HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY ,THE THIRTIETH DAY OF JULY
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO: 6256 OF 2021, WRIT PETITION NO: 20221of 2016
WRIT PETITION NO: 42258 OF 2016, WRIT PETITION NO: 7628 OF 2017
WRIT PETITION NO: 11411 OF 2017

WRIT PETITION NO: 6256 OF 2021,

Between:

1. The Fishermen Cooperative Society, Bakshi Begumpet, Kandi Mandal, Sanga Reddy District, represented by its President, Gurram Yadagiri ,S/o Adivaiah, aged 45 years R/o Bakshi Begumpet, Kandi Mandal, Sanga Reddy District
2. The Fishermen Cooperative Society, Rekulapalli, Dharpalli Mandal, Nizamabad District represented by its President, Bondala Buchanna S/o Gangaram, aged about 71 years R/o HNo. 3-36, Rekulapalli Village, Dharpalli Mandal, Nizamabad District
3. The Fishermen Cooperative Society,, Ummeda Village, Nandipet Mandal, Nizamabad District, represented by its President, Thokala Mulkanna S/o Thokala Chinna Bhojanna, R/o I-I No 1-21, Ummeda Village, Nandipet Mandal, Nizamabad Dist.
4. The Fishermen Cooperative Society, Kondanagula Village, Balmur Mandal, Nagarkurnool District represented by its President, Koppa Laxminarayana S/o Bakkaiah, aged 40 years R/o Kondanagula Village, Balmur Mandal, Nagarkurnool District
5. The Fishermen Cooperative Society, Khillaghanpoor, Wanaparthy District represented by its President, S.Anjaneyulu S/o Pentaiah, aged 50 years R/o Khillaghanpur Village and Mandal, Wanaparthy District

...PETITIONERS

AND

1. State of Telangana and 9 others, represented by its Principal Secretary, Department of Animal Husbandry, Dairy Development and Fisheries, at Secretariat, Hyderabad
2. The Commissioner of Fisheries/ Ex Officio Registrar of Fishermen Cooperative Societies,, atMatsya Bhavan, Shanti Nagar, Vijay Nagar Colony, Hyderabad
3. The District Collector,, Sanga Reddy District at Sanga Reddy
4. The District Collector,, Nizamabad District at Nizamabad
5. The District Collector,, Nagarkurnool District at Nagarkurnool

6. The District Collector, Wanaparthy District at Wanaparthy
7. The District Fisheries Officer,, Sanga Reddy District at Sanga Reddy
8. The District Fisheries Officer,, Nizamabad District at Nizamabad
9. The District Fisheries Officer,, Nagarkurnool District at Nagarkurnool
10. The District Fisheries Officer, Wanaparthy District at Wanaparthy

1. Dr. Ravula Jagadeeshwar Prasad Mudiraj
S/o Goverdhan, aged about 53 years,
Occ: General Secretary, Telagnana State Mudiraj
Mahasabha (Regn.No.24/1954),
New Bhoiguda, Secunderabad, Telangana.
R/o H.No.5-11-585, Srinagar Colony,
Hanamkonda, Warangal.

2. Chinnangi Venkatesham Mudiraj
S/o Ramaswamy, aged about 64 years,
Occ: Board Member, National Federation of Fisheries,
Cooperative Ltd., New Delhi,
R/o H.No.5-124, Dundigal Village,
G.M. Dundigal Mandal,
Medchal Malkajgiri District.

3. Kasani Veeresh Mudiraj S/o Late Krishna,
Aged 40 years, Occ: Social Service,
R/o H.No.1-50, Bachupally, Qutbullapur,
Ranga Reddy District.

4. K. Ramesh Kumar Mudiraj S/o Pentaiah,
Aged 53 years, Occ: President,
Nizamabad Mudiraj Mahasabha,
H.No.4-7-28, Kasab Galli,
Nizamabad, Telangana State.

