

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR
WRIT PETITION NO.1021 OF 2021

Matsa-Udyog Matya Vyavasay Sahakari
Sanstha Maryadit, Dapura,
Taluka Manora, District Washim
Through its Chairman/Secretary,
Arun Shankar Sonone,
Age 38 years, Occu- Fishing/Agri.,
R/o At Post Injauri, Taluka Manora,
District Washim.

...PETITIONER

...V E R S U S...

- 1) The State of Maharashtra,
Through the Secretary,
Animal Husbandry, Dairy and
Fisheries Department,
Mantralaya, Mumbai-400 032.
(Copy to be served on the Govt.
Pleader, High Court of Bombay,
Bench at Nagpur)
- 2) The Commissioner, Fisheries,
Taraporwala Matsalaya,
Charni Road, Mumbai.
- 3) The Assistant Registrar,
Co-operative Societies
(Animal Husbandry, Dairy and
Fisheries Department), Akola
3, Office of the District Dairy Development
Department, Murtizapur Road,
Near Government Dairy, Akola.
- 4) The Assistant Commissioner (Fisheries) (Ta.)
Headquarters Washim, Akola,
Office : Shri Bodwadi's Building,
Nityanand Nagar, Near Sant Tukaram Hospital,
Gorakshan Road, Akola.
- 5) The Regional Deputy Director,
Dairy, Amravati Division,
Amravati.

- 6) Proposed Navnath Matsya Vyavsay Sahakari
Sanstha, Dhamni (Khadi), Taluka Karanja
Lad, District Washim, Through its Chief
Promoter - Ashok Motiram Malte,
Age years, Occ: Fishing,
R/o At Post Dhamni (Khadi),
Taluka Karanja, District Washim.

...RESPONDENTS

Shri M.R. Sonwane, Advocate for petitioner.
Shri K.L. Dharmadhikari, A.G.P. for respondent nos.1 to 5.
Shri S.K. Tambde, Advocate for respondent No.6/caveator.

CORAM:- V. M. DESHPANDE, J.
DATED :- 22nd FEBRUARY, 2021.

ORAL JUDGMENT

Though this writ petition is coming for the first time it can be disposed of today itself. After hearing the learned counsel for the petitioner Shri M.R. Sonwane, learned Assistant Government Pleader for respondent nos.1 to 5 Shri K.L. Dharmadhikari and learned counsel for the respondent no.6 Shri S.K. Tambde, **Rule.** Rule is made returnable forthwith. Heard finally by consent of the parties.

(2) The respondent no.6 has filed an appeal before the Commissioner Fisheries, which is registered as Appeal No.2 of 2020. The appeal was barred by limitation therefore the application for condonation of delay was filed. The appeal was filed against the present petitioner. There is no dispute before this

Court by any of the parties that though the appeal was barred by limitation an application for condonation of delay was filed on behalf of the respondent no.6. Notice on that application for condonation of delay was not issued and without hearing the learned counsel for the petitioner, on 11.11.2020 the respondent no.2 condoned the delay and kept the appeal for hearing on merits.

(3) Thereafter the parties have filed reply. On 05.02.2021, the Commissioner allowed the appeal filed by the respondent no.6. From the impugned orders dated 11.11.2020 and 05.02.2021, it is clear that oral hearing was not given to the petitioner nor to the respondent no.6 by the respondent no.2, though reply was filed. Reply is one thing and arguments is another. In arguments counsel for the parties would have elaborated the points raised in the reply therefore the hearing is must.

(4) Since the oral hearing was not given to the counsel for the petitioner as well as counsel for the respondent no.6, in my view, it breaches the principles of natural justice. The justice can be done by giving following orders:

(5) The writ petition is allowed. Both impugned orders dated 11.11.2020 and 05.02.2021 are hereby quashed and set aside.

(6) The respondent no.2- the Commissioner of Fisheries shall give opportunity of hearing to the petitioner as well as respondent no.6 on application for condonation of delay. The application for condonation of delay can be decided along with appeal itself by giving opportunity of hearing.

(7) All the points raised in this writ petition are kept open.

(8) The petitioner as well as respondent no.6 is directed appear before the respondent no.2 on 05.03.2021.

(9) The respondent no.2-Commissioner Fisheries shall decide the appeal along with application for condonation of delay as early as possible and within a period of two months from 05.03.2021.

Rule is made absolute in above terms. No order as to costs.

JUDGE

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