

(1)

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

**903 REVIEW APPLICATION (CIVIL) NO.96 OF 2022
IN WP/2421/2022**

**MANMATHAPPA PANDBAPPA LOKHANDE
VERSUS
MADHAV HANMANTRAO PATIL TAKLIKAR AND ANOTHER**

Ms. Pradnya Talekar, Advocate on behalf of Talekar & Associates, for applicant

Mr. N.P. Patil, Advocate for respondent no.1;

Mr. S.B. Yawalkar, A.G.P. for respondent no.2

**CORAM : R.D. DHANUKA
AND
S. G. MEHARE, JJ.**

DATE : 25th March, 2022

P.C.

1. By this review petition filed by the applicant, who is not a party to the writ petition, the applicant seeks re-call of the order dated 14.3.2022 passed by this Court in Writ Petition No.2421 of 2022, thereby directing the respondent to provisionally accept the change report submitted by the original petitioner on 29.9.2021 under Section 22 (2) of the Maharashtra Public Trusts Act, 1950 (for short “the Act”), within two weeks from today and to take further steps as contemplated under Section 22 (2) and (3) of the Act, within the time

(2)

contemplated under the said provision. This Court, while passing the said order, made it clear that this Court has not expressed any view on the merits of the maintainability of the said change report submitted by the petitioner or on its merits. This Court also made it clear that all contentions of the parties are kept open.

2. The review petitioner who claims to be one of the office bearers based on the elections held, had filed a change report to record change of trustees held in view of the election held, has filed this review application.

3. Ms. Talekar, learned Counsel for the review petitioner submits that the original petitioner has suppressed true and material facts before this Court by not impleading the review petitioner as a party respondent and about the pendency of various proceedings pending between the parties before the Charity Commissioner. It is submitted by the learned Counsel that the list of voters was prepared by the Joint Charity Commissioner. Two voters, whose names were mentioned in the list of voters prepared by the Joint Charity Commissioner, have filed affidavits to the effect that they were never

(3)

elected.

4. Learned Counsel for the review petitioner submits that the Joint Charity Commissioner has passed an order of *status quo*. She invited our attention to the order of Joint Charity Commissioner dated 16.7.2021 and the order passed by this Court directing the Joint Charity Commissioner to prepare voters list and to hold elections. She submits that pursuant to the said directions issued by this Court, the petitioner and other members of the trust were appointed as office bearers.

5. It is submitted by the learned Counsel that the Joint Charity Commissioner has remanded the matter to the Lower Authority. The proceedings filed by the petitioner impugning the order rejecting the proceedings filed, are pending before the Lower Authority. It is submitted that her client is holding the charge of the trust and under the guise of the proceedings filed by the original petitioner for accepting the change report filed by the petitioner on provisional basis under Section 22 (2) of the Act, the original petitioner wants to displace the review petitioner from the management of the trust.

(4)

6. It is submitted by the learned Counsel that if the order passed by this Court directing the Joint Charity Commissioner to accept the change report submitted by the original petitioner is not re-called, there will be serious prejudice to the interest of the petitioner and other office bearers whose proceedings are pending before this Court.

7. Learned Counsel for the original petitioner, on the other hand, invited our attention to the order passed by this Court on 14.3.2022, which is sought to be re-called by the review petitioner and would submit that this Court while disposing of the petition has categorically made clear that the respondent in the writ petition was directed to accept the change report submitted by the petitioner on 29.9.2021 under Section 22 (2) within two weeks from the date of the order and to take further steps as contemplated under Section 22 (2) and (3) of the Act within the time contemplated under the said provision. He submits that while passing the said order, this Court made it clear that this Court has not expressed any view on the merits of the maintainability of the said change report submitted by the petitioner or on its merits and all contentions of the parties are kept open.

8. Learned Counsel for the original petitioner also invited our attention to the orders passed by various authorities and proceedings filed by the review petitioner and would submit that as on the date the change report submitted by the review petitioner has already been rejected by the Authority below. The application filed by the review petitioner for accepting the change report submitted by the petitioner on provisional basis under Section 22 (2) of the Act is also rejected. He submits that the only relief of staying the order passed by the Joint Charity Commissioner granted by this Court is to stay the order of remand. He submits that upon order of remand also, the petitioner could not succeed. He submits that fresh election of the Governing Council has been held on 4.7.2021 and the Governing Council has taken charge of administration of Trust on 5.07.2021.

9. We have perused Section 22 (2) of the Act along with proviso thereto and also the order passed by this Court which is subject-matter of this review petition. It is not in dispute that the change report submitted by the original petitioner is pending before the Authority below. Since the said change report was not accepted on

(6)

provisional basis within a period of 15 days from the date of submitting the change report, the petitioner filed this petition *inter alia* praying for a direction under Section 22 (2) of the Act to direct the Authority to accept the change report on provisional basis with further directions.

10. By order dated 14.3.2022, while issuing directions to the respondent, this Court has simplicitor directed the respondent to provisionally accept the said change report submitted by the petitioner on 29.9.2021 under Section 22 (2) of the Act, within two weeks from the date of the said order and further directed to take further steps as contemplated under the said provisions within the time contemplated under the said provision. Since this Court made it clear that this Court has not expressed any view on the merits of the maintainability of the said change report submitted by the petitioner or on its merits and all contentions of the parties are expressly kept open, in our view, the order passed by this Court is in conformity with the provisions of Section 22 (2) of the Act read with proviso thereto.

(7)

11. The review petitioner has not made out any case for re-call of the said order. All subsequent directions issued by this Court in the said order dated 14.3.2022 are to be complied with by the respondent, in accordance with the provisions of Section 22 (2) of the Act read with proviso thereto.

12. If the review petitioner seeks to file any objection pursuant to the objections that would be invited by the respondent under Section 22 (2) of the Act, the petitioner would be at liberty to file such objection within the time prescribed for filing such objection by the petitioner and all other persons interested, who are entitled to raise such objection. The respondents shall decide the said objections, in accordance with law.

13. The request of the learned Counsel for the petitioner that the review petitioner be granted an opportunity to apply for vacating the provisional acceptance of the said report submitted by the petitioner is without any substance. The provisions of Section 22 (2) read with proviso thereto make it clear that if the Authority is not satisfied with the objections that would be raised by the parties interested including

(8)

the petitioner, the provisional acceptance of the change report under Section 22 (2) of the Act would be accordingly modified.

14. The review petitioner failed to demonstrate any error on the face of the order. In our view, there is no merit in the review petition and the same is accordingly dismissed. No order as to costs.

(S. G. MEHARE, J.)

(R.D. DHANUKA, J.)

amj