

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

WRIT PETITION NO.14921 OF 2021

**BHAGUJI BABURAO ZAWARE
VERSUS
THE ASSISTANT CHARITY COMMISSIONER, AHMEDNAGAR AND
ANOTHER**

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Advocate for the Petitioner : Shri Kakde Yuvraj V.
AGP for the Respondents/ State : Smt.P.V. Diggikar

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CORAM: SMT. BHARATI H. DANGRE, J.

DATE :- 03rd January, 2022

Per Court:

1. Heard the learned counsel for the petitioner and the learned AGP for respondent No.1.
2. The petitioner is aggrieved by the order passed by the Assistant Charity Commissioner, Ahmednagar on 27.07.2021 below Exhibit-48, under which, the application filed by the petitioner seeking permission to raise an objection to the Change Report, has been declined.
3. The sequence of events would reveal that the respondent No.2 filed the Change Report Application No.1124/2019 on 29.06.2019, to which, the petitioner objected by raising a plea that he is the founder trustee and his name has been deleted. However, on 24.09.2019, the

petitioner himself filed an application stating that he has no grievance against the change report, necessarily the change report was allowed.

4. However, after lapse of some period of time and to be precise on 03.03.2021, the petitioner filed another application vide Exhibit-48, raising an objection to the Change Report and seeking his impleadment as a party respondent. That application was opposed by the respondent No.2 on the ground that on earlier occasion, a similar application was withdrawn by the petitioner and therefore, without any change in circumstance, he cannot be permitted to raise the grievance once again.

5. The impugned order has been passed on the said application, in which, it is recorded that the earlier application was withdrawn and the present application, which is filed, is not on affidavit. Moreover, the application presented to the Court is filed and prosecuted through the counsel and the petitioner was not present. This is the ground on which the application has been rejected.

6. The learned advocate for the petitioner submits that as far as the presence of the petitioner is concerned, he is octogenarian and in the wake of the pandemic, he refrained himself from attending the proceedings before the Assistant Charity Commissioner and that is why he did not remain present.

7. The learned advocate for the petitioner submits that the petitioner is, however, ready to file an application supporting with an

independent affidavit and that will be ultimately left to the discretion of the Assistant Charity Commissioner to entertain such application on its own merits since the impugned order has been passed citing technical ground.

8. In the wake of the above, the impugned order dated 27.07.2021 is quashed and set aside. Subject to the stipulation that the petitioner submitting his application along with his affidavit, the Assistant Charity Commissioner is at liberty to consider his application on merits.

9. The Writ Petition is allowed in the aforesaid terms. No order as to costs.

kps

(SMT. BHARATI H. DANGRE, J.)