

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3491 OF 2017

Shri Pramod K. Mane & Anr. ... Petitioners
Vs.
The State of Maharashtra & Ors. ... Respondents

**WITH
CIVIL APPLICATION NO. 3937 OF 2017
IN
WRIT PETITION NO. 3491 OF 2017**

Anant Nathrao Neralkar ... Applicant
Vs.
Shri Pramod K. Mane & Ors. ... Respondents

**WITH
CIVIL APPLICATION NO. 3938 OF 2017
IN
WRIT PETITION NO. 3491 OF 2017**

Hemant Madhavrao Mirkhelkar ... Applicant
Vs.
Shri Pramod K. Mane & Ors. ... Respondents

**WITH
CIVIL APPLICATION NO. 4174 OF 2017
IN
WRIT PETITION NO. 3491 OF 2017**

Dr. Shantilal Champalal Sancheti & Anr. ... Applicants
Vs.
Shri Pramod K. Mane & Ors. ... Respondents

**WITH
CIVIL APPLICATION NO. 4734 OF 2017
IN
WRIT PETITION NO. 3491 OF 2017**

Kiran s/o Prabhakar Rao Joshi ... Applicant
Vs.
Pramod K. Mane & Ors. ... Respondents

**WITH
CIVIL APPLICATION NO. 14726 OF 2017
IN
WRIT PETITION NO. 3491 OF 2017**

Vasant Ganpatlal Sharma & Ors. ... Applicants
Vs.
Pramod K. Mane & Ors. ... Respondents

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Mr. V. D. Sapkal, Advocate h/f Mr. Sachin S. Deshmukh, Advocate for the Petitioners and for Respondent Nos. 1 and 2 in all Civil Applications.

Mr. S. P. Tiwari, AGP for Respondent No.1 in WP/3491/2017 and for Respondent No.3 in all Civil Applications.

Mr. V. D. Salunke, Advocate for Respondent No.2 in WP/3491/2017 and for Respondent No.4 in all Civil Applications.

Mr. Amit Yadkikar, Advocate for Respondent No.3 in WP/3491/2017 and for Respondent No.5 in CA/3937/2017, CA/3938/2017, CA/4174/2017 & CA/14726/2017 and for the Applicant in CA/4734/2017.

Mr. M. M. Joshi, Advocate for the Applicant in CA/3937/2017.

Mr. Vinod Patil, Advocate h/f Mr. P. K. Joshi, Advocate for the Applicant in CA/3938/2017.

Mr. Pradeep Deshmukh, Advocate h/f Deepali S. Ansingkar (Jape) for the Applicant in CA/4174/2017.

Mr. Rajendraraa. S. Deshmukh, Advocate for the Applicant in CA/14726/2017.

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CORAM : V. K. JADHAV, J.
RESERVED ON : 01st MARCH, 2018
PRONOUNCED ON : 04th APRIL, 2018

ORDER :-

1. Heard finally with consent at admission stage.
2. By way of this Writ Petition, the petitioners are praying for the following reliefs:

(A) By issuing appropriate Writ or directions, the Joint Charity Commissioner, Aurangabad be directed to hear and decide application for interim relief filed in Appeal No. 354/2016 and Appeal No. 319/2016 expeditiously in light of the order passed by the Joint Charity Commissioner, Aurangabad dated 13.07.2007;

(B) By issuing appropriate Writ or directions, to quash and set aside the order passed by the Assistant Charity Commissioner, Aurangabad dated 31.8.2016 in Inquiry No. 507/2010;

(C) By issuing appropriate Writ or directions, to quash and set aside the paper publication made by the Respondent No.3-Shri Kiran Josih dated 11.3.2017 in respect of the elections of Aurangabad District Cricket Association without there being any authority;

(D) By issuing appropriate Writ or directions, to quash and set aside the order passed by the learned Joint Charity Commissioner, Aurangabad dated 14.03.2017 declining to hear the application for interim stay;

