

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3440 OF 2014
WITH
WRIT PETITION NO. 3441 OF 2014
WITH
WRIT PETITION NO. 3442 OF 2014
WITH
WRIT PETITION NO. 3443 OF 2014
WITH
WRIT PETITION NO. 3444 OF 2014
New Maharashtra Education Society .. Petitioner
vs.
The Assistant Charity
Commissioner Sangli & anr. .. Respondents

Mr. Atul A. Kore for the Petitioner.
Ms M.S. Bane, B-Panel counsel for Respondent No.1.
Mr. Umesh Mankapure for Respondent No.2

CORAM : M. S. SONAK, J.
DATE : 23 NOVEMBER 2015.

P.C. :-

1] The learned counsel for the parties agree that these petitions can be disposed of by common order.

2] The challenge in these petitions is to the orders dated 17 August 2013, by which Respondent No.2 has been permitted to intervene in the change report proceedings.

3] Mr. Kore, learned counsel for the Petitioner in each of these petitions, has submitted that the Petitioners were not afforded

sufficient opportunity either to file their reply or to argue the matter on the aspect of the proposed intervention. That apart, Mr. Kore has submitted that Respondent No.2 can never be regarded as a person having interest within the meaning assigned to this expression under Section 2(10) of the Maharashtra Public Trust Act, 1950 (said Act). Mr. Kore submits that Respondent No.2 is neither the Member of the Society nor a Trustee of the Trust. The impugned order has not recorded any finding as to the *bonafide* of Respondent No.2. Therefore, in view of law laid down by this Court in case of ***People's Education Society and ors. Vs. Mansingh S. Moray - 2015 (9) LJ Soft 22***, the impugned order ought not to have been made. For all these reasons, Mr. Kore submits that the impugned order is liable to be interfered with and set aside.

4] Having heard the learned counsel for the parties, there is no case made out to interfere with the impugned orders in the exercise of supervisory jurisdiction under Article 227 of the Constitution of India. In the first place, the application seeking intervention was made on 11 June 2013 and opportunity was granted to the Petitioner to submit their reply thereon. However, no reply came to be submitted. There is no valid explanation as to what prevented the

Petitioners from submitting their reply. Even at the stage of arguments, the Petitioners chose not to remain present. Therefore, there is no substance in the contention that no sufficient opportunity was provided to the Petitioners.

5] The definition of the expression '*person having interest*', has contained in Section 2 (10) of the said Act is inclusive and not exhaustive. Therefore, it is not correct to contend that such person has to either be a Member of the Society or a Trustee of the Trust in order to seek intervention under Section 73A of the said Act. No doubt, such person is required to establish his *bonafide* interest in the Trust. In the present case, the impugned orders record that Respondent No.2 has submitted a scheme with regard to the Management of the Trust. Further, Respondent No.2 has also filed his so say in response to the scheme submitted by the Petitioners for the Management of the Trust. Mr. Mankapure, learned counsel for Respondent No.2, points out that this is a case where for last number of years, no change reports were at all filed. Upon cumulative consideration of all these circumstances, it cannot be said that the *bonafides* of Respondent No.2, are, at least *prima-facie*, suspect. The impugned orders have considered all such aspects and only permitted intervention.

6] After the impugned orders were made on 17 August 2013, Respondent No.2 has already filed his affidavit in the matter and this is followed by affidavit by and on behalf of the Petitioners. This exercise has taken place some time in the year 2014 itself. At this point of time, there is no case made out to interfere with the impugned orders. There are no jurisdictional errors in making of the impugned orders. Accordingly, these petitions are dismissed. There shall, however, be no order as to costs.

7] It is, however, clarified that the observation in the impugned orders as also the present order are only *prima-facie* and the Assistant Charity Commissioner is directed to dispose of the change reports on the basis of materials produced by the parties, in accordance with law and on their own merits. Accordingly, all contentions of all parties are specifically kept open.

8] All concerned to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)