

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2290 OF 2015**

**Capt. Suresh Vanjari & Anr
Vs.
Ramchandra Vadke & Ors.**

..Petitioners

..Respondents

**Mr.Rajiv Patil Senior Advocate a/w Ms Sangeeta Salvi for the Petitioners
Mr. Ravi Kadam Senior Advocate a/w Mr. S. R. Nargolkar i/b Mr. S. S. Mohite for the Respondent Nos.1 & 2
Mr. S. D. Rayrikar AGP for the Respondent Nos.8, 9 & 10**

**CORAM : R. M. SAVANT, J.
DATE : 6th July, 2015**

P.C.

1 The Writ Jurisdiction of this court is invoked against the order dated 23-1-2014 passed by the Learned Charity Commissioner, Maharashtra Mumbai, by which order, the Application No.19 of 2012 filed by the Petitioner under Section 41-E read with Section 41-A of the Bombay Public Trusts Act, came to be dismissed and directions as contained in clauses (a) to © of the operative part of the said order, came to be issued.

2 The sum and substance of the directions is the Deputy Charity Commissioner was directed to hold the elections to the Governing Council of Raigad Military School, P.T.R. No.F/13845/Mumbai. The said direction was issued in the context of the fact that the elections to the Governing Council were not held since the year 2008. It is common ground that the directions

have been complied with and that the elections to the Governing Council have been completed in the year 2014 itself and that a new Governing Council is in place.

3 The Learned Senior Counsel appearing on behalf of the Petitioner sought to raise a contention as to whether such a direction could have been issued whilst considering the application under Section 41-E read with Section 41-A. In my view, having regard to the scheme of the Act wherein the Charity Commissioner is the authority vested with the powers to administer the trusts. The directions issued cannot be said to be in violation of any provision of the said Act especially having regard to the fact that the elections were not held to the Governing Council since the year 2008.

4 It is required to be noted that the Petitioner herein has already filed Change Report proceedings questioning the elections that were held. However, in so far as the impugned order is concerned, there is an observation made by the Charity Commissioner that the term of the Governing Council is 5 years. The Learned Senior Counsel appearing for the Petitioner states that in terms of the scheme the term of the Governing Council is 3 years which is seriously disputed by the Learned Senior Counsel for Respondent Nos.1 and 2.

5 In my view it is not necessary to go into the said aspect as the

same will entail conducting an inquiry into facts. Though the Charity Commissioner has observed that the term of the Governing Council is of 5 years, in my view, the Petitioner notwithstanding the said observation, can raise the said issue before the Charity Commissioner in the said Change Report proceedings and it is therefore not necessary for this Court to go into the said aspect in the instant Writ Petition.

6 Needless to state that the Change Report proceedings filed by the Petitioner would be tried on their own merits and in accordance with law including the issue as regards the term of the Governing Council. The Learned Senior Counsel for the Respondent Nos.1 and 2 has no objection to the said course of action being followed.

7 With the aforesaid directions the Writ Petition is disposed of.

[R.M.SAVANT, J]