



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2629 OF 2008

Marathwada Fishermens Co Op So Ltd. Nandgaon

VERSUS

Proposed Adarsh Macchimar Sahakari Sanstha Maryadit
Nandgaon And Ors

- Mr. A. N. Nagargoje, Advocate for the Petitioner
- Mr. V. D. Salunke, Advocate for Respondent No. 1
- Mr. R. K. Ingole, AGP for the Respondent Nos. 2 to 6/State

CORAM : KISHORE C. SANT, J
DATE : SEPTEMBER 24, 2024

PER COURT :

1. Heard parties for some time.
2. The dispute is in respect of grant of registration to the fishery society of the Petitioner. Respondent No. 1 had objected the registration of the Petitioner Society. He raised objection before the Appellate Authority i.e., District Deputy Registrar (Fisheries) Cooperative Societies, State of Maharashtra, who condoned the delay and allowed the Appeal. The said order was carried till the Minister. The Minister has now directed to refuse the

registration of the Fishery Society confirming the order passed by the DDR dated 05.11.2007. The main grounds taken are in respect of delay that was caused in filing the Appeal. Secondly, the locus standi of the Respondent No. 1 in raising objection before the Appellate Authority. It is submitted that the Appellate Authority without condoning the delay proceeded to hear the matter on the merits. While disposing of the Appeal, the delay is condoned by the same judgment. Second ground that the Respondent Society is not a registered society and thus, cannot have any locus standi to challenge the registration of the Petitioner society. It is sought to be contended that the Respondent No. 1 society had given proposal in 1997 and that was rejected long back and thus, it is not an legal entity. Petition is thus filed in this Court. Petitioner has relied on judgments in support of his case.

3. The learned Advocate for Respondent No. 1 vehemently opposed the Petition. On the ground of delay, he submits that the Authority has applied its

mind and condoned the delay. So far as locus standi is concerned, it is his contention that their proposal is neither rejected nor accepted. As the proposal is still pending, he has right to object the registration of any other society in the same village.

4. The Division Bench of this Court in Macchindranath Adiwashi Masemari Sahkari Sanstha, Tiwasa and Others vs. State of Maharashtra and Others, 2014 (1) Mh.L.J. 398 held that unless the delay is condoned, the Appeal could not have been decided on merits and in that case the matter was remanded by quashing and setting aside the impugned order.

5. In view of this, this Court find it appropriate to remand back the matter to the Appellate Authority by quashing and setting aside the impugned order. Hence, impugned order is quashed and set aside. Learned Appellate Authority to decide the application for condonation of delay before deciding Appeal. In case, delay is condoned, the Appeal be heard on merits. This Court has not observed anything on merits of the matter. The Appellate Authority to apply its mind

independently to the facts of the case and record.

6. The Appellate Authority is expected to take decision within three months from today. Needless to say that the Appellate Authority would also consider the claim of Respondent No. 1.

7. Thus, keeping all the points open, the Writ Petition stands disposed of.

(KISHORE C. SANT, J.)