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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4961 OF 2015

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| 1. | Sudhakar Narayan Deore
Age-75 years, Occ – Agriculture | PETITIONERS |
| 2. | Atmaram Dhavlu Deore (Died) | |
| 3. | Manik Onkar Khairnar (Patil)
Age-66 years, Occ – Agriculture | |
| 4. | Daulat Dhavlu Deore (Died) | |
| 5. | Rajendra Atmaram Deore
Age – 51 years, Occ – Service | |
| 6. | Shivaji Namdeo Patil (Died) | |
| 7. | Vijay Kedar Deore
Age – 61 years, Occ – Retired | |
| 8. | Anusayabai Atmaram Deore
Age – 73 years, Occ – Household | |
| 9. | Maltibai Shivaji Thakare
Age – 45 years, Occ – Household | |
| 10. | Prakash Namdeo Patil,
Age – 48 years, Occ – Agriculture
At Post – Degaon, Taluka – Sakri,
District – Dhule | |
| 11. | Naval Dodhu Shewale,
Age – 79 years, Occ – Retired
R/o Deur (Bk), Taluka & District – Jalgaon | |
| 12. | Shailaja Rajendra Deore,
Age – 46 years, Occ – Household | |
| | Petitioner No.1 to 9 and 12
R/o Mahasadi,
Taluka – Sakri, District - Dhule | |

VERSUS

- | | | |
|----|---|-------------|
| 1. | Dr. Vasant Daulat Deore
Age – 50 years, Occ – Doctor,
R/o Mhasadi, Taluka – Sakri
District – Dhule | RESPONDENTS |
| 2. | The State of Maharashtra
Through Secretary,
Home Department,
Mantralaya, Mumbai – 32 | |

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Mr. Siddhartha B. Yawalkar, Advocate for the petitioners
Mr. D. B. Bhange, AGP for respondent State
Mr. M. S. Deshmukh, Advocate for respondent No.1
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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 6th MAY, 2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the parties.
2. Learned advocate for the petitioners submits that the absence at various stages on behalf of the petitioners had occurred as their earlier advocate had not been keeping good health. Due to his health conditions, he was not in a position to attend to the proceedings before the Joint Charity Commissioner at Nashik, where proceedings against them had been lodged by present respondent No.1 making various allegations. He further

submits that the allegations made against them are vague and are about technical irregularities and alleged negligence in discharge of duties. The proceedings have been initiated in 2010. The petitioners have filed their say cum objection denying allegations along with quite a few documents, in July, 2012. Learned Joint Charity Commissioner had framed six charges against them, giving rise to writ petition No. 10030 of 2012 challenging the order of framing of charges. The High Court, under its order dated 21st February, 2013, had directed re-framing of charges. After the order dated 21st February, 2013, learned Joint Charity Commissioner had framed charges at Exhibit-25 and the next date kept in the matter for reply of petitioners was 1st January, 2015. Since, their advocate could not attend to that date and was not in a position to apprise about and could not inform developments in the proceeding to the petitioners, viz., orders about "no reply" and "no cross" have been passed. The petitioners were unaware of such developments in the proceeding. They came to know about progress in the matter around March, 2015. In the circumstances, they had engaged another advocate to look after the matter. Said advocate as well could not keep up the commitment on adjourned date under unavoidable

circumstances. As such, the matter came to be kept for arguments on 9th April, 2015. On 9th April, 2015, the advocate filed his *Vakilpatra* as well as applications to set aside the orders of “no say” and “no cross”.

3. Respondent purported to oppose the applications and the impugned orders came to be passed.

4. Mr. Deshmukh, learned advocate appearing for respondent No.1 submits that the proceedings are of serious nature and the petitioners have been grossly negligent in conducting the same. He submits that the petitioners are interested in prolonging the matter and dillydallying the same and as such, they do not deserve any leniency.

5. After hearing the parties, it appears that though the respondents resist consideration of the writ petition, yet they are quite fair to concede to that they are not in a position to question the veracity of the contentions advanced on behalf of the petitioners about earlier advocate being not keeping good health and shaping up of subsequent developments in the matter.

6. Taking into account aforesaid position and considering that

a contest on merits at the end of proceedings would sub-serve the cause of justice and since the reasons given by the petitioners for procrastination of the proceedings are not seriously in dispute and can be made good by awarding costs to the other side for inconvenience being caused to them.

7. In the circumstances, I deem it appropriate to allow the writ petition. As such, writ petition stands allowed in terms of prayer clause "C", on the condition that the amount of Rs.10,000/- directed to be deposited under order dated 29th April, 2015, be appropriated towards costs, to be paid to respondent No.1. Although said amount of Rs.10,000/- was directed to be deposited within three weeks from the date of receipt of order dated 29th April, 2015, it is being requested on behalf of the petitioners that the same be allowed to be deposited on or before 4th June, 2015. The request is being made as the next date in the matter is 4th June, 2015 since the parties are from Dhule district and the proceedings are taking place at Nashik. In view of the same, time to deposit the amount of Rs.10,000/- stands extended to 4th June, 2015. Said amount of Rs.10,000/- be deposited in the office of Joint Charity Commissioner, Nashik on or before 4th June, 2015 and the same be allowed to be withdrawn by respondent No.1 under orders of

learned Joint Charity Commissioner. The Joint Charity Commissioner, may consider expeditious taking up of matter. Rule is made absolute in aforesaid terms.

8. Accordingly, civil application No. 5048 of 2015 stands disposed of.

[SUNIL P. DESHMUKH, J.]

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