

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO. 9423 OF 2018

1. Dr. Prakash S/o Vinayakrao Doiphode,
Age : 70 Years, Occ. Business,
R/o. Holi Nanded Tq & Dist. Nanded.

2. Ashok S/o Sambhaji Dalpe,
Age : 56 Years, Occ. Service,
R/o. Ulhasnagar, Malegaon Road,
Taroda (Khurd) Nanded.
Tq. And Sit. Nanded.

..PETITIONERS

VERSUS

1. The State of Maharashtra,
Through its Principal Secretary
Law and Judiciary Department,
Mantralaya, Mumbai – 32.

2. The Charity Commissioner,
Maharashtra State, Worli,
Mumbai- 29.

3. The Joint Charity Commissioner,
Aurangabad Region,
Aurangabad.

4. The Office Superintendent,
Administration Office of the
Joint Charity Commissioner,
Aurangabad Region, Aurangabad.

5. The Deputy Assistant Charity Commissioner,
Nanded District Nanded

6. Sakharam S/o Digamber Mahajan,
Age : 72 Years, Occ. Pensioner,
R/o. 53, Bhagya Nagar, Nanded
Tq. & Dist. Nanded.

7. Bhagwan S/o Madhavrao Watemod,
Age : 50 Years, Occ. Head Master of Late
Madhavrao Watemod Vidyalaya, Kautha (Old),

Nanded Tq. & Dist. Nanded. (Intervenor)

..RESPONDENTS.

....

Advocate for the petitioner Mr. V.G. Salgare

A.G.P. For respondent Nos. 1 to 5 : Mr. M. M. Nerlikar

Advocate for respondent No.6 : Mr. S.M. Kulkarni

Advocate for respondent No. 7 : Mr.S.V. Warad

....

**CORAM : T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ**

DATE : 28th FEBRUARY, 2019.

ORAL ORDER :-

The petition is filed to challenge the order passed by the learned Joint Charity Commissioner to the Assistant Charity Commissioner to start *suo motu* proceeding for appointment of the new Trustees under Section 47 of the of the Maharashtra Public Trusts Act, 1950.

2. Heard learned counsel for the petitioners. Learned counsel for one Bhagwan Madhavrao Watemod was allowed to intervene and the learned Assistant Government Pleader is also heard.

3. The submissions made show that when the order was made no Trustee was alive. Respondent No.6-Sakharam Digamber Mahajan had in the past moved an application for framing scheme, but it was rejected and all the change reports were also rejected by the Assistnat Charity Commissioner. It was submitted that irregularities were noticed in the actions of respondent No.6 who was controlling the trust in the past.

4. This Court has gone through the provisions of Section 47 and also

Section 50-A(1) of the Maharashtra Public Trust Act, 1950. The Assistant Charity Commissioner has wide powers in such cases and he can definitely start *suo-motu* proceeding. In view of this circumstance, it can be said that there are no merits in the challenge. However, to make it clear that the procedure should be inclusive and the Assistant Charity Commissioner should not get prejudiced by the submission which is made by the present respondent No.6, this Court is observing that the Assistant Charity Commissioner should consider only the interests of the institution-Trust and not the individual interest. It appears that the procedure envisaged in Section 50-A(1) of the Maharashtra Public Trust Act, 1950 is being followed by the Assistant Charity Commissioner and 57 applications are already received. Submissions made show that applications of even the petitioners were before the Joint Charity Commissioner and they must have been referred to the Assistant Charity Commissioner. This Court is observing that the Joint Charity Commissioner should also see that he also does not get influenced by the persons, who are in practical control of the institution. With the aforesaid observations, the proceeding is disposed of.

5. Civil Application is also disposed of.

(SUNIL K. KOTWAL)
JUDGE

(T.V. NALAWADE)
JUDGE