

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.6217 OF 2016

[Vinod s/o Narayan Warhekar and one .vs. Assistant Charity Commissioner and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mrs. R.S. Sirpurkar, counsel for the petitioners,
Mrs. G.R. Tiwari, A.G.P. for respondent no.1,
Shri C.A. Joshi, counsel for respondent nos.2, 3, 5, 6 to 8 & 10 to 12.

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CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATED : NOVEMBER 25, 2016.

By this writ petition, the petitioners challenge the order of the Assistant Charity Commissioner refusing to grant an ex-parte injunction. The petitioners have sought a declaration that the communication, dated 27.9.2016 issued by the respondent no.2 cancelling the membership of the petitioners, is illegal. The petitioners have sought a direction against the respondent nos.2 to 12 to permit the petitioner nos.1 and 2 to participate in the Annual General Meeting, dated 23.10.2016.

The petitioners have abused the process of this Court by filing this writ petition. An application was made by the petitioners before the Assistant Charity Commissioner challenging the action on the part of the respondents of cancellation of their membership. An application for grant of injunction was filed. When the Assistant Charity Commissioner issued notice to the concerned respondents and the petitioners sought an ex-parte injunction for staying the order of the respondent no.2, dated 27.9.2016, the Assistant Charity Commissioner, by the impugned order, dated 18.10.2016, refused to grant ex-parte interim injunction. The petitioners ought to have served the respondents and ought to have asked

the Assistant Charity Commissioner to decide the injunction application. The petitioners ought not have rushed to this Court challenging the order refusing to grant an ex-parte temporary injunction in favour of the petitioners. The matter could have been decided expeditiously, if the petitioners had done the needful and served the respondents. We do not find any illegality in the action on the part of the Assistant Charity Commissioner in rejecting the application for ex-parte temporary injunction at that stage, as the Assistant Charity Commissioner wanted to find out the true position, after hearing the respondents.

All the other prayers made in this writ petition are misconceived. The petitioners can seek the relief claimed by the other prayers by filing appropriate proceedings. Moreover, a few prayers made in the writ petition have been rendered infructuous, as the petitioners have sought a direction and to permit the petitioners to participate in the meeting, dated 23.10.2016. Such prayers need not be considered in exercise of the writ jurisdiction, as there is an alternate remedy for making this prayer before the authorities under the Bombay Public Trusts Act. In the circumstances of the case, we dismiss the writ petition with no order as to costs.

With the disposal of the writ petition, Civil Application No.2392/2016 stands disposed of.

JUDGE

JUDGE