

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

WRIT PETITION NO.4758 OF 2017
ALONG WITH
CIVIL APPLICATION (CAW) NO.869 OF 2018

(Sanjay s/o Suryakant Kayarkar and another Vs. The Assistant Charity Commissioner,
Chandrapur and others)

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

Court's or Judge's orders.

Shri S.P. Bhandarkar, Advocate for Petitioners.
Shri J.Y. Ghurde, AGP for Respondent No.1.
Shri C.B. Dharmadhikari, Advocate for Respondent No.2.

CORAM: RAVINDRA V. GHUGE AND
S.M. MODAK, JJ.

DATE: 7th FEBRUARY, 2020.

1] Despite service of notice on Rule, respondent nos.3 to 5 have not chosen to enter an appearance, either in person or through an Advocate.

2] We have heard the learned Advocate for the petitioners and the learned AGP on behalf of respondent no.1. We are informed that change report Enquiry No.57/2011 is pending adjudication.

3] This Court had passed the following order on 04.06.2018:

Rule. Rule made returnable early.

*Learned Assistant Government Pleader
Ms. Trupti Udeshi waives service of notice for
respondent no.1. Learned Counsel Shri C.B.
Dharmadhikari waives service of notice for
respondent no.2.*

The grievance in the present petition is in respect of direction given by the learned Assistant Charity Commissioner, in his order dated 9/3/2016 imposing restriction upon the existing executive body of the Trust to take the policy decision.

By way of interim order, we relax that condition and it will be open for the executive body to take the policy decision, but it shall not be implemented unless it is approved by the learned Assistant Charity Commissioner, in exercise of his power under Section 41 A of the Maharashtra Public Trusts Act, 1950.

4] We find that this Court has ensured that the ends of justice would be met by directing that though the executive body would take policy decisions, they would not be implemented unless they are approved by the learned Assistant Charity Commissioner in exercise of his powers under Section 41 A of the Maharashtra Public Trusts Act, 1950.

5] In view of the above, this petition is partly allowed in terms of the order dated 04.06.2018.

6] We make it clear that this petition is partly allowed only to the extent of relaxing the condition to enable the executive body to take policy decisions subject to the direction set out in 04.06.2018 and we have not caused any interference in the impugned order.

7] Rule is made partly absolute accordingly.

8] Considering the above, the civil application would not survive and stands disposed off.

9] Since we have not considered the civil application for impleadment/intervention and have

disposed it off in light of the above order, it would be open to the intervenor to move an application before the Competent Authority. If such an application is filed, it would be considered on its own merits as we have not expressed any opinion about the claim of the intervenor.

(S.M. Modak, J.)

(Ravindra V. Ghuge, J.)