

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4644 OF 2015

DAGADU S/O SOPAN JADHAV

PETITIONER

VERSUS

HIGH SCHOOL, LOHARA,

RESPONDENT

Mr.V.D.Salunke, Advocate for the petitioner.

Mr.V.D.Gunale, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 15/06/2015

PER COURT :

1. Mr.Salunke, learned Advocate for the petitioner, at the very outset, has frankly stated that the proceeding Enquiry No.201/2011 in relation to a change report has already been decided by the Assistant Charity Commissioner, Osmanabad after the institution of this petition. In this backdrop, he points out that the petitioner has challenged the order dated 06/04/2015, which is an interlocutory order in the proceeding Enquiry No.201/2011.

2. Mr.Salunke submits that in his capacity as a reporting trustee, he had placed on record whatever documents that he had, led evidence and thereafter closed his evidence. It is not in dispute that the original record of the trust was in the custody of the outgoing trustees and the same was not therefore placed before the competent authority/Assistant Charity

Commissioner, Osmanabad.

3. He submits that after the outgoing trustees handed over the concerned papers to the petitioner, he moved an application Exh.95 stating therein that these documents have been received after the closing of the oral evidence and, therefore, permission be granted to produce the same. By the impugned order dated 06/04/2015, the concerned Authority concluded that a statement is not made in Exhibit 86 after filing the closing purshis Exh.72 that the said documents have been received after the closing of evidence.

4. Mr.Salunke points out that the documents produced by the reporting trustee/petitioner were filed under application Exh.86 and list Exh.87. Application Exh.95 was filed for seeking permission to lead evidence to prove the said documents. He, therefore, submits that the conclusions drawn by the competent authority in paragraph No.5 is factually incorrect.

5. Nevertheless, he submits that since this petition is pending, an objection may be taken by the respondents in the appeal, which the petitioner proposes to file appeal pursuant to the judgment of the competent authority delivered after the institution of this petition, that no exception can be taken to order dated 06/04/2015, as the writ petition is pending.

6. Mr.Gunale, learned Advocate appearing on behalf of respondent No.2 vehemently submits that this petition has become infructuous and the petitioner may raise a comprehensive challenge in an appeal against the final judgment of the concerned authority and raise whatever points and put forth whatsoever contentions as the petitioner may desire. The respondent shall deal with those contentions before the appropriate authority.

7. Considering the above, the right available to the petitioner of challenging the final judgment of the Assistant Charity Commissioner in Enquiry No.201/2011 cannot be curtailed merely because of the pendency of this petition. Had those proceedings not been finally decided by the competent authority, the challenge posed by the petitioner in this petition could have been entertained. Now that Enquiry No.201/2011 has been finally adjudicated upon, it would be fruitless to consider the challenge of the petitioner. The said challenge in this petition can be put forth as a part of the challenge to the judgment of the Assistant Charity Commissioner in Enquiry No.201/2011 dated 16/05/2015. With these observations, this petition is disposed of.

(RAVINDRA V. GHUGE, J.)