

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

WRIT PETITION NO. 2172 OF 2018

Durga Matsya Vyavasaya Sahakari Sanstha Ltd.

vs.

The State of Maharashtra and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. Chetan Sharma, Advocate for petitioner.
Ms. T. H. Khan, AGP for respondent No.1 to 4.
Mr. A. P. Kalmegh, Advocate for respondent No.5.

CORAM : MANISH PITALE J.

DATE : 22/07/2022

By this petition, the petitioner Society has challenged order dated 06/12/2017, passed by the State through the concerned Minister, whereby a revision petition filed by respondent No.5 was allowed and amendment made in the bye laws of the petitioner-society to include a particular tank for the purposes of fisheries, was held as invalid.

2. The only ground on which the revision petition stood allowed against the petitioner was that the date on which no objection was issued by the fisheries department in favour of the petitioner-society, leading to amendment of the bye laws and

inclusion of the concerned tank, was prior to the irrigation department handing over the said tank to the fisheries department. In other words, even before the tank was handed over to the fisheries department, no objection came to be issued in favour of the petitioner-society. There is no other reason why the revision petition stood allowed and the amendment was held to be invalid.

3. As a consequence of the impugned order, it is an admitted position that insofar as the aforesaid tank is concerned, only the respondent No.5 – society is presently having an opportunity to carry out activities of fishing. Due to the impugned order, the petitioner-society apprehends that it may be shut out from making applications and offering bids for the said water tank in the future, in the absence of the said tank being included by way of amendment of its bye laws.

4. This Court is also of the opinion that when such water tanks are auctioned for a period of 05 years, in the future, the impugned order ought not to come in the way of the petitioner offering its bid and seeking allotment of the tank as per the policy of the State.

5. This Court is informed that the policy has undergone change and at present the policy framed in the year 2019 is in existing. The grievance of the petitioner can be addressed, if appropriate directions are given by this Court.

6. Accordingly, the writ petition is disposed of by directing that if the petitioner-society applies for a no objection to the competent authority for amendment of its bye laws for inclusion of the said Dongarshevi Tank, such an application shall be decided in terms of the existing policy of the State and in accordance with law, without being influenced by the impugned order passed by the respondent State through the concerned Minister. This would facilitate participation of the petitioner when the tank is auctioned in the future, in terms of the policy of the State. This is also because, the revision petition stood allowed against the petitioner on a technicality, which ought not to shut out the petitioner from applying in the aforesaid manner, for all time to come.

7. With these observations, the writ petition is disposed of.