3. The dispute pertains to the Aurangabad District Cricket Association, Aurangabad (for short, “association”). The said association is registered under the provisions of the Maharashtra Public Trusts Act, 1950 (for short, “Act of 1950”), having its bye-laws registered with the Charity Commissioner's office in consonance with the Act of 1950. Being aggrieved by the

judgment and order dated 31.08.2016, passed by the Assistant Charity Commissioner, Aurangabad Region, Aurangabad, in Inquiry No. 507 of 2010, three separate appeals bearing Appeal Nos. 319 of 2016, 335 of 2016 and 354 of 2016 came to be filed before the learned Joint Charity Commissioner, Aurangabad and the said appeals are still pending. Pending those appeals, certain applications came to be filed seeking some interim relief. Meanwhile, as the defacto trustees, in the light of the order passed by the Assistant Charity Commissioner in Inquiry No. 507 of 2010, declared and scheduled the dates of election, this Writ Petition has been preferred with the prayers as mentioned above.

4. Brief facts giving rise to the present Writ Petition are as follows:

a. One Mr. Sachin Madhukarrao Mule and three others had filed Application Inquiry No. 21 of 2004 under Section 41D of the Act of 1950 in connection with the public trust i.e. the said association bearing P.T.R. No.F-369/Aurangabad, before the Joint Charity Commissioner, Aurangabad. It was contended in the said Application Inquiry No. 21 of 2004 that the respondents have

failed to hold elections from time to time. They have also failed to file change reports since long and they are guilty of breach of trust and involved in the acts of malfeasance and misfeasance etc. and as such, they are liable to be removed under Section 41D of the Act of 1950. Respondent Nos. 1, 2, 6, 7 and 10 to 13 to Application Inquiry No. 21 of 2004 strongly resisted the said application by denying each and every allegation. The learned Joint Charity Commissioner, Aurangabad Region, Aurangabad, by judgment and order dated 13.07.2007, dismissed the Application Inquiry No. 21 of 2004 and directed the trustees on record to take urgent steps to hold annual general meetings, elections and to file change reports strictly in accordance with the constitution of the association and also to take urgent steps to apply for recording the property of the association in Schedule-I.

b. The original applicant Sachin Madhukarrao Mule and one other preferred Writ Petition No. 6971 of 2008 before this Court and this Court (Coram: B. R. Gavai, J.), by order dated 24th June, 2009, dismissed the said Petition with the observation that the Petition involves adjudication of various disputed questions of fact

and the same is not tenable in the extraordinary jurisdiction of this Court under Articles 226 and 227 of the Constitution of India. This Court, in the said order, also observed that in any event, the persons aggrieved by the elections would have an alternate efficacious remedy by raising a dispute under the provision of the Act of 1950. Since during pendency of the said Writ Petition, election came to be declared and the petitioners therein had also prayed for interim relief for stay to the election, this Court by order dated 27th November, 2008 had issued certain interim directions. It was directed that the Returning Officer shall segregate the ballots, the first packet shall contain ballots of members listed at Exhibit H and the second packet shall contain ballots of members listed at Exhibit G. It was further directed that the said envelopes alongwith a report of the Returning Officer shall be kept in the custody of the Registrar (Judicial) of this Court. Consequently, while disposing of the said Writ Petition, this Court directed the Registrar (Judicial) of this Court to hand over the packets containing the ballot papers to the Returning Officer who shall proceed with the counting and declare the results in accordance with the constitution of the trust/association.

c. Being aggrieved by the same, Letters Patent Appeal No. 120 of 2009 came to be preferred before the Division Bench of this Court and by order dated 10.02.2010, the Division Bench of this Court summarily dismissed the said L.P.A. with the observation that the order passed by the learned Single Judge calls for no interference.

d. In the backdrop of these events, said Sachin Madhukarrao Mule filed Inquiry No. 507 of 2010 under Section 22 of the Act of 1950 for reporting the change occurred due to elections of the aforesaid association. The learned Assistant Charity Commissioner, Aurangabad Region, Aurangabad, by order dated 31.08.2016 in the Inquiry No. 507 of 2010, rejected the said change report and held that the 48 members alongwith the reporting trustee and respondent nos. 1 to 3 to the said Inquiry are not legal members of the trust. The Assistant Charity Commissioner further directed the trustees already declared as defacto on Schedule-I to conduct fresh elections strictly as per constitution of the trust/association within three months from the

date of the order and to submit change report accordingly. By order dated 08.06.2016, the learned Assistant Charity Commissioner has stayed the effect of the finding on issue no.1 as well as the directions for conducting elections till the appeal period or filing of appeal by the members concerned, whichever is earlier.

