

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8593 OF 2018
(Sambappa Trimbakappa Girwalkar Vs. Deputy Charity
Commissioner and others)

WITH

CIVIL APPLICATION NO.12824 OF 2018 IN WP 8593/2018
WITH CA NO.2222 OF 2019 IN CA NO.12824/2018
WITH CA NO.14918 OF 2018 IN WP NO.8593/2018
WITH CA NO.797 OF 2019 IN WP NO.8593 OF 2018
WITH CA NO.793 OF 2019 IN WP NO.8593 OF 2018

WITH

WRIT PETITION NO.8002 OF 2018
WITH CA NO.9252 OF 2018 IN WP NO.8002/2018

WITH

WRIT PETITION NO.8003 OF 2018
WITH CA NO.9253 OF 2018 IN WP NO.8003/2018
WITH CA NO.10591 OF 2018 IN WP NO.8003/2018
WITH CA NO.10592 OF 2018 IN WP NO.8003/2018
WITH CA NO.10590 OF 2018 IN WP NO.8003/2018
WITH CA NO.2227 OF 2019 IN WP NO.8003/2018

WITH

WRIT PETITION NO.8589 OF 2018

WITH

WRIT PETITION NO.11590 OF 2018
WITH CA NO.13254 OF 2018 IN WP NO.11590/2018
WITH CA NO.14917 OF 2018 IN WP NO.11590/2018
WITH CA NO.1363 OF 2019 IN WP NO.11590/2018
WITH CA NO.2230 OF 2019 IN WP NO.11590/2018

Mr.R.S.Deshmukh h/f Mr.S.V.Natu, Advocate for the petitioner.
Mr.S.W.Munde, AGP for respondent Nos. 1 and 2.
Mr.R.N.Dhorde, Sr.Advocate h/f Mr.V.R.Dhorde, Advocate for
respondent No.3.

(CORAM : Ravindra V.Ghuge, J.)
DATE : 04/03/2019

PER COURT :

1. This is a motion for "speaking to the minutes" of the order dated 22/02/2019.

2. The learned Advocate for the applicant / petitioner has set out the precipice in paragraph Nos. 1 and 2 of the motion, which read as under :-

"1. In paragraph No.6 of the judgment part from the statement about stepping down by the respondent No.3 from the position of the President of the Trust, the period of disqualification of respondent No.3 in WP No.8593/2018 to contest the election of respondent No.2 Trust has to be recorded for the period of 10 years.

2. In paragraph No.33 of the judgment last two lines thereof "General members are permitted to become patron members in view of there being no prohibition in Law" needs to be deleted since in Paragraph no.34 (Clause No.C) the issue of eligibility of the applicants is to be scrutinized by the authority referred thereunder."

3 I have heard Mr.Deshmukh, learned Advocate on behalf of the applicant/petitioner and Mr.Dhorde, learned Sr.Advocate on behalf of respondent No.3.

4. In so far as the first paragraph is concerned, there can be no debate that after I heard the learned Advocates on behalf of the parties and having perused the record, I had expressed a view of disqualifying respondent No.3. While doing so, the said respondent No.3 was made aware that he may have the option of voluntarily quitting the position to avoid any stigma. He chose the option and voluntarily quit his position and it is in that backdrop, in order to be fair to the litigating sides, that I have not recorded my view in the said order. It was, therefore, that the writ petition and CA No.12824/2018 filed by the petitioner, were disposed off. This motion, therefore, cannot be entertained to the extent of the first request.

5. In so far as the second request is concerned, I have specifically recorded that as there is only one founder member surviving and no patron members and as, the Constitution permits only the founder members and the patron members to contest the position of the Chairman, that I granted the liberty to the general members to apply for patron membership as per the provisions of the Constitution.

6. In paragraph No.33, I have observed that the general members

are permitted to become patron members in view of there being no prohibition in Law. In the directions issued in paragraph No.34b, and 34c, I have specifically given a time frame for the general members, excluding the 21 members, to apply for patron membership and their applications would be scrutinized as per the prescription under the Amended Constitution of 1994. Therefore, the observation that general members are permitted to become patron members in view of there being no prohibition in law, is not out of place and the procedure for such members becoming patron members is taken care of in the directions under Clauses B and C of paragraph 34.

7. As such, the motion is disposed off.

(Ravindra V.Ghuge, J.)