

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9584 OF 2017

Shamsheer Rehman Sheikh

..... Petitioner

VERSUS

State of Maharashtra & Ors.

..... Respondents

Mr.Jitendra Ranawat, i/b. Mr.Waquar Ahmed for the Petitioner.

Mr.Y.S.Singh for the Respondent no.4.

Mr.S.H.Kankal, A.G.P. for the State – Respondent nos. 1 to 3.

CORAM : R.D. DHANUKA, J.

DATE : 8th JANUARY, 2018

P.C.

By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order passed by the respondent no.2 dated 22nd November,2016 and the order passed by the respondent no.3 dated 28th July, 2016 in Change Report No.DYCC/3877/2011.

2. The reporting trustee has filed a change report before the authority. The petitioner claims to be one of the elected trustee and has filed objections to the said change report. One of the trustee filed an application dated 10th March,2016 in the said change report *inter alia* praying for amendment to the change report. The said application was opposed by the petitioner.

3. Learned Assistant Charity Commissioner (respondent no.3 herein) passed an order dated 28th July, 2016 allowing the said application and permitted the amendment to the change report.

4. Being aggrieved by the said order, the petitioner filed Revision Application (384 of 2016) before the learned Joint Charity Commissioner. Learned Joint Charity Commissioner rejected the said application vide order dated 22nd November, 2016 and confirmed the said order dated 28th July, 2016 passed by the respondent no.3.

5. Learned counsel appearing for the petitioner invited my attention to the application made by the petitioner for amendment and two impugned orders passed by the authorities and would submit that the authorities could not have permitted the petitioner to apply for amendment to the change report and thus both the orders are illegal.

6. Learned counsel for the contesting respondents opposes the petition and supported the findings rendered by the two authorities below.

7. A perusal of the application for amendment made by the trustee indicates that the said application was made on the ground that through oversight below the heading delete the name of Trustees at 1st column only name of Mr.Hafiz Ahmed Aziz Ahmed due to death and Shaikh Nisar Ahmed due to resignation was required to be deleted therefore names which were appearing from serial nos. 2 to 6 were required to be deleted since they were the managing committee members and were continued to be the part of the trustees. The amendment was also applied on the ground that the other trustee Mr.Shaikh Aijaz Usman Gani and Mr.Shaikh Mohd. Isaque Hanif, Mr.Shaikh Mohd.Taher

Nazir Hussain and Mr.Ansari Mohd. Idris Ainulla were elected to the meeting held on 1st August,2010 and therefore the names appearing at serial nos. 2, 3, 5, 6 and 7 were required to be deleted since they were already managing committee members of the trust.

8. Considering these facts, the respondent no.3 permitted an application for amendment. The respondent no.2 passed a detailed order on 22nd November,2016 dismissing the revision application filed by the petitioner.

9. It is not in dispute that the application filed by the trustee seeking amendment to the change report has been permitted on the ground setout in the two orders below. The change report filed under section 22 of the Bombay Public Trust Act is yet to be heard on merits. In my view merely because the application for amendment to the change report is permitted due to the reasons recorded in the order and the application made by the reporting trustees, no prejudice of any nature whatsoever can be caused to the petitioner.

10. It is made clear that the change report shall be decided by the authority on its own merits and in accordance with law. In my view there is thus no merit in this petition and the same is accordingly rejected. No order as to costs.

[R.D. DHANUKA, J.]