

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

WRIT PETITION NO.1103 OF 2018

Anandrao Jayvantrao Patil,
Age : 60 years, Occ. Agri.,
r/o. Kedarkunta, Tq.Degloor,
Dist. Nanded

..Petitioners

Vs.

1. The Assistant Charity Commissioner,
Nanded

2. Sangram Bandappa Malage,
Age : 46 years, Occ. Nil,
r/o. Gojegaon, Tq. Mukhed,
Dist. Nanded

..Respondents

**AND
WRIT PETITION NO.1099 OF 2018**

Anandrao Jayvantrao Patil,
Age : 60 years, Occ. Agri.,
r/o. Kedarkunta, Tq.Degloor,
Dist. Nanded

..Petitioners

Vs.

1. The Assistant Charity Commissioner,
Nanded

2. Pundlik Ganpat Thakur,
Age : 68 years, Occ. Retired Teacher,
r/o. Shivba Nagar, Degloor,
Dist. Nanded

..Respondents

Mr.U.B.Deshmukh, Advocate for petitioner in both Writ Petitions

Mr.Y.G.Gujrati, AGP for respondent no.1 in both Writ Petitions

Mr.V.D.Gunale, Advocate for respondent no.2 in Writ Petition No.1103 of 2018

Mr.A.D.Khot, Advocate h/f. Mr.P.D.Bachate, Advocate for respondent no.2 in Writ Petition No.1099 of 2018

CORAM : R.G. AVACHAT, J.

DATE : FEBRUARY 04, 2021

PER COURT :-

Both these Writ Petitions are decided by this common order since those are interconnected.

2. The challenge in Writ Petition No.1103 of 2018 is to the orders dated 03.06.2017, 15.09.2017 and 05.10.2017 passed by learned Assistant Charity Commissioner (ACC), Nanded, below application (Exh.21) in Enquiry No.280 of 2016; while the challenge in Writ Petition No.1099 of 2018 is to the orders dated 03.06.2017, 15.09.2017 and 05.10.2017 passed by learned Assistant Charity Commissioner (ACC), Nanded, below application (Exh.28) in Enquiry No.1165 of 2015.

3. Both the enquiries are pending before learned Assistant Charity Commissioner pertaining to the Change Reports submitted by the reporting trustees, respondent no.2 in both the Writ Petitions. The petitioner preferred application seeking intervention in the enquiry pertaining to those two Change Reports. The petitioner first claimed to be a Member of the trust. He has, however, not been declared to be Member of the trust. The issue in this regard is *sub-judice*. The petitioner, therefore, moved application seeking intervention in both the enquiry proceedings on the ground of "person interested".

4. Mr.Gunale, learned counsel for respondent no.2 in Writ Petition No.1103 of 2018, took me through the history of the litigation and submitted how the petitioner has been unsuccessful in securing a membership of the trust. He also took me through a detail affidavit-in-reply to the Writ Petition. He would further submit as to how the petitioner is no way concerned with the trust and not a person interested in the affairs thereof.

On the same lines were the submissions made by Mr.Khot, learned counsel appearing for respondent no.2 in Writ Petition No.1099 of 2018.

5. My attention was invited to the order dated 24.02.2014 passed by this Court in Writ Petition No.1580 of 2014 (Sangram Bandappa Malge Vs. Anandrao Jayvantrao Patil and anr.), wherein it has been observed by this Court: considering the various proceedings filed by respondent no.1, it can be said that respondent no.1 is a person interested within the meaning of Section 73-A of the Maharashtra Public Trust Act. In the light of that, the Writ Petition is dismissed. The aforesaid order has been passed in a Writ Petition, wherein the petitioner herein was a respondent and respondent no.2 herein was the petitioner therein.

6. Learned Assistant Charity Commissioner had directed the petitioner to lead evidence in proof of his claim as "person interested" and thus, entitled for intervention in the

proceedings relating to Change Reports. By the impugned orders, the applications moved by the petitioner seeking intervention, have been rejected on the ground of his failure to prosecute those applications.

7. It is the contention of the petitioner that he could not appear before learned Assistant Charity Commissioner as he underwent an eye operation. Medical papers are produced on record in this regard. Moreover, considering the fact of the petitioner having been agitating his claim in relation to the affairs of the trust, the impugned orders deserve to be set aside.

8. Hence, the following order :-

- (i) Both the Writ Petitions are, therefore, allowed in terms of prayer clause (B).
- (ii) The petitioner shall appear before learned Assistant Charity Commissioner on 22.02.2021.

- (iii) Learned Assistant Charity Commissioner shall allow the petitioner to lead oral and documentary evidence in support of his claim. The petitioner shall co-operate with the learned Assistant Charity Commissioner for disposal of his applications seeking intervention in the matters.
- (iv) Learned Assistant Charity Commissioner is requested to decide the petitioner's applications at the earliest and preferably, within a period of three months from the date of receipt of a copy of this order.
- (v) The amount of Rs.15,000/- deposited by the petitioner in each of the proceedings before the Deputy Charity Commissioner, Nanded, pursuant to the order of this Court dated 30.01.2018, be returned to him.

[R.G. AVACHAT, J.]