

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

WRIT PETITION NO.7138 OF 2022

**MADHAVRAO HANMANTRAO PATIL (TAKLIKAR)
VERSUS
THE CHARITY COMMISSIONER AND OTHERS**

...
Advocate for Petitioner : Mr. N.P. Patil Jamalpurkar
AGP for Respondents: Mr. K.B. Jadhavar
Advocate for Respondent No.3 : Mr. V.D. Salunke
...

CORAM : MANGESH S. PATIL, J.

DATE : 12.07.2022

PER COURT :

Heard both the sides. At the joint request, the matter is being disposed of finally at the stage of admission.

2. The petitioner is aggrieved by the order passed by the Charity Commissioner rejecting his application preferred under Rule 36(iii) of the Rules framed under the Maharashtra Public Trusts Act thereby refusing to transfer the Change Report inquiry pending before the Deputy Charity Commissioner, Latur to some other officer.

3. The peculiar facts and circumstances of the case and the bitterness is to such an extent that I am refraining from making any observation so that it should not again play on the mind of the learned Deputy Charity Commissioner while deciding the Change Reports.

4. As usual there are factions in the trustees managing a public charitable trust running education institutes for decades.

5. Two change reports have been filed and are pending before the Deputy Charity Commissioner, Latur for adjudication.

6. The parties were before this Court in respect of acceptance of the provisional change as is contemplated under Sub-section 2 of Section 22 of the Maharashtra Public Trust Act, 1950. The division bench of this Court by the order dated 14.03.2022 had directed the Deputy Charity Commissioner to accept the provisional change. The respondent took out a review petition. By the order dated 25.03.2022 the division bench disposed of the review petition.

7. Having found that the learned Deputy Charity Commissioner had refused to grant provisional acceptance as per the directions of the division bench moved Contempt Petition No.203/2022. By recording an observation that *prima facie* it was a matter of contempt, by the order dated 06.04.2022 the division bench directed a notice to be issued to the learned Deputy Charity Commissioner.

8. The contempt petition was disposed of by a final order dated 27.04.2022 *inter alia* by making following observations in paragraph No.13

“13. The Deputy Charity Commissioner is directed to pass a fresh order within two weeks from today. It is made clear that merely because this Court has directed the Deputy Charity Commissioner to accept change report submitted by the petitioner on provisional basis under Section 22(2) of the Act, that would not mean a direction to accept the change report submitted by the petitioner without going into merits and also the maintainability of the change report submitted by the respondents. The Deputy Charity Commissioner shall consider the objections that are already raised by the objectors and that would be raised during the argument and shall pass order in accordance with law on the said provisional change report, on

its merit.”

9. The contesting respondent challenged the order passed in the Writ Petition No.2421/2022 as also the order passed in the Review Application RAC No.96/2022 before the Supreme Court and the Supreme Court after hearing both the sides passed following order :

“ Permission to file the Special Leave Petition(s) is granted.

Having heard the learned counsel for the respective parties, direct the Deputy Charity Commissioner, before whom the Change Report Nos.1420 of 2019 and 596 of 2021 are pending, to decide and dispose of the same in accordance with law and on its own merits, after giving opportunity to all concerned, at the earliest and preferably within three months from the date of receipt of this order.

The concerned parties are directed to cooperate with the Deputy Charity Commissioner for early disposal of the aforesaid Change Reports. If any of the parties try to delay the hearing of the matter, it will be open to the Deputy Charity Commissioner to proceed further with the Change Reports ex-parte after passing a reasoned order.

With the above observations and directions, the Special Leave Petitions are disposed of.

Pending interlocutory application(s), if any, is/are disposed of.”

10. The petitioner seems to be perceiving that in view of the aforementioned facts and circumstances, the learned Deputy Charity Commissioner who is deciding the Change Report inquiries must have been prejudiced and in all probability would carry a bias against the petitioner and he would not get justice. He filed the application for transfer of the proceedings.

11. The Joint Charity Commissioner by the order under challenge

has rejected the transfer application with elaborate reasons.

12. As I have cursorily mentioned herein above, I do not want fuel to be added to the fire by making certain observations which could play on the mind of the learned Deputy Charity Commissioner.

13. Suffice for the purpose to observe that the parties were before the Division Bench of this Court when the Contempt Petition was decided with the observations in a paragraph No.13 herein above. The petitioner had not raised any objection or even hinted at any bias on the part of the learned Deputy Charity Commissioner while the Contempt Petition was being decided.

14. Again, the petitioner was also present before the Supreme Court when the aforementioned order was passed but did not raise any issue touching the aspect of bias.

15. Though the transfer application, as stated by the learned advocate Mr. N.P. Patil Jamalpurkar was drafted on 18.05.2022 but was not till then filed or registered, the fact remains that the Supreme Court had passed the order on 07.06.2022 whereas this transfer application was already drafted on 18.05.2022. If such was the state of affairs, if not while passing the order by the Supreme Court at least at the end, the petitioner could have hinted at the perception he was carrying about the impartiality about the Deputy Commissioner, to whom the direction was given by the Supreme Court to decide the Change Report finally within a stipulated time of three months. That opportunity was not availed of by the petitioner for

whatever reasons best known to him.

16. If such is the state of affairs, merely because the petitioner has been carrying some perception because of the aforementioned facts and circumstances wherein the learned Deputy Charity Commissioner was even served with a notice under the Contempt of Courts Act and was required to appear before the Division Bench and tender an explanation, it cannot be said that the learned officer would carry the same impression and has some bias against the petitioner.

17. Considering the fact that the Supreme Court has now expected the parties to cooperate the Deputy Charity Commissioner in deciding the Change Report finally within a stipulated time, the reasoning given by the Charity Commissioner in the impugned order cannot be said to be perverse, arbitrary or illegal and does not call for any interference in exercise of writ jurisdiction.

18. The Writ Petition is dismissed.

(MANGESH S. PATIL, J.)