

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

**909 REVIEW APPLICATION (CIVIL) NO.195 OF 2019
IN WP/6745/2019**

**YADNYESHWAR RATIKANT KULKARNI
VERSUS
THE JOINT CHARITY COMMISSIONER AURANGABAD AND
OTHERS**

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**Advocate for Applicant : Y.B.Bolkar and Sarwade Vinay A. For
Applicant
AGP for Respondents: S.P.Tiwari**

**CORAM : S.V.GANGAPURWALA &
MANGESH S. PATIL, JJ.**

DATE : 06/09/2019

PER COURT :

Mr.Bolkar, learned counsel appears for the Review Applicant. In view of that Mr.Tekale, learned counsel seeks discharge. In view of the appearance of Mr.Sarwade and Mr.Bolkar, for the applicant, Mr.Tekale, learned counsel stands discharged.

2] The applicant seeks review of the order of this Court dated 11/6/2019 thereby disposing of the Writ Petition.

3] The present applicant is assailing the appointment of present respondent no.3 to look after the work of the Secretary of the Trust.

4] Mr.Bolkar, the learned counsel submits that under Section 41-A of the Maharashtra Public Trust Act, the Joint Charity Commissioner could not have exercised the power in appointing a fit person. The Joint Charity Commissioner under Section 41-A of the Act can only

look into the aspects as limited in the said provision. It cannot exercise the powers under Section 41-A to appoint a committee or person, the same would be without jurisdiction. Reliance is placed by the learned counsel on the judgment of the learned Single Judge of this Court in the case of Asaram Bhimrao Shinde and others V/s the State of Maharashtra and others reported in 2001 (4) Mh.L.J. 548 and also on the judgment of the another learned Single Judge of this Court in the case of Ramdas Shivaji Sakhare and others V/s Karuji Dago Ambade and others reported in 2002 (2) Mh.L.J. 304. The learned counsel further submits that it is only the Assistant Charity Commissioner or Deputy Charity Commissioner who can exercise powers under Section 41-A of the Act.

5] We had not entertained the Writ Petition under the orders assailed in review. We had observed that no allegations are made against respondent no.3 in person. We have observed that there are no observations about integrity and character against respondent no.3. The Commissioner of Police is an ex-officio President of the Trust. The Joint Charity Commissioner while passing the order has observed that the Secretary Prakash Ganesh Pathak had filed application requesting the authority to appoint some other person to act as a Secretary since he is unable to work because of his age. The Joint Charity Commissioner observed that at present there is no working President of the Trust and the Secretary appointed by the authority is not willing to act as a Secretary. That the administration of the Trust should not be paralyzed the Joint Charity Commissioner had stepped in. The applicant does not have objection so far as appointment of the Commissioner of Police to act as a President of the Trust. The objection is only raised as against respondent no.3 who

is permitted to act as a Secretary. The Joint Charity Commissioner has clarified that respondent no.3 is permitted to look after work of the Secretary of the Trust subject to the approval of the Ex-officio President of the Trust viz. Commissioner of Police Aurangabad. The name of the respondent no.3 was also undisputed. He is employee of the District Court. He has already worked as a trainer for other institutions and is appointed as only time gap arrangement and that too if the President of the Trust permits him to look after work of a Secretary.

6] In light of the above, we are not inclined to entertain the Review Application. Review Application is disposed of.

(MANGESH S. PATIL,J.)

(S.V.GANGAPURWALA,J.)

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