



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

WRIT PETITION NO.1104/2023

Sudam Matsya Vyavsay Sahakari Sanstha, Pathrot, through its Secretary, Shri Pawan
Ashokrao Kawanpure

Vs.

Sub-Divisional Water Conservation Officer, Z.P. (Minor Irrigation) Sub Division,
Achalpur and others

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

Court's or Judge's orders

Shri P.S. Kadam, Advocate for petitioner
Shri S.S. Shinde, Advocate for respondent Nos.1 to 3
Shri S.P. Bhandarkar, Advocate for respondent No.4

CORAM : ANIL S. KILOR AND
SMT. M.S. JAWALKAR, JJ..
DATED : 18/03/2024

The allotment of fish tank Jambhala Irrigation Dam vide agreement dated 03/09/2021, in favour of the petitioner Society, for five years came to be cancelled vide impugned order dated 27/01/2023 before completion of five years, on the ground that petitioner is not qualified for allotment of the said tank for fishing.

2. By way of this petition, the petitioner has raised a challenge to the said order of cancellation of allotment, on the ground that, the cancellation is without granting any opportunity of being heard to the petitioner or without giving any opportunity to explain or to point out that the petitioner is qualified for such allotment.

3. The learned Counsel for respondent Nos.1 to 3 submits that before passing the impugned order, the petitioner and the complainant i.e. respondent No.4 were

called for hearing and after hearing them, the impugned order was passed. However, on specific query as regards the record in respect of the above referred statement, he fairly states that there is no record to show that the petitioner and respondent No.4 were called and hearing was granted to them.

4. Even from the impugned order, it can be revealed that there is no mention of giving of such opportunity to the petitioner or there is no mention of issuing any show cause notice to the petitioner before passing the impugned order.

5. In the circumstances, the only option left with this Court is to quash and set aside the impugned order and refer the matter back to the Sub-Divisional Water Conservation Officer for taking a decision afresh, after hearing the petitioner and the respondent No.4. Accordingly, we pass the following order:

ORDER

- i) The Writ Petition is partly allowed.
- ii) The order dated 27/01/2023 passed by the respondent No.1 is hereby quashed and set aside.
- iii) The parties are directed to the petitioner and respondent No.4 to remain present before the respondent No.1 on 22/03/2024 at 11.00 a.m.
- iv) The petitioner shall consider the impugned order of cancellation as a show cause notice and file a reply if so desires, to show that the petitioner is qualified for such allotment. The petitioner is at liberty to file such explanation and reply on 22/03/2024.

v) Thereafter, the respondent No.1 is directed to hear the petitioner and respondent No.4 and pass the order afresh, within 10 days from date of appearance of the parties.

JUDGE

JUDGE

R.S. Sahare