

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 9313 OF 2018

Vyankatrao s/o Vitthalrao Patil Chandolkar

Petitioner

Versus

State of Maharashtra
& others

Respondents

Mr. V.D. Salunke, advocate holding for Mr. S.V. Gundre, advocate for the petitioner.

Mr. S.B. Yawalkar, A.G.P. for Respondents No. 1 and 2.

Mr. M.S. Kulkarni, advocate for Respondents No. 9 to 13.

CORAM : R.M.BORDE &

MANGESH S. PATIL, JJ.

DATE : 14th September, 2018

PER COURT:

1 This petition is presented objecting to the order passed by the Deputy Charity Commissioner, Nanded, on 27.07.2018 directing to hold elections of the Trust. The elections are directed to be held under the supervision of Mr. S.L. Bhobale and Mr. D.K. Pathan, officials in the office of Deputy Charity Commissioner, Nanded.

2 In the proceedings initiated under section 41A of the Maharashtra Public Trusts Act, identical orders were also issued earlier. Those orders were challenged at the instance of petitioner in W.P. No. 6595/2018 decided on 29.06.2018. Since petitioners were not offered an opportunity of hearing, it was directed to the concerned officers to follow principles of natural justice and to

extend an opportunity of hearing to the petitioner and proceed to pass appropriate orders within a period of one month from the date of order. Accordingly, the matter was taken up by the Assistant Charity Commissioner and directions were issued.

3 The Deputy Charity Commissioner was persuaded to issue directions for the reason that since last about ten years the care taker body is looking after administration of the Trust. It is further observed that audit reports of the trust have not been submitted since last 6/7 years. In this view of the matter, it was directed to hold elections under the supervision of officials of the office of Deputy Charity Commissioner.

4 The petitioner contends that the decision rendered by the Deputy Charity Commissioner rejecting the change report proceedings is subjected to challenge before the Appellate forum i.e. Joint Charity Commissioner. According to the petitioner, the elections were held in the year 2014 and term of the elected body is yet to come to an end. If the appellant succeeds in the appeal, there would be no necessity of holding elections. Appeal is continuation of the proceedings and it is equally incumbent upon the Deputy Charity Commissioner to wait until disposal of the appeal. It is further informed that though appeal is presented to the Joint Charity Commissioner, application for interim relief has not been pressed.

5 It is open for the petitioner to continue with the appeal proceedings before the Joint Charity Commissioner and press for grant of interim relief. It is informed that the process of election

has reached at an advanced stage and list of contesting candidates has already been published on 12.09.2018. The petitioner is one of the contesting candidates. In these circumstances, considering objection raised by the petitioner for holding elections, elections were directed to be held. The result of the elections which are being held in pursuant to the directions issued by the Deputy Charity Commissioner shall be subject to the outcome of the of appeal presented by the petitioner before the Joint Charity Commissioner. Apart from this, it would be open for the petitioner to pray for grant of interim orders before the appellate forum. The elections, those are being held in pursuance to the directions issued by the Deputy Charity Commissioner would obviously depend upon outcome of the appeal proceedings before the Joint Charity Commissioner initiated by the present petitioner.

6 With the directions as above, writ petition stands disposed of.

MANGESH S. PATIL
JUDGE

R.M.BORDE
JUDGE

adb/