

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

WRIT PETITION (WP) NO.1518 of 2020

- 1) Mauli Matsyavyavsaya Sahakari Sanstha Ltd., Dhanori, Tah. Chikhli, Dist. Buldhana, through its President namely Ramdas S/o Waman Gawande, aged about 55 years, Occupation : Business, R/o at Village Dhanori, Post Isoli, Tah. Chikhli, Dist. Buldhana.

.... Petitioner(s)

// VERSUS //

- 1) The Commissioner of Fisheries and Additional Registrar of Co-operative Societies (Fisheries), Maharashtra State, Mumbai.
- 2) The Deputy Registrar of Co-operative Societies (Fisheries), Maharashtra State, Mumbai.
- 3) The Assistant Registrar of Co-operative Societies, Buldhana.
- 4) The Regional Deputy Commissioner (Fisheries) Amravati, Division Amravati.
- 5) The Assistant Commissioner, (Fisheries-Tech.) and District Fishery Development Officer, Buldhana.
- 6) Man Matsyavyavsaya Sahkari Sanstha Ltd., Isoli, Tah. Chikhli, Dist. Buldhana, through its President.

... Respondent(s)

Shri N.B. Kalwaghe, Advocate for the Petitioner
Shri Shamsi Haider, A.G.P. for the Respondent Nos.1 to 5/State
Shri P.D. Meghe, Advocate for the respondent No.6

CORAM : ANIL S. KILOR, J.
DATED : 03rd April 2023

ORAL JUDGMENT :

1. Heard.
2. **Rule.** Rule made returnable forthwith. Heard finally by consent of the parties.
3. By this writ petition, a challenge is raised to the order dated 23.12.2019 passed by the Commissioner of Fisheries and Additional Registrar of Co-operative Societies (Fisheries), Maharashtra State, Mumbai, dismissing the revision and confirming the order passed by the Deputy Registrar, Co-operative Society (Fisheries), Mumbai dated 16.02.2019, dismissing the appeal preferred by the petitioner for challenging the orders passed by the Assistant Registrar, Co-operative Societies (Dairy), Buldhana, dated 19.06.2015 and 15.12.2015.
4. The learned counsel for the petitioner points out that vide order dated 19.06.2015 passed by the Assistant Registrar, Co-

operative Societies (Dairy), Buldhana, allowed amendment in bye-laws of respondent No.6 and vide order dated 15.12.2015, rejected the application moved by the petitioner for amendment in bye-laws.

5. The learned counsel for the petitioner points out that both the orders dated 19.06.2015 and 15.12.2015 were challenged by the petitioner in a single appeal and it was rejected by the respondent No.2/Deputy Registrar of Co-operative Societies (Dairy), Mumbai vide order dated 16.02.2019.

6. It is submitted that while rejecting the same, one of the grounds was that the petitioner has filed an appeal against two different orders dated 19.06.2015 and 15.12.2015 and therefore, the appeal is not maintainable. It is pointed out that the Commissioner (Fisheries) by recording the same reason and without recording any findings on merit, dismissed the revision application of the petitioner, vide impugned order dated 23.12.2019.

7. It is submitted that while dismissing the revision application, the only finding was recorded that after going through the

documents he found it necessary to reject the revision application. It is submitted that no other reasons have been recorded for the said rejection. He has drawn attention of this Court to the impugned order and points out that though the Commissioner (Fisheries) has recorded the submissions of the petitioner and the respondent No.6, however, he has not dealt with any of the submissions. He therefore, submits that the order is cryptic and passed without application of mind.

8. On the other hand, the learned AGP supported the impugned order and submits that after considering the submissions of both the parties and after going through the documents, the Commissioner (Fisheries) arrived at a conclusion that the revision application needs to be dismissed. She, therefore, submits that no legal infirmity has been committed by the Commissioner. Accordingly, she prays for dismissal of the present application.

9. The learned counsel for the respondent No.6 submits that the Commissioner (Fisheries) has dismissed the revision application not only on the ground that the appeal was not maintainable as both the different orders were challenged by only single appeal, but

also after considering the merits of the appeal. He submits that the impugned order, is just and proper.

10. In the light of the rival submissions of the parties, I have perused the impugned order dated 23.12.2019 passed by the Commissioner (Fisheries).

11. The impugned order runs in eight pages, out of which seven pages dedicated to the submissions of both the parties and thereafter, he has recorded a conclusion in a half page and at the end of the conclusion, he only states that after going through the record, he is of the opinion that the revision application needs to be dismissed. However, the submission which he has recorded in seven pages, has not been dealt with.

12. Thus, I have no hesitation to hold that the Commissioner (Fisheries), without applying his mind decided the revision application.

13. In the circumstances, I am of the opinion that the revision application needs to be remanded back to the Commissioner

(Fisheries), Mumbai for fresh consideration. Accordingly, I pass the following order :

- (i) The writ petition is partly **allowed**.
- (ii) The order dated 23.12.2019 passed by the Commissioner of Fisheries and Additional Registrar of Co-operative Societies (Fisheries), Maharashtra State, Mumbai in Revision Application No.05 of 2019, is hereby quashed and set aside.
- (iii) The revision application is remanded back to the Commissioner of Fisheries and Additional Registrar of Co-operative Societies (Fisheries), Maharashtra State, Mumbai, to consider the same afresh, after giving sufficient opportunities to both the parties and after recording the reasoning.
- (iv) The Commissioner of Fisheries and Additional Registrar of Co-operative Societies (Fisheries), Maharashtra State, Mumbai, is directed to decide the revision application within a period of three months from the date of the appearance of the parties.
- (v) The parties shall appear before the Commissioner of Fisheries and Additional Registrar of Co-operative

Societies (Fisheries), Maharashtra State, Mumbai on
19.04.2023 at 12.00 noon.

Rule accordingly. No costs.

[ANIL S. KILOR, J.]