

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6595 OF 2018

Vyankatrao s/o Vitthalrao Patil Chandolkar
Age 52 years, occ. agriculture
r/o At village Chandola, Tq. Mukhed
Dist. Nanded

Petitioner

Versus

1. State of Maharashtra
Through Secretary
Law and Judiciary Department
Mantralaya, Mumbai 32.
2. Assistant Charity Commissioner
Nanded Region, Nanded
3. Virbhadrha Shikshan Sanstha
Through its Secretary
Sanjay w/o Vyankatrao Gond
age major, occ. agriculture
r/o Mahatma Jyotiba Phule Senior College
Mukhed, Dist. Nanded

Respondents

Shri shankar Madhavrao Basapure
age 68 years, occ. pensioner
r/o Shanti Nagar, Narsi Road,
Mukhed, Tq.Mukhed, Dist. Nanded

Intervenor

Mr. S.V. Natu, advocate for petitioner.
Mrs. P.K. Lakhotiya, A.G.P. for respondents 1 and 2.
Mr. Mukul Kulkarni, advocate holding for Mr. A.S. Shivpuje,
advocate for intervenor.

**CORAM : R.M.BORDE &
A.M. DHAVAL, JJ.**
DATE : 29th JUNE, 2018

JUDGMENT : (Per R.M. Borde, J.)

1. Rule. Rule made returnable forthwith.

2. Heard finally at admission stage with the consent of learned counsel for the respective parties.

3. Application tendered by petitioner for recording change under section 22 of the Bombay Public Trust Act was rejected by the Assistant Charity Commissioner by order dated 15.06.2018. The Assistant Charity Commissioner thereafter on the same date proceeded to direct initiation of suo motu proceedings under section 41A of the Bombay Public Trust Act and proceeded to pass the impugned order within a period of three days i.e. 18.06.2018 directing holding of elections within a period of two months from the date of the order under the supervision of the officers of the charity department.

4. It is the contention of petitioner that the order impugned in this petition has been passed without extending an opportunity of hearing. It is further contended that since the order has been passed within three days from the date of rejection of the proposal for effecting change, there was hardly any time left for the petitioner to avail of the appellate remedy.

5. So far as merits of the contentions are concerned, we do not propose to dwell into said aspect. Since the impugned order has been passed without observing the principles of natural justice, the same deserves to be quashed and set aside. Impugned order dated 18.06.2018 is quashed and set aside. The matter stands remitted back to the Assistant Charity Commissioner for re-consideration. It would be open for the Assistant Charity

Commissioner to extend an opportunity of hearing to all the parties concerned and proceed to pass appropriate order in accordance with provision of law. The Assistant Charity shall dispose of the proceeding as expeditiously as possible, preferably within a period of one month from today.

6. The parties shall cause appearance before the Assistant Charity Commissioner on 9th July, 2018 and as such, no separate notice requiring their presence before the Assistant Charity Commissioner shall be necessary.

7. In view of above, writ petition stands disposed of. Rule made absolute to the extent as specified above.

8. Parties to act upon authenticated copy of the order.

A.M. DHAVALÉ
JUDGE

R.M.BORDE
JUDGE