

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13820 OF 2024

Jay Shri Ram Matsya Vyasary Co-op Sanstha
Throu. Balasaheb N Pisal ...Petitioner
Versus
The State of Maharashtra Throu.
Honble Minister Of Agriculture Fisheries And Ors. ...Respondents

Mr. Ugle Vaibhav V. i/b. Shubham Vasekar, for the Petitioner.
Smt. P.J. Gavhane, AGP for State.

CORAM : G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

DATE : 26 FEBRUARY 2025

P.C.:

1. This petition is filed under Article 226 of the Constitution of India. The petitioner is primarily aggrieved by a communication/order dated 14 August 2024 issued by respondent no.2. By the said communication, a process of auction contracts in which the petitioner also participated has been stayed until completion of inquiry against the members of the petitioner society. The said communication/order reads thus:-

(Translation of a photocopy of an Order, typewritten in Marathi)
'Type copy of order dated 07.08.2024'

A.C.S., Fisheries Department.
Auction process should not be conducted until the enquiry is completed and permission should be granted to the local fishermen on monthly passes.

Sd/-
(Signature Illegible)"

2. Mr. Vaibhav Ugle, learned counsel for the petitioner would also refer to a communication dated 22 July 2024 addressed to the Hon'ble Minister of Forest, Cultural Affairs and Fisheries, Maharashtra State, Mantralaya, Mumbai seeking stay on the process of auction of contracts where the petitioner participated until the alleged enquiry against the members of the petitioner society is completed. He would submit that it is on the basis of such communication dated 22 July 2024/7 August 2024 a decision is taken by the respondents dated 14 August 2024 which is impugned in the present petition.

3. Mr. Ugle, learned counsel for the petitioner would further submit that the impugned order/communication dated 14 August 2024 is gravely prejudicial to the rights of the petitioner inasmuch as it has been deprived from participating in the auction process of awarding contracts. Prior to issuance of such a communication restricting the petitioner society to participate in the auction process there was neither a show cause notice issued to the petitioner by the concerned respondents nor was an opportunity of hearing was provided to the petitioner society. In such circumstances, the petitioner was left with no alternative but to approach this Court by filing the present petition.

4. A perusal of the reply filed by one Mr. Ratnakar Prabhakar Rajam, Assistant Commissioner, Fishery Department, Solapur on behalf of respondent nos.1 to 5 would show that there is no denial to the fact that neither a show cause notice as required under Section 11 of Indian Fisheries Act, 2017, was issued to the petitioner nor any hearing was granted to the petitioner society,

before issuing the impugned order/communication dated 14 August 2024. A perusal of the said impugned order/communication makes it clear that the petitioner society is precluded from participating in the auction process that too in breach of principles of natural justice. The impugned order would, therefore, seriously prejudice the rights of the petitioner society. It is pertinent to note that the petitioner had also addressed a letter dated 28 June 2024 in the form of a proposal to the respondents calling upon the respondents to consider such proposal before taking any decision which would be to the detriment of the petitioner. It appears that even this communication dated 28 June 2024 in the form of petitioner's proposal is not considered in the impugned order/communication of the respondent dated 14 August 2024.

5. We find that the affidavit in reply filed on behalf of the respondents does not dispute or controvert the said position with regard to non-issuance of a show cause notice and/or granting an opportunity of hearing to the petitioner before passing the impugned decision/order, depriving the petitioner of its right to participate in the auction process for awarding contracts until completion of some alleged enquiry against the petitioner.

6. Ms. Gavhane, learned AGP would fairly state that the petitioner can be heard by the respondents and after hearing the petitioner an appropriate orders can be passed by the respondents in accordance with law. In view of the above, the following order would meet the ends of justice.

ORDER

- (i) The impugned communication/order dated 14 August 2024 is hereby quashed and set aside.
- (ii) The competent authority of the respondents shall hear the petitioner and after such hearing pass a reasoned order in accordance with law as expeditiously as possible not later than within a period of six weeks from the date this order is communicated to the said respondent.
- (iii) All rights and contentions of the parties are expressly kept open.
- (iv) The petition is disposed of in the aforesaid terms. No order as to costs.

[ADVAIT M. SETHNA, J.]

[G. S. KULKARNI, J.]