

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

**WRIT PETITION NO.7546 OF 2022
WITH CA/15894/2022 IN WP/7546/2022**

**CHANDRASHEKHAR BANSI MHASKE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE CHARITY
COMMISSIONER AND OTHERS**

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Mr. A. C. Darandale, Advocate for petitioners
Mr. A. S. Shinde, AGP for respondent Nos. 1 to 3
Mr. N. R. Ghanwat, Advocate for respondent No.4
Mr. S. V. Natu, Advocate for intervener

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**CORAM : MANGESH S. PATIL &
S. G. CHAPALGAONKAR, JJ.**

DATE : 18.01.2023

PER COURT :-

The petitioners are challenging the order passed by the Deputy Charity Commissioner in a proceeding initiated by them under Section 41A of the Maharashtra Public Trust Act seeking direction of the Charity Commissioner for appointment of a fit person and for conducting election of the managing committee.

2. We have heard the learned advocate for the petitioners as also the learned advocates for the respondents as well as the intervener.

3. The petitioners had filed application under Section 41A seeking a direction for holding an election of the managing committee for 2021 to 2023 from amongst the members, pointing out that in view of the various decisions in different change reports, it was necessary that in order to have better administration, a fresh election was conducted by appointing a fit person.

4. Even according to the petitioners, as mentioned in paragraph No.10, two change reports pursuant to some election reported by some of the members bearing Change Report Nos.1932/2021 and 665/2021 have been pending in the office of the respondent Charity Commissioner. Even the interveners in their application have specifically mentioned about the petitioners' respective fathers having filed a Change Report No.954/2022 in respect of the body to be in the office for 2021 to 2023.

5. Needless to state that so long as the change reports which are pending before the office of the Charity Commissioner, reach finality, it would be premature to say that there is a void. One cannot express anything as to the validity of these many changes reported from time to time. Even the issue whether the elections reported in

these change reports were conducted validly or otherwise, much less from amongst the valid members regarding which there is a serious dispute cannot be decided in this petition. It is trite that the dispute regarding validity of the members has to be gone into and decided in the reported changes. Calling upon this Court to undertake an exercise on facts and to reach a conclusion that all these change reports are false, bogus or invalid, is asking for too much. When the statute provides for a specific remedy and even provides an appeal in respect of the decisions to be taken under Section 22 of the Maharashtra Public Trust Act, we cannot indulge into and issue any direction as is being solicited, which could have a tendency of influencing the decisions in those change reports.

6. However, at the same time, we must make an observation that the impugned order was passed on an application preferred under Section 41A of the Maharashtra Public Trust Act for better administration. It was unnecessary for the learned Deputy Charity Commissioner to have gone into and decided, may be perfunctorily, the issue regarding validity of membership. He must have been aware about the pending change reports and should have left that issue to be decided in those inquiries.

7. The writ petition is dismissed. However, the observations made in the impugned order touching the aspect of validity of membership shall not influence the decisions in the change report inquiries.

8. Civil application No.15894 of 2022 for intervener is disposed of.

[S. G. CHAPALGAONKAR, J.]

[MANGESH S. PATIL, J.]

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