15 Nagulapalli Durgaiah S/o Kistaiah,
aged 48 years, R/o H.No. 1-83

16 Talari Veeresham S/o Kistaiah,
aged 24 years, R/o H.No. 4-6

17 Talari Narsimulu S/o Anjaneyulu,
aged 34 years, R/o H.No.

18 Banta Siddappa S/o Narsaiah,
aged 54 years, R/o H.No. 1-30

19. Talari Narsimlu S/o Ramaiah,
aged 48 years, R/o H.No. 2-50

20 Gaddameedi Nagesh S/o Chandraiah,
aged 33 years, R/o H.No. 2-68

21. Gaddameedi Venkatesh S/o Chandraiah,
aged 30 years, R/o H.No. 2-68

22. Bantu Gopal S/o Yellaiah,
aged 35 years, R/o H.No. 1-62

23 Bantu Mahesh S/o Satyanari,
aged 25 years, R/o H.No. 1-50

24 Siddaluri Ganesh S/o Bhikshapathy,
aged 33 years, R/o H.No. 1-77

25 Talari Ramesh S/o Krishna,
aged 32 years, R/o H.No. 2-50

26 Talari Ramkumar S/o Narsimulu,
aged 23 years, R/o H.No. 2-50

27 Nagulapalli Venkatesham S/o Sathyaiah,
aged 33 years, R/o H.No. 1-83

28 Kondakal Sreekanth S/o Mallesham,
aged 25 years, R/o H.No. 3-55

29 Gaddameedi Ravinder S/o Chandraiah,
aged 39 years, R/o H.No. 3-47/2

30 Kondakalla Narsimulu S/o Chandraiah,
aged 24 years, R/o H.No. 1-89

31. Talari Krishna S/o Ramaiah,
aged 50 years, R/o H.No. 2-50

32. Kondakalla Mallesham S/o Seethaiah,
aged 50 years, R/o H.No. 3-55

33. Bantu Satyanari S/o Yadaiah,
aged 49 years, R/o H.No. 1-50

All are R/o Chidruppa Village, Ismailkhanpet,
Kandi Mandal, Sanga Reddy District, Telangana State.

(RR11 to 14 impleaded as per C.O. dt. 31/3/2021 in IA.No. 2 of 2021.)

(RR15 to 33 impleaded as per C.O. dt. 16/7/2021 in IA.No. 3 of 2021.)

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ or Writs, Order or Direction, more particularly one in the nature of Writ of Mandamus declaring the G O Ms No. 6, Department of Animal Husbandry and Dairy Development dated 24.3.2016 issued by the first respondent, as bad, arbitrary and contrary to established principles of law, apart from the Circular Memo of the 2nd Respondent vide No. 26130/I(1)/83 dated 23.12.1983 and also offends Arts. 14, 19 & 21 of the Constitution of India.

IA NO: 1 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondents, particularly the Respondent Nos. 7 to 10 not to insist the petitioner societies to admit new members on the premise of G.O.Ms.No. 6, Department of Animal Husbandry and Dairy Development, dated 24.3.2016 issued by first respondent.

IA NO: 4 OF 2021

Between:

1. Nagulapalli Durgaiah S/o Kistaiah,
   aged 48 years, R/o H.No. 1-83
2. Talari Veeresham S/o Kistaiah,
   aged 24 years, R/o H.No. 4-6
3. Talari Narsimulu S/o Anjaneyulu,
   aged 34 years, R/o H.No.
4. Banta Siddappa S/o Narsaiah,
   aged 54 years, R/o H.No. 1-30
5. Talari Narsimlu S/o Ramaiah,
   aged 48 years, R/o H.No. 2-50
6. Gaddameedi Nagesh S/o Chandraiah,
   aged 33 years, R/o H.No. 2-68
7. Gaddameedi Venkatesh S/o Chandraiah,
   aged 30 years, R/o H.No. 2-68
8. Bantu Gopal S/o Yellaiah,
   aged 35 years, R/o H.No. 1-62
9. Bantu Mahesh S/o Satyanari,
   aged 25 years, R/o H.No. 1-50
10. Siddaluri Ganesh S/o Bhikshapathy,
    aged 33 years, R/o H.No. 1-77
11. Talari Ramesh S/o Krishna,
    aged 32 years, R/o H.No. 2-50
12. Talari Ramkumar S/o Narsimulu,
    aged 23 years, R/o H.No. 2-50
13. Nagulapalli Venkatesham S/o Sathyaiah,
    aged 33 years, R/o H.No. 1-83
14. Kondakal Sreekanth S/o Mallesham,
    aged 25 years, R/o H.No. 3-55
15. Gaddameedi Ravinder S/o Chandraiah,
    aged 39 years, R/o H.No. 3-47/2
16. Kondakalla Narsimulu S/o Chandraiah,
    aged 24 years, R/o H.No. 1-89
17. Talari Krishna S/o Ramaiah,
    aged 50 years, R/o H.No. 2-50

18. Kondakalla Mallesham S/o Seethaiah,
aged 50 years, R/o H.No. 3-55

19. Bantu Satyanari S/o Yadaiah,
aged 49 years, R/o H.No. 1-50

All are R/o Chidruppa Village, Ismailkhanpet,
Kandi Mandal, Sanga Reddy District, Telangana State.

