

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION St.NO. 25101 OF 2016**

**Shri Sopanarao Pandharinath Nikam
Vs.**

..Petitioner

**Junnar Taluka Shivner Shikshan
Prasarak Mandal & Ors**

..Respondents

Mr. U. B. Nighot for the Petitioner

**Mr. Y. S. Jahagirdar, Senior Advocate a/w Mr. V. B. Tapkir for the
Respondent Nos.1 to 10**

Mr. S. D. Rayrikar AGP for the Respondent Nos.11 and 12

CORAM : R. M. SAVANT, J.

DATE : 16th FEBRUARY, 2017

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 18-8-2016 passed by the Learned Joint Charity Commissioner, Pune, by which order the application filed by the Petitioner herein for an inspector being appointed to conduct the elections to the trust in question came to be rejected.

2 The elections to the trust in question has had a chequered history. Pursuant to the order dated 17-8-2012 passed in Writ Petition No.5959 of 2012. The Assistant Charity Commissioner had carried out the exercise of certification of the list of members in list A, B and C by order dated 5-1-2013. This was with a view to hold elections to the trust in question i.e. Junnar Taluka Shivner Shikshan Prasarak Mandal, Junnar, Distrcit Pune. The said

certification by the Charity Commissioner by order dated 5-1-2013 was challenged by Gosavi Vasantpuri Gulabpuri & Ors. as also the trust by filing two Petitions in this Court being Writ Petition No.655 of 2013 and Writ Petition No.664 of 2013. The said Writ Petitions are admitted and pending hearing and final disposal. However, in the context of the present Petition, what is relevant to note is that the interim reliefs were refused to the Petitioners in the said Writ Petitions. This resulted in the Petitioners in the said Writ Petitions filing two LPAs being LPA No.66 of 2013 and LPA No.67 of 2013. The said LPAs were disposed of by a Division Bench of this Court comprising of the then Hon'ble Chief Justice Mohit S. Shah and Justice Anoop V. Mohta by order dated 25-2-2013. The Division Bench held that the exercise carried out by the Assistant Charity Commissioner vide order dated 5-1-2013 was not in accord with the order dated 17-8-2012 passed by a Learned Single Judge of this Court (Coram R.G.Ketkar J.). The Division Bench accordingly issued directions to the Assistant Charity Commissioner to carry out the exercise denovo in terms of the directions contained in paragraph 11 of the said order. The said directions were to the effect that the list forwarded by the trust on 29-8-2012 and the objection sent by any authority to the said list within the time stipulated in the order dated 17-8-2012 must be considered for the purpose of certification in accordance with the original scheme. The said order of the Division Bench dated 25-2-2013 passed in the LPAs was challenged by the Petitioner by filing SLP Nos.11995-11996 of 2013 in the

Apex Court. The Apex Court by order dated 22-3-2013 had directed that the certification in terms of the directions of the Division Bench as comprised in the order dated 25-2-2013 be undertaken and completed by the Charity Commissioner, but the same is not to be published without the leave of the Apex Court. It seems that pursuant to the said order dated 22-3-2013 passed by the Apex Court, the list was submitted in a sealed cover to the Apex Court by the office of the Charity Commissionr. The Apex Courts disposed of the said SLPs by order dated 5-12-2014 by issuing directions which are contained in the said order which for the sake of ready reference are reproduced herein :

“It has been submitted by the Learned counsel appearing for the parties that in pursuance of an order passed by this court on 22nd March 2013, the Charity Commissioner has already prepared a list of Members.

The afore-stated list shall be placed before the learned Single Judge in a sealed cover, so as to enable him to take appropriate action and to dispose of Writ Petition No.655 and 664 of 2013, without being influenced by any observation made by the Division Bench in LPA Nos.66 and 67 of 2013.

The writ petitions shall be placed before the learned single Judge of the Bombay High Court on 6th January, 2015.”

3 Hence in terms of the directions of the Apex Court, the list was directed to be placed before the Learned Single Judge who use to hear the said Writ Petition No.655 of 2013 and Writ Petition No.664 of 2013 and the Learned Single Judge was directed to take appropriate action without being

influenced by any observations made by the Division Bench in LPA No.66 of 2013 and LPA No.67 of 2013.

4 The Petitioner has filed the instant application as indicated above for appointment of an inspector to conduct elections to the trust in question. Suffice it would be to state that the instant application has been rejected on the ground that the said two Petitions are pending and that the list being in a sealed cover, it is for this Court to take appropriate action. The Joint Charity Commissioner has observed that if any directions as sought by the Petitioner vide his application are issued, it would be contrary to the directions issued by the Division Bench in LPAs and has accordingly rejected the said application. The filing of the said application is sought to be justified by the Petitioner on the ground that the body which is in office is continuing to be in office on the basis of the interim orders in view of the fact that no elections have been held. The controversy as indicated above is as regards the certification of the list of members.

5 The Learned Senior Counsel Mr. Jahagirdar appearing on behalf of the Respondent Nos.1 to 10 who are presently in office submitted that the said Respondents are ready to proceed with the elections on the basis of the list which has been submitted in a sealed cover to the Apex Court. However the said suggestion was not acceptable to the Petitioner.

6 In my view, having regard to the reasons mentioned in the impugned order passed by the Learned Joint Charity Commissioner and having regard to the fact that the two Writ Petitions are pending, the order passed by the Joint Charity Commissioner cannot be faulted with. Hence no case for interference in the Writ Jurisdiction of this Court is made out, the Writ Petition is accordingly dismissed.

7 However, it would be open for the Petitioner to apply for hearing of the said the Writ Petitions which are pending in this Court.

[R.M.SAVANT, J]