

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

WRIT PETITION NO. 1716 OF 2020

Survottam Narayan Patharikar and others ... Petitioners

Versus

The Assistant Charity Commissioner

Parbhani and others

... Respondents

....

Mr. S. S. Gangakhedkar, Advocate for petitioners

Mr. S. P. Tiwari, AGP for respondent Nos. 1 and 2

Mr. S. K. Chavan, Advocate for respondent Nos. 3 to 5

....

CORAM : R. G. AVACHAT, J.

RESERVED ON : 01st FEBRUARY, 2021

PRONOUNCED ON : 08th FEBRUARY, 2021

PER COURT :-

1. The challenge in this writ petition is to the order dated 12.12.2019 passed by the learned Joint Charity Commissioner, Aurangabad, below Exh.30 in Application No.159 of 2017. By the impugned order, respondent Nos. 3 to 6 have been granted permission to prefer appeal against the judgment and order dated 19.06.2017 passed by the Assistant Charity Commissioner, Parbhani in Inquiry No.722 of 2008.

2. Learned Advocate for the petitioners would submit that respondent Nos. 3 to 6 are not the persons interested in the trust – ‘Shri Vyankatesh Mandir, Parbhani’. The learned Joint Charity

Commissioner, therefore, ought not to have granted them permission to prefer appeal. According to the petitioners one of the appellants is not the resident of Vyankatesh Nagar, Parbhani. Learned Advocate took me through the term – ‘person having interest’, defined in Section 2(10) of the Maharashtra Public Trusts Act, 1950 (for short “the MPT Act”). Learned Advocate, therefore, urged for setting aside the impugned order.

Learned Advocate for the contesting respondents, would on the other hand, submit that the averments made in the application seeking permission to prefer appeal, make out a case for their entitlement to prefer appeal. According to him, the impugned order is self speaking. The same doesn’t need to be interfered with.

3. In the year 2008, an application was moved for registration of the trust, under Inquiry No.722 of 2008. The said application was allowed by the learned Assistant Charity Commissioner. ‘Shri Vyankatesh Mandir, Parbhani’ came to be registered vide registration No.A-5032. A scheme under Section 50A(1) of the MPT Act was submitted. It was numbered as Inquiry No.1643 of 2017. A notice of proceeding was said to have been issued, but not in a newspaper having wide circulation.

4. Perused the application preferred by respondent Nos. 3 to 6 seeking permission to prefer appeal against the order dated 19.06.2017 passed in Inquiry No.722 of 2008. There are sufficient averments in the application to make out the case of being persons interested. Some documents were also filed in support of the application. The learned Joint Charity Commissioner has passed a well reasoned order granting permission to respondent Nos. 3 to 6 to prefer appeal under Section 70 of the MPT Act. Merits of the matter in issue before the Joint Charity Commissioner cannot be gone into in this proceeding.

5. Suffice it to say that no case is made out for interference with the impugned order. The writ petition, therefore, fails. The same is dismissed.

6. In view of dismissal of the writ petition, Civil Application No.8131 of 2020 does not survive. The same is therefore disposed of.

[R. G. AVACHAT, J.]

SMS