....Petitioners / Proposed Respondents No. 15 to 33

And

1. State of Telangana, represented by its Principal Secretary,
Department of Animal Husbandry,
Dairy Development and Fisheries, at Secretariat, Hyderabad,

2. The Commissioner of Fisheries /
Ex-Officio Registrar of Fishermen Cooperative Societies,
at Matsya Bhavan, Shanthi Nagar,
Vijayanagar Colony, Hyderabad

3. The District Collector,
Sanga Reddy District at Sanga Reddy

4. The District Collector,
Nizamabad District at Nizamabad.

5. The District Collector,
Nagar Kurnool District at Nagar Kurnool

6. The District Collector,
Wanaparthy District at Wanaparthy

7. The District Fisheries Officer,
Sanga Reddy District, at Sanga Reddy

8. The District Fisheries Officer,
Nizamabad District at Nizamabad.

9. The District Fisheries Officer,
Nagar Kurnool District at Nagar Kurnool

10. The District Fisheries Officer,
Wanaparthy District at Wanaparthy.

... Respondents / Respondents

11. The Fishermen Cooperative Society,
Bakshi Begumpet Kandi Mandal, Sanga Reddy District,
represented by its President Gurram Yadagiri,
S/o Adivaiah aged 45 years R/o Bakshi Begumpet,
Kandi Mandal Sanga Reddy District

12. The Fishermen Cooperative Society
Rekulapalli Dharpalli Mandal, Nizamabad District,
represented by its President Bondala Buchanna,
S/o Gangaram aged about 71 years, R/o H.No. 336,
Rekulapalli Village, Dharpalli Mandal, Nizamabad District

13. The Fishermen Cooperative Society,
Ummeda Village, Nandipet Mandal, Nizamabad District
represented by its President Thokala Mulkanna,
S/o Thokala Chinna Bhojanna, R/o H.No. 121,
Ummeda Village, Nandipet Mandal, Nizamabad Dist

14. The Fishermen Cooperative Society,
Kondanagula Village, Balmur Mandal, Nagarkurnool District
represented by its President Koppa Laxminarayana,
S/o Bakkaiah, aged 40 years, R/o Kondanagula Village,
Balmur Mandal, Nagarkurnool District

15. The Fishermen Cooperative Society,
Khillaghanpoor, Wanaparthy District,
represented by its President S Anjaneyulu,
S/o Pentaiah, aged 50 years,
R/o Khillaghanpur Village & Mandal Wanaparthy District.

.... Respondents / Writ Petitioners

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to implead the Petitioners herein / Proposed Respondents No. 15 to 33, as the Respondents No. 15 to 33 in the above Writ Petition, pending the above Writ Petition

Counsel for the Petitioners:M/S. M VIDYAVATHI

Counsel for the Respondent Nos. 1, 2 & 7 to 10: THE ADVOCATE GENERAL/ GP FOR FISHERIES

Counsel for the Respondent Nos. 3 to 6: THE ADVOCATE GENERAL/ GP FOR REVENUE

Counsel for the Respondent Nos. 11 to 14: SRI. D.L. PANDU

Counsel for the Respondent Nos. 15 to 33: SRI. CHANDRAIAH SUNKARA

WP NO: 20221 OF 2016

Between:

The Fishermen Co-op. Society, Thummalagudem Village Rep. by its President T. Ramesh S/o Sathaian, aged about 45 years R/o Thummalagudem Village Ramannapet Mandal, Nalgonda District.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Department of Agriculture and Fisheries, Secretariat, Hyderabad.
2. The Commissioner of Fisheries, Matshya Bhavan Telangana State, Hyderabad
3. The Deputy Director of Fisheries, Nalgonda, Nalgonda District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus by declaring G.O.Ms.No.6, Department of Animal Husbandry and Dairy Development, dt.24-03-2016 as bad, arbitrary and contrary to the established principle of law apart from the Circular Memo No.26130/I (1)/83, dt.23-12-1983 and also offends under Art.14 and 21 of Constitution of India and set aside the consequential notice vide Lr.No.462/ E/ 2016, dt.29-04-2016 of the 3rd respondent

WPMP. NO: 24816 OF 2016

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend G.O.Ms.No.6, Department of Animal Husbandry and Dairy Development, dt.24-03-2016, pending disposal of the main writ petition

WPMP. NO: 24817 OF 2016

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the orders of the 3rd respondent vide Lr. No .462 / E / 2016, dt.29-04-2016

Counsel for the Petitioner: M/S. M VIDYAVATHI

Counsel for the Respondents: THE ADVOCATE GENEAL/ GP FOR FISHERIES

WP NO: 42258 OF 2016

Between:

1. Fishermen Co-operative Society, having office at no. 1-59 Duppally village, Athmakur mandal Yaadaadri (previously Nalgonda) district represented by its President Gudaboina Sailu
2. Fishermen Co-operative Society, having office at no. 3-10-110, Ganga Bhavan, Gangaputhrawada Bhongir village, Bhongir mandal Yaadaadri (previously Nalgonda) district represented by its President Poosa Srinivas
3. Fishermen Co-operative Society, having office at Tummalagoodem village Raamannapeta Mandal, Yaadaadri (previously Nalgonda) District represented by its President P Ramesh
4. Fishermen Co-operative Society, having office at Gokaram village Valigonda mandal, Yaadaadri (previously Nalgonda) district, represented by its President Arva Venkatesham
5. Fishermen Co-operative Society, having office at Raajaapeta village Raajaapeta mandal, Yaadaadri (previously Nalgonda) district, represented by its President K Venkatesh

