

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO. 632 OF 2012
WITH
CIVIL APPLICATION NO. 4972 OF 2011
IN
FIRST APPEAL NO. 632 OF 2012**

Mohol Taluka Sahakari Shikshan
Prasarak Mandal, Mohol ...Applicant
V/s.
Mr. P.M. Subhedar (Joint Charity
Commissioner, Latur) & ors.Respondents

**WITH
CIVIL APPLICATION NO. 1954 OF 2014
WITH
CIVIL APPLICATION NO. 3423 OF 2014
IN
FIRST APPEAL NO. 632 OF 2012**

Sudhir Shrinivas JoshiApplicant
V/s.
Mohol Taluka Sahakari Shikshan
Prasarak Mandal, MoholRespondents

**WITH
CIVIL APPLICATION NO. 784 OF 2018
IN
FIRST APPEAL NO. 632 OF 2012**

Mohol Taluka Sahakari Shikshan
Prasarak Mandal, MoholApplicant
V/s.
Mr. P.M. Subhedar (Joint Charity
Commissioner, Latur)Respondent

**WITH
FIRST APPEAL NO. 409 OF 2013
WITH**

**CIVIL APPLICATION (ST.) NO. 29042 OF 2017
IN
FIRST APPEAL NO. 409 OF 2013**

Jyotsna Sudhir Joshi & Ors.	Appellants
V/s.	
Mohol Taluka Sahakari Shikshan Prasarak Mandal, Mohol & Ors.	Respondents
.....	

Mr. A. G. Damle, Senior Advocate with Mr. I. M. Khairdi for the Appellant in FA/632/2012, for the Applicant in CAF/4972/2011 and CAF/784/2018.
Mrs. Anamika Malhotra, AGP for the Respondent Nos.1 and 9 in FA/632/2012.
Mr. Sharad T. Bhosale for the Respondent Nos.5 to 8 in FA/632/2012.
Mr. Khateeb Vakeel for the Respondent Nos.2, 3, 4 and 11 to 16 in FA/632/2012 and for the Appellant in FA/409/2013.
Mr. A. R. Rayani for Respondent Nos.2 to 4 in FA/632/2012.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 20th AUGUST, 2019.**

P.C.:-

1. After arguing the matter for some while, the learned Senior Counsel for the applicant seeks leave to amend the application as to incorporate paragraph 13(1) and further to amend prayer clauses (b) and (c) in view of the subsequent events. Leave granted. Amendment to be carried out forthwith.

2. The applicant has sought to direct the learned Principal District Judge, Solapur, appointed as an Administrator of the Trust, pursuant to the order dated 16th June, 2017 passed by this Court in First Appeal No. 632/2012, to handover the charge of the said Trust, School/college to the applicant and

trustees / body elected on 20/05/2018.

3. Heard Mr. A.G. Damle, the learned Senior Counsel for the applicant. Pursuant to the order dated 16/06/2017, the Charity Commissioner has accepted the Change Report and allowed the scheme. As per the scheme framed, elections were held and a new body has been elected. He, therefore, contends that it is just and proper to direct the Principal District Judge, Solapur, appointed as an administrator on protem caretaker basis, to handover charge to the elected body.

4. Mr. Sharad T. Bhosale, the learned counsel for respondent nos.5 to 8 contends that the learned Deputy Charity Commissioner has not followed the directions given by this Court in order dated 16/06/2017 and in fact travelled beyond the scope of the order. The orders passed by the Deputy Charity Commissioner in various change reports as well as the scheme have been challenged before the Joint Charity Commissioner. He therefore submits that it is just and proper that Principal District Judge, Solapur continues to be the administrator of the Trust pending hearing of the appeals.

5. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

6. The records reveal that by order dated 16/06/2017, this Court had held that as long as the Change Reports remain without decision and the scheme remain pending, the situation is unstable. Decisions on the change reports and the proposed scheme are essential. Hence, this Court had directed the Charity Commissioner to decide the Change Report. Given the fact that the Change Report cover a very long period of 40 years, option was given to the Charity Commssioner to take up the first of these, the earliest in point of time, or the latest one. Directions were also given to dispose of the scheme i.e., either to accord sanction with or without amendment, or with modifications or to reject the scheme. Directions were also given to communicate the decision on the Change Report to the Registrar General of this Court within six months. Similarly, the recommendations on the scheme were to be transmitted to this Court on its Appellate Side within a period of six months. During this limited period and pending further orders, the learned Principal District Judge, Solapur was appointed as an Administrator of the Trust, on a protem caretaker basis.

7. The applicant states that the learned Principal District Judge, Solapur was appointed an Administrator for a limited period of time, to hold charge of the affairs of the trust, school/college and the properties of the trust. Pursuant to the order dated 16th June 2017 the Change Reports have been accepted by several separate orders. It is stated that after the scheme was accepted, elections were held on 31st December 2017 and 15 persons were

elected, whose names are reflected in the Election Report dated 8th January 2018 submitted by the Inspector appointed by the Charity Commissioner. The applicant submits that since the Change Reports and the scheme have been accepted and elections have been held as per the scheme, the elected body be put in charge.

8. It is seen that the Deputy Charity Commissioner vide order dated 23.10.2017 accepted the change report. Similarly, the scheme has been accepted on 30.11.2017. The records indicate that immediately thereafter i.e. on 30/12/2017, the elections were held and the same was reported by order dated 08/01/2018. Until such time, neither the decisions on the Change Report was communicated to this Court nor the recommendation on the scheme were placed before this Court. Prima facie, the election process was conducted in a hasty manner, even before the decisions on Change Report and the recommendation on the scheme were placed before this Court. This Court therefore had no opportunity of going through the decision on the change report as well as recommendations on the scheme and to pass further order in the matter. This is relevant as the respondents have raised a grievance that the learned Deputy Charity Commissioner has not complied with the directions given by this Court. It is alleged that despite the directions to decide the pending scheme, the Deputy Charity Commissioner has accepted counter scheme and has thus travelled beyond the scope of the order.

9. It has been brought to my notice that decision of Change Reports as well as recommendations in the scheme have been challenged before the Joint Charity Commissioner, Pune and that the Appeals are pending hearing. Considering the above facts and circumstances, in my considered view it would not be in the interest of the Trust to place the elected body in charge of the trust. Under the circumstances, the application is dismissed.

10. The Joint Charity Commissioner is directed to dispose of the appeals i.e. Appeal Nos.1/2018, 70/2018 and 71/2018 within a period of three months from the date of uploading of this order.

11. Civil Application No.784/2018 stands disposed of.

12. The Appeals thereafter be listed for admission.

(SMT. ANUJA PRABHUDESSAI, J.)