

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 1621 OF 2022

Anand Baburao Tatte and ors.

..VS..

Shriram Asaram Bansod

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

Court's or Judge's orders

Shri Ujwal J. Deshpande, Advocate for the petitioners.

CORAM : ROHIT B. DEO, J.

DATED : 22/03/2022.

Heard.

2. The petitioners are assailing the order dated 03.03.2022 rendered by the Deputy Charity Commissioner, Amravati Region, Amravati, whereby the application (Exhibit 104) preferred by the petitioners purportedly invoking the provisions of Section 73-A of the Maharashtra Public Trusts Act, 1950 ('the Act') to intervene in the change report enquiry, is rejected.

3. The reporting Trustee filed the change report in respect of the election held on 01.08.2010, promptly. The petitioners preferred an application seeking permission to intervene, on 01.02.2022. The averments in the application is that the applicants were not aware of the pendency of the change report. The application is premised on the assertion that the applicants 1 to 3/petitioners 1 to 3 herein, are enrolled as Life Members of the Trust in executive body meeting dated 28.02.2002. It is further averred that applicant 4/petitioner 4 herein, was enrolled as a Life Member on 15.08.2008 and the applicant 5/petitioner 5 herein, was enrolled as a Life Member in the meeting, held on

27.11.2009. Other than the vague and omnibus assertion in paragraphs 5 and 6 that the applicants are interested persons and that if the change report is decided behind their back, their rights will be affected, there is no explanation forthcoming, why the presence of the applicants is necessary and in which manner and to what extent, would the petitioners be in a position to assist the authority to protect the interest of the Trust.

4. It is well settled and a reference may only be made to the decision of this Court in First Appeal 1249 of 2012 (*people's Education Society v. Mansing S. Moray*), that while the power under Section 73-A of the Act is wide, the person seeking intervention must not only be interested in the Trust, such persons must have the interest of the Trust in mind. Persons interested in the Trust, is statutorily defined in Section 2(10) of the Act, which provisions reads thus : –

“2(10). “person having interest” [includes] -

- (a) *in the case of a temple, person who is entitled to attend at or is in the habit of attending the performance of worship or service in the temple, or who is entitled to partake or is in that habit of partaking in the distribution of gifts thereof,*
- (b) *in the case of a math, a disciple of the math or a person of the religious persuasion to which the math belongs,*
- (c) *in the case of a Waqf, a person who is entitled to receive any pecuniary or other benefit from the Waqf and includes a person who has right to worship or to perform any religious rite in a mosque, idgah, imambara, dargah, maqbara, or other religious institution connected with the Waqf or to participate in any religious or charitable institution under the Waqf,*
- (d) *in the case of a society registered under the Societies Registration Act, 1860, any member of such society, and*

(e) *in the case of any other public trust [any trustee or beneficiary];”*

5. In the factual matrix, for the applicants/petitioners herein to demonstrate that they are persons interested, it would be necessary to first establish that they are the members of the Trust.

6. Perusal of the order impugned reveals, that the Change report, on the basis of which, the applicants 1 to 3/ petitioners 1 to 3 are claiming to be the Life Members of the Trust, is already rejected and the rejection has assumed finality, considering that this Court has dismissed Writ Petition 3998 of 2019 by judgment dated 12.06.2019. The submission of the learned Counsel Mr. Ujwal Deshpande that the rejection has not assumed finality, since review petition is filed, is noted only for rejection. Pertinently, the review petition, which is filed 2½ years after the judgment, does not appear to have been prosecuted, considering that it is noted in the order impugned, that there is no interim order or an order akin thereto.

7. The further observation of the authority that the conduct of the petitioners is not *bona fide*, is certainly consistent with the facts on the record. The version of the petitioners that they were not aware of the pendency of the Change report for more than 12 years, is a version, which merits no credence. Considering that the petitioners have been litigating since several years, albeit unsuccessfully, and have been claiming to be the Life Members, it is inherently incredible that the petitioners will not be aware of the change report, which filed in the year 2010 in connection with the election held in that year. The authority has further noted that the application seeking intervention, was filed after the

contesting parties closed their evidence and the change report was fixed for final argument.

8. Considering the facts, which are discernible from the record, I have no hesitation in holding that the intention of the petitioners is only to some how or the other prolong the adjudication, and the petitioners neither have the requisite status nor the honest intent as would entitle them to intervene.

9. Mr. Ujwal Deshpande invites my attention to the decision of the learned Single Judge in Writ Petition 1905 of 2017 (*Mr. Harshal s/o Uddhav Aarvikar vs. Shri Jagjeet Singh Gurusharan Singh and anr.*) and connected petitions. According to Mr. Ujwal Deshpande, the said decision helps the cause of the petitioners 4 and 5 since the change report concerning their enrollment as Life Member, is pending.

10. I am afraid, in view of the conduct of the petitioners including petitioners 4 and 5 and the fact that such intervention is sought, when the entire evidence is over and only final arguments are to be heard, the decision on which reliance is placed, takes the case of the petitioners 4 and 5, no further.

11. The petition is dismissed.

(ROHIT B. DEO.)

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