

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

1 CONT. PETITION NO. 323 OF 2015
IN WP/2829/2012

KHANDUJI MAHADJI MALWATKAR AND ANOTHER
VERSUS
JAYPRAKASH RAOSAHEB DANDEGAONKAR AND OTHERS

...

Advocate for Petitioners : Mr. Salunke V.D.
Mr. NB Patil, AGP for Respondent/State.

**CORAM : R.M.BORDE &
P.R.BORA, JJ.**

DATE : 6th August, 2015.

PER COURT :

1) Heard. The petitioners are alleging contempt in the action of the respondents holding the elections for electing managing committee of the Trust and presenting change report with the Assistant Charity Commissioner on 8th April, 2015.

2) Out attention is invited to the order passed by the Division Bench of this Court in Writ Petition Nos.2829/2012 and 2830/2012, where under, the Division Bench of this Court, while issuing notices to the respondents, issued further directions that the election proposed to be held on 31st March, 2012, shall stand stayed until 16th April, 2012.

3) In the aforesaid writ petitions presented to this Court, the challenge was raised to the election for electing the managing committee of the Trust. It transpires from the order that the period of the Governing Body is of three years and fresh elections were required to be held after expiry of each tenure of three years.

4) In order to ascertain nature of the challenge, we have perused the copy of the petition No.2829/2012. An Election Programme for holding elections to the managing committee of the trust for a term between 2012-2015, is annexed to the petition as Exhibit-A, which appears to be the subject matter of challenge in the aforesaid petitions.

5) After the order passed by the Division Bench of this Court, the matter was carried to the Hon'ble Apex Court by the management and the Hon'ble Supreme Court, while granting leave, permitted holding of the election, which was scheduled on 31st March, 2012, however, directed that the result of the elections shall not be declared till the matter is considered further by the Bombay High Court on 16th April, 2012.

6) The Division Bench of this Court, took up both the petitions for consideration on 5th May, 2012

and directed continuance of the interim relief until the disposal of the writ petitions. This Court granted Rule in both the writ petitions.

7) It is the contention of the petitioners that since the writ petitions are pending and interim relief is operating, it was not open for the respondents and the erstwhile office-bearers of the trust, to proceed to hold the elections for electing the managing committee of the trust for the subsequent term. It is not a matter of dispute that the Constitution of the trust provides for a term of three years in respect of the managing committee. At the end of each term of three years, as per the constitution of the trust, fresh elections are required to be held and change report shall have to be tendered. It does appear on perusal of the Change report proceedings presented to the Assistant Charity Commissioner that the elections have been held for electing the managing committee for the subsequent term between 2015-2018. On perusal of the orders passed either by the Division bench of this Court or the Hon'ble Supreme Court, we do not find that there is any prohibition for the respondent/trust to hold the elections for the subsequent tenure/term. It is

also not a matter of dispute that the earlier tenure 2012-2015, in respect of which, the dispute has been raised before the Division Bench in the pending writ petitions, has come to an end.

8) In the facts and circumstances of this case, we are of the considered opinion that no case is made out for taking action in the contempt proceedings against the respondents. The Contempt Petition is devoid of substances and stands rejected.

(P.R.BORA)
JUDGE

(R.M.BORDE)
JUDGE

bdv/