

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

WRIT PETITION NO.159 OF 2018

- 1) The Matsya Vyavsay Sahakari
Sanstha Maryadit, Gumgaon,
Tahsil Hingna, District Nagpur,
through its President Shri Nilesh
Harichandra Durge.
 - 2) Wakeshwar Macchhi Palan
Vyavasay Sahakari Sanstha Maryadit,
Wakeshwar, Tahsil and District
Nagpur, through its President
Shri Satyavrat s/o Narendra Datta.
 - 3) Dhamnapeth Macchhindra
Macchhimar Sahakari Sanstha,
Dhamnapeth, Tahsil Nagpur (Rural),
District Nagpur, through President
Shri Maruti Shrawan Bawane.
 - 4) Macchhimar Sahakari Sanstha
Maryadit, Ghoti, Post Butibori,
Tahsil and District Nagpur, through
its President Shri Pyarelal Barve.
 - 5) Bhujal Kisan Macchhimar Sanstha
Maryadit, Chandan Pardi,
Post Murti, Tahsil Katol, District
Nagpur, through its President
Shri Mahavir Gour.
 - 6) The Fisherman Multipurpose
Cooperative Society Ltd., Ramtek,
through its President.
- ... Petitioners

- Versus -

- 1) State of Maharashtra, through
its Secretary, Agriculture,
Animal Husbandary, Dairy
Development and Fisheries
Department, Madam Cama Marg,
Hutatma Rajguru Chowk,
Mantralaya Extension,
Mumbai – 400 032.
- 2) Zilla Parishad, through its
Chief Executive Officer,
Civil Lines, Nagpur.
- 3) Block Development Officer,
Panchayat Samiti, Civil Lines,
Nagpur.
- 4) Block Development Officer,
Panchayat Samiti, Katol,
Tahsil Katol, District Nagpur.
- 5) Block Development Officer,
Panchayat Samiti, Ramtek,
Tahsil Ramtek, District Nagpur.

... Respondents

Ms. S.A. Lakhani, Advocate h/f Shri S.P. Bhandarkar, Advocate for petitioners.

Smt. K.R. Deshpande, Assistant Government Pleader for respondent no.1.

Shri P.S. Khubalkar, Advocate for respondent nos.2 to 5.

(II) WRIT PETITION NO. 1958 OF 2018

Panchasheel Matsyavyavasaya Sahakari
Sanstha (Mahurzari), Nagpur, through
its President, Taluq and District Nagpur.

... Petitioner

- Versus -

- 1) Zilla Parishad, Nagpur, through its Chief Executive Officer, Civil Lines, Nagpur.
 - 2) Zilla Parishad, Nagpur, through its Deputy Chief Executive Officer, Civil Lines, Nagpur.
 - 3) Block Development Officer, Panchayat Samiti, Nagpur, Civil Lines, Nagpur.
 - 4) State of Maharashtra, through its Department of Agriculture, Animal Husbandary, Dairy and Fisheries, Mantralaya, Mumbai.
 - 5) State of Maharashtra, through its Secretary of Department of Rural Development, Mantralaya, Mumbai.
- ... Respondents

Shri O.A. Ghare, Advocate for petitioner.

Shri P.S. Khubalkar, Advocate for respondent nos.1 and 2.

Smt. K.R. Deshpande, Assistant Government Pleader for respondent nos.4 and 5.

(III) WRIT PETITION NO. 2772 OF 2018

- 1) Matsyagandha Macchimaar Sahakari Sanstha, Gondkhairi, Taluq Kalmeshwar, District Nagpur.
- 2) Jayashreelaxmi Sahakari Macchimaar Sanstha, Pachgaon, Taluq Umred, District Nagpur.

- 3) Navjeevan Macchimaar Vyavasayik
Sahakari Sanstha, Navegaon,
Taluq Umred, District Nagpur.

... Petitioners

- Versus -

- 1) Zilla Parishad, Nagpur, through its
Chief Executive Officer, Civil Lines,
Nagpur.
- 2) Zilla Parishad, Nagpur, through its
Deputy Chief Executive Officer,
Civil Lines, Nagpur.
- 3) Panchayat Samiti, Kalmeshwar,
through its Block Development Officer.
- 4) Panchayat Samiti, Umred, through
its Block Development Officer.
- 5) State of Maharashtra, through its
Secretary of Department of
Fisheries, Mantralaya, Mumbai.
- 6) State of Maharashtra, through
its Secretary of Department of
Rural Development, Mantralaya,
Mumbai.

... Respondents

Shri O.A. Ghare, Advocate for petitioners.

Shri P.S. Khubalkar, Advocate for respondent nos.1 , 3 and 4.

Smt. K.R. Deshpande, Assistant Government Pleader for respondent
nos.5 and 6.

CORAM : SUNIL B. SHUKRE AND
G.A. SANAP, JJ.

DATED : SEPTEMBER 30, 2022

ORAL JUDGMENT (PER SUNIL B. SHUKRE, J.) :

Rule. Rule is made returnable forthwith. Heard finally by consent of the learned Counsel for the parties.

2) In all these petitions, the respective tanks have been allotted to these petitioners in a public auction held in that regard and allotment of these tanks is for the purpose of exploitation of fishing rights in respect of each of these tanks by the petitioners. The rate at which these tanks have been allotted to these petitioners is uniform and the rate is of Rs.300/- per hectare per year. These tanks have been allotted to the petitioners for the period of five years with effect from 1/7/2017 till 30/6/2022. The rate at which these tanks were allotted to the petitioners was prescribed in the Government Resolution dated 26/6/2014, which was temporarily stayed by another Government Resolution dated 16/5/2016, which stay was lifted by the subsequent Government Resolution dated 30/6/2017. But in doing so, the earlier Government Resolution dated 26/6/2014 was also superseded by the Government Resolution dated 30/6/2017, thereby replacing the old regime of rates by new regime of rates, which were Rs.1800/- per hectare per year.

3) Considering the fact that the agreements regarding allotment of tanks were executed much before coming into force of the Government Resolution dated 30/6/2017 and these agreements prescribe rate of allotment to be at Rs.300/- per hectare per year, the new rate brought into force by the Government Resolution dated 30/6/2017 would not be applicable to the agreements, which were already executed between the fishermen societies like the petitioners on one hand and the State Government on the other unless both parties agree for revision of rates of allotment. Admittedly, there was no such agreement having taken place between both parties.

4) Apart from what is stated above, we find that the new rates brought into force by the Government Resolution dated 30/6/2017 could not have been applied to the existing agreements for one more reason. There is a clarification issued by the State Government through its Department of Agriculture, Animal Husbandry, Dairy and Fisheries vide communication dated 4/10/2017 (page 65 in Writ Petition No.1958/2018), which clarifies that the Government Resolution dated 30/6/2017 is not applicable

to the tanks belonging to Zilla Parishads and which have been allotted for exploitation of fishing rates.

5) Thus, we find substance in the petitions and declare that the Government Resolution dated 30/6/2017 would not apply to the fishing rights exploitation agreements already executed between the petitioners on the one hand and the State Government on the other. We also declare that no additional demands on the basis of Government Resolution dated 30/6/2017 can be raised upon any of these petitioners.

6) Rule is made absolute in the above terms. No costs.

JUDGE

JUDGE

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