

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8134 OF 2023

Deepak Somnath Birla
and others

.... Petitioners

Versus

Deputy Charity Commissioner, Jalgaon
and others

.... Respondents

.....

Ms. Khushbu Manwadi a/w Mr. Rajendra Patil h/f Mr. Ranjit A.
Shedge, Advocate for the Petitioners
Mr. P.N. Kutti, AGP for Respondent No.1
Mr. V.D. Hon, Senior Advocate i/b Mr. D.D. Pande, Advocate for
Respondent Nos. 3 to 10

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 11th JULY, 2023

ORDER :

1. In this petition filed under Article 226 and 227 of the
Constitution of India, the petitioners have made following
prayers:

*(a) This Hon'ble court be pleased to issue a writ
of certiorari or a writ in the nature of
certiorari and/or any other appropriate writ,
order and/or direction and after perusing the
legality and constitutionality thereof, this
Hon'ble Court be pleased to quashed and set
aside the so called Resolution dated
23.04.2023 and impugned order dated*

24.05.2023 passed by the Deputy Charity Commissioner, Jalgaon;

(b) This Hon'ble Court be pleased to issue a writ of certiorari or a writ in the nature of certiorari and/or any other appropriate writ, order and/or direction and after perusing the legality and constitutionality thereof, this Hon'ble Court be pleased to cancel the appointment of Adv. Vajinath Dhanawale an Election Officer for conducting Elections for period of 2023 to 2028.

(c) This Hon'ble Court be pleased to issue a writ of certiorari or a writ in the nature of certiorari and/or any other appropriate writ, order and/or direction and after perusing the legality and constitutionality thereof, this Hon'ble Court be pleased to direct the Charity Commissioner to appoint an independent and impartial person as an Election Officer for conducting Election for period of 2023 to 2028.

(d) This Hon'ble Court be pleased to grant alternate remedy regarding the appointment of an Election Officer for conducting Election for period of 2023 to 2028 in the interest of justice.

2. The petitioners are members of respondent No.2-Trust. It is the case of the petitioners that some of the members of Respondent No.2-Trust filed application before respondent No.1/Deputy Charity Commissioner, Jalgaon, seeking appointment of Inspector from his office to conduct elections of respondent No.2-Trust for the year 2023 to 2028.

Rejection of the said application is challenged by the petitioners in prayer clause (A).

3. Heard the learned advocate for the petitioners, learned senior advocate for respondent Nos.3 to 10 and the learned Assistant Government Pleader for respondent No.1. Perused the memo of writ petition, annexures thereto, affidavit-in-reply filed by the respondents, and the impugned orders.

4. The prayer of the petitioners in prayer clause (A) cannot be entertained as the persons approached respondent No.1 by filing application are not petitioners in the present petition. Learned senior advocate for respondent Nos.3 to 10, on instructions, states that they are not even members of respondent No.2-Trust.

5. Another grievance of the petitioners is that the Election Officer advocate Mr. Vaijnath N. Dhanawale, appointed to conduct the elections of Respondent No.2-Trust is not an impartial person. It is the contention of the petitioners that there are two groups in R.2-Trust, group 'A' and group 'B' and advocate Mr. Vaijnath N. Dhanawale has represented the trustees/members of group 'B'. Therefore, the petitioners have

reasonable apprehension that he will not conduct the elections impartially. The Election Officer Advocate Mr. Vaijnath N. Dhanawale has published election programme on 04/07/2023.

6. Learned senior advocate, on instructions, submitted that the respondents have no objection, if the officer from the office of Respondent No.1 supervises the elections.

7. Considering the peculiar facts of the present case, this Court is of the opinion, following order would meet the ends of justice.

ORDER

- (I) Respondent No.1 shall appoint responsible officer from his office as Election Officer to conduct elections of respondent No.2-Trust, in the place of Advocate Mr. Vaijnath N. Dhanawale.
- (II) The elections shall be held as per as per the election programme declared on 04/07/2023.
- (III) With these directions, writ petition is disposed of.

(IV) Learned Assistant Government Pleader to inform
this order to Respondent No.1.

[NITIN B. SURYAWANSHI]
JUDGE

S.P Rane