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

903 WRIT PETITION NO.13824 OF 2021
WITH
CIVIL APPLICATION NO.2467 OF 2022

VILAS SAKHARAM SATHE AND OTHERS
VERSUS
THE DEPUTY CHARITY COMMISSIONER AND ANOTHER

...

Mr Amit S. Savale, Advocate for petitioners;
Mr S. B. Pulkundwar, A.G.P. for respondent No.1
Mr S. S. Jadhavar, Advocate for respondent No.2

**CORAM : RAVINDRA V. GHUGE
AND
S. G. MEHARE, JJ.**

DATE : 1st March, 2022

PER COURT:

1. By this petition, the petitioners have put forth a prayer that the Trust be directed to conduct elections. However, the grievance is that, though the petitioners are employee members of the Trust, they are not being considered as members. They have been members for a long time.

2. Considering the above submission on 28/02/2022, we granted an overnight adjournment to the petitioners to produce before us the receipts establishing their payment of subscription

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and consequently, their membership for the period from 2016 to 2021.

3. Today, the learned Advocate for the petitioners submits that though these are only three petitioners, there are in all 481 employees/members of the Trust. The trustees do not issue membership receipt to any member. Contributions/subscriptions are collected by the Headmaster of the Institution, in which these employees are working, and such amounts are deposited with the Trust. They are, therefore, deemed to be the members of the Trust.

4. Further grievance of the petitioners is that, they had filed an application under Section 41-A of the Maharashtra Public Trust Act, 1950, calling upon the Competent Authority to assess their membership. By the impugned order dated 29/11/2021, the Deputy Charity Commissioner, Ahmednagar, has rejected their application on the ground that Section 41-A does not enable the Competent Authority in going into the issue as to whether any person is a member or not and whether any person could be admitted as a member or not. Section 41-A has been reproduced in the impugned order.

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5. The petitioners have not cited before us any judicial pronouncement, which lays down the law that the Deputy Charity Commissioner has powers under Section 41-A(1), to consider the grievance as like the one which is raised before us i.e. whether the petitioners continue to be the members of the Trust or whether they have been illegally removed as members and whether they can be inducted as members.

6. We are doubtful as to whether Section 41-A empowers the Deputy Charity Commissioner to issue a direction to a Trust to accept the membership of a person on the ground that the said person is willing to deposit the membership and become a member.

7. The petitioners have cited the Judgment of this Court in **Sthanakwasi Jain Sangh, Shrirampur Vs. Deepak Hukumchand Duggad & ors., 2021 (1) ABR 78**. In the said Judgment, we find that the Deputy Charity Commissioner has observed in paragraph 10 of the impugned Judgment that there was a consensus between both the sides to conduct elections of the Trust. It was also observed that, for the proper administration of the Trust, for better management, it is necessary to conduct

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elections to the Board of the Trustees of the petitioner Trust. In view of the consensus, this Court recorded in paragraph 20 that, elections were not held from 2017 and the parties had agreed to the membership of the Board of Trustees as in 1997, to be accepted for the purposes of the elections. It was then held in paragraph 26 that as all the parties had conceded for holding elections, this Court declined to interfere with the said decision and the petitioner was granted the liberty to raise objections to the change report. So also raise the issue of membership in appropriate proceedings.

8. In the case in hands, elections have been held for the period from 2016 to 2021. The change report with regard to the elections has been rejected with liberty to file a fresh change report, since relevant documents were not placed before the concerned authority. Whether the petitioners voted in the membership in 2018 and whether they voted in the elections in the year 2016, would be a subject matter of the change report.

9. The elections were held for the period from 2016 to 2021 and the elections are now being sought to be held in 2022. It is difficult for us to issue any direction that the voters list as existing

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in 2016 should be referred to, and the same should not be updated or that the list, prior to the elections in accordance with the procedure, should not be formalized. We do not intend to issue such directions. If the petitioners have any objection as regards the voters list and if they are competent to raise the objection, the law provides them with remedies.

10. The learned Advocate for the Society informs us that within three months, the Society would complete elections process.

11. Considering the above, we do not find any reason for keeping this petition pending. The same is, therefore, dismissed.

12. Consequentially, the civil application putting forth a prayer that the Administrator or the Inspector be appointed on the Trust, does not deserve consideration and hence, stands rejected.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

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