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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO.15691 OF 2018

Dr.Dilip S. Joag

...Petitioner

V/s.

Deputy Charity Commissioner,
Pune Division, Pune & Ors.

...Respondents

Mr.P.K. Dhakephalkar, Senior Counsel with Mr.Nilesh Wable, Ms.Ravi Mishra and Mr.Ajay Kumar i/b Mr.Ravi Bhardwaj for the Petitioner.

Mr.Girish Godbole with Mr.Varun Satiga and Mr.Arun Unnikrishnan i/b Crawford Bayley & Co. for the Respondent Nos.2 and 3.

CORAM : R.D. DHANUKA, J.

DATE : 8TH JUNE, 2018.

P.C. :-

1. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 21st May, 2018 passed by the learned Deputy Charity Commissioner, Pune, rejecting the application filed by the petitioner *inter-alia* praying for intervention in the Application No.1 of 2017 filed by the respondent nos.2 and 3 under section 50-A of the Maharashtra Public Trust Act, 1950 *inter-alia* praying for framing a scheme of the Trust.

2. The petitioner claims to be the beneficiary and person interested on the ground that he comes from the teacher's

community and having a *bonafide* interest in the functioning of the Modern Education Society and its institutions. The petitioner is M.Sc. (Physics) from IIT Mumbai, Ph.D. from Savitribai Phule Pune University, Pune and claims to have supervised about 15 Ph.D. Students and has trained a large group of students and teachers during the course of his career. He has disclosed his several achievements in his professional carrier in his application for impleadment as a party to the application under section 50A of the Maharashtra Public Trust Act, 1950. The said application was opposed by the respondent nos.2 and 3 before the learned Deputy Charity Commissioner, Pune. Learned Deputy Charity Commissioner has rejected the said application by an order dated 21th May, 2018 on various grounds.

3. Mr.Dhakephalkar, learned senior counsel appearing for the petitioner invited my attention to some of the averments made by his client in his application for impleadment in the application filed under section 50-A of the Maharashtra Public Trust Act, 1950 and would submit that his grand-father was a founder member of the respondent no.2 trust and the petitioner has excellent professional career as set out in the application made by his client for impleadment.

4. It is submitted by the learned senior counsel that the learned Deputy Charity Commissioner has totally misinterpreted

section 2(10) which defines the 'person having interest' and would submit that the said definition is inclusive definition and would include all persons mentioned in the said section and all others having interest in the Trust.

5. Mr. Godbole, learned counsel appearing for the respondent nos. 2 and 3 on the other hand would submit that the petitioner has been put up by the rival group who are contesting the said application under section 50-A of the Maharashtra Public Trust Act, 1950. He submits that the application was filed in the year 2017. The oral evidence is already concluded in the matter and the matter is now posted for hearing today. It is submitted that the said application made by the petitioner was not only mischievous but also made belatedly. Learned counsel invited my attention to the definition of "beneficiary" amended in the year 2017 which would mean that any person entitled to any of the benefit as per the objects of the Trust explained in the Trust Deed or the scheme made as per this Act and constitution of the Trust and no other person.

6. It is submitted that the learned Deputy Charity Commissioner has dealt with this issue in great detail in the impugned order and has rendered a finding of fact. The petitioner did not fall under any of the categories mentioned in the definition of persons interested under section 2(10) or the definition of beneficiary under

section 2(2). He submits that the petitioner is neither the student nor an employee nor a teacher employed with the Trust or any institution managed by the Trust. He submits that the grand-father of the petitioner was not the original settlor. In support of this submission, learned counsel invited my attention to the Trust Deed annexed at Exhibit "C" to the petition and would submit that Mr.Wadia was a settlor of the said Trust and not the grand-father of the petitioner.

7. Learned counsel placed reliance on the judgment of this Court in case of **People's Education Society & Ors. vs. Mansing S.Moray & Ors. 2015 SCC OnLine Bom. 4654** in support of his submission that the impugned order passed by the learned Deputy Charity Commissioner was in conformity with the principles laid down by this Court in the said judgment. The petitioner would not fall under any of the categories described in section 2(10) read with section 2(2) duly amended.

8. Mr.Dhakephalkar, learned senior counsel for the petitioner distinguished the judgment of this Court in case of **People's Education Society & Ors.** (supra) and would submit that the application of the third party was rejected by this Court in that matter in an application filed under section 2 of the Maharashtra Public Trust Act, 1950 and the same was not under section 50-A of the Maharashtra Public Trust Act, 1950.

9. It is not in dispute that the application under section 50-A of the Maharashtra Public Trust Act was made by the respondent nos.2 and 3 some time in the year 2017. The oral evidence led by the applicants in the said application and the opponents is already concluded. The matter is already placed on board today for final arguments.

10. Insofar as the application made by the petitioner is concerned, it is not in dispute that the application is made only on 14th May, 2018. The learned Deputy Charity Commissioner has considered all the relevant aspects and has rejected the said application made by the petitioner. Since the matter is already at the argument stage, on that ground itself, I am not inclined to interfere with the impugned order passed by the learned Deputy Charity Commissioner.

11. Be that as it may, a perusal of the impugned order passed by the learned Deputy Charity Commissioner clearly indicates that the learned Deputy Charity Commissioner has considered the Trust Deed and also has rendered findings of fact on the issue as to whether the petitioner can be described as a person having interest under section 2(10) of the Maharashtra Public Trust Act, 1950 duly amended or not. The learned Deputy Charity Commissioner has rendered a finding that the petitioner was neither a student, nor an

employee nor a teacher in any of the institutions run by the respondent nos.2 and 3.

12. In my view, the interpretation of the learned Deputy Charity Commissioner is in conformity with the definition under section 2(10) read with section 2(2) of the Maharashtra Public Trust Act, 1950. I do not find any infirmity with the impugned order passed by the learned Deputy Charity Commissioner.

13. This Court does need not deal with the judgment in case of **People's Education Society & Ors.** (supra) relied upon by Mr.Godbole, learned counsel appearing for the respondent nos.2 and 3.

14. The writ petition is devoid of merit and is accordingly dismissed. There shall be no order as to costs.

(R.D. DHANUKA, J.)