e. Being aggrieved by the order dated 31.08.2016 in Inquiry No. 507 of 2010 thereby rejecting the change report, said Sachin Madhukarrao Mule has preferred Appeal No. 319 of 2016. Further, some of the members, who were held to be not legal members of the trust, have also preferred separate Appeal No. 354 of 2016 and three other members, who were disqualified, also filed Appeal No. 335 of 2016. In those pending appeals, certain applications came to be filed for seeking some interim relief. Further, the defacto trustees, in the light of the order passed by the Assistant Charity Commissioner in Inquiry No. 507 of 2010, declared and scheduled the dates of election, this Writ Petition has been preferred.

5. The learned counsel for the petitioners submits that the elected Secretary Sachin Madhukarrao Mule in the elections of the year 2008, which were held pursuant to the directions of the Joint Charity Commissioner as well as the directions given by this Court, filed an application before the Assistant Charity Commissioner, Aurangabad for making necessary changes in terms of the provisions of Section 22 of the Act of 1950. The learned Assistant Charity Commissioner, while deciding the said application, also decided an application filed by one Mr. Mohan Bomble alleging therein that 48 members of the association, who participated in the election, are not the valid members. The petitioners have produced necessary documents to justify their membership and in addition to that, it was submitted before the Assistant Charity Commissioner that by following due procedure as contemplated in the bye-laws of the association, they became members and as such, rightly participated in the election process of the year 2008-2009. However, the learned Assistant Charity Commissioner, Aurangabad, by order dated 31.08.2016 in Inquiry No. 507 of 2010, was pleased to reject the application filed by respondent no.2 herein under Section 22 of the Act of 1950, so

also declared the 48 members alongwith the reporting trustee and other three members as not legal members of the association. Further directions were also given to hold election within three months. The learned counsel for the petitioners submits that the order passed by the Assistant Charity Commissioner dated 31.08.2016 in the aforesaid Inquiry No. 507 of 2010 is interpreted incorrectly by some of the life members of the association who wanted to conduct elections of the trust by depriving the present petitioners. The learned counsel submits that respondent no.3-Mr. Kiran Prabhakarrrao Joshi, who was the Joint Secretary of the association in the year 1988, alongwith some other interested members, is trying to manipulate and fabricate the record and persistently in collusion with one Mr. J. U. Mitkar, trying to hold election by depriving other members from participating in the same. The learned counsel submits that immediately after passing of the order dated 31.08.2016 by the learned Assistant Charity Commissioner, on 05.09.2016, without there being any record in possession and without there being any authority, respondent no.3-Kiran Joshi made a publication in the newspaper for conducting elections of the association/trust. The Assistant

Charity Commissioner has therefore stayed the effect of his order when it was pointed out specifically. The learned counsel submits that in the pending appeals before the Joint Charity commissioner, as per the suggestions given by the learned Joint Charity Commissioner, an attempt was made by the members to settle the dispute amongst themselves. However, respondent no.3-Kiran Joshi in collusion of Mr. J. U. Mitkar made a publication about the elections of the trust. On 02.03.2017, the petitioner moved an application before the Joint Charity Commissioner pointing out the apprehension that said Kiran Joshi and J.U. Mitkar, in collusion, are trying to hold elections and even though the copies of the said application are served on the other side, respondent no.3-Kiran Joshi, again on 11.03.2017, published a notice for conducting elections of the trust and declared himself to be the Election Officer. They are also not co-operating the learned Joint Charity Commissioner to continue the hearing on the stay application. Even the learned Joint Charity Commissioner has rejected the application for early hearing by saying that he is not available till 21.03.2017. Thus, the petitioners are left with no other choice but to approach this Court.

