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

WRIT PETITION NO.1450 OF 2019

Shyamlal Memorial Education
Society, Udgir, Through it's Secretary,
Vikarm s/o Nilkanthrao Sankaye,
Age: 39 years, Occu: Advocate,
R/o: Sahjivan Colony, Shellal Road,
Tq. Udgir, Dist. Latur

..PETITIONER

VERSUS

1. The Joint Charity Commissioner,
Division Latur, Dist. Latur
2. Sopanrao s/o Malojirao Tondchirkar
3. Namdev s/o Ramrao Chamle
4. Dr. Sujata s/o Bajrang Madansure
5. Nagnath s/o Lingappa Magdale
6. Arjun s/o Narshingrao Somwanshi
7. Raosaheb s/o Dadarao Vaidya
8. Ramchandra s/o Tulshiram Yerme
9. Ajitkumar s/o Mallapa Sarsambe
10. Prof. Baburao s/o Nagorao Navtakke
11. Manmathppa s/o Bhadrappa Chille

..RESPONDENTS

Mr R. D. Biradar, Advocate for petitioner;
Mr S. S. Dande, A.G.P. for respondent No.1;
Mr V. P. Latange, Advocate for respondent Nos.2 to 11

**CORAM : PRASANNA B. VARALE
AND
S. M. GAVHANE, JJ.**

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DATE : 27th February, 2019**ORAL ORDER:**

Heard learned Counsel appearing on behalf of the petitioner.

2. The notice was issued by this Court to the respondents on 31st January, 2019. In response to the notice, Mr Latange, learned Counsel, on instructions, appears for respondent Nos.2 to 11. It may not be necessary for us to refer in detail the submissions of learned Counsel and contentions raised in the petitions, suffice it to say that there is a chequered history of a dispute in the public trust which unfortunately has become regular feature in most of the trusts. Be that as it may.

3. An application was filed before learned Assistant Charity Commissioner, Latur Division, Latur on 25th September, 2018 at the instance of respondent Nos.2 to 11. Perusal of the copy of the application placed on record at Exh.'F' shows that a wholesome prayer is made in the application, namely, the concerned authority i.e. Assistant Charity Commissioner to verify the fact situation submitted in the application and to pass appropriate orders for appointing administrator or the board of administrators and to direct conduct of election as per the constitution of the trust. Learned Assistant Charity Commissioner, in its order dated 12th December, 2018 referred to various change reports filed in the year 2004, 2007, 2009, 2010 and 2015. Then learned Assistant Charity Commissioner

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refers to report sought for through the Inspector. In this report, the fact of pendency of various change reports is reiterated. There is also reference to the proceedings pending before learned Assistant Charity Commissioner initiated under Section 41-D of the Maharashtra Public Trusts Act. Considering these aspects, learned Assistant Charity Commissioner allowed the application partly and directed to conduct the elections as per the constitution within stipulated period of three months from the date of the order.

4. Learned Counsel for the petitioner, by inviting our attention to the order dated 22nd January, 2008 passed by learned Single Judge of this Court in a bunch of first appeals and second appeals, submitted that learned Single Judge of this Court also took into consideration the factum of the pendency of various change reports. Learned Single Judge of this Court, by consideration of this fact thought it fit to direct the Assistant Charity Commissioner to dispose of the change reports and in spite of these directions, the change reports are pending before the authority, is the submission of learned Counsel for the petitioner. It is also submitted by learned Counsel for the petitioner that the petitioner had also submitted one of the change reports and the same is pending for decision. Learned Counsel then submitted that the grievance of the petitioner that learned Assistant Charity Commissioner even though recorded the fact of pendency of change report without providing opportunity of hearing to the petitioner

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who had filed one of the charge reports, passed the order by allowing application partly. It was the further submission of learned Counsel for the petitioner that learned Assistant Charity Commissioner may pass appropriate orders but an opportunity of hearing be granted to the petitioner so as to follow principles of natural justice and it may also assist the authority to assess the merit of the application with better particulars and on comprehensive submissions. This being a limited grievance of the petitioner, we deem it proper to dispose of the petition at the admission itself.

5. Mr Latange, learned Counsel appearing on behalf of respondent Nos.2 to 11 was also fair enough to submit before us that respondents have no objection to grant an opportunity of hearing to the petitioner but they are only interested in the administration of the trust by a competent elected body.

6. Considering the aforesaid submissions, the petition is disposed of with directions to learned Assistant Charity Commissioner to grant an opportunity of hearing to the petitioner.

7. Learned Counsel for the petitioner undertakes to submit an application before the Assistant Charity Commissioner within one week from today. If such application is received by learned Assistant Charity

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Commissioner within one week, learned Assistant Charity Commissioner to call upon respondent Nos.2 to 11, who had submitted earlier application and in case learned Assistant Charity Commissioner is of the opinion to issue notice to other persons who are, in his opinion, are necessary parties for deciding the application, may issue notice to such parties/persons calling upon them to attend the Assistant Charity Commissioner by way of personal appearance or through Counsel or by way of written statements within one week. Learned Assistant Charity Commissioner thereafter to pass appropriate orders within a period of two weeks afresh, needless to state that on merits of the matter.

8. In view of our aforesaid directions, the petition is partly allowed and the order dated 12th December, 2018, passed by learned Assistant Charity Commissioner is quashed and set aside.

(S. M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

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