6. Fishermen Co-operative Society, having office at Vemulakonda village Valigonda mandal, Yaadaadri (previously Nalgonda) district, represented by its President Ambati Anjaiah
7. Fishermen Co-operative Society, having office at Munipampula village Ramannapeta mandal Yaadaadri (previously Nalgonda) district represented by its President R Ramesh
8. Fishermen Co-operative Society, having office at Venikiryala village Bibinagar mandal, Yaadaadri (previously Nalgonda) district, represented its its President Katta Baswaiah
9. Fishermen Co-operative Society, having office at Basawapuram village Bhongir mandal, Yaadaadri (previously Nalgonda) district, represented by its Secretary C Raju
10. Fishermen Co-operative Society, having office at Toorpugoodem village Aleru mandal, Yaadaadri (previously Nalgonda) district, represented by its Secretary Vangala Srishailam

...PETITIONERS

AND

1. The State of Telangana thru its Principal Secretary, Animal Husbandry, Dairy Development and Fisheries (V&F) Department, Secretariat, Hyderabad
2. The Commissioner of Fisheries Government of Telangana, 'Mastya Bhavan', Hyderabad

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ or order/s more particularly one in the nature of Writ of Mandamus declaring the GOMs no. 6, Animal Husbandry, Dairy Development and Fisheries (V&F) Department dated 24-3-2016, as being violative of Articles, 14, 19(1)(g) and 21 of the Constitution of India, and the provisions of the Telangana State Co-operative Societies Act 1964;

WPMP. NO: 52091 OF 2016

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased issue to interim directions suspending the operation of the GOMs no. 6, Animal Husbandry, Dairy Development and Fisheries (V&F) Department dated 24-3-2016, pending disposal of the Writ Petition;

Counsel for the Petitioners: SRI. VIVEK JAIN

Counsel for the Respondents: GP FOR FISHERIES

WP NO: 7628 OF 2017

Between:

1. The Fisherman Co-Operative Society Ltd.,, Jaikesaram Village, Choutuppal Mandal, Nalgonda District, Rep. by its President Sri Mylaram Narsimha S/o.M. Ramulu, Aged about 56 years.
2. The Fisherman Co-Operative Society Ltd.,, R/o. Lingarajupally Village, Valigonda Mandal, Yadadri District, Rep. by its President Sri Peddagoni Raju S/o. P. Muthaiah, Aged about 42 years.
3. The Fisherman Co-Operative Society Ltd.,, R/o. Mallepally Vilalge, Valigonda Mandal, Yadadri District, Rep. by its President, Sri Yara Chandraiah S/o. Venkaiah, Aged aobut 60 years.
4. The Fisherman Co-Operative Society Ltd.,, R/o. Arror Village, Valigonda Mandal, Yadadri District, Rep. by its President Sri Godugu Narsimha S/o. G. Neenaiah, Aged about 52 years,.
5. The Fisherman Co-Operative Society Ltd.,, R/o.Golneapally Village, Valigonda Mandal, Yadadri District, Rep.byits President Sri Peddagoni Mallesha S/o. P. Muthyalu, Aged about 58 years.
6. The Fisherman Co-Operative Society Ltd.,, R/o.Velwarthy Village, Valigonda Mandal, Yadadri District, Rep. by its President Sri Cheawwa Chandcraiah S/o. Gopaiah, Aged about 60 years,.
7. The Fisherman Co-Operative Society Ltd.,, Chada Village, Athmakur Mandal, Nalgonda District, Rep. by its President Sri Gurraia Mallaiah

...PETITIONERS

AND

1. The State of Telangana, Rep. by its Principal Secretary, Department of Animal Husbandry and Fisheries, Telangana Secretariat, Hyderabad.
2. The Commissioner of Fisheries, Matshya Bhavan, Shanthinagar, Telangana State, Hyderabad.
3. The District Collector, Yadadri District, at Bhongir.
4. The District Fisheries Officer, Yadadri District, Bhongir.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the G.O.Ms.No.6, Department of Animal Husbandry and Dairy Development, dated 24-03-2016 issued by 1st respondent as bad, arbitrary and contrary to the established principles of Law apart from the Circular Memo No. 26130/1(1)/83, dated 23-12-1983 and also offends under Articles 14 and 21 of Constitution of India.