6. The learned counsel for respondent no.2-association submits that the learned Assistant Charity Commissioner, Aurangabad, while passing the order dated 31.08.2016 in Inquiry No. 507 of 2010, failed to consider the directions given by the learned Joint Charity Commissioner, Aurangabad in his order dated 13.07.2007 in Application Inquiry No. 21 of 2004 and passed the order as if the learned Assistant Charity Commissioner is sitting over appeal as against the order passed by the learned Joint Charity commissioner, Aurangabad. The respondent no.3-Kiran Joshi has interpreted the said order dated 31.08.2016 passed by the Assistant Charity Commissioner as per his convenience and without there being any authority and without having any record, declared the elections of the trust on 05.09.2016. The learned Assistant Charity Commissioner was pleased to stay the operation of his own order till the appeal period is over when it was pointed out to him. In the pending appeal, one application came to be submitted, signed by 27 members of the trust, reducing the consent terms in writing thereof. It has been suggested in the said consent terms that an ad-hoc committee comprising of 15

members be constituted so also to amend the constitution of the trust in the light of the recommendations made by Hon'ble Justice Lodha Committee. It has also been prayed in the said application to dispose of the appeal in the light of the consent terms. All the disputants were party to the said consent terms application. Even the Joint Charity Commissioner has also passed the order dated 23.11.2016 on it. Despite the same, respondent no.3-Kiran Joshi has made third attempt on 11.03.2017 and declared elections of the trust with *malafide* intentions in collusion with some other non members. Respondent No.3-Kiran Joshi prepared two separate voters lists on two different dates with different names. Even respondent no.3 do not want amendment in the bye-laws of the trust. The learned counsel submits that respondent no.2 is strongly opposing the election declared by the unauthorized persons without possessing any record.

7. The learned Advocate appearing for respondent no.3 submits that respondent no.3 was the Joint-Secretary of the trust since long and as per the order passed by the Assistant Charity Commissioner, Aurangabad on 31.08.2016 in Inquiry No. 507 of

2010, trying to hold and conduct elections of the trust in a manner as directed by the learned Assistant Charity commissioner. The learned counsel submits that in the aforesaid Inquiry No. 507 of 2010, learned Assistant charity Commissioner held that membership of 48 members alongwith the the reporting trustee and respondent nos. 1 to 3 is not legal and valid and further held that the change report is also not legal and valid. The learned Assistant Charity Commissioner has further declared the trustees on Schedule-I as defacto trustees and accordingly directed to conduct fresh elections strictly as per the constitution of the trust within three months from the date of the order and to submit the change report accordingly. The learned counsel submits that the learned Joint Charity Commissioner has not stayed the effect of the order passed by the Assistant Charity Commissioner in the pending appeals and in consequence thereof, respondent no.3 has declared elections. However, the petitioners and the other respondents, who are the appellants before the learned Joint Charity Commissioner in the pending appeals, are avoiding the election process and as such, preferred this Writ Petition with some ulterior motive. The learned counsel submits that the

petitioners, in collusion with Mr. Sachin Mule i.e. the purported Secretary of respondent no.2-association, are attempting to abuse the process of law and stall the election process of the association which is taking place in accordance with the orders of the learned Assistant Charity Commissioner. The learned counsel therefore submits that the interim relief granted by this Court vide order dated 15.03.2017 may be vacated as per prayer clause (B) of Civil Application 4734 of 2017 filed by respondent no. 3 to the Petition.

8. The learned counsel for the applicant in Civil Application No. 3937 of 2017, seeking to intervene in the Writ Petition and to vacate the interim relief granted by this Court on 15.03.2017, submits that the writ petitioners and Mr. Sachin Mule have filed independent appeals which are pending. They are making show of litigation and under the garb of pendency of litigation, they intend to continue such position for uncertain period. They want to stall the election process for indefinite period. Huge expenses are incurred for holding elections right from the stage of declaration of programme, which would result in futile exercise. Moreover, due to long standing disputes amongst the members, the interest

of the association is badly hampered resulting in financial loss to the association. Thus, the learned counsel for the applicant submits that the interim relief granted by this Court on 15.03.2017 needs to be vacated and the election process needs to be completed. The learned counsel submits that the applicant has already submitted nomination form on 15.03.2017 for the post of President. The learned counsel submits that in view of the above facts and submissions, the applicant is a necessary party to the present Writ Petition.

