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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2215 OF 2020

Ashokrao Raosaheb Deshmukh and Others

PETITIONERS

VERSUS

Shree Someshwar Shikshan Sanstha, Ghatnandur
through its Secretary and Others

RESPONDENTS

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Mr. Ganesh V. Mohekar, Advocate for the petitioners
Mr. S. N. Morampalle AGP for respondent - State

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 17th MARCH, 2023

ORDER :

1. The petitioners are aggrieved by order dated 8th March, 2019 passed by Deputy Charity Commissioner, Beed Region, Beed, thereby rejecting Miscellaneous Enquiry Application No. 1312 of 2018 filed by the petitioners claiming that the petitioners had filed applications seeking membership of respondent Trust, as per the constitution of the Trust. Said applications and membership fee was not accepted by the Executive Body, hence the applications were forwarded to the Trust through RPAD and the challans of deposit of membership fee in the bank account of the Trust were annexed to the

membership applications.

2. Miscellaneous Enquiry Application was resisted by the Executive Body of the Trust. It was admitted that the petitioners had submitted applications as per the constitution of the Trust, however, in view of Rule 6 (3) of the constitution of the Trust, the Executive Body has rejected said applications in meeting dated 5th November, 2017 and said rejection was orally conveyed to the petitioners.

3. Respondent No. 3 – Deputy Charity Commissioner, after hearing the parties, has rejected the Miscellaneous Enquiry Application of the petitioners so also application Exhibit-5 filed by other two persons aspiring to be the members of the Trust. Hence, this writ petition.

4. Heard learned advocate for the petitioners and the learned Assistant Government Pleader. Perused the grounds raised in the petition, documents filed along with the petition and the impugned order.

5. Learned advocate for the petitioners strenuously urged that the petitioners comply all the criterion given in Rule 6 of the constitution of the Trust and the alleged rejection of their membership applications was never communicated to them,

therefore, said rejection cannot be sustained in the facts of the present case. He further submits that, some of the petitioners are sons of the founder trustees. The impugned order, therefore, since ignores relevant facts, is unsustainable and the same may be set aside and the writ petition be allowed.

6. Learned Assistant Government Pleader supports the impugned order.

7. Rule 6 (3) of the constitution of the Trust authorizes the Executive Body, either to accept to reject the membership application. It is a matter of record that the Executive Body of the Trust has rejected applications of the petitioners, by resolution No.2 passed in its meeting dated 5th November, 2017. The said resolution was placed on record during the inquiry of Miscellaneous Inquiry Application. It, therefore, appears that procedure prescribed in the constitution of the Trust is followed while rejecting membership applications of the petitioners. The Executive Body has exercised powers conferred by Rule 6 (3) of the constitution of the Trust. No fault can be found with the same.

8. There is no merit in the submission of the learned advocate for the petitioners that since the said order of rejection of

membership was not communicated to the petitioners, the same is unsustainable. The petitioners failed to substantiate this ground, therefore, mere non communication of the order of rejection of membership applications, in my opinion, would not render the order passed by the Executive Body ineffective.

9. Respondent No.3 has taken all the relevant aspects into consideration and has passed a reasoned order. It is rightly held that grant of membership is within the powers of the Executive Body of the Trust, therefore, respondent No.3 is not in a position to give direction to the Trust to confer membership on the petitioners.

10. There is no illegality or perversity in the order, impugned in the present petition. No case is made out by the petitioners to interfere in the impugned order, in extraordinary writ jurisdiction. Writ petition, being devoid of merits, is dismissed.

[NITIN B. SURYAWANSHI]

JUDGE