

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

**WRIT PETITION NO. 6070 OF 2014**

Shri. Shivaji Dnyanoba Jadhav,  
Age: 42 years, Occ: Service,  
R/o. Panchincholi, Tq. Nilanga,  
Dist. Latur & ors

...Petitioners

versus

The Deputy Charity Commissioner,  
Latur Region, Latur,  
Dist. Latur & ors

...Respondents

.....  
Mrs. Anjali Dube (Bajpai), Advocate for petitioners  
Mr. K.M. Munde, A.G.P. for respondent No.1  
Mr. A.N. Irpatgire, Advocate for respondent No. 3  
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**CORAM : N.W. SAMBRE, J.**

**DATE : 23rd NOVEMBER, 2015**

**ORAL ORDER :**

Exhibit-150 - an application filed under Section 73A of the Maharashtra Public Trust Act ( for Short 'the Act') is rejected by the impugned order dated 20/012014 by the Deputy Charity Commissioner, Latur Division, Latur in Change Report Inquiry Proceedings No. 451 of 2011 initiated under Section 22 of the said Act.

2. Learned Counsel for the petitioners, while assailing the order, would urge that prayer of the petitioners for impleadment as

party being interested persons pursuant to Section 73A of the Act, ought to have been granted, as issue of membership of the petitioners is also required to be decided during the inquiry. So as to substantiate her contention, she has relied upon the language of Section 73A of the Act, so also contents of the order impugned, so as to draw support to the issue of membership to be decided by the authority. According to her, in case, the claim of the petitioners for impleadment is not granted, their right of membership will be decided in their absence.

3. While opposing the petition and supporting the order impugned, learned Counsel for the respondent No. 3 would urge that the order passed is in tune with the requirements of Section 73A of the said Act. According to him, even if the issue of membership is gone into, the petitioners herein need not to appear individually but can tender their evidence for their membership, which can be gone into by the authority while deciding the said issue. Apart from above, he would urge that the petitioners must come out with case before the authority while relying upon the provisions of Section 73A of the Act that they are in possession of valid evidence, which will be necessary for the authority to be taken into account while dealing with the inquiry proceedings. According to him, in the application but for the pleadings in relation to the membership, nothing is brought on

record so as to substantiate the claim as regards possession of evidence, which is germane to the cause for deciding change report under Section 22.

4. Having bestowed consideration to the submissions made, it is required to be noted that Section 73A of the Act empowers the Inquiry Officer to join persons as party to the proceedings upon application made by such persons, for which authority may set up certain terms. It is required to be noted that so far as petitioners are concerned but for their claim for valid membership, it is not their case that they are in possession of other evidence apart from their membership which would help the said authority in determining the question, which is raised in the inquiry proceedings under Section 22 of the Act. So far as their claim about membership is concerned, it is always open for the petitioners to tender evidence so as to avoid any further complexity in the matter as regards determining the issue about their membership. However, it is not necessary, in my opinion, that all of them 89 in numbers to be impleaded as party to the proceedings. As by doing so, in my opinion, the enquiry proceedings will be delayed. The issue of validity of membership of the petitioner could be at the most ancillary to the main issue in case if same is taken for consideration by the authority dealing with enquiry.

5. The detailed order passed by learned Deputy Charity Commissioner, Latur Division, Latur, which is impugned in the present petition, in my opinion, taken into account all the facets of the matter. No case for interference is made out in extraordinary writ jurisdiction. The writ petition fails, same stands dismissed. However, it is clarified that it is open for the petitioners to tender their evidence during inquiry proceedings, in case the authority proceeded to decide issue as regards their membership.

**[ N.W. SAMBRE, J. ]**