

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

WRIT PETITION NO. 5326 OF 2021

Vidarbha Shikshan Prasarak Mandal vs. The Joint Charity Commissioner,
Amravati and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. A. J. Gilda, Advocate for petitioner.
Ms. S. S. Jachak, AGP for respondent No.1.
Mr. G.O. Gadge, Advocate h/f. Mr.P.S.Kshirsagar, Advocate
for respondent Nos.2 to 6.

CORAM : MANISH PITALE J.

DATE : 05/07/2022

By this writ petition, the petitioner trust has challenged order dated 08/11/2021, passed by the Joint Charity Commissioner, Amravati i.e. the respondent No.1, whereby applications filed by respondent Nos. 2 to 6 and respondent No. 7 have been allowed.

2. The petitioner trust has moved an application under Section 36(1)(a) of the Maharashtra Public Trust Act, 1950, for permission to dispose of specific immovable property in order to generate resources for the purpose of complying with AICTE norms. In pursuance of the said application

filed before the respondent No.1, public notices were issued.

3. The respondent Nos.2 to 6 filed application at Exh.8 before the respondent No.1 with a prayer that copies of the application moved by the petitioner trust and documents filed therewith be provided to them in order to raise objections in the said proceedings. The respondent No.7 i.e. Sarpanch of Gram Panchayat, Sutala Khurd, Tq. Khamgaon, Dist. Buldhana moved an application at Exh.9, stating that the petitioner trust ought not to be allowed to enter into any transaction with regard to a particular immovable property at Survey No.5/1.

4. By the impugned order, in a cryptic manner, the respondent No.1 has allowed both the applications. In the operative portion of the order, it is seen that while allowing the application of respondent Nos.2 to 6, it is directed that they be added as objectors and the petitioner trust has been directed to accordingly amend the application filed under Section 36(1)(a) of the said Act. The respondent No.7 is also directed to be added as an objector.

5. The learned counsel for the petitioner trust submitted that the impugned order is unsustainable, since it grants relief beyond the prayer made by respondent Nos.2 to 6 in their application at Exh.8 and respondent No.7 has been permitted to be added as an objector when the objection raised on behalf of the said respondent has nothing to do with the property that the petitioner trust proposes to dispose of as per the said application filed under Section 36(1)(a) of the said Act.

6. The respondent Nos.2 to 6 have appeared through counsel and the learned counsel appearing for the said respondents submitted that the purport of the application filed on behalf of the said respondents was to object to the prayers made in the application filed by the petitioner trust and that in the interest of justice this Court may not interfere with the impugned order. The respondent No.7, despite service, chose not to appear before this Court. The respondent No.1 was represented by the learned AGP .

7. A perusal of the impugned order, which is cryptic in nature, shows that both the applications at Exh.8 and 9 have been allowed. A perusal of the application filed by respondent Nos.2 to 6 at Exh.8

would show that the prayer of the said respondent was only for grant of copies of the application and the documents filed on behalf of the petitioner trust before the respondent No.1. There was no whisper of any prayer for being added as objectors in the pending proceedings. Therefore, on the face of it, the respondent No.1 erred in directing that consequent to the application at Exh.8 being allowed, the respondent Nos.2 to 6 be added as objectors in the pending proceeding.

8. Equally, while allowing the application at Exh.9, the respondent No.1 failed to appreciate that the objection sought to be raised by the respondent No.7, was specifically regarding a property at Survey No.5/1, which is not even subject matter of the application filed by the petitioner trust under Section 36(1)(a) of the said Act before the respondent No.1. Therefore, there was no question of the said application being entertained or being allowed at the behest of respondent No.7.

9. There can be no doubt about the fact that since the respondent Nos.2 to 6 approached respondent No.1 in pursuance of public notice issued in the context of the pending proceeding, the application at Exh.8 could certainly be allowed in

terms of the prayer made therein i.e. for grant of copies of the application, as also documents filed by the petitioner trust before the respondent No.1.

10. In view of the above, the writ petition is partly allowed.

11. The impugned order is modified to the extent that the application filed by respondent No.7 at Exh.9 is dismissed.

12. The application at Exh.8 filed by respondent Nos.2 to 6 is held to be allowed only to the extent of copies of the application and documents filed by the petitioner trust in the pending proceedings being made available to the said respondents.

13. The directions given in the impugned order to add respondent Nos.2 to 7 as objectors is quashed and set aside.

14. The proceedings before the respondent No.1 in the pending application filed by the petitioner trust are expedited and it is directed that preferably the proceedings be disposed of within three months from today.