9. The learned counsel appearing for the applicant in Civil Application No. 3938 of 2017 submits that respondent no.2-association has published the instant voters list on 11.03.2016 by deleting names of various members alongwith the present applicant without giving him an opportunity of being heard. As a result, the applicant is unable to participate in the election and deprived from casting his vote. The learned counsel submits that the issue of deleting names of members is also *sub judice* before the appellate authority and being aggrieved with the same, the petitioners have filed the present Writ Petition and the applicant

being interested to protect his right being a member of the trust, wants to intervene in present Writ Petition.

10. The learned counsel for the applicants in Civil Application No. 4174 of 2017 submits that the applicants being life members of the cricket association, received the notice of election issued by Mr. Kiran Joshi. Accordingly, the applicants have submitted nomination form for the post of President, Vice President and Executive Committee Member respectively. Thus the applicants are the interested persons having every right to contest the election. So also the applicants have every right to complain about the illegalities and collusion of the petitioners and Mr. Sachin Mule. The learned counsel submits that due to the interim order passed by this Court on 15.03.2017, the applicants are the affected and aggrieved persons having right to intervene in the present Writ Petition.

11. The learned counsel for the applicants in Civil Application No. 14726 of 2017 submits that the applicants have already approached the learned Joint Charity Commissioner, Aurangabad

by filing Appeal no. 335 of 2016 against the order passed by the Assistant Charity Commissioner dated 31.08.2016 declaring them to be not legal members of the trust. The learned counsel submits that as the membership of the applicants is cancelled while rejecting the change report at the hands of the learned Assistant Charity commissioner, Aurangabad, to secure their membership, they need to prove the alleged change and therefore, they have presented and filed their Appeal under section 70 of the Act of 1950. The learned counsel submits that at present, there is no legal and valid committee to look after the affairs of the said trust which has in fact stopped the development of the said trust in all possible ways. Considering the aforesaid peculiar facts and circumstances, the applicants are even required to move an application with the office of the learned Charity Commissioner, Mumbai, seeking transfer of the matters of the said trust to any other appropriate Court from the office of the learned Joint Charity Commissioner, Aurangabad and which is also pending. The learned counsel submits that it is in the aforesaid peculiar facts and circumstances, when the applicants came to know about filing of the present Writ Petition by the petitioners and also when

they got knowledge of the order dated 15.03.2017 passed by this Court, the applicants are approaching this Court by filing the present Civil Application for intervention. The learned counsel submits that the applicants presence in the capacity of interveners would be very much necessary so as to bring on record all the material and relevant facts which are in fact, suppressed by the writ petitioners.

12. On careful perusal of the papers, the averments made in the Petition and the affidavit-in-reply and also in the Civil Applications, it appears that in the year 2004, Mr. Sachin Madhukarrao Mule and three others had filed an Application Inquiry No. 21 of 2004 under Section 41D of the Act of 1950 for removal of inactive trustees as appearing on Schedule-I and also on the ground that they are guilty of malfeasance, misfeasance and breach of trust. The learned Joint Charity Commissioner, Aurangabad Region, Aurangabad, by judgment and order dated 13.07.2007 in Application Inquiry No. 21 of 2004, dismissed the said application, however directed the trustees on record to take urgent steps to hold annual general meetings, elections and file

change reports strictly in accordance with the constitution of the association. The learned Joint Charity Commissioner further directed that the trustees on record shall take urgent steps to apply for recording the properties of the association in Schedule-I.

