

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

931 WRIT PETITION NO.12565 OF 2016

SANJAY SHANKARRAO JAGTAP
AND OTHERS

... Petitioners

VERSUS

VIDHAYAK SAMITI PIMPALNER
THROUGH ITS SECRETARY AND
ANOTHER

.. Respondents

...

Shri M.S. Deshmukh, Advocate for Petitioners
Respondent No.1 – Served.

Shri V.D. Hon, Senior Advocate h/f. Shri A.V. Hon,
Advocate for Respondent No.2

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CORAM : PR. BORA, J.

Dated: July 30, 2019

PER COURT :-

1. The order dated 18.11.2016 passed by Assistant Charity Commissioner, Dhule Region, Dhule below Exh.5 in Inquiry No.462 of 2016 is challenged in the present petition. The aforesaid application was filed by the petitioners-applicants seeking intervention in Inquiry No.462 of 2016. The matter relates to a public trust by name Vidhayak Samiti Pimpalner having registration number in the PTR register as F-104/ Dhule. The aforesaid intervention application was filed by the present petitioners to oppose the change report submitted by present respondent no.2. The application was filed by 15 applicants. The learned Assistant Charity Commissioner has partly allowed the said application. The learned Assistant Charity

Commissioner permitted applicant nos.1 and 5 to intervene and has declined the intervention of the other applicants.

2. When the present matter is taken up for hearing, it is brought to the notice of the Court that, applicant no.1 has expired in the meanwhile period. It is further submitted that, the other person, who was allowed to intervene, namely Dilip Daulatsingh Rajput has filed a pursis accepting the change report submitted by present respondent no.2. It is the contention of the applicants that, said Dilip Daulatsingh Rajput has been won over by the respondents. It is further contended that, the change report filed by the present petitioners is also pending for consideration before the Assistant Charity Commissioner. The learned counsel for the petitioners submitted that, the Assistant Charity Commissioner has wrongly rejected the application filed by the present petitioners. The request is, therefore, made for allowing the present petition.

3. Shri V.D. Hon the learned senior counsel appearing for the respondents has opposed the submissions advanced on behalf of the petitioners. The learned senior counsel supported the impugned order. The learned senior counsel submitted that, Change Report filed by the present respondents and the Change Report filed by the

petitioners, both are being simultaneously heard and the petitioners have every opportunity to prove their contentions in the change report filed by them. The learned senior counsel submitted that, the Assistant Charity Commissioner has not committed any error in rejecting the application of the other applicants, who were not found to be even the members of the subject trust. The learned senior counsel, in the circumstances, prayed for dismissal of the appeal.

4. I have duly considered the submissions advanced by the learned counsel appearing for the parties. I have perused the impugned order as well as the other material placed on record. The material placed on record reveals that, in the earlier change report filed by the present applicants - petitioners, the issue of membership of the present applicants was raised and the said change report came to be rejected on that ground. It is also brought to my notice that, against the said decision, the applicants have preferred two Civil Misc. Application Nos.124 of 2015 and 125 of 2015 and they are pending in the Court of District Judge.

5. After having considered the facts as aforesaid, it appears to me that, applicant no.1 Sanjay Shankarrao Jagtap who has filed Change Report No.461 of 2016, which is also pending for

consideration, at least has to be held interested in the affairs of the trust. The issue as about his membership also can be agitated, if allowed to intervene in the said matter by the persons who have filed the Change Report No.462 of 2016. It appears to me that, if both the change reports are to be decided on merits, there must be someone to rebut the contentions raised by each other. Ultimately, it is the Assistant Charity Commissioner, who will decide the legality of the change occurred on the basis of evidence on record.

6. For the reasons stated above, the learned Assistant Charity Commissioner is directed to implead applicant no.1 namely Sanjay Shankarrao Jagtap in Change Report No.462 of 2016 as an objector to the said application and permit him to participate in the said proceedings.

7. This is clarified that, this Court has not entered into the merits of the rival contentions as about the membership of Sanjay Shankarrao Jagtap, since substantive appeal is pending in that regard before the District Court and decision which may be rendered in that matter shall be binding on the parties, if not challenged in any higher court.

8. Assistant Charity Commissioner, Dhule is directed to decide the Change Report Nos.461 of 2016 and 462 of 2016 as expeditiously as possible and preferably within the period of three months.

9. Writ Petition stands allowed in the aforesaid terms.

(P.R. BORA, J.)

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