



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

WRIT PETITION NO.1982 OF 2021

PETITIONER

(Ori. R-Sole)

PETITIONER :- Matsa-Udyog Matya Vyavasay Sahakari
Sanstha Maryadit, Dapura, Taluka
Manora, District Washim, Through its
Chairman/Secretary, Arun Shankar
Sonone, Age 38 years, Occu.
Fishing/Agri., R/o At Post Injauri,
Taluka Manora, District Washim

..VERSUS..

RESPONDENTS

(Ori. Applicant)

- RESPONDENTS** :-
- 1) The State of Maharashtra Through the
Secretary, Animal Husbandry, Dairy
and Fisheries Department, Mantralaya,
Mumbai – 400 032 (Copy to be served
on the Govt. Pleader, High Court of
Bombay, Bench at Nagpur)
 - 2) The Commissioner, Fisheries,
Taraporwala Matsalaya, Charni Road,
Mumbai
 - 3) The Assistant Registrar, Co-operative
Societies (Animal Husbandry, Dairy &
Fisheries Department), Akola, 3, Office
of the District Dairy Development
Department, Murtizapur Road, Near
Government Dairy, Akola
 - 4) The Assistant Commissioner (Fisheries)
(Ta.) Headquarters Washim, Akola,
Office: Shri Bodwadi's Building,
Nityanand Nagar, Near Sant Tukaram
hospital, Gorakshan Road, Akola
 - 5) The Regional Deputy Director, Dairy,

Amravati Division, Amravati

- 6) Proposed Navnath Matsya Vyavsay Sahakari Sanstha, Dhamni (Khadi), Taluka Karanja Lad, District Washim Through its Chief Promoter – Ashok Motiram Malte, Age - __ years, Occu. Fishing, R/o. At post Dhamni (Khadi), Taluka Karanja, District Washim

Mr. A. K. Tripathi a/w. Mahesh Sonwane, Advocate for Petitioner.
Mr. S. B. Bissar, AGP for the Respondent/State.
Mr. C. R. Sharma, Advocate for respondent No.6.

CORAM : ROHIT W. JOSHI, J.

DATE : 18.12.2025

ORAL JUDGMENT :

1) **RULE.** Rule is made returnable forthwith. With the consent of the learned Advocates appearing for the respective parties, the petition is heard finally.

2) By the present petition, the petitioner challenges order dated 17.05.2021 passed by the Commissioner of Fisheries, Government of Maharashtra, Mumbai, by virtue of which No Objection Certificate (hereinafter referred to as “NOC”) dated 08.06.2012, issued in favour of the petitioner society with respect to Dhamni (Khadi) Minor Irrigation Tank, came to be revoked and the order

dated 17.09.2019, by which fishing rights in the said tank were allotted to the petitioner for a period of 5 years from 01.07.2019 to 30.06.2024 came to be quashed.

3) As regards the challenge to the order by virtue of which allotment of fishing right is revoked, the cause in the petition is rendered infructuous, since the period of allotment of fishing rights has come to an end. It will also be pertinent to state that undisputedly fishing rights for subsequent period of 5 years with respect to same tank is allotted to the petitioner. The challenge is now restricted to cancellation of NOC dated 08.06.2012.

4) The learned Advocate for the petitioner contends that respondent No.6 (complainant), which is a proposed Society, had also challenged the NOC dated 08.06.2012 by filing appeal before the Deputy Registrar of Co-operative Societies (Fisheries), Government of Maharashtra, Mumbai vide Appeal No.1 of 2020 and the said appeal came to be dismissed vide order dated 08.11.2021. Learned Advocate for the petitioner

contends that the said order has attained finality, inasmuch as, it is not challenged further. The learned Advocate also contends that the impugned order is passed in an appeal which is filed as per Government Resolution dated 03.07.2019. He contends that Clause 33 of the Government Resolution provides limitation of 90 days for filing appeal and 60 days for filing revision. The learned Advocate contends that NOC issued on 08.06.2012 is assailed in an appeal/revision filed in the year 2020. Apart from limitation, the learned Advocate also contends that there is an inordinate delay of around 8 years in challenging the same for which no plausible explanation is offered, and in any case the impugned order does not record any reason for entertaining the challenge after an inordinate period of 8 years. Apart from this, the learned Advocate further contends that a Co-operative Society named Mahakali Matsya Vayavsay Va Zinga Utpadak Sahakari Sanstha Ltd., had also challenged the NOC issued in favour of the petitioner

vide Appeal No.33 of 2017, which was dismissed vide order dated 21.06.2018, passed by the Deputy Registrar of Co-operative Societies (Fisheries). The learned Advocate draws attention to record page 391 to contend that the members of respondent No.6 were granted membership of the said Mahakali Co-operative Society and accordingly respondent No.6 has merged with the said society. The learned Advocate for the petitioner further contends that this Mahakali Society had also challenged fresh allotment of fishing rights over the subject tank in favour of the petitioner by filing an appeal as provided under aforesaid Government Resolution dated 03.07.2019.

