

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION (ST) NO. 3313 OF 2020**

Rajesh Meghani & ors. ...Petitioners

Versus

Andheri Recreation Club & ors. ...Respondents

Mr. Priyadarshan Shah, for the Petitioners.

Mr. P. P. Pujari, AGP for the State/Respondent nos.3 and 4.

CORAM: N. J. JAMADAR, J.

DATED : 13th MARCH, 2020

PC:-

1. Heard Mr. Shah, the learned Counsel for the petitioner.
2. The challenge in this petition is to an order passed by the Joint Charity Commissioner-I, Mumbai, on 17th September, 2019, whereby the appeal preferred by the petitioner herein against an order passed by the Assistant Charity Commissioner rejecting the application (Exhibit-40), preferred by the petitioners, in Change Report No.2859/1994 for directing the Governing Council of Andheri Recreation Club – respondent no.2, to regulate its business in accordance with the original memorandum of respondent no.1 till the hearing and final disposal of the change report and four weeks thereafter, came to be dismissed.

3. The said application (Exhibit-40) came to be rejected by the Assistant Charity Commissioner by an order dated 23rd February, 2018, as the learned Assistant Charity Commissioner was of the view that the enquiry under Section 22 was underway and such interim relief could not be granted at that stage. The petitioners challenged the said order before the learned Joint Charity Commissioner in Appeal No.299 of 2018. The learned Joint Charity Commissioner was persuaded to dismiss the appeal. The fact that the change report, in which the application (Exhibit-40) was preferred by the petitioner, itself came to be disposed of during the pendency of the appeal weighed with the learned Joint Charity Commissioner. The appellate authority, thus, dismissed the appeal as it was of the view that the appeal became infructuous due to disposal of the change report.

4. The said Change Report being No.DYCC/2859/1994 came to be rejected by the learned Assistant Charity Commissioner by an order dated 19th June, 2019, for the reason that the said change report was filed by the Reporting Trustee beyond the prescribed period of limitation.

5. The fact remains that when the appeal was taken up for hearing on 17th September, 2019, the principal proceedings, in

which the application (Exhibit-40) was taken out by the petitioners, was already disposed of. In the circumstances, the appellate authority was within its rights in holding that in view of disposal of the Change Report No.DYCC/2859/1994, the appeal was rendered infructuos, as it arose out of an order which has rejected the prayer for interim relief in the said change report.

6. The learned Counsel for the petitioners made a grievance that, despite the rejection of the change report, the respondents are still not regulating the affairs of the Trust in accordance with the original memorandum. It would be suffice to note that the said grievance is required to be agitated before the competent authority in an appropriate proceedings.

7. A further apprehension was raised that since the impugned order is passed by the Joint Charity Commissioner, the authorities sub-ordinate to the Joint Charity Commissioner may not entertain such a grievance, if raised by the petitioners. It is trite that the orders are passed in the context of the proceedings. The rejection of the prayer in the application (Exhibit-40) was on account of the then pendency of the change report. In the changed scenario, the authorities would have to

take cognizance of the consequences which emanate from the rejection of the Change Report No.DYCC/2859/1994.

8. With the aforesaid observations, the petition stands dismissed.

9. The petitioners are, however, at liberty to make an application for expeditious hearing of the proceedings before the concerned authorities.

[N. J. JAMADAR, J.]