

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 7994 OF 2015  
IN  
WRIT PETITION NO. 2098 OF 2003**

Deelipsingh Pratapsingh Patil

...APPLICANT

versus

Musa Vazirkhan Patel, Since deceased  
Through L.Rs. and others

...RESPONDENTS

.....

Mr. L.V. Sangeet, Advocate for applicant

Mr. B.R. Warma, Advocate for respondent No. 1

Mr. P.S. Dighe, Advocate for respondent No. 2 and 3

Mr. S.K. Tambe, A.G.P. For respondents No. 4 and 5

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**CORAM : SUNIL P. DESHMUKH, J.**

**DATED : 7<sup>th</sup> AUGUST, 2015**

**Order :-**

1. Learned counsel appearing for parties point out that writ petition bearing No. 2098 of 2003 challenges order dated 30-05-2013 passed by Additional District Judge, Jalgaon on Exhibit-6 in civil appeal No. 119 of 2003. Under said order, Additional District Judge has rejected the application seeking stay to order dated 07-05-2003 passed by the Joint Charity Commissioner, Nashik, in miscellaneous application No. 15 of 2002.

2. Under miscellaneous application No. 15 of 2002, respondents No. 1 to 3 sought direction for election of the trust. In said miscellaneous application, by interim order dated 30-07-2002 Joint Charity Commissioner directed the Assistant Charity Commissioner to verify membership list. This direction of Joint Charity commissioner was treated as miscellaneous application No. 508 of 2002. The Assistant Charity Commissioner

purported to decide said proceedings by accepting list filed by the respondents, however, had not passed any order with regard to membership list filed by the applicant - petitioner. Later, Joint Charity Commissioner had been pleased to pass final order on 07-05-2003 directing to hold elections of the trust by 19-06-2003. Against this order, aforesaid civil appeal No. 119 of 2003 had been filed by the petitioner before the District Court, Jalgaon. The district court had refused to grant any interim relief and, as such, said refusal as aforesaid has been subject-matter of present writ petition.

3. In the writ petition, this Court issued rule on 25-06-2003, however, no interim relief had been granted. Under the circumstances, in the meanwhile, pursuant to election as was held, change report/enquiry application bearing No. 586 of 2003 came to be filed by the respondents No. 1 to 3. Upon request of the present applicant - petitioner, said proceedings were stayed under order dated 14-11-2005 in civil application No. 8287 of 2005.

4. Subsequently, change report/enquiry application No. 769 of 2008 had been submitted pointing out fresh election for the term 2008 - 2013. The applicant- petitioner had filed civil application bearing No. 10517 of 2008 in the writ petition and this Court by an order dated 15-07-2011 had directed the District Court, Jalgaon to decide Miscellaneous applications No. 98, 102, 164 of 2002 and 119 of 2003 within six months and until further orders proceedings of said change report/enquiry application No. 769 of 2008 were stayed.

5. The District Court by order dated 24-01-2013 decided pending matters wherein decision in miscellaneous application No. 15 of 2002

referred to hereinabove came to be partly set aside and list of 80 common members came to be accepted and rest of the list, however, was quashed.

6. Against order dated 24-01-2013 of District Court, second appeal bearing No. 225 of 2013 came to be filed in this court along with application for stay. By way of ad-interim order in second appeal this Court protected status of 342 members, however, subsequently on 31-07-2013 second appeal was dismissed and the Assistant Charity Commissioner, Jalgaon was directed to take over charge of '*Waghur Shikhsan Prasarak Mandal*' and further directed meeting be convened of general body of the trust inviting original 80 members and to take decision by majority about enrollment of new members to the trust. It was further directed to hold elections to the Managing Committee of the trust and declare the result.

7. Against judgment and order dated 31-07-2013 in second appeal No. 225 of 2013, the appellants – respondents No. 2 and 3 had preferred Special Leave Petition (civil) No. 27115 of 2013 before the Supreme Court. The Supreme Court under order 06-09-2013 dismissed the same. Accordingly, pursuant to orders passed by this Court in the second appeal, elections of trust were conducted on 07-12-2013, thereafter, Executive Committee of the trust came to be elected in the same and petitioner came to be elected as Chairman and another person was elected as Secretary. Pursuant to the same change report no. 2398 of 2013 had been submitted on 20-12-2013. The Assistant Charity Commissioner had handed over charge of the trust to the petitioner along with all documents and record on 16-12-2013.

8. Learned counsel concur on that with passage of time, terms for which change reports bearing no. 586 of 2003 and 769 of 2008 are concerned have expired. As such, disputes and matters in respect of the same have been reduced only to academic efficacy.

9. Learned counsel for the parties, having regard to aforesaid circumstances, further consider that in view of fresh change report being pending, challenge in the writ petition has been rendered otiose and is redundant and, may not be able to carry its purpose to logical end. Under the circumstances, parties fairly concede to that no fruitful purpose is likely to be served by keeping the writ petition No. 2098 of 2003 pending.

10. In view of aforesaid, the parties concur that change reports bearing No. 586 of 2003 and 769 of 2008 have been rendered infructuous. As such, nothing remains for consideration in the writ petition.

11. Applicant – petitioner, thus, requests this court to allow civil application in terms of prayer clause "A", which reads thus:

*“(A) The writ petition No. 2098/2003 may kindly be disposed of as infructuous with further direction to Assistant Charity Commissioner, Jalgaon Region, Jalgaon to dispose of Enquiry Application No. 586/2003 and Enquiry Application No. 769/2008 as infructuous. ”*

12. In view of aforesaid, civil application No. 7994 of 2015 stands allowed in terms of prayer clause "A" and the writ petition and the civil application stand disposed of.

Sd/-

**( SUNIL P. DESHMUKH, J. )**