



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

WRIT PETITION NO.4893/2024

(Shripad Masemari Sahkari Sanstha Maryadit, Kopara (Jankar) and another Vs. The State of Maharashtra and others)

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

Court's or Judge's orders

Ms. S.P. Giratkar, Advocate for the petitioners.
Mr. N.R. Patil, Assistant Government Pleader for respondent Nos.1, 3 to 6.
Mr. Dhiraj Ailani, Advocate for respondent No.2.
Mr. S.U. Nemade, Advocate a/b Mr. S.U. Nemade, Advocate for the intervenors.

CORAM: NITIN W. SAMBRE & MRS.VRUSHALI V. JOSHI, JJ.

DATED: 16.10.2024.

Heard.

2. The prayer in the petition is about E-tender notice of August 10, 2024 issued in daily Lokmat by the respondent Fisheries Corporation. It is claimed that same is contrary to the Government Resolution dated 3.7.2019. The petitioner has also prayed for quashing and setting aside the corrigendum dated 3.1.2022 whereby the State Government has excluded clause 13 of the Government Resolution dated 3.7.2019 to the extent of tanks which are within the jurisdiction of respondent Fisheries Corporation.

3. The facts necessary for deciding the petition are as under:-

The petitioners are the cooperative societies registered under the Maharashtra Cooperative Societies Act. It is claimed that the petitioner societies are entitled for privileged treatment under the policy of the State Government reflected in Government Resolution dated 3.7.2019 whereby certain privileges are conferred on the cooperative societies like petitioners.

4. The learned Advocate for the petitioners would urge that excluding such privileges that the State Government

had granted by the Government Resolution dated 3.7.2019 by issuing the corrigendum dated 3.1.2022 thereby making clause 13 of the said Government Resolution inapplicable to the tenders in relation to the tanks which are within the jurisdiction of respondent-Corporation, such corrigendum does not stand to the test of Article 14 i.e. “reasonableness” and also Article 19 of the Constitution as the petitioners have every right to practice their trade.

5. She would as such state that once the petitioners are granted registration on a tank in relation to which the advertisement was issued, the priority claim should have been conferred on the petitioners in the matter of fishing rights to be conferred or allotted. Perusal of the tender would depict that the petitioners cannot be treated at par with the other individual private entrepreneurs as well as the contractors and in such an eventuality, the same has given rise to unhealthy competition thereby causing loss and injustice to the petitioners.

6. As against the above, learned Assistant Government Pleader Mr. Patil and the learned Advocate appearing for the respondent Corporation would urge that it is the policy of the State Government that respondent Fisheries Corporation has to be financially independent and in such an eventuality, the State Government cannot mandate the respondent Corporation to adhere to its policy. In such an eventuality, to improve the financial condition of the Fisheries Corporation, clause 13 of the Government Resolution 2019 is made inapplicable so as to have the better management of tanks by the Fisheries Corporation. It is claimed that non-applicability of clause 13 will not create any

unreasonable competition when the petitioners can compete with other participants in the tender process.

7. We have considered the rival claims.

8. The fact remains that in the advertisement issued, the petitioners have not participated alleging that the petitioners have preferential right to claim fisheries right. In support of such claim reliance is placed on the Government Resolution dated 3.7.2019.

9. It appears that a corrigendum is issued by the State Government thereby relaxing clause 13 in relation to the tanks which are managed by the respondent Fisheries Corporation. The corrigendum dated 3.1.2022 to that effect issued by the State Government is sought to be relied upon.

10. We can understand if the petitioners would have participated in the tender process and claimed that they are unreasonably treated. Rather from the perusal of the pleadings in the petition, it appears that the petition has been preferred with an academic interest so as to test whether exclusion of clause 13 of the Government Resolution dated 3.7.2019 could be stated to be violative of Articles 14 and 19.

11. In such an eventuality, having regard to the fact that the petitioners have not participated in the tender process, we see no reason to cause interfere in the extraordinary writ jurisdiction. The writ petition stands disposed of. Pending civil applications, if any, also stand disposed of.

(MRS.VRUSHALI V.JOSHI, J.)

(NITIN W. SAMBRE, J.)