



[This order is modified pursuant to speaking to the minutes order dated 07.05.2025]

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

WRIT PETITION NO. 13597 OF 2017

Mastyagandha Masoli Prakalp
Matsyavyasayik Sahkari Sanstha
Maryadit Isad, Tq. Gangakhed,
Dist. Parbhani
Through its Chief Promoter
Shri Satish Ramkisan Satpute,
Age : 27 years, Occu. : Agri.,
R/o. : Isad, Tq. Gandakhed,
Dist. Parbhani.

.. Petitioner

Versus

1. The State of Maharashtra,
Through Secretary,
Animal Husbandry, Dairy
& Fishery Department,
Mantralaya, Mumbai.
2. Hon'ble Minister,
Animal Husbandry, Dairy
& Fishery Department,
Mantralaya, Mumbai.
3. Commissioner for Fisheries,
M. S. Mumbai,
Taraporwala Matsyalaya,
Churni Road, Mumbai.
4. Deputy Registrar,
Co-operative Societies
(Fishery), Taraporwala Matsyalaya,
Churni Road, Mumbai.
5. Assistant Commissioner (Fisheries)
Parbhani, Dist. Parbhani.
6. Assistant Registrar,

Co-op. Societies (Dairy),
Parbhani, Dist. Parbhani.

7. Jay Shivaji Matsyavyasayik
Sahkari Sanstha Maryadit,
Kholakwadi, Tq. Gangakhed,
Dist. Parbhani
through its Chairman
Shri Maroti Shripati Bhoinwad,
Age : 50 years, Occu. : Agri.,
R/o. : Khoklewadi. Tq. Gangakhed,
Dist. Parbhani.

.. Respondents

Mr. Mahesh S. Deshmukh, Advocate for the Petitioner.

Mr. S. N. Kendre, AGP for Respondent Nos. 1 to 6.

Mr. V. C. Patil, Advocate h/f Mr. U. B. Bondar, Advocate for Respondent No. 7.

CORAM : KISHORE C. SANT, J.

Date on which reserved for order : 20th February, 2025.

Date on which order pronounced : 23rd April, 2025.

FINAL ORDER :-

. The present petitioner – a fisheries society has approached this Court challenging the judgment and order passed by the learned Commissioner, Fisheries, State of Maharashtra, Mumbai in Appeal No. 5/2015. The learned Deputy Registrar, Co-operative Societies (Fisheries) has cancelled the registration of the present petitioner as fisheries society. Respondent No. 1 is the State of Maharashtra. Respondent Nos. 2 to 6 are the authorities of the State of Maharashtra, Dairy and Fisheries Department. Respondent No. 7 is the Fisheries

Society which challenged the registration of the petitioner – society whose appeal is now allowed by way of impugned judgment and order.

2. Background facts giving rise to the petition are as, the Commissioner, Co-operative Societies and Registrar, Co-operative Societies, Pune issued communication to the Director, Fisheries dated 07.02.1989 stating the criteria for registration of the Fisheries Society and about the control over the said societies. It is stated that, the proposed society should have at least 30 Hectares of water body having water for entire year. The jurisdiction of such society should be of 10 Kms. There should be at least 25 members of the society. It was directed that, to have one society, there should be one water body per society except the dam. Where there is a dam, there can be more than one societies. The Deputy Commissioner thereafter again issued communication dated 01.09.1989. One criteria was changed of having water for the entire year and was brought down to four months.

3. When these guidelines prevailing the petitioner - society applied for registration to the authorities for registration of fisheries society. The Deputy Registrar, Co-operative Societies (Dairy), Taluka Parbhani by communication dated 17.07.2014 permitted the petitioner to open a bank account as proposed society. It was directed to submit a proposal within two months. Permission was given to open a bank account.

4. Respondent No. 7 filed appeal against the registration of the petitioner – society raising contention there is already one society having a registration. There cannot be any other society registered for one water body. Already it is allotted to the said respondent. The said appeal was resisted by the petitioner. It is its case that, there can be two or more societies registered on the water body looking to the capacity of the water body. The water body on which registration is proposed is having area of 363 Hectares. The petitioner relied upon circular of 1989 wherein, it is stated that, there can be two or more societies on a dam. The Deputy Registrar, Co-operative Societies, Fisheries rejected the appeal of respondent No. 7.

5. Respondent No. 7 thereafter, filed a revision before the Secretary, State of Maharashtra, Dairy and Fisheries Department. It is held that, there was stay for some time on registration of new societies. The bank permission was granted just a day before operation of stay. The registration dated 09.02.2015 came to be cancelled holding that in view of circular dated 01.09.1989 there can be only one society on one water body. For the reasons stated above the impugned order came to be passed. The petitioner is thus before this Court.

