

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

WRIT PETITION NO. 4119 OF 2019

SUBHASH HARISHCHANDRA TEKALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Petitioners : Ms. Pragati Khadole with
Shri Ajinkya Kale for (Talekar And Associates)

AGP for Respondent Nos. 1 and 2 : Shri S. W. Munde

Advocate for Respondent Nos. 3 to 11 : Shri P. B.
Rakhunde

Advocate for Respondent Nos. 12 to 20 : Shri K. D.
Jadhav with Shri R. V. Patil

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 21st NOVEMBER, 2019.

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PER COURT :

1. In this petition, the 14 petitioners are aggrieved by the order dated 17/01/2019, by which, the learned Assistant Charity Commissioner- 2, Osmanabad has rejected application Exhibit 88 filed by these petitioners seeking leave to intervene in C.R. Inquiry No. 892/2008.

2. I have heard the learned Advocates for the respective sides for quite some time and have gone through the record available with their assistance.

3. Considering the order that I intend to pass, I need not enlarge this order by narrating the entire contentions of the parties keeping in view that two change report inquiries are pending before the learned ACC and two rival groups have filed such change reports.

4. Suffice it to say, the petitioners comprise of 14 persons who claimed to be members of the trust and have their membership slips and receipts of payment of membership fees. Respondent Nos. 12 to 20 comprise of one group which filed C.R. Inquiry No. 892/2008 claiming to have been elected as office bearers. The second group comprises of respondent Nos. 3 to 11, who have also claimed to have held elections and have preferred C.R. No. 58/2009. The learned Advocate for the petitioners contends that both these groups are trying to share the trust and these 14 petitioners, who are valid members of the trust, are disowned by both the groups.

5. The learned Advocates appearing on behalf of both the groups submit by way of a response to the contention of the petitioners that both the inquiries with regard to the change report Enquiry Nos. 892/2008 and 58/2009 could be clubbed for a common decision.

6. I find it advantageous to direct the learned ACC to decide both the change reports together for two reasons. Firstly, that this dispute of elections is about 10 years old and secondly, the issue of membership of the 14 persons will have to be decided by the ACC. If the two change reports are decided together, it would be appropriate for the ACC to deliver a common judgment and decide as to which election is to be sustained.

7. It is a peculiar situation wherein two groups have submitted their change report through their reporting trustees and in both these change reports, an issue which is fundamental as to whether, the 14 petitioners were legally kept away from voting in the elections

held by both the groups, will have to be decided by the ACC. Both these groups are disowning the 14 petitioners and as such the rights of these 14 petitioners are likely to be suppressed by both these groups.

8. In these peculiar and unforeseen situation, this Court will have to ensure that these 14 petitioners are not ignored and their rights are not truncated. The learned Advocate for the petitioners submits on instructions of the 14 petitioners that Shri Subhash Harischandra Tekale - petitioner No.1, would be the person, who would espouse the cause of these 14 petitioners in both the change reports.

9. I find that the addition of the representative of the petitioners has become necessary in this peculiar case because, if ultimately it is proved that both these groups had illegally kept the 14 petitioners, away from the respective elections, the change reports will have to be rejected by the ACC.

10. In view of the above, I am exercising my extraordinary jurisdiction in these peculiar facts of the case. The petition is partly allowed. The learned ACC-2, Osmanabad shall permit Shri S. H. Tekale to be arrayed as a respondent in C.R. Inquiry Nos. 892/2008 and 58/2009 so that he can espouse the cause of all the 14 petitioners. The learned ACC shall take up both the Inquiries together in view of the direction of this Court that they would be clubbed and decided together. All contentions of the litigating sides including the issue as to whether these 14 petitioners can be said to be valid members of the trust, shall be decided by the learned ACC.

11. On the request of the learned Advocates representing all these sides, the learned ACC shall decide both the change reports together, on or before 30/11/2020.

(RAVINDRA V. GHUGE, J.)

shp/-