

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 1555 of 2022

[Shree Agrasen Mandal, Nagpur through its President Smt. Urmiladevi Gaurishankar Agrawal and ors.
..vs.. Advocate Shri Bharatbhushan Babulalji Mehadia and anr.]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. G. Mohabey with Mr. R. D. Hajare, Advocates for the petitioners
Mr. S. D. Abhyankar, Advocate for respondent 2

CORAM : ROHIT B. DEO, J.

DATED : 17-3-2022

The petitioners are assailing the notice of election published in the daily newspaper, Navbharat on 9-3-2022 and are further seeking writ of quo-warranto on the premise that respondent 1 Advocate, Mr. B. B. Mehadia is not entitled to act as the election officer.

2. The prayer clauses of the petition reads thus :

“(i) allow the petition with cost

(ii) quash and set aside the notice of election published in daily newspaper Navbharat Dtd. 09/03/2022 by respondent no. 2.

(iii) Issue writ of mandamus against the respondent no. 1 to prohibit him from posing himself as an election officer of Shree Agrasen Manal Nagpur and also issue writ of quo-warranto against respondent no. 1 and 2 for appointing respondent no. 1 as an election officer without any authority of respondent no. 2.

(iv) grant ad-interim relief that during the pendency of this Writ Petition no process of election be conducted by respondent no. 1 in pursuance of publication notice dtd. 09/03/2022 published in

daily newspaper Navabharat dtd. 09/03/2022 for conducting the election process.

(v) Any other relief deem fit under the facts and circumstances of the case be granted in favour of petitioner.”

3. This petition is clearly misconceived for reasons more than one. In the first instance, the challenge is not to any judicial or quasi-judicial order and is restricted to the publication of notice informing the members that the elections shall be held on a particular date. Similar relief is already sought by Smt. Urmila Gaurishankar Agrawal claiming to represent petitioner 1 as the President, by preferring an application under Section 41-A of the Maharashtra Public Trusts Act, 1950 (Application 73/2022), the prayer clauses of which reads thus :

“(i) to issue directions to the Non-applicant no. 1 and thereby direct him not to pretend himself as Election Officer of Agrasen Mandal, Nagpur as he expelled from conducting the elections of Trust;

(ii) to issue directions to the Non-applicant No. 1 and thereby direct him not to publish any communication in the name of Agrasen Mandal, Nagpur

(iii) to issue direction to the Non-Applicant No. 1, not to interfere in the Elections of the Trust ;

(iv) to issue directions to the Non-Applicant No. 1 and thereby restrict him from conducting any election illegally on 20.03.2022.

- (v) *to issue directions to the Non-Applicant No. 2 not to make any communication in the name of the Secretary of the Trust;*
- (vi) *to grant any other relief as this Hon'ble Authority deems fit in the facts and circumstances of the case in favour of the Applicant, in the interest of Trust, and in the interest of Justice and fair play."*

4. The petitioners have averred in the petition that since interim relief could not be obtained from the Deputy Charity Commissioner, the present petition is filed. However, there is no challenge in the present petition to the alleged refusal to grant interim relief. In any event, the remedy of the petitioners lies elsewhere. In so far as the prayer which seeks writ of quo-warranto is concerned, suffice it to note that writ of quo-warranto cannot be issued in the matter of the appointment of respondent 1, Advocate as the election officer of the trust.

5. The petition is misconceived and is dismissed.

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JUDGE