

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

**955 CIVIL APPLICATION NO.4136 OF 2019
IN FA/2100/2018**

**PANDHARINATH SHANKARRAO KAMBLE AND ANR
VERSUS
THE JOINT CHARITY COMMISSIONER LATUR AND ORS**

...

Advocate for Applicants : Mr. Girish L. Awale
Advocate for Respondent No. 4 : Mr. V. D. Salunke

...

CORAM : SUNIL. K. KOTWAL,J.

DATE : 20th March, 2019

PER COURT:

1. First Appeal No. 2100/2018 is filed by applicants against the order passed by the Joint Charity Commissioner under Section 41-E of the Maharashtra Public Trust Act. In that appeal by passing order in Civil Application No.9256/2018 this Court stayed clause Nos. 1 to 4 of the order dated 29.05.2018 passed by the Joint Charity Commissioner, Latur in Enquiry No.75/2017 and Assistant Charity Commissioner, Latur was directed to hear and decide all change reports filed in respect of "Shri Mahant Swami Shikshan Prasarak Mandal, Ausa, Dist. Latur, as expeditiously as possible and in any event on or before 15.10.2018. Pending hearing and disposal of change reports, interim arrangement was made by this Court.

2. The order passed by this Court in Civil Application No.9256/2018 was challenged by respondent Nos. 2 and 3 before the Supreme Court and in Special Leave to Appeal (C) No.29376/2018, the Apex Court declined to interfere with the order passed by this Court. However, Apex Court directed the Assistant Charity Commissioner, Latur to dispose of the change reports at the earliest, uninfluenced by any observation made by this Court. Accordingly, Assistant Charity Commissioner has disposed of all five change reports on 15.02.2019. Thereafter, the original appellants have filed this Civil Application to stay the order passed by the Assistant Charity Commissioner, Latur in all the decided change reports as well as to set aside the order passed by Assistant Charity Commissioner in those change reports.

3. Heard learned advocates for both the parties. My attention was also drawn to Section 70 of the Maharashtra Public Trust Act. It provides that under this provision against the order passed by Assistant Charity Commissioner in above said five change reports, remedy is available to the applicants to file appeal before the Charity Commissioner under Section 70 of the Maharashtra Public Trust Act and under that proceeding, Charity Commissioner can consider to pass any appropriate orders. Thus, when proper remedy is available under the Maharashtra Public Trust Act to the applicants, to challenge the

order passed by the Assistant Charity Commissioner in all five change reports and to file appeal and obtain appropriate order, this Court cannot stay the order passed by the Assistant Charity Commissioner, Latur, in this First Appeals as this Court has no jurisdiction to pass such order. Even this Court cannot set aside the orders passed by the Assistant Charity Commissioner accepting the same change reports or rejecting the same change reports.

4. Thus, the Civil Application being devoid of merits, is rejected.

(SUNIL. K. KOTWAL, J.)