

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

WRIT PETITION NO.4506 OF 2023

**SHARDOPASAK SHIKSHAN SANSTHAb THROUGH ITS PRESIDENT
BASAVRAJ VISHWANATHAPPA VALANDE**

VERSUS

THE DEPUTY CHARITY COMMISSIONER, LATUR AND OTHERS

...

Advocate for Petitioner : Mr. N.P. Jamalpurkar Patil

AGP for Respondent No.1 – State : Mr. P.N. Kutti

Advocate for Respondent Nos.2 to 7 : Mr. S.B. Gastgar

...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 10th JULY, 2023

PER COURT :

1. Petitioner by this petition filed under Articles 226 and 227 of the Constitution of India, is challenging order dated 03/04/2023, passed by learned Deputy Charity Commissioner, Latur, below Exhibit-23 in Change Report No.1304/2019, thereby partly allowing application filed by respondent Nos.2 to 4 herein, filed under Section 73A of the Maharashtra Public Trusts Act, 1950, to permit them to participate in the change report inquiry.

2. Heard learned advocate for petitioner, learned advocate for respondent Nos.2 to 7 and the learned Assistant Government Pleader for respondent No.1. Perused the writ petition memo, annexures thereto, the impugned order and affidavit-in-reply on behalf of respondent Nos.2 to 4 and documents placed on record along with the same.

3. Learned advocate for petitioner submits that membership of these respondents was cancelled in the year 2021 for non-payment of subscription. He submits that since 2021 till date they have never participated in any of the proceedings of the Trust. According to him, only after this Court directed to conduct inquiry in time bound manner, with a view to prolong the proceedings, the respondents have filed application which is erroneously allowed by the learned Deputy Charity Commissioner, without assigning any reason. He, therefore, submits that the impugned order be quashed and set aside.

4. Learned advocate for respondent Nos.2 to 7, on the other hand, supported the impugned order by pointing out various documents filed on record along with the reply. He submits that some of the respondents are life members and they have paid the subscription. According to him, one of the members whose membership was cancelled for non-payment of membership fee, is shown to be reporting trustee in the present change report. He, therefore, submits that respondent Nos.2, 3 and 4 are interested persons and there is sufficient material on record to show that.

5. Perusal of the impugned order shows that after recording contentions of the parties, learned Deputy Charity Commissioner has abruptly come to a conclusion that, in view of

Section 73A and after going through the record available with the change report, third party applicants are interested persons in the Trust. Therefore, they are entitled to participate in the proceedings. There is no discussion on merit of the rival contentions raised by the parties.

6. This Court had directed learned Deputy Charity Commissioner to conclude the change report inquiry within a period of six months from 23/11/2022 and the said inquiry is still going on. While issuing notices in the present writ petition, this Court granted stay to the change report inquiry, on 19/04/2023.

7. Considering the aforesaid circumstances, this Court is of the opinion that, it is desirable in the interest of justice to let the inquiry proceed by keeping open the point, whether respondent Nos. 2 to 4 are interested persons or not, which shall be decided on merit by the learned Deputy Charity Commissioner at the time of final adjudication of Change Report No.1304/2019.

8. With these observations, writ petition is allowed. Impugned order dated 03/04/2023, passed below Exhibit-23 in Change Report No.1304/2019, is quashed and set aside. Interim relief granted earlier stands vacated.

(NITIN B. SURYAWANSHI, J.)