

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

901 WRIT PETITION NO.7753 OF 2019

**SADASHIV HARIBHAU NAGLE
VERSUS
SHARAD RAMVILAS SOMANI AND OTHERS**

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Advocate for Petitioner : Mr. P.R. Katneshwarkar h/f. Barde Parag Vijay
AGP for Respondents/State : Mr. P.S. Patil
Sr. Counsel for Respondents : Mr. V.D. Sapkal

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**CORAM : UJJAL BHUYAN &
M.G. SEWLIKAR, JJ.
DATE : 16.03.2021**

PC. :-

Heard learned counsel for the parties.

2. By filing this petition under Articles 226/227 of the Constitution of India petitioner seeks quashing of judgment and order dated 04.06.2019 passed by the Deputy Charity Commissioner, Ahmednagar in Enquiry Application No.616/2016.

3. The dispute pertains to affairs of Belapur Education Society, Belapur which is a public trust registered under the Maharashtra Public Trust Act, 1950.

4. Petitioner and respondent nos.1 and 2 are members of the Belapur Education Society (briefly the 'Public Trust' hereinafter)

5. Though there is a litigation history pertaining to the public trust, in view of the order that we propose to pass it may not be necessary to delve into the same. Suffice it to say that the impugned judgment and order has been assailed on the ground that directions issued by the Deputy Charity Commissioner as contained in the impugned judgment and order could not have been issued under Section 41(A) of the Maharashtra Public Trust Act, 1950 (briefly the 'Act' hereinafter). It is contended by the petitioner that the Deputy Charity Commissioner had firstly directed holding of elections to the public trust and secondly had directed that such elections be held on a basis of a particular members / voters list. Exercise of power under Section 41(A) being administrative in nature, such directions could not have been issued by the Deputy Charity Commissioner.

6. In the course of the hearing, learned counsel representing respondent nos.1 and 2 has pointed out that in terms of the impugned judgment and order elections to the public trust were held on 13.07.2019 whereafter change report bearing no.1200/2019 was submitted to the said authority. Petitioner is in fact contesting the said change report and

17.03.2021 has been fixed as the next date of hearing on the change report. Further submission made is that the next round of election to the public trust is due in July-2021.

7. When this was pointed out to learned counsel for the petitioner with the observation that it would be more appropriate if direction is issued to the Deputy Charity Commissioner to take a decision one way or the other on the change report no.1200/2019 expeditiously, he fairly submitted that he would have no objection to the proposed course of action but in addition he submitted that the public trust is functioning on an ad-hoc basis without any scheme. Scheme Application No.36/2017 is still awaiting final approval of the aforesaid authority. He also submits that this Court in Writ Petition No.1569/2018 (Sadashiv Haribhau Nagale V/s. Assistant Charity Commissioner, Ahmednagar) had directed the Assistant Charity Commissioner to take a final decision on the aforesaid scheme application. Thereafter time was extended on prayer made by the adjudicating authority. He therefore prays that both the change report and the scheme application may be heard together and decided by the Deputy Charity Commissioner expeditiously.

8. We find that there is unanimity on the part of learned counsel for the contesting parties about the aforesaid course of action. Besides, submissions made are reasonable and pragmatic.

9. That being the position and without expressing any opinion on merit, we direct the Deputy Charity Commissioner, Ahmednagar to finally decide the change report no.1200/2019 along with the scheme application no.36/2017 within a period of sixty days from the date of receipt of a copy of this order. Since we have not entered into merit, all contentions are kept open.

10. Writ Petition is accordingly disposed of. No cost.

[M.G. SEWLIKAR, J.]

[UJJAL BHUYAN, J.]