

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

WRIT PETITION NO. 4785 OF 2020

Sundarlal Ramnivas Darak and Others

..PETITIONERS

VERSUS

State of Maharashtra and Others

..RESPONDENTS

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Mr. B.L. Sagar Killarikar, Advocate for petitioners

Mr. P.S. Patil, Addl.G.P. for respondent – State

Mr. N.P. Patil Jamalpurkar, Advocate h/f Mr. Vishwajeet Jain, Advocate for respondent nos. 5 and 7

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**CORAM : S.V. GANGAPURWALA AND
R.G. AVACHAT, JJ.**

DATE : 09th JULY, 2020

ORDER :

Mr. Killarikar, learned Counsel for the petitioners seeks leave to add the trust as party respondent. Leave granted.

2. Learned Counsel for the petitioners submits that the order removing the petitioners as life members of the trust is per se illegal and against the order passed by the ld. single Judge of this Court in Writ Petition No. 11633 of 2019 dated 23rd January, 2020. The members are not empowered to take policy decision. Learned Counsel further submits that large scale illegalities are committed by the persons in power. In view of that the administrator be appointed and enquiry be directed against them.

Learned Counsel submits that proceeding under Section 41-D were initiated and this Court has directed to conclude the proceeding within stipulated period. Because of the conduct of the respondents the proceedings cannot be proceeded further. The said remedy has remained an illusory one.

3. Mr. Jamalpurkar, learned Counsel for the respondents submits that the petitioners have remedy before the office of Charity Commissioner. The application under Section 41-D is already rejected.

4. The petitioners are challenging the resolution removing them as life members of the trust. It is not disputed that the petitioners have remedy before the office of Joint Charity Commissioner. The apprehension of the petitioners is that because of the pandemic situation, the same would not be decided and the said remedy would remain illusory one.

5. For the purpose of appointment of administrator and to consider the submissions about the illegality, an enquiry would be necessary. The same would not be possible under the writ jurisdiction of this Court. Moreover, the remedy is available under the various provisions of the Maharashtra Public Trusts Act. The petitioners are at liberty to avail the same. Even the remedy is provided against the impugned resolution removing the petitioners as life members.

6. In view of the fact that the remedy is available to the petitioners, we are not inclined to entertain the present writ petition. Keeping all contentions of the parties open, we dispose of the writ petition with liberty to the petitioner to avail the alternate remedy. No costs.

(R.G. AVACHAT, J.)
SSD

(S.V. GANGAPURWALA, J.)