

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 643 OF 2014

GALHATI MATSYA VYAVSAY SAHAKARI SANSTHA MARYADIT  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

WITH

WRIT PETITION NO.645/2014,	WRIT PETITION NO.823/2014,
WRIT PETITION NO. 820/2014,	WRIT PETITION NO. 10222/2013,
WRIT PETITION NO.156/2014,	WRIT PETITION NO.159/2014,
WRIT PETITION NO.160/2014,	WRIT PETITION NO.161/2014,
WRIT PETITION NO.162/2014,	WRIT PETITION NO.163/2014,
WRIT PETITION NO.164/2014,	WRIT PETITION NO.165/2014,
WRIT PETITION NO.166/2014,	WRIT PETITION NO.167/2014,
WRIT PETITION NO.168/2014,	WRIT PETITION NO.169/2014,
WRIT PETITION NO.170/2014,	WRIT PETITION NO.171/2014,
WRIT PETITION NO.172/2014,	WRIT PETITION NO.173/2014,
WRIT PETITION NO.174/2014,	WRIT PETITION NO.175/2014,
WRIT PETITION NO.176/2014,	WRIT PETITION NO.178/2014,
WRIT PETITION NO.10245/2013,	WRIT PETITION NO.10246/2013,
WRIT PETITION NO. 10321/2013,	WRIT PETITION NO.10323/2013,
WRIT PETITION NO.10330/2013,	WRIT PETITION NO.10334/2013,
WRIT PETITION NO. 10367/2013,	WRIT PETITION NO.10374/2013,
WRIT PETITION NO.1050/2014,	WRIT PETITION NO.1051/2014,
WRIT PETITION NO.1052/2014,	WRIT PETITION NO.1053/2014,
WRIT PETITION NO.1054/2014 &	WRIT PETITION NO.1055/2014.

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Advocates for Petitioners : S/Shri K.J.Suryawanshi, R.D.Biradar, N.R.Salunke,  
G.N.Kulkarni, M.V.Nagargoje, M.R.Sonawane, R.T.Nagargoje, S.W.Munde,  
Santosh R.Bharad, C.V.Thombre and D.M.Shinde

Special Counsel for Respondents: Shri V.D.Hon with S/Shri K.G.Patil and  
V.D.Godbharale, AGPs for the State.

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CORAM : S.C.DHARMADHIKARI & RAVINDRA V. GHUGE, JJ.

Dated: January 31, 2014

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PER COURT :-

1. These Writ Petitions are filed by the existing Fishing or Dairy Cooperative Societies. These Cooperative Societies have been allotted a specified area of operation, either for fishing or dairy activities. The

allotment of the specific portion is in force and for a period which has been set out in the order of allotment.

2. The apprehension of the petitioners is that by virtue of issuance of the Government Resolution dated 5.12.2013 by the Departments, namely, Agriculture, Animal Husbandry and Dairy Development so also Fisheries of the Government of Maharashtra and particularly Clause 1.8 thereof, existing societies would be adversely affected by the registration of new societies since registration of new societies is automatic inasmuch as no discretion is left to refuse the registration and that is apparent from reading Clause 1.8 of this Government Resolution, is the submission before us.

3. It is submitted that Clause 1.8 requires the applicant society to forward a proposal and thereafter that proposal is made over to the Commissioner or the Regional Deputy Commissioner for his no objection certificate. He is empowered to scrutinize and verify the particulars in this proposal. The said proposal must then go to the District Deputy Registrar and the Divisional Joint Registrar who would put their remarks or comments. It is, thereafter, it will go down to the Assistant Registrar, namely, the registering authority. The Assistant Registrar, therefore, would be obliged to follow the directions contained in the report or recommendations of his superiors, may be District Deputy Registrar or the Divisional Joint Registrar. This would make a mockery of the provisions contained in Sections 9, 152 and 154 of the Maharashtra Cooperative Societies Act, 1960 (for brevity, hereinafter, "MCS Act"). In other words, the registration of the society is a clear mandate and

nothing is left with the authorities under the MCS Act then to decide and consider.

4. Keeping in mind these objections, we asked Shri Hon, learned Special Counsel appearing for the State to take instructions from the District Deputy Registrar, Assistant Registrar, the Divisional Joint Registrar and equally the Commissioner. After taking instructions, Shri Hon, learned counsel has clarified that the Department of Fisheries will not interfere in any manner with the authority and power of the authorities under the MCS Act so far as registration of the Cooperative Societies is concerned. All that the Commissioner or Deputy Commissioner will do is to record on the proposal their no objection but the proposal in no way would be decided or finalized by them. Further, Shri Hon, learned counsel has taken instructions from the Divisional Joint and Deputy Registrars and they have informed that the discretion, power and jurisdiction of the Assistant Registrar, Cooperative Societies will not be interfered with or disturbed in any manner by the superior officers. They would not issue any instructions or directions to the Assistant Registrar or Deputy Registrar and the authority, power and discretion to register a Cooperative society would be completely left to the Assistant Registrar. In the event, the applicant is affected, aggrieved and dissatisfied with the order of the Assistant Registrar, then he can prefer an appeal under Section 152 of the MCS Act to the appellate authority and thereafter, a revision to the revisional authority under Section 154 of the MCS Act.

5. In view of these clarifications given by Shri Hon, the apprehension of the petitioners do not survive. We have no doubt that in the event any proposal for registration is received, the Assistant Registrar will cause a notice to be issued to the existing society/societies and consider its/their objections as well. He will grant a personal hearing to all and pass a reasoned order. Any society or body or person aggrieved by the order passed by the Assistant Registrar can file an appeal to the appellate authority in terms of Section 152 of the MCS Act. A remedy of revision application under Section 154 of the MCS Act is also open to the parties.

6. Once these clarifications are given and it is clear that all objections of the existing societies will be considered so also they can urge before the competent authority that so long as they are permitted to carry out the activities in the specified area of operation, they should not be disturbed till their tenure is over that we have no reason to keep these petitions pending.

7. Each of the petitions are disposed of in view of the clarifications given by Shri Hon, learned Special Counsel on instructions. This Court clarifies that this Court has not expressed any opinion, either on the proposals, which may have been received or the objections raised by the petitioners. All contentions of the parties are kept open.

8. Ad-interim orders passed in these petitions stand vacated.

9. We take on record, purshis filed by Shri Thombre, learned Advocate

and other Advocates appearing for the petitioners, setting out that though other petitions on the similar point and involving identical controversy are not before us on the Daily Board or Supplementary Board, all those petitions can as well be taken as disposed off in the light of the order passed today and accordingly we dispose of those petitions as well by this order.

10. No order as to costs.

( RAVINDRA V. GHUGE, J. )

( S.C.DHARMADHIKARI, J. )

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