5) In view of the aforesaid submissions, the learned Advocate for the petitioner contends that the impugned order passed by the Commissioner of Fisheries is unsustainable and deserves to be quashed and set aside.

6) Mr. Sharma, learned Advocate for respondent No.6, opposes the petition, contending that issuance of a

NOC with respect to a tank is a condition precedent for allotment of fishing rights. He states that the main order that was challenged in the appeal was order dated 17.09.2019, by virtue of which fishing rights were allotted in favour of the petitioner and that challenge to the NOC dated 08.06.2012 was an ancillary relief, since fishing rights could not have been allotted in the absence of NOC. He contends that right to file appeal/revision, which is provided as per Government Resolution dated 03.07.2019, also includes the right to challenge the eligibility of the society to avail fishing rights and correctness of NOC which is a condition of eligibility, can also be challenged while raising challenge to order of allotment of fishing rights. As regards order dated 08.11.2021, passed in Appeal No.1 of 2020 the contention of Mr. Sharma is that the Deputy Registrar has not decided the issue pertaining to challenge to the NOC on merits and has merely dismissed the appeal on the ground that appeal preferred by another entity, namely

Mahakali Society, was dismissed and also in view of the pendency of the present writ petition. Mr. Sharma also disputes the contention of the learned Advocate for the petitioner that respondent No.6 has merged with Mahakali Society. He contends that although the aforesaid resolution dated 12.06.2021 was passed, subsequently, by another resolution, the decision of merger is reversed. However, in fairness, Mr. Sharma does not dispute that Mahakali Society has challenged the allotment of fishing rights in favour of the petitioner by filing an appeal in terms of the aforesaid Government Resolution. Mr. Sharma also contends that the NOC issued in favour of the petitioner is void ab initio, since it is granted before the tank was brought under the control of Fisheries Department.

7) Two Government Resolutions have been issued by the Department of Agriculture, Animal Husbandry, Dairy Development and Fisheries Department on 03.07.2019. One Government Resolution pertains to the

procedure for allotment of fishing rights and other pertains to registration of fishery societies. The provision for grant of NOC with respect to a fishing tank is included in the Government Resolution relating to registration of fishing societies. This Government Resolution does not provide for any right of appeal against registration of fishing societies. The provision for appeal is incorporated in the Government Resolution of the same date which deals with the allotment of fishing rights. It appears that the intention of the State Government is that the societies which participate in the process for allotment of fishing rights must have an opportunity of filing appeal or revision in order to challenge order of allotment of fishing rights.

8) In the considered opinion of this Court, while the allotment of fishing rights to a particular society is assailed, the question of eligibility of the society to participate in the process and avail fishing rights can also be questioned. The legality of NOC is one of the

conditions of eligibility, can be raised as a ground of challenge in the appeal or revision where challenge to allotment of fishing rights is raised. In the present case, although a substantive appeal challenging the NOC will not lie, in the considered opinion of this Court, the ground that NOC was wrongly issued in favour of the petitioner-society could be raised by respondent No.6 in the appeal preferred by it.

9) It will however be pertinent to mention that one Ashok Malte as a Chief Promoter of respondent No.6 had challenged the NOC dated 08.06.2012 issued in favour of the petitioner-society, as also, the consequent amendment in the by-laws of the petitioner-society, by filing appeal, being Appeal No.1/2020. The said appeal came to be dismissed vide order dated 08.11.2021. Admittedly, the Deputy Registrar has observed that NOC dated 08.06.2012 was revoked by respondent No.2 vide order dated 17.10.2021 and that the present petition challenging the said order was pending before this Court,

in which an interim order was granted. The challenge to NOC was not entertained in view of the interim order passed in the present petition.

10) As observed above, the substantive appeal challenging the NOC will not be maintainable under the scheme of the Government Resolutions. The challenge to the allotment of fishing rights has become infructuous, in view of the fact that the tenure of 5 years for which fishing rights were allotted has come to an end on 30.06.2024. It is also not in dispute that one Mahakali Society had challenged the NOC granted in favour of the petitioner and the said proceeding was dismissed. It is also not in dispute that the members of respondent No.6-society had passed a resolution for its merger with Mahakali Society, although it is alleged that the decision was subsequently recalled and that respondent No.6-society has not merged with Mahakali Society. Likewise, the NOC is challenged after a period of around 8 years. It is further not in dispute that the fishing rights for the

tank in question are allotted to the petitioner again for a subsequent period of 5 years from 01.07.2024. It is also not in dispute that respondent No.6 has not challenged the said order of allotment of fishing rights in favour of the petitioner.

11) Having regard to the aforesaid, facts, including the subsequent developments, in the considered opinion of this Court, challenge to NOC at the behest of respondent No.6 should not be entertained. The writ petition deserves to be allowed and is accordingly **allowed** in the following terms:-

- i. Order dated 17.05.2021 passed by the Commissioner of Fisheries Government of Maharashtra, Mumbai in Appeal No.2 of 2020 is quashed and set aside.

Rule is made absolute in above terms.

(ROHIT W. JOSHI, J.)