

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13932 OF 2019

PACHORA TALUKA CO-OPERATIVE EDUCATION SOCIETY LTD
THROUGH IT'S CHAIRMAN SANJAY ONKAR WAGH
VERSUS
DEPUTY CHARITY COMMISSIONER JALGAON AND ANOTHER

Mr.M.S.Deshmukh h/f Mr.U.B.Gite, Advocate for the petitioner.
Mr.S.W.Munde, AGP for respondent No.1.
Mr.A.S.Savale, Advocate for respondent No.2.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 19/11/2019

PER COURT :

1. I have heard the learned Advocates for the respective sides and the learned AGP for quite some time. Considering the order that I am passing in view of the requests of the litigating sides, I need not enlarge this order by referring to the entire contentions of the parties.

2. Suffice it to say, the following aspects are germane :-

[a] The petitioner was initially registered as a Society in 1936 under the Bombay Co-operative Societies Act, 1925.

[b] The Bombay Public Trusts Act was introduced in 1950.

[c] The petitioner obtained registration as a Trust under the New

Act in 1954.

[d] In 2018, it acquired the registration under the 1960 Act, which was brought into force by repelling the 1925 Act.

[e] As per the original Constitution, the governing body had a tenure of one year.

[f] An amendment was introduced in 1974 converting the tenure to 3 years and this is subject matter of Change Report Enquiry No.1482/2018.

[g] The said Constitution was once again amended in 1992 raising the tenure from 3 years to 5 years and this is subject matter of CR Enquiry No.1483/2018.

[h] CR Enquiry No.266/2010 pertains to the elections held in 1986 for a 3 year's tenure upto 1988-1989.

[i] This proceeding has been rejected by the learned Deputy Charity Commissioner by judgment dated 06/08/2018 which is now subjudice before the learned Joint Charity Commissioner, Nasik in Appeal No.113/2018.

[j] CR Enquiry No.267/2010 pertains to the elections held in 1990 for a five year's tenure upto 1995, though the amendment raising the tenure is subject matter of the resolution dated 14/06/1992.

3. Considering the above, I find that CR Nos.1482/2018 and

1483/2018 which suffer a delay, can be advantageously expedited. Once the fate of the two amendments is decided, the adjudication of all other proceedings which are founded on the amendments, would be conveniently decided.

4. The learned Advocate for the sole objector/respondent No.2 submits that his perception is that the petitioner would like to delay the proceedings so as to enjoy the positions presently occupied and the objector is the lone crusader, who would be the only sufferer. He claims to be interested in the well being of the trust and is committed to his goals. He, therefore, prays that the change reports pertaining to the amendments be expedited and thereafter CR No.267/2010 can be expedited.

5. In view of the above, this petition is disposed off. The impugned order dated 17/09/2019 need not be interfered with though for the convenience of the parties, CR Nos.1482/2018 and 1483/2018, to the extent of condonation of delay applications, shall be decided expeditiously by the learned Deputy Charity Commissioner, on or before 31/03/2020. If the delay is condoned, he would decide the fate of the two amendments within a period of 6 months from the date of his order. Needless to state, if the delay is

not condoned, the parties would be at liberty to take recourse to all permissible remedies.

6. In view of the above, since the fate of the elections in CR No.267/2010 depends on the fate of the amendments, the concerned authority would decide CR No.267/2010 within 6 months from the date the amendments are held to be legally acceptable.

7. In so far as Appeal No.113/2018 is concerned, it would be advantageous to the parties to postpone its hearing till the fate of the amendments' is decided as the election subjudice in the said matter pertains to the first amendment of 1974.

(Ravindra V.Ghuge, J.)