

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION St. NO. 12942 OF 2015**

Vidyarthi Vikas Mitra Mandal & Ors.

..Petitioners

Vs.

Shantara, Dhondiba Chorghe & Ors.

..Respondents

Mr. S. V. Pitre for the Petitioners

Mr. R. S. Kadam for the Respondent Nos.1 to 7

Mrs. M. S. Bane "B" Panel Counsel for the Respondent Nos.8 & 9

CORAM : R. M. SAVANT, J.

DATE : 16th MARCH, 2016

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 13-3-2015 passed by the Assistant Charity Commissioner, Pune Region Pune, by which order, the application Exhibit 232 filed by the Petitioners came to be rejected and it was ordered that the persons whose names are at Sr. Nos.1 to 10 and 18 on page 4 of the order dated 13-10-2014 passed below Exhibit 174 are not entitled to consider that they are the life members of the trust.

2 The Petitioners are the persons who are at Sr. Nos.1 to 10 and 18 at page 4 of the order dated 13-10-2014. The genesis of the instant order lies in the order dated 11-1-2010 passed by the Deputy Charity Commissioner in Scheme Application No.35 of 2006 where the scheme for the trust in question

came to be settled as per Annex-A thereto. It is after the said order dated 11-1-2010 came to be passed in the said Scheme Application that the Respondent Nos.1 to 7 filed Misc Application No.16 of 2010 which was for appointment of the first Board of Trustees of the trust. In the said application an order dated 13-10-2014 came to be passed by the Assistant Charity Commissioner (I) Pune, by which order the said application was partly allowed to the extent mentioned in the said order. The said order came to be challenged by the Petitioner No.1 herein by way of Writ Petition No.10073 of 2014. The principal grievance of the Petitioners in the said Petition was that the persons mentioned at Sr. No.1 to 10 and 18 at page No.4 of the impugned order were entitled to be considered for appointment on the Board of Trustees of the trust as life members of the trust.

3 In so far as the said aspect is concerned, the Learned Single Judge of this Court was of the opinion that the claim of the said persons can be conveniently adjudicated by the Assistant Charity Commissioner and if they succeed then the Assistant Charity Commissioner shall take into consideration their willingness to be appointed on the Board of Trustees from the life members category. The Learned Judge therefore issued a direction to the Assistant Charity Commissioner to first consider the claim of the said persons who are listed at Item Nos.1 to 10 and 18 at page No.4 and further direction came to be issued that if the Assistant Charity Commissioner comes to the

conclusion that they are in fact life members, they would be considered along with the Respondent Nos.1 to 7 for filling up the post of the Board of Trustees in the trust in question.

4 Pursuant to the said directions which were issued by a Learned Single Judge of this Court vide the said order dated 12-11-2014 passed in Writ Petition No.10073 of 2014 that the Assistant Charity Commissioner has adjudicated upon the claims of the said persons and has rejected their claim and has further issued a declaration that they are not entitled to be considered in the category of the life members of the trust. As indicated above, it is the said order dated 13-3-2015 which is taken exception to by way of above Petition.

5 It is required to be noted that the said order dated 13-3-2015 though passed pursuant to the directions issued in the said Writ Petition No.10073 of 2014 is in fact an order passed pursuant to the scheme being framed and the Misc Application No.16 of 2010 filed by the Respondent Nos.1 to 7. The Scheme Application being one under Section 50A of the Maharashtra Public Trust Act, the instant impugned order can therefore be referable as being an offshoot of the proceeding which has arisen on account of the scheme being framed. Since the claim of the said persons would entail an inquiry into facts, in my view, it is not necessary to entertain the above Petition and the

Petitioners are relegating to a remedy which is available under the said Act.

6 Upon this the Learned Counsel for the Petitioners states that since the order is referable to the proceeding under Section 50A of the said Act, the Petitioners would file proceeding invoking Section 70A of the said Act before the Charity Commissioner challenging the impugned order dated 13-3-2015. The Learned Counsel for the Petitioners states that such proceedings would be filed within two weeks from date. If any such proceedings are filed, needless to state that they would be considered on their own merits and in accordance with law. If such proceedings are not filed within the time stated by the Learned Counsel for the Petitioners, then the Petitioners would not be entitled to file the same and resultantly the above Petition would then be deemed to have been dismissed.

7 Needless to state that all the contentions of the parties are kept open for being urged before the authority before whom the proceedings would be filed.

8 With the aforesaid observations the Writ Petition is disposed of .

[R.M.SAVANT, J]