

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO. 10399 OF 2018
JITENDRA TEJMAL SANCHETI
VERSUS
JOINT CHARITY COMMISSIONER AURANGABAD AND OTHERS**

**WITH
CIVIL APPLICATION NO.11877 OF 2018
IN**

**WRIT PETITION NO.10399 OF 2018
ARUN RAJENDRA MUNOT
-VERSUS-
JITENDRA TEJMAL SANCHETI AND OTHERS.**

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Advocate for the Petitioner : Shri Palodkar Devdatt P..
AGP for Respondents 1 and 2 : Shri B.A.Shinde.
Advocate for Respondent 3 : Advocate Shri D.V.Bodhankar, present in
person.
Advocate for Respondent 4 : Shri Jain Gajendra Devichand.
Advocate for the Applicant in CA : Shri P.F.Patni.

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**CORAM: RAVINDRA V. GHUGE, J.
DATE :- 03rd October, 2018**

Per Court:

(a) Civil Application No.11877/2018 :-

1 Shri Patni, learned Advocate appearing on behalf of the
intervention applicant in Civil Application No.11877/2018 submits that
the Applicant desires to withdraw this civil application.

2 As such, on instructions, this Civil Application is disposed of
as withdrawn.

(b) Writ Petition No.10399/2018 :-

3 The litigating sides before this Court, who are the Petitioners and Respondent Nos.3 to 5, had earlier tendered the joint purshis (undated) stating that the membership of the Trust, namely, Shri Vardhaman Sthanakvasi Jain Samaj, may be considered only till 2012 and after preparing the valid voters list accordingly, the impugned order could be modified and implemented by Respondent No.3, who has been appointed as Returning Officer to conduct the elections. The said purshis is taken on record and marked as “X-1” for identification.

4 A fresh purshis dated 26.09.2018 is tendered today by the litigating sides as well as by most of the founder members of the Trust. The same is also taken on record and marked as “X-2” for identification.

5 I have heard the learned Advocates for the respective sides.

6 It appears from the record that the Assistant Charity Commissioner-1, Aurangabad Region, Aurangabad had delivered the judgment on 22.05.2018 by which, it was concluded that the members, who were admitted in the year 1983 and who are persons, whose membership applications were accepted by the Executive Committee of the year 1983, alone should now participate in the elections. The change report for the period 2010-2012 submitted by the Trust has been rejected.

7 It is informed that the said Trust bearing Registration No.A-3286 (Aurangabad) is restricted to the people belonging to Sthanakvasi

Jain community. This is a restricted sect of the Jain community. The members of this community are not too many in Aurangabad town. There were only 75 members as in 1983. As on today, only 43 persons have been included in the valid voters list by the Returning Officer. Out of these 43 persons, two persons have passed away and four persons have left Aurangabad town. It is, therefore, jointly submitted that considering the residual list of 1983 after a passage of almost 35 years, would practically result in a mockery of the elections since there are many young members, who have been subsequently inducted and who continued to be the members of the Trust.

8 I see reason in the submissions of the learned Advocates for the respective sides. A passage of 35 years is a long period. The senior generation, who formed the Trust, are aging and some have passed away. In this backdrop, a pragmatic approach needs to be adopted so as to ensure that the membership of the Trust is updated as per the constitution and rules of the Trust and free and fair elections are held under the supervision of Respondent No.3, who has been appointed as the Returning Officer by Respondent No.1.

9 In the above backdrop, the learned Advocates appearing for the respective sides submit that, to eliminate any unfair means or induction of members with ulterior motives, 31st December, 2017 can be considered as the cut-off date for finalizing the membership list and valid

voters list. Since the elections are only for a tenure of two years, the subsequent members or persons, who are inducted, can be considered as per the constitution and the rules of the Trust as valid voters.

10 By consensus, the learned Advocates have slightly modified the purshis Exhibit X-2 by stating that the persons at Sr.Nos.2, 3, 5 and 6, namely, Shri Sunil Runwal, Shri Ratilal Sancheti, Shri Kantilal Muthiyan and Shri Nitesh Lalwani along with Advocate Shri Dilip L. Khinwasara can be the members of the adhoc committee, which will look after the office of the Trust situated at Mahaveer Bhavan, Kumbharwada, Aurangabad. They will not take any policy decision and will not induct new members. They will only assist Respondent No.3/ Returning Officer, who will have the exclusive authority to scrutinize the membership documents and prepare a valid voters list.

11 In view of the above, this Writ Petition is disposed of with the following directions :-

- (a) The observations of the learned Assistant Charity Commissioner-1 in the impugned order dated 22.05.2018, insofar as the restricting the membership of the Trust to 43 members, shall be ignored.
- (b) Respondent No.3/ Returning Officer Advocate D.V.Bodhankar shall be the Returning Officer as per the directions of the Assistant Charity Commissioner.

- (c) Respondent No.4 shall handover the entire record of the Trust, which is said to be in his custody, to the Returning Officer on 06.10.2018.
- (d) The following persons shall be the members of the adhoc committee to look after the day to day affairs of the Trust :-
 - (1) Shri Sunil Runwal
 - (2) Shri Ratilal Sancheti
 - (3) Shri Kantilal Muthiyan
 - (4) Shri Nitesh Lalwani
 - (5) Advocate Shri Dilip L. Khinwasara.
- (e) The above adhoc committee shall take charge in the presence of Respondent No.3 of the Trust on 06.10.2018 from Respondent No.4.
- (f) The adhoc committee will be responsible for maintaining the records and day to day activities of the Trust.
- (g) New members shall, presently, not be inducted till the elections of the Trust are conducted.
- (h) The adhoc committee shall not take any policy decision.
- (i) Considering the cut-off date as “31st December, 2017”, Respondent No.3/ Returning Officer shall scrutinize all documents in accordance with the constitution and the rules of the Trust and shall publish the list of provisional voters on

26.10.2018 at 11:00 am in the office of the Trust and shall affix the said provisional voters list on the notice board at conspicuous places in the Trust office with copies of the said list to each of the members of the adhoc committee.

- (j) Respondent No.3 would receive the objections to the provisional voters list on or before 05:00 pm on 03.11.2018.
- (k) The statement is recorded that the adhoc committee members are not interested in contesting the elections and will not contest the elections for the term 2018-2020 and thereafter, they would be at liberty to contest the elections.
- (l) The adhoc committee shall render assistance to Respondent No.3/ Returning Officer for deciding the objections and the Returning Officer shall then declare the valid voters list at 11:00 AM on 24.11.2018. Along with the valid voters list, the Returning Officer shall declare the election programme and would ensure that the elections are conducted and the results are declared on or before 22.12.2018.
- (m) Pursuant to the elections, the newly elected committee shall follow the due procedure as is required under the Maharashtra Public Trusts Act and shall take charge.

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(RAVINDRA V. GHUGE, J.)

Kalyan
Prakash
Sangvikar

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by Kalyan
Prakash
Sangvikar
Date: 2018.10.04
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