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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**CIVIL WRIT PETITION NO. 6002 OF 2022
WITH
INTERIM APPLICATION NO. 3164 OF 2022
IN
CIVIL WRIT PETITION NO. 6002 OF 2022**

PRASAD MANOHAR THORVE

....PETITIONER

V/s.

**THE ASSISTANT CHARITY COMMISSIONER RESPONDENTS
AND ORS**

Mr. Aseem Naphade a/w Mr. Niranjan Bhavake i/b Aditya D. Gurav
Advocate for the Petitioner

Mr. P. V. Nelson Rajan AGP for Respondent no. 1

Ms. Sultana Sonawane i/b Satish Muley for Respondent nos. 2 & 3

CORAM : NITIN W. SAMBRE, J.

DATE: JUNE 16, 2022.

P.C.:

1) From the trusteeship of Respondent no. 2 of a registered public Trust, two trustees Mrs. Ellen P. Dharkar and Mr. Sidharth H. Vadde resigned.

2) As a sequel, Trust vide resolution dated 04/04/2011 appointed two trustees namely Mr. Dhiraj Patel and Mr. Vijay Mandewal.

3) Aforesaid change which has occurred in the Respondent public Trust was brought to the notice of Respondent Assistant Charity Commissioner thereby lodging change report under Section 22 of Maharashtra Public Trust Act, 1950 (Hereinafter referred to as 'the Act' for the sake of brevity)

4) In the said change report proceedings, Petitioner took out intervention proceedings and sought direction to publish public notice calling objections on the aforesaid change as provide vide circular no. 587 dated 02/06/2021. It is prayed that Petitioner be also permitted to file his objection to said change report.

5) Such prayer of the Petitioner came to be rejected vide impugned order dated 08/04/2022 passed by Respondent no. 1 Assistant Charity Commissioner.

6) Contentions of Mr. Aseem Naphade, counsel appearing for the Petitioner are, amendment to Section 22 of the Act which provides for issuance of circular dated 02/06/2021 is retrospective. Said circular provides for an amendment to procedure to be adopted while dealing with change proceedings initiated under Section 22 of the Act. Drawing support from the Judgment of the Apex Court in the matter

of **Thirumalai Chemicals Limited Versus Union of India and others**¹, it is claimed that procedural law has to be applied retrospectively. In the aforesaid background, contentions are, even if change report proceedings are initiated in 2011 and the circular qua Section 22 of the Act was issued in 2021 i.e. post change, procedure therein has to be applied retrospectively with equal force.

7) I have considered said submissions.

8) At the outset, it is required to be noted that provisions of Section 22 of the Act provides for procedure to be adopted in the matter of change occurring in a public Trust.

9) Petitioner is neither a Trustee of public Trust nor a person interested or having any remote connection whatsoever with the object for which the Trust was formed. In the aforesaid background, in response to the Courts query, Petitioner is unable to satisfy his locus in regard to his right to participate in change report proceedings thereby seeking a mandate that objection has to be invited by issuing public notice.

10) As far as claim that procedural law has to be applied with

¹ (2011) 6 Supreme Court Cases 739

retrospective effect with equal vigour is concerned, fact remains that neither there exists any right in the Petitioner as stated herein above which are sought to be taken away by virtue of proceedings in question. In such an eventuality, drawing support from para 26 of the Judgment in the matter of **Thirumalai Chemicals Limited** [cited supra], it cannot be said that claim of the Petitioner of applying amendment to Section 22 with retrospective effects needs to be granted. I hardly see any reason which warrants interference in the order impugned.

11) That being so, Petition fails, stands dismissed.

12) In view of disposal of Petition, Interim Application also stands disposed of.

[NITIN W. SAMBRE, J.]

IRESH SIDDHARAM
MASHAL

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SIDDHARAM MASHAL
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