

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.4577 OF 2015

- 1) Arjun s/o Laxmanrao Jaher Patil,
Age-64 years, Occu:Agri. & Business,
R/o-Shahunagar Beed,
Tq. & Dist-Beed,
- 2) Premchand s/o Lakhichand Bora,
Age-37 years, Occu:Business,
R/o-"40" Bora Niwas, V.N. Vaidya
Hospital, Shahunagar Beed,
Tq. & Dist-Beed.

...PETITIONERS

VERSUS

- 1) The State of Maharashtra,
Through Secretary,
Law and Judiciary Department,
Mantralaya, Mumbai,
- 2) The Assistant Charity Commissioner,
Beed, Tq. & Dist-Beed,
- 3) Dr. Dilip Prabhakarrao Deshmukh,
Age-Major, Occu:Medical Practice,
R/o-Ankur Hospital, Balbhim Chowk,
Beed, Tq. & Dist-Beed,
- 4) Shri Madhukar s/o Purshottam Godse,
Age-Major, Occu:Advocate and Agri.,
R/o-Balbhim Chowk, Beed,
Tq. & Dist-Beed,

- 5) Shri Jawaharlal s/o Madanlal Sarda,
Age-Major, Occu:Business,
R/o-Kala Hanuman Thana,
Beed, Tq. & Dist-Beed,
- 6) Shri Hiralal s/o Ramlal Sarda,
Age-Major, Occu:Business,
R/o-Kala Hanuman Thana,
Beed, Tq. & Dist-Beed,
- 7) Shri OmPrakash Hiralalji Jaju,
Age-Major, Occu:Business,
R/o-MIDC, Beed,
Tq. & Dist-Beed,
- 8) Dr. Sahebrao s/o Sonajirao Bhople,
Age-68 years, Occu:Doctor,
R/o-Bhople Hospital Shahunagar,
Beed, Tq. & Dist-Beed,
- 9) Champawati Shikshan Prasarak
Mandal Beed (PTR No.F-1),
Beed, Through its Secretary
(Respondent Nos.3 and 5)

...RESPONDENTS

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Mr. N.L. Jadhav Advocate for Petitioners.
Mr. S.G. Sangale, A.G.P. for Respondent
Nos. 1 and 2.
Mr. P.M. Shah, Senior Counsel i/b. Mr. G.K.
Thigale Advocate for Respondent Nos.3 and 4.
Mr. S.A. Dhengle Advocate for Respondent
Nos.5 and 6.

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**CORAM: S.V. GANGAPURWALA AND
A.I.S. CHEEMA, JJ.**

DATE : 27TH APRIL, 2015

ORAL ORDER :

1. Mr. Jadhav, the learned counsel for the Petitioners submits that the purpose of the Petition is that the election should be held in a free and fair manner and on the basis of voters list of valid members. The Petitioners are the members of Respondent No.9 -Champawati Shikshan Prasarak Mandal. The learned counsel submits that the Assistant Charity Commissioner only on the ground that there is some order of stay granted in Second Appeal, has passed the order. According to the learned counsel, even the Assistant Charity Commissioner was of the opinion that it is necessary to appoint the superintendent or any other officer as election officer of Assistant Charity Commissioner Office to hold the election from legal and valid members of the trust. However, only because that Office has heavy work load, the Assistant Charity Commissioner has refrained from appointing any such officer.

According to the learned counsel, it was necessary to appoint independent officer to conduct the elections in free and fair manner. According to the learned counsel, the Assistant Charity Commissioner committed error in rejecting the application.

2. We have also heard learned senior counsel Mr. Shah for Respondent No.3 and Mr. Dhengale, the learned counsel for Respondent Nos.4 and 5.

3. The Assistant Charity Commissioner, while passing impugned order, has observed that the validity of membership can be decided in the respective inquiry matters. As such the point about validity of membership is kept open and the same would be decided in the respective inquiry matters, as observed by the Assistant Charity Commissioner. The Assistant Charity Commissioner has directed the present functioning managing body of the trust to appoint an election officer and to

perform the election process from legal and valid members of the trust within two months from the date of order. If the recourse suggested by the Petitioners is to be adopted, that would take years together and the elections would be stalled. The Petitioners would have every opportunity to assail the validity of the members in the inquiry before the Assistant Charity Commissioner. That is also made clear by the Assistant Charity Commissioner while passing the impugned order.

4. In light of above, Writ Petition is disposed of, however, with no order as to costs.

[A.I.S.CHEEMA, J.]

asb/APR15

[S.V. GANGAPURWALA, J.]