6. The learned advocate Mr. Deshmukh for the petitioner vehemently argued that, the petitioner – society was rightly given

registration. Though there was stay for some time on registration of new societies, it was subsequently vacated. The petitioner was thus entitled to get registration. In a period, when there was no stay some other society was also granted registration. It was rightly held by the revisional authority that in view of 1989 circular, there can be more than one societies on a dam. In the present case, water body for which registration is done is a dam. The authority has rightly considered both the circulars dated 07.02.1989 and 01.09.1989. The registration was thus in accordance with law. The said registration could not have been cancelled. The Deputy Director, Fisheries, State of Maharashtra thus committed an illegality by passing the impugned order. He submits that, in the meantime the same authority granted registration to one Jai Walmiki Matsya Vyavsaik Sahakari Sanstha, Taluka Gangakhed on 02.09.2015. Thus, when subsequent society was registered, there was no question of cancelling the registration of the petitioner – society. The affidavit filed by the respondents is against the legal position. The respondents have taken a stand contrary to the policy. The learned advocate submits that, the policy of 1989 is consistent since beginning except for a brief period when there was stay. The learned advocate for the petitioner thus prays for quashing and setting aside the impugned order by allowing the writ petition. Consequently, to restore the registration granted in favour of the petitioner.

7. The learned advocate Mr. V. C. Patil for respondent No. 7 vehemently opposes the petition. He submits that, by communication dated 16.07.2014 there was a stay granted by the Government to the policy giving registration to the societies. The petitioner – society was registered when there was stay in operation. The stay was lifted subsequently on 30.05.2015. When the petitioner had applied for registration there was a stay at the relevant time and therefore, the society could not have been registered. Mere granting permission to open a bank account does not confer any right on the petitioner to get the society registered. He thus prays for rejection of the writ petition.

8. The learned A.G.P supports the order passed by the authority. He submits that, the order passed is consistent with the policy prevailing on the relevant date and there is no illegality in the order.

9. Considering the rival submissions, this Court has to consider the petition in view of the policy of the Government. About the policies of the Government, there is no dispute. The dispute is only as regards on the date of registration when there was stay whether registration could have been granted as submitted by the respondents. As against that, it is the case of the petitioner that, when stay was vacated, the petitioner is rightly given registration. There is even one other society which is registered after vacating of the stay. Considering the area of the water

body the claim of the society was rightly considered by the registering authority.

10. By Government Resolution of 1989, it is clearly seen that, the policy is framed in respect of granting of registration to the fisheries society. The policy also provides the number of societies that can be registered on one water body considering the area covered under the water body. Where the water body is more than 100 Hectares, two societies are permissible. When the water body is of dam, then more than two societies are permissible. This is clearly seen from the communication dated 07.02.1989. Clause 6 of the said communication clearly states that, when there is a dam there can be more than one societies registered. Considering that, in the present case, the registration of the society was sought for the dam. It was permissible to grant registration to more than one societies as the total 373 Hectare of land is covered under the water dam. Thus, as per the policy of 1989, registration certainly can be granted. The communication dated 04.07.2014 by the Additional Commissioner, Fisheries, Parbhani cannot be faulted with. By letter dated 17.07.2014 permission was also granted to open a bank account. The petitioner has thus rightly submitted that the petitioner was entitled to get registration.

11. Considering above, the appellate authority in judgment in Appeal

no. 17/2015 had rightly considered that, as per the circular dated 14.02.2005 in water body above 200 Hectares is to be considered as reservoir (जलाशय) and had rightly rejected the appeal. The order passed by the appellate authority was challenged by filing writ petition in this Court. This Court in the order held that the appellate authority can look into the matter and petition was disposed of. It is thereafter the respondent No. 7 approached the revisional authority. By order dated 20.05.2015 the appeal came to be allowed of the respondent by directing to de-register the society. In the affidavit in reply it is the case of the respondents that, the judgment is consistent to the policy of the Government.

12. However, looking to the Government Resolution, the policy in 1989, it is seen that the registration was consistent with the Government policy. Though for brief period there was stay, the said cannot be taken to be reason to perpetually withheld the registration of the petitioner. It is already brought on record that, when stay order was lifted, one other society was granted registration. The said order is never challenged and the reasons assigned by the appellate authority are contrary to the policy of the Government. The order, therefore, deserves to be quashed and set aside.

13. The writ petition is allowed in terms of prayer clause (A).

14. With this, the writ petition stands disposed of. No order as to costs.

(KISHORE C. SANT, J.)

PS.B.