

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

15 WRIT PETITION NO.10198 OF 2019

ARUN PANDURANG GARAD AND OTHERS
VERSUS
SURYAKANT DATTATRAY JAGTAP

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Advocate for Petitioners : Mr. S. S. Jadhavar and
Mr. S. R. Barlinge
Advocate for Respondent : Mr. V. V. Ingale

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 9th SEPTEMBER, 2019.

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PER COURT :

1. I have heard the learned advocates for the petitioners and the sole-respondent, for a considerable time. I have perused the affidavit-in-reply filed by the respondent as well the documents accompanying the said reply, from page Nos.135 to 170.
2. Considering the order that I am passing, I do not deem it appropriate to advert to the entire submissions of the learned advocates for the respective sides.
3. The petitioners are aggrieved by the judgment and order dated 26.06.2019 passed by the learned Joint Charity

Commissioner, Latur by which he has issued the following directions :-

- "1. The present enquiry application is allowed.
2. Non-applicant No.1, 2, 4 to 17, 19, 20 and Somnath Ganpati Waghmare are hereby permanently removed from the trusteeship and membership of present trust as well as restrained from becoming member and trustee in any other public trust.
3. Shri R. N. Dhere, Inspector of Public Trust Registration Office, Osmanabad is hereby appointed as an administrator over the present trust in question for looking after the day to day affairs of the trust till legal and valid managing body came into existence.
4. The administrator shall manage the affairs of the trust without taking any policy decision and shall approach learned Assistant Charity Commissioner, Osmanabad if any impediment arose while managing the trust.
5. The custodian of original record of the trust is hereby directed to hand over the all record of the trust to the administrator immediately without fail.
6. Copy of this order be sent to Assistant Charity Commissioner, Osmanabad forthwith.
7. No order as to cost".

4. The learned advocates for the respective sides submit that these petitioners were suspended by an interlocutory order during the pendency of Enquiry Application No. 98 of 2015 under Section 41-D of the Maharashtra Public Trust Act, 1950. That interlocutory order is a subject matter of Writ Petition No. 4119 of 2018, which is pending before the High Court at Aurangabad and there are no interim orders passed in the said matter.

5. I have considered the impugned order passed by the learned Joint Charity Commissioner. He has allowed Enquiry Application No. 98 of 2015 under Section 41-D of the Maharashtra Public Trusts Act, 1950. Specific conclusions have been drawn by the learned Court below on the basis of the oral and the documentary evidence available before him, in paragraph Nos.16 and 17. While appointing an Inspector from the office of the learned Charity Commissioner, Latur as an Administrator, the learned Judge has concluded that the Administrator would look after the day to day affairs of the Trusts till an authorized body comes into existence.

6. In paragraph Nos. 16 and 17, the learned Judge has

specifically observed that these petitioners deserve to be suspended and also Somnath Ganpati Waghmare, who is the father of the sole respondent herein, also deserves to be suspended. I do not find that the learned Judge / Joint Charity Commissioner, Latur has drawn a conclusion that these petitioners as well as Somnath Waghmare deserve to be permanently removed as trustees and from the membership of the Trust and they deserve to be restrained from becoming member or a trustee in any other public trust.

7. What I find from paragraph Nos. 16 and 17, which are the conclusion drawing paragraphs is that the learned Joint Charity Commissioner was convinced that they deserve to be kept suspended. If they were temporarily suspended by an interlocutory order, which is not set aside by this Court in Writ Petition No. 4119 of 2018, the Court should have assigned reasons to conclude as to why these petitioners and Somnath Waghmare deserve to be removed from the Trust.

8. In view of above, I am disposing off this petition by issuing specific directions as under :-

A) The request of these petitioners that as Petition No. 499 of 2018 is rendered infructuous and they desire to withdraw the same, is accepted and the said petition is therefore disposed off as withdrawn.

B) I am not causing any interference in the impugned order since I find that the matter needs to be remitted to the learned Joint Charity Commissioner, Latur so as to hear the litigating sides on the aspect of permanent removal as trustees and members of the Trust and restraining them from becoming members or trustees in any other public trust.

C) The impugned order is therefore maintained as it is and Enquiry Application No. 98 of 2015 is remitted to the learned Joint Charity Commissioner, Latur for a hearing only on the aspect above.

D) All these litigating sides shall appear before the learned Joint Charity Commissioner, Latur on 25.09.2019 at 11.00 a.m. Formal notices are not required.

E) Between 25.09.2019 and 30.09.2019, the learned Joint Charity Commissioner shall hear these litigating

sides on the aspect of removal as members and trustees of the said Trust and prevention from becoming members or trustees of any other trust.

F) Thereafter, the learned authority would close the matter for passing an additional order on the above mentioned issue, on or before 22.10.2019.

G) If the learned Joint Charity Commissioner assigns reasons in addition to the impugned judgment dated 26.06.2019 and sustains the conclusion as set out in clause-2 of the impugned order, these petitioners will be at liberty to lodge a fresh petition in this Court and all grounds and contentions available for challenging the entire judgment including the additional portion in view of the above directions, shall be kept open to be canvassed before this Court.

9. This petition is therefore disposed off.

(RAVINDRA V. GHUGE, J.)

vsm/-