

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 2263 OF 2017

01 Dattatraya s/o Vitthal Ambhore,
age: 63 years, Occ: Agri.,

02 Shripad s/o Dattatraya Ambhore,
age: 30 years, Occ: Education &
Agri.,

03 Sau.Parvati w/o Dattatraya Ambhore,
age: 55 years, Occ: Agri.,

All R/o Dnyaneshwar Nagar,
Parbhani, Tq. & District Parbhani.

Petitioners

Versus

01 Bhagwan s/o Kashinathrao Kakade,
age: 59 years, Occ: Teacher,
R/o C/o Vithal Shikshan Prasarak
Mandal, Parbhani,
Tq. & District Parbhani.

02 Sau.Shakuntala w/o Babarao Shinde,
age: 83 years, Occ: Nil,
R/o Mali Galli, Parbhani,
Near Stqadium.

03 Sambhaji Gunaji Pawar,
age: 70 years, Occ: Agri.,
R/o Bhagya Nagar, Parbhani,
Karegaon Road,
Tq. & District Parbhani.

04 Balasaheb s/o Bhaurao Babar,
age: 62 years, Occ: Agri.,
R/o Bhagya Nagar, Parbhani,
Karegaon Road, Tq. & District
Parbhani.

05 The Assistant Charity
Commissioner, Parbhani,

Tq. & District Parbhani.

06 The Joint Charity Commissioner,
Aurangabad Region,
Aurangabad.

Respondents

Mr. S.K. Chavan, advocate for the petitioners

Mrs. R.D. Mane, advocate for Respondents no. 1 to 4.

CORAM : S.B.SHUKRE, J.

DATE : 22nd February, 2017

ORAL JUDGMENT :

1 Heard learned Counsel for petitioners and learned Counsel for Respondents No.1 to 4 – contesting respondents, who appear by waiving notice. Respondents No.5 and 6, being the *quasi* judicial authorities, are formal parties and, therefore, notice to them is dispensed with.

2 Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

3 It is not in dispute that the Change Report under challenge was in respect of the trustees whose term was for the years 2007-2010 and their term has expired long back. It is also not in dispute that after expiry of the term of those trustees for the year 2010, there were at least two bodies of trustees, which took over rightly or wrongly for the term 2010-2013 and 2013-2016. It is quite obvious that much water has flown after the order passed on 18.04.2009 by the learned Assistant Charity Commissioner accepting the change report in respect of remaining term of petitioner no.2 who was taken as trustee for the remaining period

in place of deceased trustee.

4 In these circumstances, the learned District Judge ought not to have allowed the inquiry to be conducted by learned Assistant Charity Commissioner up to the stage of argument, pending final disposal of Misc. Civil Appeal No.291 of 2016 and, therefore, the impugned order, being arbitrary, needs to be quashed and set aside by issuing appropriate directions. Of course, it is the submission of learned Counsel for Respondents No.1 to 4 that no elections have been held, but that is an altogether different issue to be agitated by respondents by instituting appropriate proceedings

5 The impugned order dated 23.11.2016 is quashed and set aside to the extent of inquiry to be conducted up to the stage of arguments; and is substituted by a direction that entire inquiry in the change report of 2009 shall stand stayed till final disposal of Misc. Civil Appeal No.291 of 2016, in accordance with law.

6 Writ petition is partly allowed to the above extent. Rule is made absolute in above terms. No costs.

S.B.SHUKRE
JUDGE

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