

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5020 OF 2016***

Maharashtra Technical Education Society	...Petitioner
Versus	
Shri Vijay Balkrishna Pusalkar & Ors.	...Respondents

Mr. R.S.Apte, Senior Counsel i/b. Mr. Padmanabh D. Pise, for the petitioner.
Mr. Atul G. Damle, Senior Counsel a/w Mr. Sandesh Shukla i/b. Mr. Ojas Deolankar for respondent Nos. 1 and 2.
Mr. A.R. Metkari, AGP for respondent Nos. 3 & 4.

***CORAM : SMT. SADHANA S.JADHAV, J.
DATE : 22nd November, 2017.***

P.C. :

1. Heard. Rule. Rule made returnable forthwith with consent of the parties.
2. The petitioner herein happens to be one of the trustees of Maharashtra Technical Education Society. The petitioner being aggrieved by the order dated 16.3.2015, has filed the present Writ Petition. The petitioner had filed a change report before the Deputy Charity Commissioner bearing No.850 of 2010. On 20.11.2014, the petitioner had filed an application for formation of Scheme No.37 of 2014 pending before

the Assistant Charity Commissioner and due to subsequent development a prayer was made for withdrawing the change report No.850 of 2010. The learned Deputy Charity Commissioner by an order dated 16.3.2015 has rejected the said application. Hence, this Writ Petition.

3. The learned Senior Counsel appearing for the petitioner submits that it was in the wake of circumstances that he had filed an application seeking withdrawal of the change report.

4. As against this, the learned counsel for the respondents has drawn attention of this Court to the Change Report No.850 of 2010 and the application filed by the petitioner on 31.1.2013 seeking withdrawal of the Change Report. In fact, an application was made after filing of affidavit of evidence. The said application was rejected subject to the decision of the said proceedings. The learned Senior Counsel submits that since there was no progress in drafting the scheme, a subsequent application for withdrawal of the change report was made in the same change report on 20.11.2014.

5. The learned counsel for the respondents has drawn attention of this Court to Circular No.146 issued by the Charity Commissioner, Maharashtra State, Mumbai, which acts as guidelines for conducting the proceedings before the Deputy Charity Commissioner as well as the

Assistant Charity Commissioner as far as the consideration of the change report is in question and to decide the issue where applications are made for withdrawal of the change report. The guidelines are as follows :-

“In such cases if the applicatin to withdraw is granted then Regional Officer concerned should on the very same day pass an order converting the said enquiry into suo motu enquiry and accordingly assign a fresh number to that enquiry and see that the information and evidence is collected by the Inspector and enquiry is proceeded forthwith.”

It is in view of this guideline that the order dated 16.3.2015 is maintained as the application seeking withdrawal is rejected and costs is imposed. However, the Deputy Charity Commissioner would be at liberty to follow the guidelines dated 24.11.1071.

6. With these observations, the petition stands disposed of in the above terms. All contentions are kept open. The costs as directed by the Deputy Charity Commissioner is without prejudice to the contentions of the parties.

(SMT. SADHANA S.JADHAV, J.)