



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

WRIT PETITION NO. 7656 OF 2023

Damodar Maharaj Matsya Vyavasay
Sahkari Sanstha Maryadit, Kaothal,
Tq. Mangrulpir, District – Washim
Regd.No.AKKL/WSM/MIR/RSR/NC/
479/2012 through its President
Shivaji S/o Krushnarao Deshmukh
Aged about 52 years,
Occupation : Fishing,
R/o. Kaothala, Tq. Mangrulpir,
Dist. Washim.

.. Petitioner

Versus

1. The State of Maharashtra,
through its Minister, Department of
Agriculture, Animal Husbandry,
Dairy Development and Fishery
Department, Mantralaya,
Mumbai - 400032
2. The Commissioner of Fisheries-cum-
Additional Registrar, Cooperative
Societies (Fisheries) Maharashtra
State, Mumbai
3. The Assistant Registrar, Cooperative
Societies (Dairy) Akola,
District – Akola (having charge of
Washim District).
4. The Assistant Commissioner of
Fisheries, Washim,
Tah. and District – Washim
5. Yashwant Yadavrao Kadam,
Aged about 48 years,
Occupation : Agriculturist,
R/o. Kaothala, Tah.Mangrulpir,
District – Washim.

.. Respondents

Mr. C.R. Sharma, Advocate for petitioner.
Mr. S.B. Bissa, A.G.P. for respondent Nos.1 to 4.
Mr. K.R. Bhise, Advocate for respondent No.5.
Mr. A.A. Dhawas, Advocate for intervenor.

CORAM : ROHIT W. JOSHI, J.

DATED : DECEMBER 22, 2025

ORAL JUDGMENT

(1) **Rule.** Rule made returnable forthwith. Heard finally with the consent of the learned counsel appearing for the parties.

(2) The present petition challenges the order dated 20/02/2016 passed by the respondent No.2 Commissioner of Fisheries-cum-Additional Registrar, Cooperative Societies (Fisheries) Maharashtra State, Mumbai ordering de-registration of the petitioner Society under Section 21-A of the Maharashtra Cooperative Societies Act, 1960 (hereinafter referred to as "MCS Act") and the order dated 20/10/2023 passed by the respondent No.1 the Hon'ble Minister, Department of Agriculture, Animal Husbandry, Dairy Development and Fishery Department, Maharashtra State dismissing the appeal arising out of the said order.

(3) The petitioner came to be registered as Cooperative Society under the MCS Act on 18/10/2012. A complaint against

registration of the Society came to be filed by one Yashwant Kadam i.e. respondent No.5. The allegations in the complaint are that the members of the petitioner Cooperative Society are members of the same family, resolution of Gram Panchayat on the basis of which, Society was registered is forged document and that the Society was registered against a fishing tank, construction of which was incomplete.

(4) In view of the aforesaid complaint, the respondent No.2 directed the respondent No.3 to conduct an enquiry and furnish a report. The respondent No.3 accordingly furnished a report based on which the respondent No.2 issued a show-cause notice to the petitioner on 27/01/2016 for de-registration of the Society under Section 21-A of the MCS Act. It is stated in the show-cause notice that the Society had not commenced the work of fishing, members of the same family were inducted as members of Cooperative Society, two members namely, Rajesh Kadam and Naresh Kadam were employed as Assistant Teachers and yet in the application for registration their occupation was mentioned as fishing and agriculturist and the resolution of Gram Panchayat for registration of the Society was a forged document.

(5) The petitioner Society submitted its reply to the show-cause notice denying the allegations. As regards the members being

family members, it was stated that people from different families were inducted of the members of the Society and that people from backward classes were also inducted as members. With respect to the aforesaid two individuals who are stated to be Assistant Teachers, it was clarified that their names were included as members, since they were project affected persons. As regards the fishing tank, it was stated that the work of the construction of the tank was not over. The contention that Gram Panchayat resolution was a forged document, was also denied.

(6) The respondent No.2 passed an order for de-registration of the petitioner Society vide order dated 20/02/2016 on the ground that the No objection Certificate (NoC) issued by the Minor Irrigation Department for registration of the Society on Kaothal tank was issued prior to the completion of the work of the tank which is illegal; that the members of the same family were members of the Society; information with respect to occupation of two members named above, was incorrect; and that resolution of Gram Panchayat for registration of the Society was a forged document.

(7) Aggrieved by the said order of de-registration of passed by respondent No.2, the petitioner Society preferred an appeal under Section 152 of the MCS Act before the Hon'ble Minister. The said appeal came to be dismissed vide order dated 20/10/2023. The

Hon'ble Minister has recorded that the work of the tank was not completed till 03/12/2015 and that for a period of three years from the date of registration, the petitioner Society could not achieve the objective for which it was registered; that members of same family were inducted as members of the Society; and also that information with respect to the occupation of two members who were employed as Assistant Teacher was incorrect. However, on the question of genuineness of resolution passed by the Gram Panchayat, the Hon'ble Minister expressed that the same was beyond the scope of proceeding under Section 21-A of the MCS Act. In view of such observations the appeal came to be dismissed.

