

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

**Writ Petition No. 737 of 2019**

**Balkurshna Komawar Vs. Joint Charity Commissioner, Nagpur & Ors.**

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

Mr. A.B. Tikle, Advocate for the petitioner  
Mr. Alap Palshikar, AGP for respondents No.1 and 2.  
Smt. Ratna Singh, Advocate for the respondents No.3, 4 & 6.

**CORAM : MANISH PITALE, J.**

**DATED : MARCH 12, 2020**

By this writ petition, the petitioner has challenged orders passed by the two Authorities below refusing to condone delay as he failed to report change within time as per Section 22 of the Maharashtra Public Trusts Act, 1950.

2. The brief facts leading up to filing of the present writ petition are that election of Pratapsingh Shikshan Sanstha, Piparda Tah. Korpana District Chandrapur, allegedly took place on 25/05/2014. It is relevant that the last election before the aforesaid election had taken place way back in the year 1998 and due to constant infighting amongst members of the Trust, regular elections of the said Trust could not be held. By that as it may, it is claimed by the petitioner that in pursuance of aforesaid election dated

25/05/2014, a change was required to be reported under Section 22 of the aforesaid Act and this change was supposed to be reported by the elected Secretary of the Trust. It is claimed that the aforesaid Secretary did not submit change report and that he unfortunately died in an accident on 10/06/2015. Thereafter, on 28/03/2016, a resolution was passed and change report was submitted pertaining to alleged election dated 25/05/2014. As the limitation for reporting of such change was only 90 days, an application for condonation of delay was preferred before the Assistant Charity Commissioner.

3. The petitioner sought to explain the delay of 19 months in reporting the change by stating before the Assistant Charity Commissioner that elected Secretary was supposed to file the change report and due to his demise on 10/06/2015, delay had occurred. The Assistant Charity Commissioner took into consideration the material on record and refused to condone the delay for the reason that the petitioner despite claiming to be elected President of the Trust had taken no steps at all for long period of 19 months to report the change. It was found that there was no explanation given for the period between 25/05/2014 to 10/06/2015, when the Secretary died. It was found that contention raised on behalf of the petitioner that it was for the Secretary to file the change report was unacceptable. It was further found that delay in filing

the change report after demise of the Secretary was also not explained by the petitioner at all. These findings have been confirmed by the Joint Charity Commissioner by dismissing appeal filed by the petitioner.

4. The learned counsel appearing for the petitioner submitted that the authorities below ought to have condoned the delay in the interest of justice and that elected Secretary of the Trust was supposed to file the change report, which he failed to do due to infighting and controversy between the elected members of the Trust and subsequently, due to his sudden death on 10/06/2015. It was further submitted that the authorities below could have imposed penalty / fine under Section 66 of the aforesaid Act and delay ought to have condoned in the interest of justice, particularly when a rival change report was filed on 08/06/2015, before the Assistant Charity Commissioner.

5. On the other hand, the learned counsel appearing for the contesting respondents submitted that no interference was warranted in the impugned orders passed by the Authorities below. It was further informed that rival change report dated 08/06/2015, was rejected.

6. This Court has perused the impugned

orders passed by the two Authorities below. The Authorities have given concurrent findings against the petitioner and it has been held that being the elected President of the Trust in an election said to have been held on 25/05/2014, it could not lie in the mouth of the petitioner that he made no efforts to ensure that change report was filed within 90 days, because the task of filing change report was ostensibly that of the Secretary. The said findings given by the Authorities below cannot be said to be erroneous. This is because when election took place, the elected office bearers and no doubt the President and Secretary are supposed to immediately report such change to the Competent Authority, to ensure that the period of limitation is adhered to. If there is any genuine reason for delay in reporting change, the Authorities below certainly have the discretion to condone the delay on the basis of law of limitation. But, it is necessary that cogent and proper reasons are placed on record for the Authority or the Court to exercise jurisdiction for condonation of delay.

7. In the present case, there is no explanation at all as to why the petitioner, who claimed to be elected President, failed to report change about the purported elections held on 25/5/2014 for a long period of time and ultimately, reported change only on 28/03/2016. The claim of the petitioner that it was the responsibility of the Secretary to report change

cannot be accepted and in any case, it indicates total lack of any sense of duty or responsibility on the part of the petitioner, despite the fact that he claims to have been elected as President of the Trust. Apart from this, there is no explanation at all for the delay from 10/06/2015, when the Secretary died, till 28/03/2016, when the change was ultimately reported before the Assistant Charity Commissioner. If there was reasonable cause made out by the petitioner, the Authorities below could have condoned the delay, but, in the facts and circumstances of the present case, it cannot be said that the Authorities below have committed any error in refusing to condone delay. Even otherwise, it appears that rival change report was submitted on 08/06/2015 and this Court is informed that the said change report was rejected.

8. Be that as it may, in the facts and circumstances of the present case, this Court is convinced that both the Authorities below were justified in holding against the petitioner. Hence, the present writ petition is found to be without any merits and it is dismissed.

JUDGE