



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

WRIT PETITION NO. 136 OF 2019

PETITIONER : Pak Prkalp Fisheries Business Co-operative Society Ltd. Khadka, Having its Registration No. 379, Tehsil : Warud, District Amravati, Through its President Shri Shankar s/o Arun Kurwade, Aged about 37 years, Occ. Fishing, R/o At Post Khadka, Post Bargaon, Taluka : Morshi, District Amravati

VERSUS

RESPONDENTS : 1. The State of Maharashtra, through Commissioner of Fisheries Cum Assistant Registrar Co-operative Societies (Fisheries), Maharashtra State, Mumbai, Taraporwala Fish Aquarium, Netaji Subhash Marg, Charni Road, Mumbai – 02

2. The Assistant Commissioner of Fisheries, Amravati Division, Amravati

3. The Deputy Register Co-operative Societies (Milk) Amravati Division, Amravati

4. The Assistant Register, Co-operative Societies (Pashu, Dugdha and Matsya), Amravati

5. Nagthana Fisheries Co-operative Society Ltd. Warud, Dist. Amravati, Through its President Shri Arun s/o Gulabrao Pohane, Aged about 37 years, Occ. Business, R/o Shaniwarpeth, Sakharpura, Warud, Tah. Warud, District Amravati.

Mr. C.R. Sharma, Advocate for the Petitioner
Mrs. S.S. Jachak, A G.P. for respondents / State
Mr. O.A. Ghare, Advocate for Respondent No.5

CORAM: AVINASH G. GHAROTE , J.

DATED : 9th OCTOBER, 2023

ORAL JUDGMENT :

Rule. Rule made returnable forthwith. Heard finally with the consent of learned counsel for the parties.

2. The petition questions the order dated 28/9/2018 (page 49), whereby the registration of the petitioner Society has been cancelled in exercise of the powers under Section 21-A of the Maharashtra Co-operative Societies Act by the Additional Registrar. It is contended, that powers under the provisions of Section 21(A-5) under Sub-Sections 1 and 2 of Section 21 of the Maharashtra Co-operative Societies Act can either be exercised by the Registrar or the Jt. Registrar of the Co-operative Societies. Admittedly, the impugned order has been passed by the Additional Registrar and, therefore, it is contended that the order is without jurisdiction. Mr. Ghare, learned counsel for the respondent No.5 firstly relies upon the GR dated 30/03/2000 to contend that the powers have been delegated to the Additional Registrar and, therefore, exercise of such power cannot be faulted with. He submits

that even otherwise since the impugned order has been passed by the Additional Registrar, he has to be held to be equivalent to the Jt. Registrar. The learned Assistant Government Pleader, upon instructions, makes a statement that the post of Additional Registrar is not equivalent to that of the Jt. Registrar.

3. Insofar as circular dated 30/3/2000 is concerned, the same has already been considered by this Court in **Late Rajive Gandhi Macchimar Sahakari Sanstha Maryadit, Didola Bk. Vs. Deputy Registrar, Co-operative Societies (Fishery), Mumbai and others 2015(4) Mh.L.J. 492** and it has been held that the powers under Section 21(5-A) of the aforesaid Act cannot be exercised by a person below the rank of Jt. Registrar of Co-operative Societies. Since in that case the order was passed by the Dy. Registrar, the same was set aside. In the instant case, the order was passed by the Additional Registrar. In view of the statement by the learned Assistant Government Pleader that the posts of Jt. Registrar and Additional Registrar are not equivalent and nothing else having been brought to my notice to take a contrary view, the impugned order cannot be sustained. The same is hereby

quashed and set aside. The petition is accordingly allowed in the above terms. No costs.

Rule is made absolute in the above terms.

(AVINASH G. GHAROTE, J.)

MP Deshpande