



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

WRIT PETITION NO. 3238/2021

Dongarkhed Matsya Vyavasaya and Zinga Utpadak Sahakari Sanstha Mydt.
Washim .Vs. State of Maharashtra and Ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. C. R. Sharma, Advocate for petitioner.
Mr. A. J. Gohokar, A.G.P. for respondent Nos. 1 to 6.
Mr. S. K. Tambde, Advocate for respondent No.7.
Mr. M. V. Raut, Advocate for respondent No.8.

CORAM : ANIL L. PANSARE, J.

DATE : 25.06.2024

Heard.

2. Challenge is to the order dated 19.09.2019 passed by Hon'ble Minister, Department of Animal Husbandry, State of Maharashtra in Appeal No.3/2018. The Hon'ble Minister has dismissed the appeal.

3. The petitioner-society had challenged, before the Hon'ble Minister, the order dated 15.06.2018, passed by Commissioner of Fisheries, Maharashtra State, Mumbai. The learned Commissioner has allowed the application filed by respondent no.7 – Society (original applicant) under Section 21A of the Maharashtra Cooperative Societies Act, 1960 and thereby de-registered the society. In other words, the registration has been terminated.

4. The contention of the petitioner is that the learned Commissioner has given no opportunity of hearing to the petitioner. My attention is invited to the notings made in the

note-sheet dated 27.04.2018. The petitioner's counsel sought time to file written statement/reply, which was opposed by the counsel for the respondent no.7. The learned Commissioner has rejected the request made by the petitioner to file written statement. Thereafter, he heard the argument of the respondent no.7-Society and closed the matter for orders. He did not give any opportunity to the petitioner to make his argument.

5. Thus, the note-sheet indicates that the petitioner's request to file written statement has been rejected and, thereafter, the respondent no.7's counsel was permitted to argue the matter. There is nothing in the note-sheet to show that the petitioner or his counsel was also permitted to argue the matter.

6. Learned A.G.P could not point out from the record that the petitioner or his counsel was given an opportunity of hearing on 27.04.2018 or thereafter. The order was ultimately passed on 15.06.2018.

7. Thus, apparently, the petitioner was not given opportunity to put forth his case. The refusal of request to adjourn the matter could be said to be valid because four opportunities were given to the petitioner to file reply. However, such refusal and further the order to proceed without reply will not authorise learned Commissioner to proceed further and close the matter without giving opportunity to the petitioner to make oral argument. In that sense, there is violation of principles of natural justice. The order passed by the commissioner, therefore, is unsustainable.

8. The Hon'ble Minister, without noticing the aforesaid fact recorded in the noting dated 27.04.2018, jumped to the conclusion that the opportunity of hearing was granted. Thus, there is apparent error in the order passed by the Hon'ble Minister. In view thereof, the petitioner has made out a case.

9. Resultantly, order dated 19.09.2019 passed by Hon'ble Minister, Department of Animal Husbandry, State of Maharashtra in Appeal No.3/2017 and order dated 15.06.2018 passed by Commissioner of Fisheries, Maharashtra State are quashed and set aside. The matter is remanded back to the Commissioner of Fisheries to decide the case afresh.

10. The Commissioner shall permit both the sides to put up their submissions. The parties shall appear before the learned Commissioner on 15.07.2024 at 11:00 a.m.

11. The petition is disposed of. No order as to costs.

(Anil L. Pansare, J.)