

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

WRIT PETITION NO. 4915 OF 2003

1. Sopanrao s/o Malojirao Tondchirkar
Age 63 years, Occu : Retire,
R/o Udgir, Taluka Udgir, Dist. Latur.

2. Dattarao s/o Ramkisanrao Gangji
Age : 56 years, Occu : Service,
R/o As above.

...PETITIONERS

VERSUS

1. The State of Maharashtra,
Through it's Secretary,
Law and Judiciary
Department, Mantralaya, Mumbai-32

2. The Returning Officer/Assistant
Charity Commissioner, Osmanabad

3. The Shyamlal Memorial Education
Society, Udgir, District Latur
Through it's Secretary.

4. Gangadhar s/o Chanderrao Ghumade,
Age : 54 years, Occu : Service,
R/o : Udgir, Taluka Udgir,
District Latur.

...RESPONDENTS

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AGP for Respondent Nos. 1 and 2 – State : Shri N. T. Bhagat.

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 06th JULY, 2019.

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ORAL JUDGMENT :

1. None for the petitioners and respondent Nos. 3 and 4.
2. I have perused the order passed by this Court on 04/12/2003 which reads as under :-

" (1) As a result of long drawn disputes in the Management of the Public Trust, which had given rise to various proceedings before different forums, this Court by an order dated 26-9-2003, modified the order passed by the Joint Charity Commissioner in the matter of appointment of Returning Officer and proceeded to appoint one Mrs. V. R. Mishra, Assistant Charity Commissioner, Osmanabad, as the Returning Officer to conduct the election of the Managing Committee of the trust, which is also a Society registered under the Societies Registration Act. The appointment of the said person as Returning Officer was by the order of this Court. This Court by the said order, had directed the Returning Officer to proceed to hold election after publishing provisional list of voters and made it clear that it shall be open for the members to raise their claims and objections to the inclusion or otherwise of the names in the provisional list of voters and in turn, Returning Officer was permitted to prepare a final list of voters after adjudication of the objections, if any raised to the

provisional list.

The anxiety of this Court while passing the order was to see that the elections, which were not held despite expiry of the term, are held expeditiously in accordance with law, by an impartial person and, as such, by changing the earlier Returning Officer, Mrs. V. R. Mishra, Assistant Charity Commissioner, Osmanabad, was appointed as a Returning Officer. Pursuant to the orders passed by this Court, the process of election has commenced. There were objections raised in regard to names of some members in the provisional list of voters. The Returning Officer has adjudicated the objections and the order passed by the Returning Officer / Assistant Charity Commissioner in that regard is challenged by filing the present petition.

(2) Various objections are raised touching the conduct of the elections. It is contended that this Court had directed holding of the election in accordance with the rules, so also, the Trust Deed, but the election programme would reveal that even General Body Meeting is not convened wherein the election has to be held under the Trust Deed. Other objections in regard to exclusion and inclusion of names of various persons, are also raised. As I am of the opinion, that the election process ought not to be

halted or disturbed, I do not propose to interfere with the process of election and, as such, proceed to pass the following order.

(3) Rule.

(4) Prayer for interim relief stands rejected.

(5) It is made clear, that it shall be open to the petitioners to raise all objections before the Charity Commissioner as and when a change report is filed pursuant to the ensuing election, for effecting a change.

(6) The learned Assistant Government Pleader waives service for respondent nos. 1 and 2, and the learned Counsel appearing for respondent no. 3 waives service for the same respondent."

3. Upon perusal of the above stated order passed by this Court while admitting the petition, it is obvious that this Court has kept all objections of the litigating sides available to be raised before the competent authority in the change report inquiry pursuant to the elections.

4. The learned AGP submits that normally elections are conducted once in five years. On this presumption, atleast three more elections have been held in between 2003 and 2019.

5. As such, this petition is disposed off in terms of the interim order dated 04/12/2003. Rule is discharged.

(RAVINDRA V. GHUGE, J.)

shp/-