WPMP. NO: 9402 OF 2017

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to Suspend the G.O.Ms. No. 6, Department of Animal Husbandry and Dairy Development, dated 24-03-2016 issued by 1st respondent, pending disposal of the main writ petition and pass

Counsel for the Petitioners:SRI. M VIDYAVATHI

Counsel for the Respondents: ADVOCATE GENERAL
GP FOR FISHERIES

WP NO: 11411 OF 2017

Between:

1. Fishermen Co-operative Society Ltd. (Regd.No.138 QFC/88),, Rep.byits President GodasuJangaiah, Revanapalli, BhoodhanPochampallyMandal,YadadriBhongir District-508284,
2. Fishermen Co-operative Society Ltd. (Regd.No.272 QFC/2000), Rep.by itsPresident KoriniPandu,Raghavapuram, BibinagarMandal,YadadriBhongir District.
3. Fishermen Co-operative Society (Regd.No.109 QFC/85), Rep., by itsPresident JinukalaYadgiri,Indriyala, BhoodhanPochampallyMandal,YadadriBhongir District.
4. Fishermen Co-operative Society (Regd.No.17 QFC/72), Rep., by its President BhimagariSatyanarayana,Goushkonda, BhoodhanPochampallyMandal,YadadriBhongir District.
5. Fishermen Co-operative Society (Regd.No.395/1960), Rep.by, itsPresident Chakka Ramesh,BhoodhanPochampally Village and Mandal, YadadriBhongir District.
6. Fishermen Co-operative Society (Regd.No.97/QFC/85), Rep., by its General Secretary P. Narasimha,Peddaravulapally BhoodhanPochampallyMandal,YadadriBhongir District.
7. Fishermen Co-operative Society (Regd.No.921 QFC/84), Rep., byitsPresident G.Bikshapati,Muktapur Village, BhoodhanPochampallyMandal,YadadriBhongir District.
8. Fishermen Co-operative Society (Regd.No.494/THJ61), Rep., by itsPresident P.Narasimha, Juloor Village, BhoodhanPochampallyMandal,YadadriBhongir District.
9. Fishermen Co-operative Society (Regd.No.345/QFC/2016),, Rep.by itsPresident Chakka Ashok,Bhimanpalli, Meharnagar Village, BhoodhanPochampallyMandal,YadadriBhongir District.
10. Fishermen Co-operative Society Ltd (Regd.No.20874/ TH/19, 52), Rep.by itsPresident ChakkaYadaiah,Vankatnamidi Village, BhoodhanPochampallyMandal,YadadriBhongir District.
11. Fishermen Co-operative Society (Regd.No.78 /QFC/1983),, Rep.by itsPresident K.Balaiah,Pillaipally Village, BhoodhanPochampallyMandal,YadadriBhongir District.

12. Fishermen Co-operative Society (Regd.No.121/9FC/67), Rep., by its President SriramPochaiah,Peddagudem, BhoodhanPochampallyMandal,YadadriBhongir District.

13. Fishermen Co-operative Society (Regd.No.T.B.347/60), Rep., byits Secretary P.Krislma, Edulabad Village, GhatkesarMandal, Ranga Reddy District.

...PETITIONERS

AND

1. The State of Telangana, Rep. by its .Principal Secretary, Department of Animal Husbandry and Fisheries, Telangana Secretariat, Hyderabad.
2. The Commissioner of Fisheries, Matshya Bhavan, Shanthinagar, Telangana State, Hyderabad.
3. The District Collector, Yadadri Bhongir District, at Bhongir
4. The District Fisheries Officer, Yadadri Bhongir District, at Bhongir.
5. The District Collector, Ranga Reddy District, at Hyderabad.
6. The District Fisheries Officer, Yadadri District, Bhongir.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the action of the 1st Respondent in reducing the share of each member of fishermen cooperative societies in fish tanks from one hectare (Ac.2.47) to one acre by issuing the impugned G.O.Ms.No.6 Animal Husbandry, Dairy Development & Fisheries (V & F) Department dt.24.03.2016 as illegal, unjust, arbitrary, unreasonable and in violation of Principles of Natural Justice and also in violation of Articles 14, 19, 21 & 300-A of the Constitution of India apart from contrary to the provisions of Telangana State Co-operative Societies Act, 1964 and consequently set aside the impugned G.O.Ms.No.6 dt.24.03.2016

WPMP. NO: 14188 OF 2017

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the impugned G.O.Ms.No.6 Animal Husbandry, Dairy Development & Fisheries (V & F) Department dt.24.03.2016 issued by the 1st Respondent pending disposal of the above writ petition

Counsel for the Petitioners:SRI. BOBBILI SRINIVAS

Counsel for the Respondents: THE ADVOCATE GENERAL
GP FOR ANIMAL HUSBANDARY

The Court made the following:

THE HON'BLE JUSTICE T.AMARNATH GOUD

W.P.No.6256 of 2021
W.P.No.20221 of 2016
W.P.No.42258 of 2016
W.P.No.7628 of 2017
W.P.No.11411 of 2017

COMMON ORDER:

1 Challenge in all these Writ Petitions is to the G.O.Ms.No.6 dated 24.3.2016 issued by the first respondent-Animal Husbandry and Dairy Development and Fisheries Department of the State of Telangana.

