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

WRIT PETITION NO. 8179 OF 2019

(Pangrekar Bhujal Matsyavyavsay Sahkari Sanstha Maryadit, Pangarabandi, through its
Chief Promoter Vs. The Commissioner of Fisheries and Add. Registrar Co-op. Society &
Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. S.S. Khadse, Counsel for the petitioner.
Ms D.V. Sapkal, A.G.P for respondent nos. 1 to 5/State.

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CORAM : ANIL L. PANSARE, J.
JANUARY 21, 2025

Heard.

2] Respondent no.1 – revisional authority, by
impugned order dated 27/11/2019, had remanded the
proceedings of registration of the Society back to
respondent no.2 – Deputy Registrar, Co-operative Society
(Fisheries).

3] On previous date, following order was
passed, which shall also disclose the facts of the case :

“Heard.

2. Petitioner society’s registration has been cancelled by Commissioner of Fisheries in the revision filed under Section 154 of the Maharashtra Cooperative Societies Act, 1960 on the ground that Pangrabandi Minor Irrigation Lake was handed over to the Fisheries Department on 31.07.2018. However, prior thereto i.e. on 02.07.2018, petitioner had submitted proposal for registration. Thus, it is observed by respondent No.1 that proposal has been submitted prior to handing over the lake to the department.

3. *My attention is invited to so called proposal dated 02.07.2018, which is nothing but permission sought to open the bank account. Counsel for the petitioner has then invited my attention to proposal dated 28.08.2018 submitted by it to respondent No.3 for registration of the society. Thus, according to him, the proposal for registration was submitted on 28.08.2018 i.e. subsequent to handing over the lake to the Fisheries Department.*

4. *Learned A.G.P seeks time to take instructions on this point.*

5. *Time granted. However, it is made clear that if the finding so rendered is found to be apparently contrary to the documents, respondent No.1 may be directed to pay costs of litigation to the petitioner.*

Stand over to 21.01.2025.”

4] As could be seen, the petitioner Society's registration has been cancelled on the ground that Pangrabandi Minor Irrigation Lake was handed over to the fisheries department on 31/7/2018. The order indicates that the petitioner Society had submitted a proposal on 28/8/2018, i.e., subsequent to handing over the lake to the fisheries department and, therefore, the finding of respondent no.1 that the proposal was sent prior to handing over the lake is incorrect.

5] The learned A.G.P. made an attempt to justify the order by inviting my attention to Government Resolution dated 30/6/2017, which provides for various criteria to register the Society for fishing business.

6] I have gone through the said Government Resolution to find that there is no condition or criteria

prescribed, that seeking permission to open bank account would be a starting point of the proposal for registration. What has been provided is before granting registration, the authority should verify compliance of conditions/ criteria stipulated in the Government Resolution, one of which is that the lake should be handed over to the fisheries department. This condition, by itself, will not, in any way, prescribe that either proposal should not be filed prior to handing over the lake or in any case, permission to open bank account would be a starting point of the proposal.

7] In other words, whether or not the proposal is submitted before handing over the lake, the same will not be considered for registration until the lake is handed over to the department. There is, however, nothing in the Government Resolution that proposal or any application filed, prior to handing over lake, cannot be considered. That being so, the order impugned appears to be apparently erroneous so far as it de-registers the Society on the ground that the proposal was submitted prior to handing over the lake, which finding is even otherwise incorrect in view of what has been stated in order dated 14/1/2025.

8] The other ground on which the order passed by respondent no.2 has been set aside by respondent no.1 is that opportunity of hearing was not given to respondent no.6.

9] This finding is also incorrect inasmuch as order dated 22/3/2019 passed by respondent no.2

indicates that respondent no.6 was heard at least on six occasions and, thereafter, the matter was closed. The submissions made by respondent no.6 have been noted in detail. The finding, therefore, that opportunity of hearing was not given, is also apparently incorrect.

10] The third ground on which the registration has been set aside is that order dated 16/5/2013 passed by respondent no.1 in Revision Application No. 3/2013 has been not considered.

11] It appears that in the earlier round of litigation, the matter between the petitioner and respondent no.6 went-up to the level of respondent no.1, and vide order dated 16/5/2013, respondent no.1 set aside the No Objection Certificate given in favour of the petitioner with a direction that the request to grant No Objection Certificate will be considered only after Pangrabandi Lake is handed over to the fisheries department.

12] According to respondent no.1, this order has been not considered. This reason is also apparently erroneous inasmuch as the Government Resolution, which is relied upon to render such finding, nowhere indicates that the process of registration or No Objection Certificate cannot be initiated prior to handing over lake to the fisheries department. In any case, in the present case, proposal having been submitted subsequent to handing over the lake to the fisheries department, respondent no.1 has reached an erroneous conclusion that earlier order had been not considered.

13] The last reason to set aside the registration of the petitioner was that respondent no.2 ought to have considered the two proposals pending before it by examining merits of each proposal. According to respondent no.1, respondent no.2 has entertained only the proposal, which was filed by the petitioner.

14] The learned Counsel for the petitioner has invited my attention to paragraph 5 of the impugned order, which show that on 23/8/2018, the proposal submitted by respondent no.6 was given back to him by respondent no.3 – Assistant Registrar Co-operative Society (Dairy) – the authority granting registration. Thus, the proposal submitted by respondent no.6 was returned back on 23/8/2018. The petitioner has, thereafter, on 28/8/2018 filed proposal for registration, which means that when the petitioner filed proposal, no other proposal was pending before respondent no.3 or 4.

15] Put all together, the reasons assigned by respondent no.1 to remand the matter back to respondent no.2, are apparently erroneous and would not stand scrutiny of law. Respondent no.1 ought to have examined the merits of the case in the light of the settled norms, including the criteria for granting registration, as envisaged in the Government Resolution dated 30/6/2017.

16] Resultantly, the petition is partly allowed. Order dated 27/11/2019 passed by respondent no.1 is quashed and set aside. Revision Application No. 7/2019 is restored on the file of respondent no.1, who shall decide

the same afresh in accordance with law and what has been stated in the body of the order. The petitioner shall appear before respondent no.1 on 5/2/2025. Respondent no.1, thereafter, shall seek presence of all those, who are necessary, including respondent no.6, and proceed to decide the revision as noted above.

17] The petition is disposed of in above terms.
No costs.

(ANIL L. PANSARE, J.)

Sumit