

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2238 OF 2020

Nikhil s/o Sunil Jain

Petitioner

versus

The Joint Charity Commissioner,
Aurangabad Region and others

Respondents.

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Mr. P.D. Bachate advocate for petitioner
Mr. S.K. Tambe AGP for respondent Nos.1 and 2.

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CORAM: ROHIT BABAN DEO, J.

Date: FEBRUARY 3RD, 2020

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PER COURT :-

1 This petition is clearly misconceived.

2 The learned counsel for the petitioner submits that challenge is to two orders.

3 According to the learned counsel for the petitioner, the first order is dated 28.1.2020 i.e. Exh.5 to the petition.

4 The document dated 28.1.2020 which the learned counsel is referring to as an order, is in fact a communication addressed by the Collector in capacity as Ex-officio President of the Public Trust convening meeting of the executive committee of the trust on 4.2.2020.

5 Firstly, the said notice cannot be termed as an order, by any stretch of imagination. Secondly, the Collector has purported to act as the President of the trust and not as the Collector and thirdly, such grievance cannot be agitated before the single bench.

6 The other order which according to the petitioner furnishes a cause of action is order dated 16.11.2019 rendered by the Joint Charity Commissioner, Aurangabad region, Aurangabad in application under section 47 for appointment of new trustees. The petitioner was not a party to the said application. The learned counsel for the petitioner contends that the petitioner is aggrieved by the observation in para No.11 which read thus:-

" 11. In present application applicant nowhere filed list of members as per the Rules and Regulations of the said Trust. There is provision of membership and about Executive Committee and its powers in that circumstances, applicant is having equally efficacious remedy in respect of appointment of office bearers by President, from members and on failure, to seek directions from competent authority. Considering the Rules and Regulations of the Trust where there is no provision or prescribed minimum trustees for administration of Trust and considering existing two trustees on record, I found that there is no contingency made out as disclosed under section 47 of the Act. Therefore, I found that the application is not maintainable. Hence, I answer the point accordingly and pass the following order:-"

7 I am satisfied that the observations do not prejudice the petitioner in any manner. All that is said by the authority is that the applicant has remedy in respect of appointment of office

bearers by the President from the members. It is obvious that if any appointment is made by the President, the same shall be tested by the appropriate authority and in appropriate proceeding on the anvil of the constitution of the trust.

8 The petition is dismissed.

(ROHIT BABAN DEO, J)

vbd