

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

904 Writ Petition No.9624 Of 2021

Sambappa Trimbakrao Girwalkar and Others .. Petitioners

Versus

The Joint Charity Commissioner and Others .. Respondents

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Mr N.P. Patil – Jamalpurkar, Advocate for the Petitioners

Mrs M.A. Deshpande, Addl. G.P for the Respondents – State

Mr V.D. Salunke, Advocate h/f. Mr T.G. Gaikwad, Advocate for
Respondent No.3

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**CORAM : S. V. GANGAPURWALA AND
R.N. LADDHA, JJ.**

DATE : 28-09-2021

PER COURT :

1. The petitioners assail the order passed by the Appellate Authority suspending the order passed in the proceedings thereby rejecting the change report.

2. Mr Patil, learned Counsel for the petitioners submits that the respondents during the pendency of the change report proceedings had moved for provisional acceptance of the change report that was rejected. The said order was confirmed by this Court in the Writ Petition. According to the learned Counsel, the impugned order could not have been passed. The Appellate Authority has prejudged

the matter and has passed the order in a prejudice manner. According to the learned Advocate, the body, whose change report is rejected, cannot function. The matter be transferred from Joint Charity Commissioner, Latur to any other place. Earlier also, the matter was transferred from the office of ACC Latur to Beed. The observations made by the learned Judge shows that he is prejudiced against the petitioners.

3. Mr Salunke, learned Counsel submits that time and again the petitioners are resorting to such activities and trying to put pressure upon the learned Judge. The learned Counsel submits that there is no illegality in the order.

4. The petitioners in the present matter have challenged the order passed below Exh.4 by the Joint Charity Commissioner in Appeal No.10 of 2021. The said appeal is filed by the present Respondent No.3 challenging the order of the ACC rejecting the change report. The petitioners have also sought transfer of the proceedings from the office of the Jt. Charity Commissioner, Latur to any other place in the region.

5. The Joint Charity Commissioner, Latur has passed the following

operative order that is impugned in the present petition.

‘ORDER

1. The order of learned Dy.C.C., Beed in C.R.E. No.1420 / 2019 is hereby suspended till filing say by parties.

2. If the respondents filed their say in the matter on taking into the cause list before the fixed date, the order of suspension of judgment would continue till a further fixed date.’

6. The observations made at the time of passing the order which can be said to be *ex-parte* has no bearing at the time of final decision in the matter. The same is only for *prima facie* purposes. The matters have to be dealt with and argued by the parties and thereafter the order is required to be passed considering the pros and cons, merits and demerits and the arguments of the respective parties.

7. Though the learned Judge indulged in self-eulogizing about his status and making vainglory statement in para no.7 of the order, we are not interested to consider the same. We are also not inclined to consider the arguments of the learned Counsel for the petitioners for transfer of the proceedings as the petitioners have a remedy before the Charity Commissioner. In view of that, we are not inclined to consider the said aspect. The impugned order is till filing of the say. There is no impediment for the petitioners to file the say. The effect

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of suspending the order of the lower authority wherein the change report proceeding is rejected, is for the parties to consider. As the order passed is only till the filing of the say, the petitioners have an opportunity to file the say and the next date is kept on 04-10-2021, we are not inclined to consider the petition on merits.

8. All submissions kept open.

9. Writ Petition is disposed of. No costs.

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

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