13. The said Sachin Mule and another (original applicants in Application Inquiry No. 21 of 2004) approached this Court by filing Writ Petition No. 6971 of 2008 with the prayers; (A) to call for the record and proceeding of the voters list of the trust and after examining the legality, validity and propriety thereof, names of the additional voters i.e. respondent nos. 5 to 51 referred at Exhibit G be deleted from the voters list of the respondent-association, B) direction in the nature of prohibition that additional members referred at Exhibit G be prohibited from taking any part including voting and contesting the election of respondent-association, which is scheduled on 30.11.2008 and C) directions in the nature of mandamus directing respondent nos. 1 to 3 therein to hold the election of respondent-association on the basis of the valid voters list which is at Exhibit D. By order dated

24.06.2009, this Court had dismissed the said Writ Petition with some observations which can be summarized as below:

- i) The Petition, which is filed at a premature stage, is nothing but an attempt to forestall the electoral process. It is otherwise open for the parties, when change report is filed, to raise objections regarding entitlement of the members to vote or contest the elections.
- ii) In writ jurisdiction, all these questions cannot be gone into at such a premature stage. The present Petition, which involves adjudication of various disputed questions of fact, is not tenable in the extraordinary jurisdiction of this Court under Articles 226 and 227 of the Constitution of India.
- iii) In any event, the persons aggrieved by the elections would have an alternate efficacious remedy by raising a dispute under the provision of the Act of 1950.
- iv) The Registrar (Judicial) is directed to hand over the packets containing the ballot papers to the Returning Officer who shall proceed with the counting and declare results in accordance with the constitution of the trust.

14. In Letters Patent Appeal No. 120 of 2009, the Division Bench of this Court, on perusal of the impugned order passed by the learned Single Judge, has observed that the same does not call for any interference. In para 3 of the order, the Division Bench of this Court has observed that it was brought to the notice of the Division Bench that elections had taken place as scheduled and despite participation of the said voters, who are respondent nos. 5 to 51, whose enrollment was questioned, the panel headed by the present appellant (Mr. Sachin Madhukarrao Mule and others) has been elected and a change report is also filed with the Charity Commissioner to that effect. The Division Bench further permitted the appellants therein to move appropriate application before the authority concerned, with a view to have adjudication of the question in regard to legality or otherwise of the enrollment of respondent nos. 5 to 51 as members of the trust and further directed the Deputy Charity Commissioner to decide the application as expeditiously as possible after affording reasonable opportunity of hearing to all concerned.

15. It further appears that in the light of the directions given by the Joint Charity Commissioner in Application Inquiry No. 21 of 2004, elections were conducted. After voting was completed, the aforesaid Writ Petition No. 6971 of 2008 came to be preferred before this Court and this Court has initially stayed the counting of votes and thereafter, by order dated 24.06.2009, this Court rejected the said Writ Petition. On 09.07.2009, counting was completed and the results were declared. In consequence thereof, the change report came to be submitted before the Assistant Charity Commissioner which was registered as change report Inquiry No. 507 of 2010. Further, as permitted by the Division Bench of this Court in the Letters Patent Appeal No. 120 of 2009, application Exhibit 13 came to be filed by the reporting trustee and one Mr. Vasant Ganpatlal Sharma challenging thereby the validity of the said members i.e. respondent nos. 5 to 51 in the said LPA. Further, in response to the notice by publication in the newspaper, respondent nos. 5 to 22 also appeared and filed application Exhibit 26 claiming adjudication about validity of their membership. By order dated 31.08.2016, the Assistant Charity

Commissioner, Aurangabad Region, Aurangabad rejected the change report Inquiry No. 507 of 2010 and held that the 48 members alongwith the reporting trustee and respondent nos. 1 to 3 are not legal members of the trust and further directed the trustees as on Schedule-I to conduct fresh elections strictly as per the constitution of the trust within three months. Being aggrieved by the same, three separate appeals bearing Appeal No. 319 of 2016, Appeal No. 354 of 2016 and Appeal No. 335 of 2016 came to be filed before the Joint Charity Commissioner, Aurangabad and those Appeals are still pending. Appeal No. 319 of 2016 is preferred by Mr. Sachin Madhukarrao Mule and others. Out of 48 members, whose membership was held to be not legal, some members have also preferred separate Appeal No. 354 of 2016 and the other three members who are disqualified, preferred Appeal No. 335 of 2016.

