

HIGH COURT OF MADHYA PRADESH BENCH AT

GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

&

HON'BLE SHRI JUSTICE HIRDESH

WRIT APPEAL NO.2346/2024

Ankur Matsyaudyog Sahkari Sanstha Maryadit

Vs.

The State of M.P. and Others

Shri M.P.S. Raghuvanshi – learned Senior Advocate with Shri D.P. Singh – Advocate for the appellant.

Shri Vivek Khedkar – Additional Advocate General for the respondents-State.

Shri Raghvendra Dixit – Advocate for respondent No.6.

Judgment

(Delivered on 28th day of April, 2025)

1. The instant Writ Appeal under Section 2(1) of the Madhya Pradesh Uchha Nayayaly (Khandpeeth Ko Appeal) Adhiniyam, 2005 is filed against the order dated 27th May, 2024 passed in Writ Petition No.13207/2024 by the learned Writ Court whereby writ petition preferred by the appellant/petitioner stood rejected. Petitioner/appellant challenged the order dated 08/05/2024 passed by the M.P. State Co-operative Tribunal, Bhopal in Second Appeal

No.37/2023 whereby appeal preferred by respondent No.6 was allowed and order dated 28/07/2023 passed by Joint Registrar Cooperative Society, Gwalior was set aside.

2. Facts of the case in short are that appellant/ Society was registered on 20/08/2002 for Gram Panchayat Kalothara Village Mujwar and Imaliya for fishing purpose. On 04/04/2019, Assistant Director fisheries department district Shivpuri wrote a letter to the Deputy Registrar Co-operative Society, Shivpuri in reference to the letter no.1016 dated 18/12/2017, letter no.3121 dated 22/12/2017 and order dated 19/02/2007 whereby recommendation/ proposal has been made in favour of respondent No.6/Society on the ground that registration of appellant/ society was not made for water body of Imaliya reservoir and it was confined up to village Panchayat Kalothara and Mujwar operational area. Since appellant/ Society already running its fishing lease over the Mujwar reservoir, therefore, recommendation was made by the fishing department for registration of respondent No.6/ society for village Imaliya. Thereafter, each proceedings were undertaken on different level and ultimately matter went up to second appeal preferred at the instant of respondent No.6 challenging the order passed by the lower authority and the second appeal was allowed. Against the said order, writ petition was preferred by the appellant/ petitioner which was also dismissed. Therefore, appellant is before this Court in writ appeal.

3. It is the submission of learned counsel for the appellant that order dated 21/11/2019 (Annexure P-5 of the writ petition passed by the Deputy Registrar) cannot be reviewed while passing order dated 05/02/2020 (Annexure P-6 of the writ petition) because review is an inherent power vested in the M.P. State Authority and therefore, review order by which enquiry was held and respondent No.6 was given clean chit, is arbitrary and illegal exercise.

4. It is further submitted that nine members of respondent No.6/Society were already terminated, therefore, society suffered lack of *quorum* and was not properly constituted society in the eyes of law. It is further submitted that documents were never produced in the second appeal before the tribunal. According to learned counsel for the appellant, the learned Writ Court committed error ignoring the manner in which application under Order 41 Rule 21 of CPC was allowed. Learned counsel also raised the point regarding maintainability of writ petition. Under such circumstances, learned counsel prays for setting aside the order of the learned Writ Court.

5. Learned counsel for the respondent/State opposed the prayer supporting the impugned order and prayed for dismissal of the writ appeal.

6. Learned counsel for respondent No.6 also opposed the prayer and supported the impugned order. According to respondent No.6, locus of appellant challenging registration of respondent6/ Society is

doubtful. It is further submitted that enquiry was properly conducted and committee members were intact. Since respondent No.6/ Society is in the village Imaliya and they belong to Batham (fishing man) community therefore, as per the relevant Fishing policy, they are to be given priority over the appellant/ society, which consists of members of General Category and their area of operation is much away from village Imaliya therefore, respondent No.6/Society was given Fishing rights for village Imaliya. Under such circumstances, learned counsel prays for dismissal of instant appeal.