2 Since the grievance of the petitioners in all the Writ Petitions, more or less, is one and the same, they are being disposed of by this common order. For the sake of convenience, I refer to the facts of the case as pleaded in W.P.No.6256 of 2021.

3 The case of the petitioners is that all the petitioners are fishermen cooperative societies and they are solely depending on fishing operations to eke out their livelihood. All the tanks of the respective societies are rain fed tanks and no perennial water supply to the tanks. Thus the tanks are rain fed and not long seasonal water spread area. All the petitioner societies are under the supervision and control of the Department of Fisheries and are governed under the provisions of the Telangana State Cooperative Societies Act, 1964. The second respondent issued a Circular Memo No.26130/1(1)/83, dated 23.12.1983 specifying the viability norms for each member. As per the said Circular, One Hectare (2.47 acres) of long seasonal water spread area is taken as a viable unit to a member of a Cooperative Society. While so, the first respondent, ignoring the prevailing facts and circumstances, has

issued G.O.Ms.No.6 dated 24.3.2016 fixing the viability norms as Ac.1-00 water spread area to each member in case of perennial / canal fed water sources and Ac.2-00 water spread area to each member in case of all other water sources. The first respondent constituted a Five-Men committee to determine the viability norms for organization / bifurcation / enrollment of new members of Fishermen Cooperative Societies in the State of Telangana. The said Five-Men committee said to have examined the matter in respect of existing norms in Memo No.26129/1(1)/83, dated 23.12.1983 and submitted a report that due to construction of various projects under Jalayagnam and Mission Kakatiya, every water body has changed its seasonality and potentiality and adopting to do management practices by the fishermen and the productivity of all water sources also to be increased into many folds. It is also submitted to uphold the circular instructions and to set aside the G.O.No.6.

4 It is further submitted that the report of the Five-Men Committee which is the basis for issuance of G.O.Ms.No.6 dated 24.3.2016 is unscientific and hypothetical, virtually affects the rights of fishermen in catching the fish and to eke out their livelihood. The respondent authorities ought to have considered the per capita index of the income of the member of the society before re-fixing the viability norms wherein the respondents have glaringly failed to consider the same simply relying upon the unscientific and vague report submitted by the Five-Men Committee.

5 It is further submitted that the sixth respondent issued a notice dated 20.02.2021 to the first petitioner directing to pass a resolution regarding admission of Mudiraj Community Fishermen as members of the Society. Similarly all the District Fisheries Officers are insisting the other petitioner societies to admit new members without any viability and feasibility.

6 The petitioners attack the impugned G.O. on the following grounds, viz., 1) The G.O. was issued without giving any notice to the petitioners and thereby it is violation of principles of natural justice, 2) The G.O. is placing reliance on the report of a Five-Men Committee consisting of Assistant Directors of Fisheries and they are not technical persons and scientific recommendations have not been proved, 3) Persons from other communities whether eligible or incligible are interfering with the fishermen societies or forming new fishermen societies due to which economic viability of the existing members and the fishermen societies are at stake. Hence the Writ Petitions.

7 The case of the official respondents, as per the counter affidavits, is that there was no viability norms for fixing the total number of members enrolled into a society till 1983. For the first time, for deciding the viability of Inland Fishermen Cooperative Societies, adhoc norms have been framed vide Commissioner of Fisheries Memo No.26130/I(1)83 dated 23.12.1983. In order to sort out disputes arose among the stake holders with regard to membership and total number of members to be enrolled in each society, the same rules have been followed without any exception till orders issued in G.O.Ms.No.74 AH, DD & F department dated

21.10.2011 and G.O.Ms.No.06 AH, D & F Department, dated 24.3.2016. It is further submitted that because of construction of various projects under Jalayajnam and emergence of new techniques in the field of fish farming the potential of the water bodies tremendously increased by many folds giving lot of scope for admission of more number of members by revising the norms of the viability.

8 It is further submitted that the Government of Telangana have revived most of the irrigation tanks under Mission Kakatiya resulting to increase in water spread area and water retention period. All the above activities paved the way for increasing in fish productivity of water sources. It is further submitted that issuance of the G.O. by the Government is correct. The Five-Men Committee conducted proper exercise having gone to the gross root level by finding out the economic viability. They have calculated and considered the cost factor of the seed, harvesting and the amount of income which the fishermen would get and due to the Kaleswaram project, Mission Kakatiya and all other projects the water level and the feasibility of conducting fishing rights has improved and the economic viability when compared to the earlier position is now in better position. So the Government has considered all the aspects in the light of the welfare measures of the fishermen and issued the present G.O.

