

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 191/2019

Rajesh S/o Trimbakrao Deshmukh & anr.

..VS..

Mahesh S/o Dnyandeo Tawale

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri U.A. Gosavi, Advocate for the petitioner(s)

CORAM : Z.A.HAQ, J.

DATED : 15/01/2019

Heard.

By the order dated 12/09/2006, the Joint Charity Commissioner appointed the petitioners as the members of the body of fit persons under Section 47 of the Maharashtra Public Trusts Act, 1950 (for short "the Act of 1950") to administer the public trust. Subsequently, by the order dated 19/03/2009, the Joint Charity Commissioner appointed other 9 persons as the trustees to administer the public trust, this appointment being for 5 years. This order passed by the learned Joint Charity Commissioner was challenged by the petitioners and other 3 persons before this Court in F.A. No. 248/2009 which is dismissed on 04/12/2009. The petitioners had filed Petition for Special Leave to Appeal (Civil) No. 34138/2009 which was also dismissed on 15/12/2009. While dismissing the petition for special leave to appeal, the Hon'ble Supreme Court observed that the dismissal of the petition for special leave to appeal would not come in the way of the petitioners offering themselves for consideration if the ad-hoc trustees are appointed subsequently.

The body of fit persons appointed by the learned Joint Charity Commissioner by the order dated 19/03/2009 conducted the election and the report of change pursuant to the election was submitted to the Deputy Charity Commissioner. The change report is pending. In these proceedings, the petitioners filed the application (Exh. 52) under Section 73A of the Act of 1950 seeking permission to participate in the proceedings. The respondent (Reporting Trustee) opposed the application filed by the petitioners and filed the application (Exh. 59) praying that the application (Exh. 52) filed by the petitioners be dismissed. The learned Joint Charity Commissioner has allowed the application (Exh. 59) and has dismissed the application (Exh. 52), by the impugned order.

The contention on behalf of the petitioners is that as they were appointed on the body of fit persons by the Joint Charity Commissioner and they administered the public trust for considerable time, they are persons having interest in the public trust as contemplated by Section 2 (10) of the Act of 1950. It is further submitted that at the time of their appointment on the body of fit persons, they deposited an amount of Rs. 10,000/- each with the public trust as directed by the Joint Charity Commissioner and the amount is still lying with the public trust and because of this also, the petitioners are the persons having interest in the public trust.

The submissions made on behalf of the petitioners cannot be accepted. The petitioners have not been able to point out any independent right. But for the order passed by the Joint Charity Commissioner on 12/09/2006, the petitioners are strangers to the public trust. The order

passed by the Joint Charity Commissioner temporarily appointing the petitioners on the ad-hoc body of fit persons does not create any right in favour of the petitioners and on the basis of this, the petitioners cannot claim that they are persons having interest in the public trust. The relationship between the public trust and the petitioners came to an end when the learned Joint Charity Commissioner appointed the other 9 persons as the ad-hoc trustees by the order dated 19/03/2009. The Hon'ble Supreme Court, while dismissing the petition for special leave to appeal filed by the petitioners, only granted liberty to the petitioners to offer their candidature to the Joint Charity Commissioner for consideration for the appointment on the ad-hoc body of fit persons or as the ad-hoc trustees. The petitioners have filed an application before the Joint Charity Commissioner under Section 47 of the Act of 1950 praying that they be appointed as the ad-hoc trustees of the public trust. The pendency of this application filed by the petitioners also does not create any right in their favour to seek the right of audience in the substantive proceedings under Section 22 of the Act of 1950.

I find that the learned Deputy Charity Commissioner has rightly appreciated the controversy and it cannot be said that the impugned order suffers from any patent illegality or error of jurisdiction which necessitates interference by this Court in the extra-ordinary jurisdiction.

The writ petition is **dismissed**. No costs.

JUDGE