

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO. 98 OF 2016
IN
WRIT PETITION NO. 7026 OF 2016

Kashid A. Subhash .. Applicant

In the matter between

Ankush M. Mukhekar and anr. .. Petitioners.

vs.

Balasaheb N. Jadhav and ors. .. Respondents.

Mr. Sanjeev P. Kadam for the Review Petitioner-Applicant

Mr. A. V. Anturkar, Senior Advocate, Mr. A.A. Anturkar i/b Mr. Tanaji Mhatugade for the original petitioners.

Mr. Lalasaheb Bandal h/f Balasaheb Deshmukh for Respondent Nos.1,2, 4,5,6,7,11 to 16, 18 to 23.

Mr. Dilip Bodake for Respondent Nos.24.2,24.3,24.6,24.7, 24.9 and 24.11.

Ms Vaishali Nimbalkar, AGP for Respondent No.26-State.

CORAM : M. S. SONAK, J.

DATE : 4 AUGUST 2016.

P.C. :-

1] The review petitioner seeks review of the order dated 16 June 2016 made in Writ Petition (St.) No. 8742 of 2016.

2] Mr. Sanjeev P. Kadam, learned counsel for the review petitioner, has submitted that the review is not applied for in respect of the entire order, but review is applied for in relation to the statement recorded in paragraph 26(d) of the order, which

statement has been accepted by this Court in its order dated 16 June 2016. Mr. Kadam has submitted that on basis of such statement, the review petitioner, who was otherwise entitled to be enrolled as a member of the Trust, was not enrolled as such. Mr. Kadam submits that the review petitioner was not a party to the writ petition. However, on basis of interpretation/misinterpretation of the order dated 16 June 2016, the review petitioner has been deprived membership and right to vote at elections, which have since concluded on 26 July 2016. Mr. Kadam submits that in these circumstances, there is clear violation of principles of natural justice and a case is made out for review.

3] Having heard Mr. Kadam, learned counsel for the review petitioner, Mr. A.V. Anturkar, learned senior counsel for the original petitioners and Mr. Dilip Bodake, learned counsel for some of the respondents, in the original petition as well as in the review petition, I am satisfied that this is not a fit case for exercise of review jurisdiction.

4] The review petitioner claims membership on the basis that he is a permanent employee of one of the institutions established by the

Trust. The review petitioner claims to have acquired status of permanency some time in the year 2014. Except for bare averments, there is no material produced by the review petitioner to indicate the steps taken by him for his enrollment as a member. There is serious dispute raised by some of the respondents with regard to the entitlement of the review petitioner to the membership.

5] In any case, Mr. Kadam has contended that the membership was declined by the Election Officer on the basis of misinterpretation of the direction in the order dated 16 June 2016. Assuming this is so, the same is clearly not a ground for review of the order. Mr. Bodake, learned counsel for some of the respondents, contends that the order dated 16 June 2016 or the statement recorded therein, had not been misinterpreted. This is no occasion to re-interpret the order dated 16 June 2016, which is, quite clear. If parties have any grievance with regard to enrollment or non-enrollment of membership, it is always open to them to raise such issues before the appropriate forum. However, that by itself cannot be construed as any valid ground for review. There is nothing in the order dated 16 June 2016, which precludes any parties or any persons from taking out appropriate proceedings, in the matter of their grievances.

6] Mr. Bodake, learned counsel for some of the respondents, has submitted that the relief which the review petitioner seeks was in fact the relief applied for by the original petitioners by taking out Civil Application No. 1545 of 2016. However, such relief was expressly withdrawn by the original petitioners. Mr. Bodake submits that soon thereafter, the present review petition has been filed and this according to Mr. Bodake suggest that the original petitioners are seeking to achieve indirectly, what they could not achieve directly. Mr. Bodake has submitted that this review petition has not been instituted *bonafide* and the complaint that the review petitioner was not a party, is neither genuine nor *bonafide*. Mr. Bodake has submitted that the interests of review petitioner were being represented by the original petitioners, which is evident from the relief applied for, in Civil Application No. 1545 of 2016. At this stage, it is not necessary to go into this issue, because even otherwise, the review petitioner has not made out any case for exercise of review jurisdiction.

7] For all the aforesaid reasons, this review petition is dismissed. There shall however, be no order as to costs.

(M. S. SONAK, J.)