

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3907 OF 2015
WITH CA/8927/2015 IN WP/3907/2015

MHASOBA MANDIR, SILLOD, AURANGABAD AND OTHERS
VERSUS
ASSISTANT CHARITY COMMISSIONER, AURANGABAD AND OTHERS

...

Advocate for Petitioners : Mr. Sushant V. Dixit
AGP for Respondents: Miss S.S. Raut.
Advocate for respondent No.3 : Mr. S.D. Hiwrekar.
Advocate for intervenors : Mr. Shripad Kulkarni.

CORAM : S.V. GANGAPURWALA
& K.K. SONAWANE, JJ.
DATE : 5TH JULY , 2016.

PER COURT:

1] Mr. Dixit, learned counsel submits that the learned Assistant Charity Commissioner has, by invoking jurisdiction under Section 41-A of the Maharashtra Public Trusts Act, passed an order appointing the ad-hoc committee, which is without jurisdiction. The learned counsel relies on the judgment of the learned Single Judge of this Court, in the matter of *Peoples Education Society Vs. Manohar, reported in 2009(2) Mh. L.J. 745*. Learned counsel further submits that the said order is passed without hearing the petitioners and without notice to the petitioners.

2] Learned AGP and Mr. Hivrekar, learned counsel for respondents submit that they are the members of the Ad-hoc Committed appointed and they have not made application on their own.

3] Civil application No. 8927 of 2015 is filed for intervention. According to Mr. Kulkarni, learned counsel for the intervenor, the petitioners herein are not members of the managing committee. In a scheme proposed by the Inspector appointed by the Assistant Charity Commissioner names of these petitioners are proposed. However, they are not appointed. The said scheme presented in the year 2007 is pending adjudication. Present intervenor has also filed a scheme which is also pending. The petitioners do not have any locus-standi to file the petition.

4] We have considered the submissions of the learned counsel for the respective parties.

5] Parties are *ad-idem* that while passing the impugned order appointing the ad-hoc/temporary committee no notice was given to any of the parties. This court, vide order dated 8th April, 2015, had stayed the said order on this count itself and had imposed certain conditions upon the petitioners.

6] Considering the fact that the impugned order is passed without adhering to the cardinal and fundamental principles of natural justice, the impugned order is quashed and set aside. As we have set aside the order only on the ground that same is without notice to any of the parties, we have not considered the other submissions about the jurisdiction of the learned Assistant Charity Commissioner to pass the said order. Parties are free to agitate the same before the authority.

7] Though we have set aside the impugned order passed by the Assistant Charity Commissioner, the conditions imposed and the arrangement made in para.5 and 6 of the order dated 8th April, 2015 in this petition shall continue till the ACC decides the said application afresh. It is made clear that there is no impediment for any other authority to decide other proceedings that may be pending in respect of the petitioner Trust, on its own merits.

8] Writ petition is accordingly disposed of. No costs. We have not given any dictum with regard to the status of any person as a trustee etc. In view of the disposal of the writ petition, civil application also stands disposed of.

[K.K. SONAWANE]
JUDGE

[S.V. GANGAPURWALA]
JUDGE.

grt/-