

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12354 OF 2017
(Mohamad s/o Chandsab Ladaf and another Vs. The Assistant
Charity Commissioner and another)

Mr.V.D.Gunale, Advocate for the petitioners.
Mr.N.T.Bhagat, AGP for respondents/State.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 13/10/2017

PER COURT :

1. The petitioners are aggrieved by the order dated 18/08/2017 by which the Assistant Charity Commissioner, Solapur has appointed an Administrator and has directed the Administrator to proceed to conduct the elections of the Trust and do the needful for facilitating such elections by following the directions set out in paragraph No.32 of the judgment of this Court dated 09/11/2007 in First Appeal No.299/2006 and connected first appeals.

2. The learned Advocate for the petitioners has strenuously criticized the impugned order and has submitted as under :-

[a] In paragraph No.32, this Court set aside the impugned decisions of the First Ad-hoc Additional District Judge as well as the Assistant Charity Commissioner.

[b] The order of appointment of the Managing Committee was

also set aside.

(c) The matter was transferred to the Assistant Charity Commissioner, Solapur, who was directed by this court to appoint an Administrator.

[d] The A.C.C, has appointed a clerk as the Administrator.

[e] The directions of this Court have been sustained by the Hon'ble Apex Court by dismissing the Spl.Leave Petitions filed by some of the litigating sides by order dated 09/05/2017.

[f] In another round of litigation before this Court in WP No. 8830/ 2017, this Court, by judgment dated 24/07/2017, has directed the Assistant Charity Commissioner to implement the directions of this Court set out in paragraph No.32 of the earlier judgment.

3. I find that the petitioners desire that the Assistant Charity Commissioner itself should conduct the elections from the stage of preparation of the valid voters' list till the result of the election.

4. For the sake of clarity, the directions of this court in paragraph No.32 of the judgment dated 19/11/2007 are reproduced as under :-

"32. In the result, appeal (F.A.No.299 of 2006) is allowed. The impugned decisions rendered by the first Ad-hoc Additional District Judge as well as the Assistant Charity Commissioner are set aside. The order of appointment of the Managing Committee is also set aside. The matter is transferred to Assistant Charity Commissioner, Solapur. The Assistant Charity Commissioner,

Solapur region shall appoint an Administrator to take over management of the trust. He shall prepare voters list after due verification of names of valid members and direct holding of elections as per existing scheme after calling objections to the voters list. He shall prepare election programme within period of two (2) months after publication of the final voters list. The voters list shall be prepared within two (2) months from receipt of this order and objections may be called within further 15 days and shall be decided within three (3) weeks thereafter. The election process be completed, thus, within six (6) months. Thereafter the appointment of the Administrator may be terminated and elected managing committee be given charge of the affairs of the trust. The First Appeal No.272 of 2006 is dismissed. No costs."

5. It is obvious from the above reproduced directions that the A.C.C. was under an obligation to appoint an Administrator to take over the Management of the Trust. No specific direction was given to the A.C.C. to prepare the voters' list after due verification of the names of valid members. The reproduced portion of paragraph No.32 indicates that the role of the A.C.C. was over by the appointment of an Administrator who was directed to prepare the voters' list and conduct the elections.

6. The language used in paragraph No.32 does not indicate that

after the appointment of the Administrator, the A.C.C. was to monitor the elections. The concluding portion of paragraph No.32 indicates that after the election process was to be completed, the appointment of the Administrator was to be terminated and the elected Managing Committee was to be given charge of the affairs of the Trust.

7. In the light of the above, I do not find that the Assistant Charity Commissioner has committed any error in appointing an Administrator who was further directed to conduct the elections from the stage of the preparation of the final voters' list till the elections are completed and the Managing Committee takes charge.

8. This petition, being devoid of merit, is therefore, dismissed.

(Ravindra V.Ghuge, J.)