

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

915 WRIT PETITION NO. 5403 OF 2020

MAHADEV SADASHIV TANDALE
VERSUS
KRISHNA DINKAR TANDALE AND ANOTHER

Advocate for Petitioners : Mr. S.S. Jadhavar h/f. Mr. S.R. Shirsath.
Advocate for Respondent No. 1 : Mr. R.I. Wakade.
AGP for Respondent No. 2 : Mrs. V.S. Choudhary.

CORAM : MANGESH S. PATIL, J.
DATE : 18.09.2020

Per Court :

Heard both the sides.

2. The petitioner, who is opposing the change report filed by the respondent No. 1 under Section 22 of the Maharashtra Public Trust Act, by way of application Exhibit 19 filed before the learned Deputy Charity Commissioner, Beed, sought certain record to be called from the office of the Trust, for the purpose of inspection. By the impugned order dated 11.02.2020, the learned Deputy Charity Commissioner, Beed, rejected the application for the reasons mentioned therein. Hence this Writ Petition.

3. Learned advocate Mr. Jadhavar holding for learned advocate Mr. S.R. Shirsath, for the petitioner, on instructions, submits that primarily his request

was rejected, since the petitioner was seeking the record right from 01.01.2016 to be called, whereas, the reported change was merely for the period 2018 to 2021. Therefore, the learned advocate Mr. Jadhavar submits that his client is now ready to seek inspection of the record of the Trust only for the period for which the change report has been filed. Learned advocate Mr. Jadhavar submits that the request as is now sought to be modified is innocuous. The respondent No. 1 is not likely to face any prejudice. Petitioner is entitled to have a glance to the record in order to crystallize his objection to the change report and he cannot be deprived of his such right.

4. Learned advocate Mr. Wakade, for the respondent No. 1 strongly opposes the request. He submits that the Writ Petition itself is not maintainable since an appeal is provided under Section 70 of the Maharashtra Public Trust Act. He would then submit that the petitioner is bent upon to protract the decision of the change report. For some reason or the other, he is trying to raise objection. This is another attempt at that end. There is no reason as to why he can be permitted to even go through the record of the Trust. So far as objection to maintainability of the Writ Petition is concerned, suffice to state that the impugned order does not fit in the categories of orders/findings enlisted in Section 70 of the Maharashtra Public Trust Act.

Consequently no appeal could have been preferred against the impugned order. Therefore the writ being the only remedy, the objection is not tenable.

5. The Change Report for the period 2018 to 2021 bearing CR No. 1313/2018 was allowed by the Deputy Charity Commissioner, Beed, on 12.10.2018. Since one of the trustees died and one more having resigned, CR No. 838/2019 has been filed. The petitioner had sought the record for the purpose of inspection right from 01.01.2016. Learned Deputy Charity Commissioner observing that such earlier report was of no relevance for deciding Change Report 838/2019, has rejected the application. Since the learned advocate for the petitioner, on instructions, is now submitting that he is ready and wants to inspect the record only since 2018 onwards on a specific day to be fixed by this Court and that too in the office of the Deputy Charity Commissioner, Beed, the request indeed is innocuous. If the petitioner wants to contest the Change Report, being an interested person, he needs to get an opportunity to go through the record by the Trust. No harm is likely to be caused to respondent No. 1, if such a course is adopted by fixing a specific date for undertaking inspection.

6. In view of such state of affairs, the Writ Petition is disposed of as under :

The impugned order is modified to the effect that respondent No. 1 shall keep the record for the period 2018 onwards available for being inspected by the petitioner, in the office of Deputy Charity Commissioner on 28.09.2020. The petitioner shall undertake the inspection of the record in presence of the Superintendent of the office of the Deputy Charity Commissioner, Beed.

7. It is made clear that after such inspection respondent No. 1 may take back the record on the same day.

(MANGESH S. PATIL, J.)