9 It is further submitted that there are about 3900 fishermen societies in the State of Telangana. But only handful societies are regularly filing Writ Petitions before this Hon'ble Court under one pretext or the other and have taken a lead to challenge the

impugned G.O. There cannot be any monopoly in trade. The Government has taken a policy decision and issued the impugned G.O and there cannot be any challenge to the said policy unless it is proved otherwise and malafides established or violation of any constitutional right. The members of the Five-Men Committee, which has recommended for issuance of the impugned G.O, are all Assistant Directors of Fisheries and they are competent enough to issue the recommendations since they are ground level officers and that they are the officers who initiate the registration of societies and also providing membership to the eligible fishermen and also conduct skill test. Hence prayed to dismiss the Writ Petitions and uphold the impugned G.O. No.6.

10 Heard the learned counsel for the petitioners in all the Writ Petitions and the learned Advocate General for the respondent authorities.

11 The learned counsel for the petitioners submitted that the report of the Five Men Committee is hypothetical as there is no scientific data to arrive at such a conclusion. As per the Memo dated 23.12.1983, 40% of the net profit is earmarked under various heads and hence the impugned G.O.is unsustainable. She further submitted that Mission Kakatiya works are not completed in majority of the tanks upto 100% including the tanks of the petitioners. Moreover, Mission Kakatiya is not source of water for fishing. The report of the Five-Men Committee virtually affects the rights of the fishermen in catching the fish and to eke out their livelihood, which is part of welfare legislation. She further submitted that as per Section 19 of the T.C.S. Act 1964, the power

to admit new members vest with the General Body of the Society which is the ultimate authority under the Act subject to byelaws of the society. Viable unit for each member has to be considered for admission of members into the society. Apart from viability norms, for admission of new members, natural calamities such as drought, floods etc have to be taken into account for determining the income of the society. The water spread area shown at the time of registration of the society in the byelaws is not the sole criteria even to admit members, the General Body of the Society has to pass a resolution in cooperative spirit for providing livelihood to all the members of the society taking into consideration the income derived in each year from the water sources allocated in the area of operation. The learned counsel for the petitioners further submitted that the petitioners are doing fishing operations through their society and providing membership to new members or forming new societies would make the petitioner societies unviable and if the stand of the Government in reducing the area of operation in respect of each member for fishing rights from Ac.2.5 to Ac.1.00, basing on the recommendations of the Five-Men Committee, is not set aside, the petitioners would be put to irreparable loss and injury and hence prayed to set aside the impugned G.O.

12 *Per contra*, the learned Advocate General submitted that there cannot be a monopoly in trade and the impugned G.O was issued basing on the policy of the Government and the policy of the Government cannot be challenged unless any malafides are pointed out or any constitutional violation is pointed out. The Assistant Directors of Fisheries are competent persons and that

they are ground level officers to form a new society, provide membership and also to check the feasibility of fishing rights. The learned Advocate General relied on the following decisions:

1. ***Tamil Nadu Education Department, Ministerial and General Sub Ordinate Services Association Vs. State of Tamil Nadu***[1],

2. ***Indian Express Newspapers (Bombay) Pvt. Ltd Vs. Union of India***[2],

3. ***Shri Sita Ram Sugar Co. Ltd. Vs. Unioni of India***[3],

4. ***Union of India Vs. Ganayutham***[4],

5. ***Balco Employees Union Vs. Union of India***[5],

6. ***State of Tamil Nadu Vs. P. Krishnamurthy***[6], ***and***

7. ***D. Srinivasa Raju Vs. District Forest Officer***[7].

13 The case of the unofficial respondents is that as they are eligible persons to become either members of the fishermen cooperative society or to form a new society, the impugned G.O. has to be upheld.

14 Admittedly, the first respondent being a welfare State has to cater to the needs of all persons who are similarly placed and need to maintain equality and there cannot be discrimination. In a lawful trade which is recognized by the statute, there cannot be monopoly. The impugned G.O. is nothing but a policy which is framed by the Government to accommodate more and more fishermen to eke out their livelihood keeping the economic viability