7. Heard the learned counsel for the parties and perused the documents appended thereto.

8. This is a case where appellant/society is taking exception primarily to registration of respondent No.6/society and awarding them fishing rights of village Imaliya. The learned Writ Court considered this aspect and held that members of respondent No.6/society are residents of village Imaliya and belong to traditional fishing communities thus, recommendations were accordingly forwarded to grant *patta* of Imaliya reservoir to respondent No.6 confining the *patta* of appellant/ society to Mujwar reservoir.

9. Section 12 the Madhya Pradesh Co-operative Societies Act, 1960 has been referred by the learned Writ Court where power is available to the Registrar to amend the bye-laws. Section 12(1) of the Act, 1960 is again reproduced for ready reference as under:-

“12. Power to direct amendment of bye-laws.- (1)
Notwithstanding anything contained in this Act, or the rules or bye-laws, on the request of more than fifty per cent of the members of the society or if the Registrar considers that an amendment of the bye-laws of society is necessary or desirable in the interest of such society, he may, by an order in writing to be served on the society in the prescribed manner, require the society to make the amendment within sixty days.”

10. Perusal of the said section indicates that if registrar consider that amendment of bye-laws of the society is necessary or desirable then the same can be carried out as mentioned in the said Section. In the present case, Registrar objectively considered rights of fishing community in respect of their category and in respect of area of operation and rightly so.

11. So far as membership of respondent No.6/society is concerned, conclusion drawn in report dated 10/06/2020 is reproduced which indicates that all the members of the society were proper. Said conclusion is again reiterated for ready reference as under:-

"निष्कर्ष:- उपरोक्त विवेचना से हम इस निष्कर्ष पर पहुंचते हैं कि नवीन मत्स्योद्योग सहकारी संस्था मर्या. मुडखेडा का गठन विधिवत नियमानुसार किया गया है। मत्स्य विभाग द्वारा भी नवीन मत्स्योद्योग सहाकारी संस्था मर्या. मुडखेडा का पंजीयन इमलिया जलाशय के जल क्षेत्र के निकटतम ग्राम मुडखेडा एवं इमलिया के

निवासी होने एवं वंशानुगत मछुआ होने से समिति के पंजीयन हेतु अनुशंसा की गई है। संस्था के सभी प्रवर्तक सदस्य सही हैं। और उनके द्वारा मत्स्याखेट का कार्य किया जाकर अपनी जीविका चलाई जा रही है और संस्था गठन के उद्देश्यों के अनुरूप कार्य किया जा रहा है। संस्था के प्रवर्तक सदस्यों को संस्था से कोई शिकायत नहीं है। कुछ शरारती तत्वों द्वारा पूर्व में जानबूझकर, निहित स्वार्थों के तहत संस्था को हानि पहुँचाने के उद्देश्य से शिकायत की गई। संस्था के संगठक द्वारा भी प्रमाणित किया गया है कि संस्था का गठन एवं पंजीयन विधिवत नियमानुसार किया गया है संस्था के प्रवर्तक सदस्य संस्था के कार्य से पूर्णतः संतुष्ट हैं।”

12. From perusal of the impugned order dated 27th May, 2024 passed in Writ Petition No.13207/2024, it appears that the learned Writ Court under Article 227 of the Constitution of India dealt in detail with the issue while exercising power of superintendence. Once Tribunal as well as the learned Writ Court taken factual contours of the matter into consideration and thereafter passed reasoned orders then scope of writ appeal constricts.

13. The learned Writ Court passed the impugned order while appreciating the factual details, legal position and the reasons assigned therefore, the impugned order is just and proper and needs no interference in the the writ appeal.

14. *Resultantly*, the writ appeal is hereby ***dismissed***.

Certified copy as per rules.

(ANAND PATHAK)
JUDGE

(HIRDESH)
JUDGE

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