



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 812 OF 2024

Jaldevi Matsya Vyavasaya Sahakari
Sanstha Maryadit, Khairi (Dam.),
Having its Registration No.1407 (D),
Through its President
Narayan Shankarrao Satargadge,
Aged about 47 years,
R/o. Karanja (Ghadge),
Tq. karanja (Gh.), Dist. Wardha.

.... **PETITIONER**

// **VERSUS** //

- 1) The State of Maharashtra,
through its Secretary,
Department of Social Justice and
Special Assistance, Mantralaya,
Mumbai – 400 032.
- 2) The Commissioner of Fisheries,
Maharashtra State, Taraporwala
Fish Aquarium Charni Road,
Mumbai.
- 3) The Regional Deputy Commissioner
of Fisheries, Nagpur Region,
Nagpur.
- 4) The Assistant Commissioner of
Fisheries, Wardha, Dist. Wardha.
- 5) The District Level Tank Allotment
Committee, Wardha,
through its Chairman.
- 6) Karnadi Machchimar Sahakari
Sanstha Maryadit, Karanja (Gh.),
Tah. Karanja (Ghadge), District Wardha,
bearing registered No.1404,
through its President.

.... **RESPONDENTS**

Mr. C. R. Sharma, Advocate for the Petitioner.
Ms. Deepa Charlewar, Assistant Government Pleader for the
Respondent Nos. 1 to 5.
Mr. M. V. Raut, Advocate for Respondent No.6.

CORAM : SMT. M.S. JAWALKAR, J.
DATE : JANUARY 23, 2025.

ORAL JUDGMENT :

1. **Rule.** Rule made returnable forthwith. Heard finally with the consent of the learned Counsel appearing for the parties.
2. By this petition, the petitioner prayed relief of quashing and setting aside the impugned order dated 03.01.2024, passed in Revision No.5/2022 by the respondent No.1 – Secretary, Social Justice and Special Assistance Department, Mantralaya, Mumbai and also quashing and setting aside the order dated 15.07.2021, passed in Appeal No.5/2021 by the respondent No.2 – Commissioner of Fisheries, Maharashtra State, Mumbai. During the pendency of this petition, it appears that respondent No.4 – Assistant Commissioner of Fisheries, President of District Tank Allotment Committee, Wardha passed the order dated 29.01.2024. The said order challenged by the petitioner in Writ Petition No. 1741/2024 before the Division Bench, the Division Bench vide order dated 9th September, 2024, opined that the impugned order can be questioned by the petitioner in present writ petition and liberty was granted for the same. As such, by way of

amendment, the petitioner seeks relief of quashing and setting aside the impugned order dated 29.01.2024, passed by the respondent No.4.

3. It is admitted fact that respondent No.6 was allotted the “Karnadi Jalashay” tank for fishing in the year 2016-17 to 2020-21. In the year 2020, the said allotment came to be cancelled as respondent No.6 failed to pay the lease amount as well as 10% amount of the lease amount, though respondent No.6 sought time to deposit the same, it was rejected. One of the reason was also that there was no adequate amount in the account. There was re-auction of the said tank. On 28.08.2020, the proposals were called from the petitioner as well as respondent No.6. On 30.09.2020, the Allotment Committee consisting of five Members, considered the petitioner as eligible Society and allotted the lease in favour of petitioner - Society. The respondent No.6 was not fulfilling the relevant criteria and lease was not granted in favour of respondent No.6. The Appeal bearing No. 13/2020 filed by the Members of the respondent No.6 - Society before the Commissioner of Fisheries came to be dismissed as there was an appointment of Administrator on the Society of respondent No.6 and there it is held that appeal filed by Members of respondent No.6 - Society is not maintainable. Thereafter, the Administrator approached to the Commissioner of Fisheries by filing Appeal No.5/2021, against the rejection of the appeal. The Members filed a Writ Petition bearing

No.2427/2020 before this Court challenging the order of Commissioner rejecting their appeal. The appeal filed by the Administrator came to be partly allowed and it is directed as per the decision which would be taken in pending Writ Petition No.2427/2020, steps to be taken, however, the said petition came to be withdrawn by petitioners/members of respondent No.6 - Society unconditionally and was disposed of as per the order dated 06.09.2021. The order passed by the Commissioner of Fisheries is challenged by the petitioner before the respondent No.1 – Secretary, Department of Social Justice and Special Assistance, Mantralaya, Mumbai by filing Revision No.5/2022 as at the relevant time, charge of Secretary, Fisheries was with the said Authority. In view of directions issued in the said Revision, both the registered Societies were allowed the lease, subject to fulfill the other terms and conditions.

4. It is appears that the order dated 03.01.2024 is under challenge before this Court and there was an interim order passed on 07.02.2024. The respondent No.4 passed the impugned order/communication on 29.01.2024 cancelling the registration of petitioner - Society. However, it appears that it was not communicated to the petitioner Society nor issued any notice before passing of this order to the petitioner. As such, in my considered opinion, no principles of natural justice are followed by the respondent No.4 before

cancelling the lease in favour of petitioner. Moreover, it appears that the order passed by the respondent No.1 – Secretary, Department of Social Justice and Special Assistance, Mantralaya, Mumbai, dated 03.01.2024, is without considering the fact that whether extension of time for depositing the amount can be extended to the respondent No.6 Society, in view of the fact that, the Allotment Committee declared respondent No.6 as ineligible and no allotment was granted in favour of respondent No.6. As such, there was no lease in favour of respondent No.6 - Society in existence to extend period for deposits. This aspect needs to be considered by the learned Authorities below.

5. As such, the Writ Petition is **allowed**.

6. The impugned order/communication dated 29.01.2024, passed by the respondent No.4 as well as the impugned order passed by the respondent No.1 in Revision No.5/2022, dated 03.01.2024 are hereby quashed and set aside.

7. The matter is remitted back to the Competent Authority i.e. Secretary of Fisheries Department for fresh consideration. The Secretary of Fisheries Department to consider the matter afresh in view of observations made above and after giving due opportunities to the parties for their submissions.

8. The Competent Authority shall take decision as early as possible, preferably within a period of two months.

9. Parties to appear before the Secretary of Fisheries Department on **30.01.2025**.

10. The writ petition stands disposed of. Rule is made absolute in the above terms. No costs.

(SMT. M.S. JAWALKAR, J.)

Kirtak