

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

WRIT PETITION NO. 7331 OF 2019

Jayant S/o Manoharrao Khedkar and others
Versus
Ratnakar Ganesh Kale and others

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

Court's or Judge's order

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Shri N.D.Khamborkar, Advocate for the petitioners.
Shri S.D.Abhyankar, Advocate for respondent no.2.
Shri G.M.Shitut, Advocate for respondent no.4.
Shri D.R.Karnik, Advocate for respondent no.5.
Shri A.R.Kalele, Advocate for respondent nos.6 and 7.
Shri N.R.Patil, AGP for respondent no.8.

**CORAM : R.K. DESHPANDE &
AMIT B. BORKAR, JJ.**
DATED : 12.02.2020.

The challenge in this petition is to the order passed by the learned Charity Commissioner under Section 41-A of the Bombay Public Trusts Act, 1950 ("Act of 1950" for short) directing the administration and management of the Trust to be done by the persons whose names appear in Schedule-I of the Public Trust Register. Undisputedly, the petitioner No.1 is shown in the list of members in Schedule-I.

2. There are several Change Reports filed by the rival parties, which are pending for adjudication and the proceedings are likely to be concluded by the end of April or May 2020. Pending disposal of the Change Reports, the

Charity Commissioner has exercised his power for proper administration and management of the Trust. The complaint is that, there was neither any such prayer nor proper hearing was given to the petitioners and the order impugned is contrary to the orders passed by this Court on the earlier occasion.

3. The power under Section 41-A of the Act of 1950 is administrative in nature. The Charity Commissioner, being custodian of the property of the Trust, is competent to pass such order for proper administration and management of the Trust property. The Change Reports filed by the rival parties are pending for adjudication. In this background, the Charity Commissioner has passed a reasoned order. The order is purely administrative in nature and for the smooth running of the administration passed after hearing the parties.

4. We do not find any reason to interfere in such exercise of power. Writ Petition is dismissed.

5. At this stage, Shri Khamborkar, learned counsel appearing for the petitioners, submits that the petitioners have been in the management and administration of the Trust since 2013 and, therefore, there was no propriety for the Charity Commissioner to have passed such an order. It is not the order of removal or suspension of the trustees. We do not find any reason to entertain such ground. The

Charity Commissioner has merely held that the body in Schedule-I of the Public Trust Register, shall manage the affairs of the Trust. The prayer of the Trust in the application under Section 41-A of the Act of 1950 is, therefore, rejected.

6. Shri Khamborkar, learned counsel appearing for the petitioners, has cited two judgments as under:

- (i) **Ramrao s/o Shankarrao Kavthale Vs. Vijaykumar s/o Bhuprao Shete and others, reported in 2004 ALL MR 211; and**
- (ii) **Anil Rai Vs. State of Bihar reported in 2001 AIR (SC) 3173.**

We do not find that the said judgments are of any help to the petitioners.

7. At this stage, again Shri Khambokar, learned counsel, submits that the order passed by this Court along with order under Section 41-A of the Act of 1950 be suspended, so as to enable the petitioners to approach the Apex Court for filing Special Leave Petition. We do not find any reason to grant such relief. The prayer is rejected.

JUDGE

JUDGE