

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

WRIT PETITION NO.764 OF 2020

Baburao S/o Marotirao Sapkal

Vs.

Rameshrao s/o Tulshiramji Mahalle and others

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

Court's or Judge's order

.....
Shri R.L.Khapre, Senior Advocate assisted by
Shri D.R.Khapre, Advocate for petitioner.
Shri D.P.Thakare, Additional GP for
Respondent No.5.

**CORAM : R.K. DESHPANDE &
AMIT B. BORKAR, JJ.**
DATED : 26.02.2020.

This Writ Petition challenges the order passed under Section 41-A of the Maharashtra Public Trusts Act, 1950 ("the Act" for short) by the learned Assistant Charity Commissioner, Akola. The operative part of the order, which is reproduced below:

- "1) This application is hereby allowed.*
- 2) Non-applicant is hereby directed to hand over trust record in the premises of trust to the applicants within seven days from date of this order in presence of Shri Rambhau Rajaram Sonone.*
- 3) Recorded trustees are hereby directed to keep the records of the trust and movable property of trust in safe custody in trust premises in presence and*

under the supervision of Shri Rambhau Rajaram Sonone.

4) Recorded trustees are hereby directed to administer the functions of trust, manage the immovable property of the trust, agricultural land of the trust, offering box of the trust, donation box of the trust, movable property of trust and like all the affairs of the trust, updates the accounts of trust day to day under the supervision of Shri Rambhau Rajaram Sonone till the final order in the scheme application.

5) In the function of supervision any difficulty face by Shri Rambhau Rajaram Sonone, he is at liberty to file application before this authority.

6) No order as to costs.”

2. The contention of Shri Khapre, learned Senior Counsel assisted by Shri Digvijay Khapre, learned counsel for the petitioner, is that the petitioner was elected as President of the Trust in the mode of succession, provided under constitution and, therefore, he should not have been dislodged by the order passed under Section 41-A of the Act.

3. The power under Section 41-A of the Act is purely administrative in nature. The detailed reasons are provided in the order. The power is exercised for smooth functioning of administration and management of the Trust. We do not find any reason to interfere in the order passed by the Assistant Charity Commissioner, Akola. Writ Petition is

dismissed.

4. We keep all questions raised in the application for management of the Trust to be agitated before the learned Assistant Charity Commissioner, Akola, by filing appropriate application, so as to avoid wasting of property of the Trust.

JUDGE

JUDGE

Ambulkar