

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 244/2013.

Kalyan Lahuji Dongre

VERSUS

Mahadeo Ramchandra Kamble and others.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

CORAM : B. P. DHARMADHIKARI
AND A.P. BHANGALE, JJ.

DATE : MARCH 09, 2015.

Heard Shri M.V. Samarth, learned counsel
for the petitioner, Shri A.M. Gordey, learned Senior
Counsel with Shri A.P. Thakare, learned Counsel for
respondent no.1, Shri T.R. Kankale, learned A.G.P. for
respondent no.3 and Shri R.L. Khapre, learned Counsel
for respondent nos. 2 to 4, 6 to 8.

Orders passed on 16.11.2012 on
Application No.535/2012 under Section 41-A of the

Bombay Public Trust Act, are questioned before this Court. This Court has issued notice in the matter on 17.01.2013, however, there is no interim orders passed by this Court.

In the meanwhile, there are some developments. The change report submitted by persons who moved application under Section 41A, has been accepted and that acceptance has been questioned by the present petitioner before the Joint Charity Commissioner. Joint Charity Commissioner has dismissed that appeal and thereafter, further appeal under Section 72[4] of the Bombay Public Trust Act has been filed before the District Court at Bhandara. The District Court has stayed the order accepting the change report. This order is passed on 22.01.2015.

Though respective parties have their rival contentions to advance, we find that period of more than two years has elapsed, after passing of order under Section 41A. That order has therefore operated over all this period. Later developments may also have

some bearing in so far as prayers made by the applicant under Section 41A, are concerned. Applicant in said application is respondent no.1 in the present writ petition.

In this situation, we find that the present position needs to be given a fresh look in the light of later developments. Hence, only for said purpose and to enable the respondent no.9 to reconsider the said order, we restore the application moved by the respondent no.1 under Section 41A of the Bombay Public Trust Act, back to the file of respondent no.9. Respondent no.9 shall hear the parties afresh and take suitable decision upon it within a period of next three months. Parties are directed to appear before the said respondent on 07.04.2015 and to abide by its further instructions in the matter.

Needless to mention that all rival contentions including grounds urged before us for challenging order dated 16.11.2012, are kept open and can be looked into as and when occasion therefor arise. It is also made clear that the Authority shall apply its

mind uninfluenced by its earlier order dated
16.11.2012.

With above observations and directions,
Writ Petition is disposed of. No costs.

JUDGE

JUDGE

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