(8) These concurrent orders are subject matter of challenge in the present petition. Mr.Sharma learned counsel for the petitioner contends that the order of de-registration of the Society could not have been passed in the facts of the case. He contends that even if all the observations in the impugned orders are accepted to be correct, at best, the order directing registration of Society could be set aside in an appropriate proceeding, however, the respondent No.2 could not invoke Section 21-A of the MCS Act to order de-registration of the Society. He states that there were 32 members in the Society who belonged to different families and caste backgrounds. He further contends that even if the members of the Society are found to be members of the

same family, order under Section 21-A cannot be passed, unless it is found that misleading information with respect to such members was provided. He contends that the finding is only that members of the same family are members of the petitioner/Society and not that information with respect to family background was misleading. As regards two members who are stated to be Assistant Teachers, he contends that their names were included since they are project affected persons and in any case ineligibility of two members cannot be a ground to order de-registration. With respect to failure to achieve the aims and objectives, the contention of Mr.Sharma, is that the work of the tank was completed around the year 2016, however, somewhere around the same time, order of de-registration was passed by the respondent No.2. He states that while the appeal was pending, order of de-registration was stayed and fishing activities are being undertaken by the petitioner/Society since the year 2020. He therefore, contends that de-registration could not have been ordered on the ground that the petitioner Society could not achieve the purpose for which it was constituted. Mr.Sharma, placed reliance on the judgment of this Court in the matter of ***Aurum Avenue Co-op Housing Society Ltd. and another vs. State of Maharashtra and others 2025 SCC OnLine Bom 709.***

(9) Per contra, learned Assistant Government Pleader

opposes the petition contending that the registration of the Society is obtained by providing misleading information which is a good ground for de-registration. Reference is made to Section 6 of the MCS Act to contend that members of the Society are not members of different families and therefore, the order of de-registration is rightly passed. It is also contended that for a period of three years admittedly, the Society could not commence fishing activities which is also a good ground for de-registration of Society under Section 21-A of the MCS Act. Learned Assistant Government Pleader further contends that two members of the Society are Assistant Teachers, this fact is not disclosed while obtaining registration. He contends that false information was provided as regards occupation of said two members.

(10) Heard the respective submissions as aforesaid. Perused the record of the case with the able assistance of learned counsels. The order of de-registration is passed on various grounds, and the Appellate Authority has upheld the same on three grounds i.e. (i) members of Society are members of same family, (ii) occupation of two members were not stated correctly and (iii) the Society could not achieve its objective for a period of three years from the date of registration.

(11) As regards the finding that members of the Society are

members of the same family, it is seen that although such a finding is recorded, it has not further recorded that the Authorities were provided misleading information with respect to family backgrounds of the members. Finding that the registration of the Society was outcome of misrepresentation is not recorded either by the respondent No.2 or by the Appellate Authority. In the absence of a categorical finding that registration was obtained by providing misleading information or misrepresentation or fraud with respect to the members of the same family, in the considered opinion of this Court, the de-registration of Society could not have been ordered on this ground in view of judgment in the matter of **Aurum Avenue** (supra) (para 20). The aspect of all members being members of the same family was required to be considered in the backdrop of the case of the petitioner that at the relevant time there were 32 members in the Society and that the members came from different caste background. The Authorities have failed to deal with the said contention. The observations in the order passed by respondent No.2 are relating to six members only.

(12) As regards the occupation of two members, the Authorities should have considered as to whether merely because the person is employed as Assistant Teacher can he not be an agriculturist, having regard to the relevant provisions of law, dealing with the definition of the term 'agriculturist'. The Authorities should have also

considered that whether drastic action of de-registration should be taken only because two members may not be eligible for membership of the Society.

(13) As regards the failure to achieve its objective, it is not in dispute that the Society came to be registered in the year 2012 and work of construction of fishing tank allotted to it was completed in the year 2016. It is at the same time that order of de-registration is passed. The Society has come with the contention that the fishing operations were commenced since the year 2020. The Appellate Authority has recorded that fishing operations were not commenced for a period of three years. This limit of three years is not found to be in Section 21-A of the MCS Act. The case of the petitioner that after the work was completed and order of de-registration was stayed, the work is commenced and fishing activities are going on, was required to be dealt with by the Appellate Authority. The subsequent developments could not have been ignored by the learned Appellate Authority. Likewise, both Authorities have not considered the fact that since construction of the tank was over in 2016 till that period fishing operations could obviously not be commenced.

(14) In the light of the reasons recorded above, in the considered opinion of this Court, impugned orders are liable to be

quashed and set aside. The matter needs to be remitted back to the respondent No.2 for consideration of the case afresh. While deciding the matter afresh, the respondent No.2 shall also take into consideration the subsequent developments in the matter. The scope of enquiry will be restricted to the aforesaid three grounds on which the de-registration is upheld by the Hon'ble Minister.

(15) In view of above, the petition deserves to be partly allowed in the following terms.

(16) The order dated 20/02/2016 passed by the respondent No.2 Commissioner of Fisheries-cum-Additional Registrar, Cooperative Societies (Fisheries) Maharashtra State, Mumbai vide Outward No.Matsyavi/Karya-9/No.21(A)/Damodhar/174/2016 and the order dated 20/10/2023 passed by the respondent No.1 the Hon'ble Minister, Department of Agriculture, Animal Husbandry, Dairy Development and Fishery Department, Maharashtra State in Appeal No.02/2016 are hereby quashed and set aside.

(17) The matter is remitted back to the respondent No.2 Commissioner of Fisheries-cum-Additional Registrar, Cooperative Societies (Fisheries) Maharashtra State, Mumbai for deciding afresh in accordance with law.

(18) Parties to appear before the respondent No.2 on **12/01/2026**. Parties to note that separate notice for appearance will not be issued.

(19) The application be decided expeditiously as possible in any case, preferably before **30/06/2026**.

(20) It will be open for the intervenor to move appropriate application before the Commissioner seeking intervention in the proceeding. Said application, be decided in accordance with law.

[ROHIT W. JOSHI, J.]

KOLHE