

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

904 WRIT PETITION NO. 3921 OF 2013
WITH CA/12331/2013 IN WP/3921/2013

SHAIKH BASHIR AHMED SHAIKH AHMED AND ANOTHER
VERSUS
SHAMS EDUCATION SOCIETY, OSMANABAD AND OTHERS

...
Advocate for Petitioners : Pradeep Deshmukh h/f. Joshi H.A.
Advocate for Respondent 2 : V.D. Salunke
...

CORAM : T.V. NALAWADE, J.
DATED : 23rd August, 2016.

ORDER :

1. The petition is filed to challenge the order made by the learned Assistant Charity Commissioner on 21.3.2013 on an application filed by the petitioners for allowing them to intervene in the matter of change report. Assistant Charity Commissioner has rejected the application by holding that they are not the members of respondent No. 1 Institution. Heard both the sides.

2. It appears that the change report was filed by respondent No. 2 in respect of the election which was held in the year 2012. It is the case of petitioners that they are the founder members of the institution and they want to oppose the change report filed by respondent No. 2 as there were many illegalities and irregularities committed and the election was not actually

held. Petitioner No. 1 was President for some time and petitioner No. 2 was Joint Secretary and so, they are contending that they are persons interested in participating in the matter of change report.

3. The submissions made show that two groups filed two change reports and both the change reports are before the Assistant Charity Commissioner for consideration. Thus, there are two groups to challenge the change reports and there is no dispute over their locus-standi. On the other hand, record is produced before Assistant Charity Commissioner in respect of the present petitioners to show that in the year 2011, their membership was terminated. It is the case of petitioners that procedure laid down by the by-law was not followed and so, it cannot be inferred that their membership is terminated. The Assistant Charity Commissioner has observed that the petitioners ought to have challenged the said order made against the petitioners, but as the said order is not challenged, they cannot be allowed to intervene. Even if these observations are ignored, there is already objection to change report filed by respondent No. 2, by one group and the change report of other group is pending in respect of the same period. In view of these circumstances, the petitioners can produce the material as

witness of the other group before Charity Commissioner and that way their purpose can be served. They can file proceeding for challenging the so called order of termination of membership made by the present respondents. In view of these circumstances, it is not necessary to use the extraordinary jurisdiction of this Court in the present matter. In the result, the petition stands dismissed. Civil Application is disposed of.

[T.V. NALAWADE, J.]

SSC/