

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

WRIT PETITION NO.12619 OF 2017

**SADASHIV HARIBHAU NALGE
VERSUS
SHARAD RAMVILAS SOMANI AND OTHERS**

...

**WITH
CIVIL APPLICATION NO. 14794 OF 2017 IN
WP/12619/2017**

**SHARAD RAMVILAS SOMANI AND OTHERS
VERSUS
SADASHIV HARIBHAU NALGE**

**AND
CIVIL APPLICATION NO. 5323 OF 2018 IN
WP/12619/2017**

**SUNIL CHAMPALAL MUTHA
VERSUS
SADASHIV HARIBHAU NALGE**

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Advocate for the Petitioner : Shri P. V. Barde
Advocate for Respondent Nos.1 and 2 : Shri Ajinkya Kale and
Ms. P. S. Talekar
Advocate for intervener (Respondent No.3 in WP) : Shri R. R.
Raghuwanshi h/f. Shri P. D. Bachate

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 04th DECEMBER, 2018.

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PER COURT :

1. The petitioner Sadashiv Haribhau Nalge is aggrieved by the order dated 05/10/2017, passed by the Deputy Charity

Commissioner, Ahmednagar, by which, application Exhibit 73 filed by Sadashiv seeking intervention in Misc. Application No. 616/2016, has been rejected and his request for intervention has been disallowed.

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

3. Respondent Nos. 1 and 2 have preferred Misc. Application No. 616/2016 seeking directions under Section 41-A of the Maharashtra Public Trusts Act, by which, the Deputy Charity Commissioner, Ahmednagar is called upon to issue directions to the trust for holding elections. The petitioner Sadashiv was not made a party. Hence, he moved application Exhibit 73 which was rejected by the impugned order concluding that he is not connected with the said trust.

4. I find from the record as under :-

(a) In Appeal No. 18/2007 before the Joint Charity Commissioner, Pune, Sadashiv was a respondent at Sr.No.5.

(b) In Trust Application No. 2/2008 before the District Judge-1, Shrirampur, Sadashiv was arrayed as defendant No.10.

(c) In Writ Petition No. 6100/2018 was filed by the Trust, through respondent No.1 wherein, Sadashiv was arrayed as respondent No.5.

(d) By order dated 25/04/2016, Writ Petition No.6100/2015 was disposed off and the petitioner Trust was granted the liberty to approach the learned Charity Commissioner for seeking directions with respect to the elections to the society.

(e) Pursuant to the above directions, M.A. No. 616/16 was filed by respondent Nos. 1 and 2 herein and though Sadashiv was respondent No.5 in the said petition, he was not arrayed.

(f) In LPA No. 73/2003 in WP No. 4090/2010, Sadashiv was Appellant No. 3 and respondent Nos. 1 and 2 were respondent Nos. 1 and 3.

(g) In Writ Petition No. 6065/2014, Sadashiv was respondent No.1.

(h) In Writ Petition No.4753/2014, the petitioner was the Educational Society which filed the petition through its Secretary, who is Sadashiv.

(i) In Writ Petition No.8032/2014, the said Educational Trust was represented by Sadashiv as the petitioner.

(j) In the judgment dated 16/11/2016 delivered by the Joint Charity Commissioner, Pune in M.A. Nos. 63 & 64/2016, the trust was represented by its Secretary through Sadashiv and the concerned Commissioner directed that Shri Sadashiv and the incharge Principal shall operate the bank accounts of the trust.

5. In the above backdrop, I find that these aspects were completely ignored by the authority below and application Exhibit 73 was rejected declining Sadashiv an opportunity of intervening in the matter.

6. The learned Advocates for the respective sides submit that if M. A. No. 616/2016 is decided expeditiously and if elections are to be held, the petitioner can be arrayed as a respondent and the matter could be decided expeditiously.

7. In view of the above, the impugned order 05/10/2017 is quashed and set aside. The petitioner Sadashiv is allowed to be arrayed as a respondent in the proceedings before the authority below. Formal notice need not be issued as he would appear in the matter. Respondent Nos. 1 and 2 would

add him as a respondent in the said proceeding forthwith.

8. The directions pursuant to the above are as under :-

(a) Any application for intervention, if filed within one month from today, would be considered by the Deputy Charity Commissioner, Ahmednagar on its own merits. Such application shall be adjudicated upon within four weeks after it is filed.

(b) All the litigating sides would co operate for the expeditious hearing of M.A. No. 616/2016 and the concerned authority would be entitled to reject an application for adjournment if it is found to be filed on frivolous or unreasonable grounds.

(c) All contentions of the litigating sides are left open to be considered on their merits.

9. In this petition, respondent No.3 was the Belapur Education Society through its President. As the notice could not be served, the petitioner chose to delete the society. Civil Application No. 5323/2018 is filed by Sunil Champalal Mutha, who claims to be the President of the trust and has sought

intervention. Considering the order that I am passing, this C.A.No. 5323/2018 application is disposed off leaving it open to Sunil Mutha to file an intervention application in M.A. No. 616/2016 subject to the directions that I have passed above.

10. Since I am expediting M.A. No. 616/2016, C.A. No. 14794/2017 filed by Sharad Ramvilas, need not be entertained and the same is disposed off.

11. I have passed the above order after perusing the record for a period of almost one and half decades and in the light of Section 2(10) and Section 73A of the Maharashtra Public Trust Act. The Deputy Charity Commissioner, therefore, would be at liberty to take into account all the contentions and objections of the litigating sides and the interest of the trust, while deciding M.A. No. 616/2016.

12. Needless to state, M.A. No. 616/2016 shall be decided as expeditiously as possible and in any case, on or before 31/03/2019.

(RAVINDRA V. GHUGE, J.)

shp/-