

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

920 WRIT PETITION NO.9165 OF 2020

**MAHESH ANANDA PATIL AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioners : Mr.Kale Ajeet B.
AGP for Respondents-State : Mr.G.O. Wattamwar
Advocate for Respondent Nos. 4 to 6 in WP(ST)/25011/2020 : Mr. V.D.
Hon, Learned Senior Counsel I/b Mr.A. D. Shinde

...

AND

WRIT PETITION NO 9150 OF 2020

**PRADHAN S/O RAMBHAU MULIK AND ANOTHER
VERSUS
THE JOINT CHARITY COMMISSIONER, NASHIK REGION, NASHIK AND
ORS**

...

Advocate for Petitioners : Mr. P.D. Bachate
AGP for Respondent No. 1-State : Mr.G.O. Wattamwar
Advocate for Respondent Nos. 4 : Mr. V.D. Hon, Learned Senior Counsel
I/b Mr.A. D. Shinde

CORAM : N. J. JAMADAR , J.

Date : 07th APRIL, 2021.

P. C. :

1. The challenge in this petition is to an order passed by the learned Joint Charity Commissioner, Nashik Region, Nashik dated 2nd December, 2020, whereby, the learned Joint Charity Commissioner, was persuaded to pass ex-parte order under Section 41E of the Maharashtra Public Trust Act, 1950 and restrain the respondents from entering into the office/premises of the Trust and hold elections till the scheduled date

of appearance i.e. 23rd December, 2020.

2. Mr. Kale, learned counsel for the petitioners points out that the society is in fact registered under the Maharashtra Co-Operative Societies Act, 1960 and the petitioners herein were elected as office bearers of the said society and a notification to that effect came to be issued by the Election Officer and Deputy District Registrar, Co-Operative Societies on 15th May, 2015. The respondent Nos. 4 to 6, by taking undue advantage of the fact that the society was also registered under the Maharashtra Public Trust Act, 1950, have approached the Joint Charity Commissioner for injunctive reliefs and the learned Joint Charity Commissioner has passed the impugned order without adverting to the facts of the case and the necessity of passing such an extreme order.

3. The learned counsel for the petitioners has also invited the attention of the Court to the order passed by the Division Bench of this Court on 13th March, 2018 in Writ Petition No. 2677 of 2018, wherein the Division Bench has directed the parties to maintain status-quo and not to take further precipitative action.

4. In the backdrop of the nature of the impugned order, it becomes abundantly clear that the question of grant of injunctive relief under the provisions of Section 41E of the Act, 1950, is required to be determined by the learned Joint Charity Commissioner after providing an

opportunity of hearing to the parties.

5. From the submissions of counsel for the petitioners, the very issue of the Society in question being governed by the provisions of the Act, 1950, may warrant consideration.

6. Since the challenge in this petition is to on ex-parte ad-interim order, it may be expedient to direct the learned Joint Charity Commissioner to hear and decide the application for injunction under Section 41E of the Act, 1950 expeditiously after providing an opportunity of hearing to the parties.

7. Mr. Hon, the learned Senior Counsel for respondent Nos. 4 to 6 is not averse to the aforesaid proposition.

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8. The learned counsels for the parties submit that this petition may also be disposed of by issuing directions for expeditious hearing.

9. Hence, the petitions stand disposed of with the following directions :

. The learned Joint Charity Commissioner, Nashik, shall allow the petitioners to file an affidavit-in-reply, within a period of one week from today.

. The parties shall appear before the Learned

Joint Charity Commissioner, on 15th April, 2021.

. The learned Joint Charity Commissioner, shall decide the application under Section 41E of the Act, 1950, within four weeks thereafter.

. In the event, the learned Joint Charity Commissioner finds it difficult to decide the application under Section 41E of the Act within the said period, the question of further continuation of the ex-parte interim relief must be decided by the Joint Charity Commissioner, within the said period by a speaking order and after providing an opportunity of hearing to the parties.

. It is hereby made clear that this Court has not entered into the merits of petition and the contentions of the parties are kept open for consideration.

. Both the writ petitions accordingly stand disposed of.

(N. J. JAMADAR)
JUDGE

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