S. KILOR, J)

(NITIN JAMDAR, J)

Rgd

**Rakesh
Dhuriya**

Digitally signed
by Rakesh
Dhuriya
Date:
2021.03.06
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