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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5488 OF 2024

**VISHAL FISHERY BUSINESS COOPERATIVE SOCIETY
THROUGH ITS CHAIRMAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS.**

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Mr. S.A. Nagarsoge, Advocate for the petitioner.
Mr. K.B. Jadhavar, AGP for respondents.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 12th JUNE, 2024.

ORDER :-

1. The petitioner impugns the order dated 3.4.2024 passed by the Additional Divisional Commissioner – Respondent No.2 in Appeal filed under Section 267-A of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (hereinafter referred to as “the Zilla Parishad Act” for sake of brevity) thereby declining challenge raised by petitioner to the resolution dated 15.1.2024 passed by the Zilla Parishad, Dharashiv.

2. Mr. S.A. Nagarsoge, learned advocate for the petitioner submits that the petitioner is a society registered under the provisions of the Maharashtra Cooperative Societies Act, for the purpose of Fisheries business over Ghatangri tank/Talao. Resolution No. 6 dated 11.9.2020 was passed by respondent Zilla Parishad, Dharashiv to allot the Fisheries

tank to the petitioner society after adopting the auction process. The allotment of various tanks for Fisheries business was made pursuant to such resolution. The petitioner was successful bidder on Ghatangri and Khanapur Tanks. Accordingly, allotment was made. However, lateron, the respondent Nos. 3 and 4 decided to implement the Government Policy and stopped allotment of fisheries tank in pursuance of the Resolution dated 11.9.2020. According to the petitioner, the Zilla Parishad , Dharashiv passed a resolution in the General Meeting dated 15.1.2024 thereby obliterating the earlier resolution dated 11.9.2020. The said action is without jurisdiction.

3. Mr. Nagarsoge, the learned advocate for the petitioner submits that the impugned resolution is passed without recording valid reasons. There was no reason for the Zilla Parishad to cancel the earlier resolution dated 11.9.2020. Further, the powers to cancel or upset the resolution vests with the respondent No.2 only. The petitioner society is therefore deprived of the legitimate right to get the lease contract for fisheries business over the tank. According to Mr. Nagarsoge, respondent No.2 failed to exercise jurisdiction under Section 260A of the Maharashtra Zilla Parishad and Panchayat Samitis Act, 1961 and accept the challenge raised in the appeal seeking cancellation of the impugned resolution.

4. Learned AGP, however, points out that none of the grounds mentioned in the petition can be construed as valid grounds to cancel the resolution passed by the Zilla Parishad. Respondent No.2 - Divisional Commissioner has considered the grievance of the petitioner in detail and rightly rejected the challenge at the stage of admission.

5. Having considered the submissions advanced, it is apparent that the Divisional Commissioner is empowered to suspend the execution of any order or resolution passed by the Zilla Parishad or its Committees, if the execution of such resolution is inconsistent with the instructions or directions given under Sub-Section(1) of Section 261 of the Zilla Parishad Act. The petitioner is an allottee of the tender for Fisheries Business in pursuance of the resolution No.6 passed by the Zilla Parishad, Dharashiv in General Meeting dated 11.9.2020. However, on 15.1.2024, the impugned resolution No.12 came to be passed to secure implementation of the directives of the Government. The petitioner could not make out any case to demonstrate that the impugned resolution is unlawful or inconsistent with the instructions or directives issued under sub-section (1) of Section 261 of the Zilla Parishad Act. The Divisional Commissioner – Respondent No.2 considered the aforesaid aspects in detail and dismissed the appeal filed by the petitioner vide impugned order dated 3.4.2024 in case No. 2024/VP/Appeal-2/CR-14. It is apparent that the petitioner society has already approached the Civil Court through its Chairman and secured the order in the nature of injunction for continuation of the work order up to June, 2024. In that view of the matter, no case is made out for interference under Article 227 of the Constitution of India. Writ petition stands dismissed.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-