16. Thus, there are three separate appeals pending before the Joint Charity Commissioner substantially challenging the judgment and order dated 31.08.2016 passed by the Assistant Charity Commissioner. During pendency of those appeals, at the

intervention of the learned Joint Charity Commissioner, the parties concerned have formulated the consent terms and the sum and substance of the said consent terms is that one ad-hoc committee comprising of 15 members will look after the management of the trust till the election of a new committee and the said ad-hoc committee will also make certain amendments in the constitution/bye-laws and file change report to that effect. Though the learned Joint Charity Commissioner, by order dated 23.11.2016, has observed that the contents of the said application/consent terms are irrelevant so far as the pending appeals are concerned, further seems to have given weightage to the observations and recommendations made by Justice Lodha Committee and accordingly, at the request of all the concerned Advocates and parties, directed to treat the said application as application under Section 50A of the Act of 1950 for modification of the scheme.

17. It further appears that respondent no.3 herein, since tried to hold elections pursuant to the direction given by the Assistant Charity Commissioner while disposing of the change report

Inquiry No. 507 of 2010 vide order dated 31.08.2016, when the Joint Charity Commissioner has not stayed the effect of the said order in the pending appeals, the present Writ Petition has been filed. The petitioners have specifically contended in the Writ Petition that the Joint Charity Commissioner has not passed any order on the interim application and as such, by taking undue advantage of the same, even though the substantial appeals are pending against the judgment and order passed by the Assistant Charity Commissioner in change report Inquiry No. 507 of 2010, raising several legal issues therein, some of the members of the trust are making haste to declare elections without any authority.

18. In the light of the aforesaid facts, it would not be appropriate to make any observations on merits and it is for the learned Joint Charity Commissioner to dispose of the said appeals on merits as expeditiously as possible. It is for the learned Joint Charity Commissioner to consider in those pending appeals whether the order passed by the Assistant Charity Commissioner in change report Inquiry No. 507 of 2010 thereby rejecting the change report is proper, correct and legal and whether the same is

in consonance with the directions given by the Joint Charity Commissioner, Aurangabad Region, Aurangabad in Application Inquiry No. 21 of 2004 and by this Court in Writ Petition No. 6971 of 2008 and further, having due regard to the observations made by the Division Bench of this Court in Letters Patent Appeal No. 120 of 2009. So far as framing of the scheme or modification of the earlier scheme as provided under Section 50A of the Act of 1950 is concerned, the same would take its own time and it is imperative to dispose of the pending appeals as expeditiously as possible by the learned Joint Charity Commissioner. This Court, by order dated 15.03.2017, by giving opportunity of extensive hearing to the parties and the intervener, directed to maintain *staus quo* in terms of prayer clause (F). It would be appropriate if the said order would remain in force till disposal of the pending appeals by the learned Joint Charity Commissioner in a time bound manner.

19. In view of the above discussion, the Writ Petition is hereby disposed of with the following directions:

- I. The learned Joint Charity Commissioner, Aurangabad Region, Aurangabad, is hereby directed to dispose of the Appeal Nos. 319 of 2016, 335 of 2016 and 354 of 2016 as expeditiously as possible and preferably within a period of three months from the date of appearance of the parties.
- II. The parties shall appear before the learned Joint Charity Commissioner on 04th June, 2018.
- III. Till disposal of the aforesaid Appeals, the interim order passed by this Court on 15.03.2017 would remain in force.
- IV. So far as the Civil Application No. 14726 of 2017 is concerned, the applicants have not placed before this Court any order passed by the Charity Commissioner, Mumbai on their transfer application. In absence of any order, there is no reason to consider their intervention in this Writ Petition. The Civil Application for intervention is therefore rejected. However, the applicants in this Civil Application are at liberty to file application seeking intervention in the pending Appeals before the learned Joint Charity Commissioner, who shall decide the same alongwith the Appeals and not separately.

- V. So far as Civil Application No. 3938 of 2017, the applicant is at liberty to file an application for intervention in the pending Appeals before the learned Joint Charity Commissioner, who shall decide the same alongwith the Appeals and not separately. In the event of filing of any application seeking intervention in the matter by any other person, the same shall be decided by the Joint Charity Commissioner alongwith the Appeals and not separately.
- VI. In the circumstances, there shall be no order as to costs.
- VII. In view of disposal of Writ Petition, nothing survives for consideration in the other pending Civil Applications and the same also stand disposed of

(V. K. JADHAV, J.)

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