---

[1] AIR 1980 SC 379
[2] (1985) 1 SCC 641
[3] AIR 1990 SC 1277
[4] AIR 1997 SC 3387
[5] (2002) 2 SCC 333
[6] (2006) 4 SCC 517
[7] 2002 SCC OnLine Andhra Pradesh 661

in mind. Neither in the affidavit filed in support of the Writ Petition nor during the course of arguments, the petitioners have pointed out any malice in issuing the impugned G.O by the respondent Government. The only point which came for consideration during the course of argument by the learned counsel for the petitioners is that the impugned G.O was issued in pursuance of the recommendations made by the Five-Men Committee and that the members of the so called Five-Men Committee are all Assistant Directors of Fisheries and that they are not eligible to issue such recommendations. This argument cannot be appreciated since the Government is the competent authority which knows the competence of the officers in the State and accordingly it has nominated the Five-Men Committee. The said persons have done sufficient exercise and have given an exhaustive report keeping in mind the procurement of seed, investment on fish and the harvest and finally the income a fisherman would get. While deciding the said factor, it was also considered with regard to the water / tanks in which the fishing operations are carried out. When it is a policy decision and the Government is issuing a G.O, question of violation of principles of natural justice does not arise as the rights of the petitioners are not infringed. It is only accommodating more members of similarly placed in the society by way of providing them membership as per the viability norms and the petitioners cannot find fault with in inviting their brethren into their society. In weaker sections of the society it is expected that the existing members must know the difficulties of their brethren and they are expected to give a warm welcome to the eligible persons and get along with cordial

relationship in the cooperative movement. The Circular instructions issued in the year 1983 cannot have an overriding effect on G.O.No.6 which is having statutory force of law.

15 In P. Krishnamurthy case (6 supra) the Hon'ble apex Court held as under:

> 15. There is a presumption in favour of constitutionality or validity of a sub-ordinate legislation and the burden is upon him who attacks it to show that it is invalid. It is also well recognized that a sub-ordinate legislation can be challenged under any of the following grounds :-
>
> a) Lack of legislative competence to make the sub-ordinate legislation.
>
> b) Violation of Fundamental Rights guaranteed under the Constitution of India.
>
> c) Violation of any provision of the Constitution of India.
>
> d) Failure to conform to the Statute under which it is made or exceeding the limits of authority conferred by the enabling Act.
>
> e) Repugnancy to the laws of the land, that is, any enactment.
>
> f) Manifest arbitrariness/unreasonableness (to an extent where court might well say that Legislature never intended to give authority to make such Rules).

16 In the case on hand, since no malice is pointed out in the policy of the Government and no infringement of constitutional right is also pointed out, this Court finds that the impugned G.O is valid and is legal.

17 In Balco Employees' Union case (5 supra) the Hon'ble apex Court held as follows:

> In Narmada Bachao Andolan vs. Union of India and Others, (2000) 10 SSC 664, there was a challenge to the validity of the establishment of a large dam. It was held by the majority at page 762 as follows :-
>
> "229. It is now well settled that the Courts, in the exercise of their jurisdiction, will not transgress into the field of policy decision. Whether to have an infrastructural project or not and what is the type of project to be undertaken and how it has to be executed, are part of policy-making process and the Courts are ill-equipped to adjudicate on a policy decision so undertaken. The Court, no doubt, has a duty to see that in the undertaking of a decision, no law is violated and people's fundamental rights are not transgressed upon except to the extent permissible under the Constitution."
>
> It is evident from the above that it is neither within the domain of the Courts nor the scope of the judicial review to embark upon an enquiry as to whether a particular public policy is wise or whether better public policy can be evolved. Nor are our Courts inclined to strike down a

policy at the behest of a petitioner merely because it has been urged that a different policy would have been fairer or wiser or more scientific or more logical.

18 The above principle was reiterated in D.Srinivasa Raju case (7 supra).

19 In view of the above reasoning and having regard to the principle enunciated in the cases cited supra, this Court is of the considered opinion that the contentions of the petitioners fail and accordingly all the Writ Petitions are liable to be dismissed and the G.O.Ms.No.6 AH, D & Department dated 24.3.2016 is upheld.

20 In the result, all the Writ Petitions are dismissed. No order as to costs. Miscellaneous petitions, if any, pending in the Writ Petitions shall also stand dismissed.

SD/-K.ONESIM
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. 11 LR.Copies
2. The Under Secretary, Union of India, Ministry of Law, Justice and Company Affairs, New Delhi
3. The Secretary, Advocates' Association Library, High Court Buildings, Hyderabad.
4. One CC to M/s. M. Vidyavathi, Advocate (OPUC)
5. One CC to Sri.D.L. Pandu, Advocate (OPUC)
6. One CC to Sri. Chandraiah Sunkara, Advocate (OPUC)
7. One CC to Sri. Vivek Jain, Advocate (OPUC)
8. One CC to Sri. Bobbili Srinivas , Advocate (OPUC)
9. Two CCs to the Advocate General, High Court for the State of Telangana. (OUT)
10. Two CCs to the GP for Fisheries, High Court for the State of Telangana. (OUT)
11. Two CCs to the GP for Revenue, High Court for the State of Telangana. (OUT)
12. Two CD Copies.
13. One Spare Copy.

PM

HIGH COURT

DATED:30/07/2021

COMMON ORDER

WP.Nos.6256 of 2021, 20221 & 42258 of 2016,
7628 & 11411 of 2017

Dismissing the WP's
Without costs.