

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5623 OF 2015

Nashik Diocesan Council through its Trustee
Bhaskar Jekcob Salve ... Petitioner
Vs.
State of Maharashtra through its Charity
Commissioner and others ... Respondents

Mr. Ashok T. Gade for Petitioner.
Ms Vaishali Nimbalkar, AGP for Respondents No.1 and 2-State.
Mr. Siddharth R. Kapre for Respondents No.7, 13 and 14.
Mr. A. V. Anturkar, Senior Advocate i/b. Mr. D. V. Sonawane for Respondent No.16.

CORAM : R. G. KETKAR, J.
DATE : APRIL 04, 2017

P.C. :

Heard Mr. Gade, learned Counsel for petitioner, Ms Nimbalkar, learned AGP for respondents No.1 and 2-State, Mr. Kapre, learned Counsel for respondents No.7, 13 and 14 and Mr. Anturkar, learned Senior Counsel for respondent No.16 at length.

2. By this Petition under Article 227 of the Constitution of India, petitioner has challenged the judgment and order dated 24.04.2015 passed by the learned Extra Joint Ad-hoc District Judge, Nashik in Civil Miscellaneous Appeal No.139 of 2014. By that order, the learned District Judge rejected the application made by the petitioner and respondents No.8 to 15 for the stay of the judgment and order dated 02.12.2014 passed by the Joint Charity Commissioner, Nashik Region, Nashik in Inquiry Application No.17 of 2003. By order dated 02.12.2014, Joint Charity Commissioner removed the trustees from the post of officer bearers and trustees of petitioner Trust and appointed Rt. Rev. P. L. Kamble, Bishop of Council and Ex-Officio trustee as Ad-hoc

Chairman of the Trust for looking after the management and administration of the Trust until further orders with direction to suggest names of 15 members to be appointed as ad-hoc trustees. Mr. Anturkar submitted that in pursuance of that order, respondent No.16 has suggested names of 15 persons. Out of that, the Joint Charity Commissioner selected 6 persons.

3. In paragraph 7, the learned District Judge has observed that merely because the Ad-hoc Chairman is facing prosecution, it cannot be said that he is not a fit person to act as an Ad-hoc Chairman. A perusal of paragraph 8 shows that the learned District Judge observed that no prejudice will be caused to anybody as the body itself is ad-hoc, which cannot take any policy decision without prior permission of the Charity Commissioner.

4. Mr. Anturkar states that respondent No.16 will not enter into any transactions such as agreement of sale, etc. in respect of the Trust property. Respondent No.16 will also not sell the Trust property. Statements made by Mr. Anturkar, on instructions, are recorded.

5. Having regard to the fact that in the proceedings under Section 41-D of the Maharashtra Public Trusts Act, Rt. Rev. P. L. Kamble was not even impleaded before the Joint Charity Commissioner, in my opinion, no case is made out for interfering with the impugned order, more so when it was not stayed during the pendency of the Petition. As the impugned order was passed on 24.04.2015, this is not a fit case for interfering with the same after passage of time. Hence, the Petition fails and is dismissed. At the same time, the interest of the Trust will be protected by directing the learned District Judge to dispose of the Appeal as expeditiously as possible and preferably within six months

from the production of the authenticated copy of this order. The learned District Judge will also consider issuing appropriate directions for holding elections of the petitioner Trust. All contentions of the parties on merits are expressly kept open.

(R. G. KETKAR, J.)

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