



\$~38

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 5700/2024**

**NATIONAL FEDERATION OF FISHERS COOPERATIVES LTD
(FISHCOPFED) Petitioner**

Through: **Mr. Zahid Hanief, Advocate**

versus

UNION OF INDIA & ORS.

..... Respondent

Through: **Ms. Shyel Trehan, Mr. Harshvardhan,
Mr. Raghav Kohli, Mr. Anmol Gupta
and Mr. Vignesh, Advocates for
Applicant in Review Petition
199/2024**

**Mr. Sourabh Gupta, Senior Panel
Counsel with Mr. Puneet Yadav, Ms.
Priya Mittal, Advocates for R-2/UOI
Mr. Rishikesh Kumar, ASC(C),
GNCTD/R-3**

%

Date of Decision: 07th May, 2024.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ: (ORAL)

CM APPL. 26746/2024

REVIEW PET. 199/2024

1. Present review petition has been filed impugning the order dated 24th April 2024 passed by this Court in W.P. (C) 5700/2024 whereby this Court allowed the present petition and directed Respondent No. 2 i.e., [Central



Registrar of Cooperative Societies, Ministry of Cooperation, Govt. of India] to appoint an Arbitrator within two weeks under the Multi State Cooperative Societies Act, 2002 ('MSCS Act') at the request of the Petitioner herein.

2. Learned Counsel for the Applicant states that the Applicant, Mr. S Madegowda is the Vice President and member of the current Board of Directors of National Federation of Fishers Cooperatives Limited ('FISHCOPFED'). She states that the Applicant despite being a necessary, proper and affected party was never served or impleaded by the Petitioner in the present petition.

2.1. She states that the present writ petition is not maintainable since Section 84 of MSCS Act requires that the provisions of the Arbitration and Conciliation Act, 1996 ('Act of 1996') shall apply to arbitrations under the MSCS Act and, therefore, the only remedy available to the Petitioner even in case of non-appointment of an arbitrator under the MSCS Act, was to file a petition under Section 11 of the Act of 1996.

2.2. She states that the Petitioner in the present writ petition has suppressed the material fact that Mr. Rishikesh Kashyap was never appointed as the Managing Director by a validly elected Board of Directors of FISHCOPFED and further he did not have any authority whatsoever to represent FISHCOPFED before this Court.

2.3. She relies upon the orders dated 16th August, 2021 and 05th March, 2024 passed in OMP No. 1/2021 to contend that in view of the orders passed therein, the members elected on 25th February, 2021 represent the current board, which manages the affairs of the FISHCOPFED.



2.4. She places documents before this Court during the hearing of this petition, under the cover of the index dated 07th May, 2024¹ to evidence that it is the current board which is discharging the statutory obligations of the Petitioner Society and carrying on with its affairs. She also places on record the correspondence exchanged between the current board and the concerned Ministry with respect to the release of funds to the Petitioner Society. She states that the current board is operating the bank accounts of the Petitioner Society and discharging its financial obligations. She states that these functions have been carried on at least since 16th August, 2021. She, therefore, prays for recall of the order dated 24th April, 2024 as it has been obtained in the name of the Society.

3. Learned counsel for the Petitioner Society representing Mr. Rishikesh Kashyap is unable to dispute the fact that the statutory and the financial obligations of the Society are being carried out/discharged by the board members represented by the review Applicant. He contends that the members represented by Mr. Rishikesh Kashyap hold parallel meetings of their board. In this regard, he relies upon correspondence addressed by Mr. Rishikesh Kashyap to the Ministry. He, however, admits that these members are currently neither recognized by the Ministry nor are in control of the affairs of the Society.

4. In our considered opinion, in view of the aforesaid factual scenario where the persons in-charge of the affairs of the Society are members represented by the review Applicant, who were elected on 25th February, 2021 and there is no legal recognition of Sh. Rishikesh Kashyap as the

¹ The said documents have been taken on record



Managing Director of the Society, the writ petition could not have been maintained by Sh. Rishikesh Kashyap in the name of the Society, i.e., FISHCOPFED. Thus, since the order dated 24th April, 2024 was passed on the premise that the present petition has been filed by the Society, the said assumption having been proved to be incorrect, the said order is hereby recalled and the present writ petition is dismissed.

5. However, the dismissal of this petition shall not preclude any affected party including Mr. Rishikesh Kashyap to avail its remedy of arbitration in his/her independent capacity before the appropriate forum in accordance with the liberty reserved by the Court vide order dated 05th March, 2024 in OMP No. 1/2021.

6. Accordingly, the review petition is hereby allowed and the CM APPL. 26746/2024 stands disposed of and the present writ petition is dismissed.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

MAY 7, 2024/hp/ms