

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

WRIT PETITION NO.6974 OF 2018

Kewalram s/o Dawlaji Shivurkar
Aged about 58 years,
Occupation-Fisherman and President
of Omnath Machhimar Sahakari
Sanstha Maryadit, Talodi (Kh).
R/Pachgaon, Post-Nilaj, Tahsil-
Bramhapuri, District-Chandrapur.

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Petitioner

.. Versus ..

1. The State of Maharashtra,
through the its Secretary Fishery
Department Mantralya,
Mumbai.
2. The Commissioner for Fishrey and
Additional Registrar Cooperative
Societies (Fisheries), Mumbai.
3. Deputy Registrar Cooperative
Societies (Fisheries), Mumbai.
4. Govardhan Ganpat Mesharam
Chief founder of Walmiki Matsya
Vyavasik Sahakari Sanstha Maryadit
Talodi (kh.), Post-Gangalwadi,
Tah. Bramhapuri, Dist. Chandrapur.
5. Assistant Registrar Cooperative
Societies (Dairy), Chandrapur.

6. Assistant Commissioner Fisheries
Chandrapur.
7. Regional Deputy Commissioner
(Fisheries) Nagpur Division,
Nagpur.
- 8) Gat Vikas Adhikari,
Panchayat Samiti, Bramhapuri,
Tah. Bramhapuri, Dist. Chandrapur. .. Respondents

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Shri Muzammil Husain, Advocate for the petitioner,
Shri H.D. Dubey, AGP for respondent nos.1 to 3 & 5 to 7,
Mrs. B.P. Maldhure, Advocate for respondent no.8
None for respondent no.4 though served.
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CORAM : ANIL S. KILOR, J.
DATED : 12.07.2023.

ORAL JUDGMENT

ADMIT. Heard the matter finally by the consent of
the learned counsel for the parties.

2. The petitioner-society had applied for the registration
before respondent no.5 on 14.12.2015. Thereupon, respondent no.5
issued the registration certificate to the petitioner. The same was

challenged by one Govardhan Ganpat Mesharam, respondent no.4 in this writ petition.

3. The Commissioner for Fishery and Additional Registrar Cooperative Societies (Fisheries), Mumbai thereafter by the impugned order dated 17.10.2017 cancelled the registration and no objection issued by the respondent no.6-Assistant Commissioner Fisheries, Chandrapur. The said order dated 17.10.2017 is the subject matter of the present writ petition.

4. I have heard Shri Muzammil Hussain, learned counsel for the petitioner, Shri H.D. Dubey, learned Assistant Government Pleader for respondent nos.1 to 3 & 5 to 7 and Mrs. B.P. Maldhure, learned counsel for respondent no.8. None for respondent no.4 though served.

5. The Deputy Registrar Cooperative Societies (Fisheries), Mumbai, while rejecting the registration of the petitioner-society, has observed as follows :

- (a) before any recommendations received from respondent nos.5, 6 and 7, No Objection

Certificate was issued in favour of the petitioner;

- (b) on 31.5.2016, when the registration was granted, there was a stay to the Government Resolution dated 26.06.2014 under which the registration was granted.
- (c) without proper scrutiny and considering the merit of the proposals, the proposal of the petitioner for grant of registration was accepted.
- (d) without hearing respondent no.4, the registration was granted.
- (e) no preference was given to the Project Affected Persons and Local Fishermen.

6. On perusal of the impugned order, it is evident that the Deputy Registrar Cooperative Societies (Fisheries), Mumbai, while recording its observation, has not discussed or observed any provision stipulating a requirement about the recommendations of the respondent nos.5 to 7 before issuance of No Objection Certificate. Thus, according to me, the first reason for cancellation of registration is based on no valid reason.

7. As far as the second reason for cancellation of registration i.e. the registration was granted during the stay of Government Resolution dated 26.06.2014 is concern, it is evident that, the registration was granted to the petitioner-society on 31.5.2016 and during the said period the certain societies were registered namely, Bahuudeshiya Matsyavyavya Sahakari Sanstha Maryadit, Vihirgaon, Tahsil-Chimur on 17.5.2016 and Navnath Masemari Sahakari Sanstha Maryadit, Yenoli Mal, Tahsil-Nagbhid on 31.5.2016, hence, this ground also does not survive in absence of anything on record to show that the registration of those societies were cancelled.

8. The Deputy Registrar Cooperative Societies (Fisheries), Mumbai has observed that the proposals of the petitioner and the others have not compared on merit and, therefore, the registration granted to the petitioner was not proper. The Deputy Registrar in that case ought to have compared the proposals on merit and should have recorded the findings. However, instead of doing so, the registration was cancelled.

9. The record further shows that respondent no.4 was given sufficient opportunity to appear in the matter and also to put his submissions before the Deputy Registrar, which he did not avail and, therefore, the findings recorded by the Deputy Registrar that without hearing respondent no.4, the registration is granted, is contrary to the record.

10. The record further shows that there are members in the petitioner-society, who are Project Affected Persons and Local Fishermen and, therefore, the reason recorded by the Deputy Registrar that no preference was given to the Project Affected Persons and Local Fishermen, is erroneous.

11. The Commissioner for Fishery and Additional Registrar Cooperative Societies (Fisheries), Mumbai in Revision Application No.02/2018 has added certain grounds while upholding the order of the Deputy Registrar. However, there is nothing to show that before dismissal of the revision application on additional grounds, notice on the said grounds was given to the petitioner-

society.

12. Thus, in the above referred backdrop, I am of the opinion that the impugned order passed by the Commissioner for Fishery and Additional Registrar Cooperative Societies (Fisheries), Mumbai dated 10.07.2018 in Revision Application No.02/2018 and the order passed by the Deputy Registrar Cooperatives Societies (Fisheries), Mumbai dated 17.10.2017 in Appeal Application No.14/2016 are erroneous and liable to be quashed and set aside and the matter needs to be remanded back to the Deputy Registrar to take the decision afresh. Accordingly, I pass the following order :

ORDER

- (i) The writ petition is partly allowed.
- (ii) The order passed by the Commissioner for Fishery and Additional Registrar Cooperative Societies (Fisheries), Mumbai dated 10.07.2018 in Revision Application No.02/2018 and the order passed by the Deputy Registrar Cooperatives Societies (Fisheries), Mumbai dated 17.10.2017 in Appeal Application No.14/2016 are hereby quashed and set aside and the matter is remanded back to the Deputy Registrar, Cooperative Societies (Fisheries), Mumbai to

decide the same afresh, after hearing both the parties. All the points are kept open.

[ANIL S. KILOR, J.]

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