

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO. 8432 OF 2016

Shri Savata Mali Shikshan Prasarak
Mandal, Jalgaon, through its President
Shri Vijay s/o Pandharinath Mahajan,
Age 49 years, occup. Agriculturist,
R/o Maliwada, Erandol, Tq. Erandol,
Dist. Jalgaon

.. Petitioner

versus

Dnyaneshwar s/o Bhadu Mahajan,
Age 48 years, occup. Agriculturist,
R/o Maliwada, Dharangaon,
Tq. Dharangaon, Dist. Jalgaon

.. Respondent

Mr. Vijay B. Patil, Advocate for petitioner
Mr. S. H. Tripathi, Advocate for respondent

CORAM : SUNIL P. DESHMUKH, J.
DATE : 8th August, 2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard learned counsel for parties by consent, finally.
2. Petition has been moved, purportedly aggrieved by order dated 21-07-2016 passed by Deputy Charity Commissioner, Jalgaon, directing closing of petitioner-applicant's evidence in change report bearing No. 811 of 2009.
3. While the matter was called out for cross examination of petitioner's witnesses before the authority, no appearance had been

caused on his behalf. The matter was also called out subsequently on that date. The hearing of the concerned change report stands expedited under various orders passed by division benches of this court and last of such extensions had been granted on 30-06-2016. Looking at this, the authority had passed an order of closing evidence of the petitioner.

4. Learned counsel for petitioner points out further order dated 26-07-2016 annexed as Exhibit-L at writ petition paper-book page 41. It appears, very intriguingly, on 26-7-2016 an application was moved by witness himself before the authority, however, none represented him on behalf of the petitioner on that date. Application accordingly stood rejected under said order.

5. It is now being urged that the applicant-petitioner and his witness are ready for cross examination and that they be allowed to give evidence and for the purpose, closing evidence order be set aside, but learned counsel for respondent is at pains to accede to the request. He submits that looking at the approach of the petitioner, it is apparent that the matter is being unnecessarily procrastinated by him playing dilly-dally tactics.

6. In view of above, however, I deem it expedient that in stead of getting entangled into the technicalities, the situation can be salvaged by letting one more opportunity to the petitioner, subject of course, to certain conditions.

7. Taking into account aforesaid, order dated 21-07-2016 as well as order dated 26-07-2016 passed by Deputy Charity Commissioner, Jalgaon, directing closing of petitioner-applicant's evidence stand set aside. Petitioner to proceed with giving evidence in right earnest and complete the same within a period of fifteen days from the date of receipt of this order.

8. Aforesaid concession is being given upon costs which are quantified at ₹ 5000/- being imposed upon petitioner for inconvenience caused to other side. Costs shall be deposited before the authority within a period of two weeks from today. In case of failure to deposit the costs, impugned orders would stand revived.

9. Writ petition stands disposed of. Rule made absolute in aforesaid terms.

SUNIL P. DESHMUKH,
JUDGE

pnd